



## THE COUNCIL'S CONSTITUTION – A SUMMARY EXPLANATION

The purpose of this Constitution is to set out with clarity for the benefit of Councillors, officers, members of the public and anybody who may have dealings with the Council:-

- the structure of the Council
- who has responsibility for making decisions on behalf of the Council
- arrangements which the Council has for review and scrutiny decisions made by it
- the processes and procedures to be followed in making and/or scrutinising and reviewing decisions of the Council
- the Protocols which govern the conduct of Councillors and officers
- the rights of citizens in relation to the Council

In fulfilling those aims the Constitution will support:-

- the Council in providing a clear leadership to the community of Bracknell Forest, in partnership with its citizens, businesses, the voluntary sector and other organisations
- the active involvement of citizens in the process of the Council decision-making
- Councillors in representing their constituents effectively
- the efficient and effective taking of decisions
- the holding of decision-makers to public account

The Constitution comprises the following parts:

Page No

### **Part 1 - The Structure of the Council**

- |    |   |       |
|----|---|-------|
| 1. | <b>Section 1 - Overview</b>               | 1 - 2 |
| 2. | <b>Section 2 - Members of the Council</b> | 3 - 4 |
| 3. | <b>Section 3 - The Council Meeting</b>    | 5 - 6 |

4.	<b>Section 4 - The Executive</b>	7 - 8
5.	<b>Section 5 - Regulatory and Other Committees</b>	9 - 10
6.	<b>Section 6 - The Standards Committee</b>	11 - 12
7.	<b>Section 7 - Champions</b>	13 - 14
8.	<b>Section 8 - Joint Arrangements</b>	15 - 16
9.	<b>Section 9 - Officers' Roles and Statutory Officer Functions</b>	17 - 20

## **Part 2 - Responsibility for Decisions**

10.	<b>Section 1 - Introduction</b>	21 - 22
11.	<b>Section 2 - Responsibility for Local Choice Functions</b>	23 - 24
12.	<b>Section 3 - Functions of the Council</b>	25 - 26
13.	<b>Section 4 - Responsibility for Non-Executive Functions</b>	27 - 34
14.	<b>Section 5 - Responsibility for Executive Functions</b>	35 - 44
15.	<b>Section 6 - Powers Exercisable by Officers</b>	45 - 50
16.	<b>Table 1 - Delegation to Officers</b>	51 - 64

## **Part 3 - Overview & Scrutiny**

17.	<b>Section 1 - Introduction</b>	65 - 66
18.	<b>Section 2 - Overview &amp; Scrutiny Commission</b>	67 - 68
19.	<b>Section 3 - Overview &amp; Scrutiny Panels</b>	69 - 70
20.	<b>Section 4 - Conduct of Proceedings</b>	71 - 72

## **Part 4 - The Way in which the Council Operates**

21.	<b>Section 1 - Introduction</b>	73 - 74
22.	<b>Section 2 - Principles of Decision Making</b>	75 - 78
23.	<b>Section 3 - Council Procedure Rules</b>	79 - 96
24.	<b>Annex - Scheme for Public Participation at Meetings of the Council</b>	97 - 102
25.	<b>Annex - Overview and Scrutiny Public Participation Scheme</b>	103 - 106
26.	<b>Annex - Protocol for Photography, Audio/Visual Recording and Use of Social Media at Council and Committee Meetings</b>	107 - 108
27.	<b>Section 4 - Committee Procedure Rules</b>	109 - 124

28.	<b>Annex - Rules of debate diagram</b>	125 - 126
29.	<b>Section 5 - Access to Information Procedure Rules</b>	127 - 138
30.	<b>Section 6 - Budget and Policy Framework Procedure Rules</b>	139 - 144
31.	<b>Section 7 - Executive Procedure Rules</b>	145 - 148
32.	<b>Section 8 - Protocol for Executive Decision Making by Members under Executive Arrangements</b>	149 - 156
33.	<b>Section 9 - Overview &amp; Scrutiny Procedure Rules</b>	157 - 166
34.	<b>Section 10 - Financial Regulations</b>	167 - 240
35.	<b>Section 11 - Contract Standing Orders</b>	241 - 252
36.	<b>Section 12 - Officer Employment Procedure Rules</b>	253 - 258
37.	<b>Section 13 - Code of Conduct for Members and Co-Opted Members</b>	259 - 268
38.	<b>Section 14 - Employees' Code of Conduct</b>	269 - 280
39.	<b>Section 15 - Member and Officer Protocol</b>	281 - 294
40.	<b>Section 16 - Protocol for Members in Dealing with Planning Matters</b>	295 - 302
41.	<b>Section 17 - Legal Proceedings Etc</b>	303 - 304
42.	<b>Section 18 - Leader and Chief Executive Protocol</b>	305 - 308

#### **Part 5 - Citizens and the Council**

43.	<b>Citizens and the Council</b>	309 - 310
-----	---------------------------------	-----------

#### **Part 6 - Members' Allowances**

44.	<b>Members' Allowances</b>	311 - 322
45.	<b>Schedule 1 - Special Responsibility Allowances</b>	323 - 324
46.	<b>Schedule 2 - Approved Duties for Travel and Subsistence Allowances</b>	325 - 326
47.	<b>Schedule 3 - Pension Policy Framework for Councillors</b>	327 - 328
48.	<b>Schedule 4 - Approved Conferences</b>	329 - 330

#### **Part 7 - Review, Revision, Suspension, Interpretation and Publication of the Constitution**

49.	<b>Review, Revision, Suspension, Interpretation and Publication of the Constitution</b>	331 - 332
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## **1. OVERVIEW**

- 1.1 The work of the Council is carried out by the democratically elected Councillors and the staff employed by the Council (known as “Officers”). Under the system of Executive Arrangements introduced by the Local Government Act 2000 the Council is required to have an Executive. The Council has opted for the form of Executive known as the “Leader and Cabinet” Model.
- 1.2 By law, many of the decisions of the Council are required to be taken by or on behalf of the Executive. Other decisions of the Council are taken by or on behalf of Full Council or one of its Committees. In many instances, either in respect of Executive functions or Council/Committee functions, the power is delegated to officers to take decisions on behalf of Council.
- 1.3 The legislation which brought into place Executive Arrangements also requires the Council to have in place a process which enables decisions either of the Executive or of one of the Council’s Committees to be reviewed and scrutinised. At Bracknell Forest that function is performed by the Overview and Scrutiny Commission and the sub-Committees of that Commission which are known as “Panels”.

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## **2. MEMBERS OF THE COUNCIL**

### **2.1 Composition and Eligibility**

- (a) **Composition** - The Council comprises 42 Members, otherwise called Councillors, to be elected by the voters of each ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State.
- (b) **Eligibility** – Only persons aged 18 years or over who are registered voters of the Borough, or those occupying property or working there (or doing so for the 12 months preceding nomination and the day of poll) will be eligible to hold the office of Councillor, provided they are not otherwise disqualified.

### **2.2 Election and Terms of Office of Councillors**

**Election and Terms of Office** - The regular election of Councillors will be held on the first Thursday in May every four years. The next elections will be held in 2015. The Terms of Office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### **2.3 Key Roles** - All Councillors will:

- (i) collectively, be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the Advocate of, and for, their communities;
- (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (iv) balance different interests identified within the Ward and represent the Ward as a whole;
- (v) be involved in decision-making;
- (vi) be available to represent the Council on other bodies; and
- (vii) maintain the highest standards of conduct and ethics.

### **2.4 Conduct**

Councillors will, at all times, observe the Members' Code of Conduct and the protocols relating to councillors, as set out in Part 4 of this Constitution.

### **2.5 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme, as set out in Part 6 of this Constitution.

### **2.6 Disclosure and Registration of Interests**

The Code of Conduct requires all Members to register certain interests, in a register of interests. The register of interests is maintained by the Borough Solicitor and

Monitoring Officer. It is available for public inspection between the hours of 9.00am to 5.00pm. Monday to Friday and is kept within the Council's Democratic Services Section at Easthampstead House, Bracknell.



### **3. THE COUNCIL MEETING**

#### **3.1 Functions of the Council**

The functions of the Full Council are set out in Part 2 of the Constitution.

#### **3.2 Council Meetings**

There are three types of Council meeting:

- (a) the Annual Meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

These are conducted in accordance with the Council Procedure Rules set out in Part 4 of this Constitution.

#### **3.3 Chairman of the Council Meeting**

The Mayor will be elected by the Council annually and will have the following responsibilities:

- 1. To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- 2. To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- 3. To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and, at which, Members are able to hold the Executive to account;
- 4. To promote involvement in the Council's activities;
- 5. To attend such civic and ceremonial functions as the Council and he or she determines appropriate following consultation with the Leader.

#### **3.4 Deputy Mayor**

The Deputy Mayor will be appointed by the Council annually and will exercise the functions and duties of the Mayor in his or her absence.

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## **4. THE EXECUTIVE**

### **4.1 Role**

The role and functions of the Executive are set out in Part 2 of this Constitution.

### **4.2 Form and Composition**

The Executive will consist of the Executive Leader together with at least two but not more than nine Councillors appointed to the Executive by the Executive Leader. The Leader may appoint Councillors to the Executive either at the Annual Meeting of the Council or, on giving written notice of appointment to the proper officer, at any time thereafter. Appointment of a Councillor to the Executive after the Annual Meeting of the Council will take effect immediately on receipt of the notice by the proper officer and shall be reported to the next meeting of the Council. If both the Leader and the Deputy Leader are unavailable to act the Executive shall act in the Leader's place or shall arrange for a Councillor appointment to the executive to act in the Leader's place.

### **4.3 Leader**

The Leader will be a Councillor elected to the position of Leader by the Council at the first annual meeting of the Council after ordinary elections. The Leader will hold office until:

- (a) he or she resigns from the Office; or
- (b) he or she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he or she may resume office at the end of the period of suspension); or
- (c) he or she is no longer a Councillor; or
- (d) the commencement of the first Annual Meeting of the Council after the next ordinary elections to the Council except that the Council may remove the Leader from office at an earlier date by resolution of the Council. In the event of the Council resolving to remove the Leader it shall (at same meeting) appointing another Councillor to be Leader.

### **4.4 Deputy Leader**

The Deputy Leader shall be a Councillor appointed by the Leader from those councillors who have been appointed to serve as Executive Members. The Deputy leader shall hold such office during the term of office of the Leader or until he/she is removed from that office by the Leader (in which case the Leader shall appoint another Councillor appointed to the Executive to serve as Deputy Leader). The Deputy Leader shall act in place of the Leader should the Leader be absent or unable to act.

### **4.5 Other Executive Members**

Other Executive Members shall hold office until:

- (a) they resign from office;

- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension);
- (c) they are no longer Councillors; or
- (d) until the commencement of the next Annual Meeting of the Council or until they are removed from office by the Leader who must give written notice of removal to the proper officer. Removal will take effect immediately on receipt of the notice by the proper officer.

#### **4.6 Proceedings of the Executive**

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules, as set out in Part 4 of this Constitution.

#### **4.7 Executive Support Members**

4.7.1 The Council may appoint Executive Support Members with the following duties:

- (i) to assist, support and advise the relevant Executive Member in the exercise of his or her responsibilities,
- (ii) to carry out particular tasks and projects as agreed with the Executive Member from time to time;
- (ii) to attend public and private meetings of the Executive as an observer and in the absence of the Executive Member to propose motions and speak (but not to vote);
- (iv) in the absence of the Executive Member, to speak at meetings of the Council on matters relating to the allocated portfolio area.

4.7.2 Executive Support Members may serve on the Overview and Scrutiny Commission, Scrutiny Panels and Working Groups provided that they must withdraw from any discussion of matters within the portfolio area in which they act as Executive Support Member. It would, therefore, be inappropriate for Executive Support Members to act as Chairman or Vice-Chairman of a Scrutiny Panel.

4.7.3 Executive Support Members shall not be appointed to the role of Chairman or Vice-Chairman of the Licensing and Safety Committee or the Planning Committee.

## **5. REGULATORY AND OTHER COMMITTEES**

### **5.1 Regulatory and Other Committees**

The Council will appoint the Committees set out in the left-hand column of the table entitled “Responsibility for non-Executive Functions”, as contained in Part 2 of this Constitution, to discharge the functions set out in the middle column of that table.

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## **6. THE STANDARDS COMMITTEE**

### **6.1 Standards Committee**

The Council has established a Standards Committee.

### **6.2 Composition of the Standards Committee**

The composition of the Standards Committee shall comprise:

- Four Independent Members (one of whom should be the Chairman)
- Three Councillors (2:1)
- One Parish Councillor

#### Substitute Members

- *None*

### **6.3 Roles and Functions of the Standards Committee**

The functions of the Standards Committee are set out in Part 2 of this Constitution.

#### Delegated Powers

The Standards Committee is an advisory committee and has no delegated powers.

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## **7. CHAMPIONS**

### **7.1 Appointment of Champions**

At its discretion, the Council may, from time to time, designate Champions from amongst Councillors who are not Members of the Executive.

### **7.2 Term of Office**

Councillors who are designated as Champions shall hold office until:

- (a) they resign from office;
- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension);
- (c) they are no longer Councillors; or
- (d) until the commencement of the next Annual Meeting of the Council, except that the Council may remove them from office at its discretion.

### **7.3 Role and Functions**

To act as a positive focus for the local community at elected member level in respect of the relevant section of the community or range of activities designated by the Council so as to ensure that full consideration is given to the impact of Council activities and decisions upon the section of the community or range of activities.

### **7.4 Key Tasks**

- (a) To make contact with local organisations concerned with the designated section of the community or range of activities and to establish effective and regular consultation arrangements with those organisations.
- (b) To represent the views of such organisations to Officers, the Council, the Executive, Overview and Scrutiny Panels and other Committees, on all relevant aspects of the Council's activities.
- (c) To act as an advocate on behalf of the relevant section of the community or range of activities within the Council as an organisation and to the wider community.
- (d) To become familiar with the needs and priorities of the relevant section of the community, or range of activities concerned, and to weigh up interests expressed in order to provide sound advice on the implications of alternative courses of action.
- (e) To feedback decisions of the Borough Council and to explain the Council's position on specific issues of concern to relevant organisations and to individuals involved.
- (f) To publish an annual report on work undertaken over each year for consideration by the Council.

## 7.5 **Champions' Panel**

Champions may, at their own discretion, appoint Panels to support their work where this would not overlap with other established liaison or consultative mechanisms.

## 7.6 **Constitution and Term of Office**

Champions may establish Panels and make appointments to serve on Panels within the following guidelines:

- (a) Up to four Members of the Council and reflecting the political balance of the Council so far as practicable.
- (b) A minimum of four community representatives selected by the appropriate Champion at his or her discretion.
- (c) Panel Members will remain as Panel Members at the sole discretion of the Champion until the next Annual Meeting of the Council.

## 7.7 **Terms of Reference**

The terms of reference of Champions' Panels will be:

- (a) To act as the sector local sounding board on topical or community issues, or around strategic issues affecting the client group and areas of interest.
- (b) By being 'in touch' to deal with emerging issues quickly and directly with relevant Officers or Members.
- (c) To collect information and identify issues of special attention which may be beyond the remit of the Panel.
- (d) To play an important role in consulting their client group/interest group on the development of policy which affects their areas of interest.
- (e) To contribute to policy review studies requested by the Executive.

## **8. JOINT ARRANGEMENTS**

### **8.1 Arrangements to Promote Well-being**

The Council, or the Executive, in order to promote the economic, social or environmental well-being of its 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; and
- (c) exercise, on behalf of that person or body, any functions of that person or body.

### **8.2 Joint Arrangements**

- (a) 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 to advise the Council. Such arrangements may involve the appointment of a joint committee with the other local Authorities.
- (b) The Executive may establish joint arrangements with one or more local authorities to exercise functions, which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) Except as set out below, the Executive may only appoint Executive Members to a joint committee and those Members need not reflect the political composition of the Local Authority as a whole.
- (d) The Executive may appoint non-Executive Members to a joint committee if the Joint Committee has functions for only part of the area of the Borough, and that area is smaller than two fifths of the Borough by area or population. In such cases, the Executive may appoint to the Joint Committee any Councillor who is a Member for a ward, which is wholly, or partly, contained within the area. The political balance requirements do not apply to such appointments.
- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's Scheme of Delegations in Part 2 of this Constitution.

### **8.3 Access to Information**

- (a) The Access to Information Procedure Rules set out in Part 4 of this Constitution apply.
- (b) 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.

- (c) If the Joint Committee contains Members who are not on the Executive of any participating Authority then the access to information rules in Part V A of the Local Government Act 1972 will apply.

#### **8.4 Delegation to and from Other Local Authorities**

- (a) The Council may delegate functions to another local authority or, in certain circumstances, the Executive of another local authority.
- (b) The Executive may delegate Executive Functions to another local authority or the Executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

#### **8.5 Contracting Out**

The Executive 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 Deregulation and Contracting Out Act 1994, or under contracting arrangements where the Contractor acts as the Council's Agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making.

## 9. OFFICERS' ROLES AND STATUTORY OFFICER FUNCTIONS

### 9.1 Management Structure

The Council's Corporate Management Team comprises the following posts:-

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	<ul style="list-style-type: none"> <li>• Overall corporate management and operational responsibility (including overall management responsibility for all Officers).</li> <li>• Provision of professional advice to all parties in the decision-making process.</li> <li>• Representing the Council on partnerships and external bodies (as required by statute or the Council).</li> </ul>
Director of Corporate Services	<ul style="list-style-type: none"> <li>• Finance, Democratic and Registration Services, Legal, IT Services, Human Resources, Property Services, Customer Services, Community Engagement and Equalities.</li> </ul>
Director of Environment, Culture and Communities	<ul style="list-style-type: none"> <li>• Protecting well-being of local residents and those working in or visiting the Borough, by enhancing or protecting the environment.</li> <li>• Development of the planned and built environment.</li> <li>• Provision and development of leisure facilities, including sports, libraries, youth and community service and countryside service.</li> <li>• Provision of social housing, the Council's functions as a local housing authority and housing benefits.</li> <li>• Library Service.</li> </ul>
Director of Children, Young People and Learning	<ul style="list-style-type: none"> <li>• Strategic development and resourcing of the Education Service.</li> <li>• Advice and support to schools.</li> <li>• Statutory children's social services functions.</li> <li>• Commissioning, purchase and provision of personal adult social services.</li> </ul>
Director of Adult Social Care,	<ul style="list-style-type: none"> <li>• Statutory adult social services functions.</li> </ul>

Health and Housing

- Commissioning, purchase and provision of personal adult social services.

The officers listed above plus the Borough Treasurer will comprise the Council's Corporate Management Team.

## 9.2 Head of Paid Service, Monitoring Officer and Borough Treasurer.

By law the Council is required to designate officers to the positions of Head of Paid Service, Monitoring Officer and Chief Financial Officer. Those designations are as follows:-

Post	Designation
Chief Executive	Head of Paid Service
Borough Solicitor	Monitoring Officer
Borough Treasurer	Chief Finance Officer

The Head of Paid Service may not be the Monitoring Officer but may hold the post of Borough Treasurer if he/she is a qualified accountant. The Monitoring Officer cannot be the Borough Treasurer or Head of Paid Service.

## 9.3 Functions of the Head of Paid Service

The Head of Paid Service will report to 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.

## 9.4 Functions of the Monitoring Officer

### (a) Maintaining the Constitution

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is available for consultation by Members, Staff and the Public.

### (b) Ensuring Lawfulness and Fairness of Decision Making

After consulting with the Head of Paid Service and the Borough Treasurer, the Monitoring Officer will report to the Council (or, in relation to an Executive Function, to the Executive) if he or she considers 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 Standards Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

(d) **Conducting Investigations**

The Monitoring Officer will conduct investigations into matters which the Standards Committee refers to him and make reports or recommendations in respect of these to the Standards Committee.

(e) **Proper Officer for Access to Information**

The Monitoring Officer will ensure that Executive Decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

(f) **Advising Whether Executive Decisions are Within the Budget and Policy Framework**

The Monitoring Officer will advise whether decisions of the Executive are in accordance with the Budget and Policy Framework.

(g) **Providing Advice**

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

## 9.5 **Functions of the Borough Treasurer**

The Borough Treasurer is the officer responsible for the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972. The functions which the Borough Treasurer has responsibility for comprise:

(a) **Ensuring Lawfulness and Financial Prudence of Decision-Making**

After consulting with the Head of Paid Service and the Monitoring Officer, the Borough Treasurer will report to the Council (or to the Executive in relation to an Executive Function) and the Council's External Auditor if he or she considers 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 Borough Treasurer will have responsibility for the administration of the financial affairs of the Council.

(c) **Contributing to Corporate Management**

The Borough Treasurer will contribute to the corporate management of the Council, in particular as a member of Corporate Management Team, through the provision of professional financial advice.

(d) **Giving Financial Information**

The Borough Treasurer will provide financial information to the Media, Members of the Public and the Community.

(e) **Treasury Management**

The Borough Treasurer shall ensure that Council funds are managed in accordance with the Council's Treasury Management Strategy.

(f) **Internal Audit and Risk Management**

The Borough Treasurer has responsibility for Internal Audit and Risk Management.

9.6 **Duty to Provide Sufficient Resources to the Monitoring Officer and Borough Treasurer**

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

9.7 **Conduct**

Officers must comply with the Officers' Code of Conduct and the Protocol on Officer and Member Relations, as set out in Part 4 of this Constitution.

9.8 **Employment**

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules, as set out in Part 4 of this Constitution.



## **1 INTRODUCTION**

1.1 Under the legislation which requires the Council to have a Scheme of Executive Arrangements all the functions of the Council are the responsibility of the Executive unless regulations issued by the Secretary of State provide otherwise. Such regulations have been issued and in very broad terms they provide that the following shall not be the responsibility of the Executive:-

- the final approval of those documents which constitute the Council's policy framework
- the final approval of the budget
- many of the Council's regulatory and licensing functions
- functions relating to the employment of staff

1.2 The Scheme of Executive Arrangements adopted by the Council provide that, subject to any express provision set out in the Constitution, the Leader may allocate responsibility for Executive functions to the Executive, a Committee of the Executive, individual Members of the Executive or an officer. As regards non-Executive functions, subject to a very limited number of decisions which are required to be taken by Full Council, the Council may allocate responsibility for functions to a Committee, a sub-Committee or an officer (but not to individual Members). As regards both Executive and non-Executive functions they may be discharged jointly with another local authority or by another local authority.

1.3 The Executive Arrangements put in place by the Council includes the Scheme of Delegation to officers which encompasses many Executive and non-Executive functions.

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## 2 RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

2.1 The following table shows the allocation of responsibility in Bracknell Forest, for the local choice functions.

Functions	Responsible Body	Delegation of Functions
<p>1 All functions under Local Act legislation, other than the following Sections of the Berkshire Act 1986:</p> <p>Section 39 – Defective Electrical Installations</p> <p>Section 40 – Fire Alarm Systems</p>	<p>Executive</p> <p>Licensing and Safety Committee</p> <p>Licensing and Safety Committee</p>	<p>Operational decisions are delegated to Officers in accordance with the Scheme of Delegation.</p>
<p>Section 43 – Stacks of Inflammable Substances</p>	<p>Licensing and Safety Committee</p>	
<p>2 Arrangements under Section 20 of the Police Act 1996</p>	<p>Council</p>	<p>None</p>
<p>3 Appointment to Police Authorities</p>	<p>Council</p>	<p>None</p>
<p>4 Functions relating to contaminated land</p>	<p>Executive</p>	<p>Operational decisions are delegated to Officers in accordance with the Scheme of Delegation</p>
<p>5 Functions relating to control of pollution or management of air quality</p>	<p>Executive</p>	<p>Operational decisions are delegated to Officers in accordance with the Scheme of Delegation</p>
<p>6 Service of Abatement Notice in respect of Statutory Nuisance</p>	<p>Executive</p>	<p>Operational decisions are delegated to Officers in accordance with the Scheme of Delegation</p>
<p>7 Inspection of area to detect statutory nuisance</p>	<p>Executive</p>	<p>Operational decisions are delegated to Officers in accordance with Scheme of Delegation</p>
<p>8 Investigation of any complaint of any statutory nuisance</p>	<p>Executive</p>	<p>Operational decisions are delegated to Officers in accordance with the Scheme of Delegation</p>

<b>Functions</b>	<b>Responsible Body</b>	<b>Delegation of Functions</b>
9 Passing of Resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Borough.	Council	On the recommendation of the Licensing and Safety Committee
10 Obtaining of information under Sections 330 of the Town and Country Planning Act 1990 and Section 16 of the Local Government (Miscellaneous Provisions) Act 1976:  <ul style="list-style-type: none"> <li>• Where required, for the discharge of Executive Functions</li> <li>• Where required, for discharge of non- Executive functions</li> </ul>	Executive  Council	Operational decisions are delegated to Officers in accordance with the Scheme of Delegation
11 Agreement for the execution of Highway works	Executive	Operational decisions are delegated to Officers in accordance with the Scheme of Delegation
12 Appointments and/or revocation of appointments to external offices and bodies:  <ul style="list-style-type: none"> <li>• In connection with functions which are the sole responsibility of the Executive</li> </ul> In respect of functions which are not the sole responsibility of the Executive	Executive  Council	-  A Committee will be established to appoint LEA Governors
13 Determination of an appeal against any decision by, or on behalf of, the Authority	Council and/or Appeals Committee	Appointment of Appeal Panels and Review Boards and general arrangements dealing with appeals is delegated to Officers in accordance with the Scheme of Delegation
14 Appointment of Review Boards	Council	
15 Making arrangements in respect of school exclusion and admission appeals	Council	
16 Adoption or approval of plans and strategies which do not form part of the Council's Budget and Policy Framework	Executive	None
17 Functions in relation to local area agreements.	Executive	Steps up to approval of draft LAA for submission to the Secretary of State.

### **3 FUNCTIONS OF THE COUNCIL**

3.1 Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive Function which is covered by the Policy Framework or the Budget where the decision-maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to, or not wholly in accordance with, the Budget;
- (d) appointing the Leader of the Council;
- (e) agreeing and/or amending the terms of reference for Regulatory Committees, the Overview and Scrutiny Commission and the Standards Committee, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an Executive Function or has been delegated by the Council;
- (g) approving or amending an allowances scheme for Members under part 6 of this Constitution.
- (h) changing the name of the area, conferring the title of Honorary Alderman or Freedom of the Borough;
- (i) confirming the appointment of the Head of Paid Service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting, or opposing, the making of local legislation or personal Bills;
- (k) all other matters which, by law, must be reserved to Council.

#### **Meanings**

(a) **Policy Framework** - The Policy Framework means the following Plans and Strategies:

- Adult Learning Plan;
- Children & Young People's Plan;
- Development Plan;
- Food Law Enforcement Plan;
- Housing Strategy;
- Licensing Authority Policy Framework

- Local Transport Plan;
  - Safer Communities Strategy;
  - Sustainable Community Plan;
  - Workforce Pay Strategy
  - Youth Justice Plan; and
  - Such other plans or strategies as may be specified by the Council as part of the Policy Framework from time to time.
- (b) **Budget** - 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.
- (c) **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 Disposal 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 Sections 32 or 43 of the Housing Act 1985.

#### 4 RESPONSIBILITY FOR NON-EXECUTIVE FUNCTIONS

Committee	Functions	Delegation of Functions
Planning	<ol style="list-style-type: none"> <li data-bbox="549 353 1050 763">1. <u>Planning and Conservation</u>  Functions relating to town and country planning and development control, as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (the Functions Regulations), including powers relating to the preservation of trees and the protection of important hedgerows.</li> <li data-bbox="549 792 1050 1061">2. <u>Commons Registration</u>  The registration of common land or town and village greens and to register the variation of rights of common, as set out in Schedule 1 to the Functions Regulations. (See above)</li> <li data-bbox="549 1090 1050 1323">3. <u>Highways Use and Regulation</u>  The exercise of powers relating to the regulation of the use of highways, as set out in Schedule 1 to the Functions Regulations. (See above)</li> <li data-bbox="549 1352 1050 1554">4. <u>Public Rights of Way</u>  The exercise of powers relating to public rights of way, as set out in Schedule 1 to the Functions Regulations. (See above)</li> </ol>	Most operational aspects fall to be dealt with by Officers under the Scheme of Delegation.

Committee	Functions	Delegation of Functions
Licensing and Safety Committee	<p>1. <u>Taxi, Gaming, Entertainment, Food and Miscellaneous Licensing</u></p> <p>Functions relating to licensing and registration, as set out in Schedule 1 to the Functions Regulations. (See above)</p> <p>2. <u>Health and Safety</u></p> <p>Functions relating to health and safety under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council’s capacity as Employer.</p> <p>3. <u>Licensing Act 2003</u></p> <p>To act as the Licensing Committee for the purposes of the Licensing Act 2003 and to discharge all the functions required to be discharged by a Licensing Committee, including the appointment of licensing sub-committees (Panels) pursuant to Section 9 of the Licensing Act 2003.</p>	Most operational aspects fall to be dealt with by Officers under the Scheme of Delegation.
Employment Committee	<p>To consider appeals against dismissal by employees of the Council.</p> <p>Excepting human resource policies, to determine all matters relating to the employment or dismissal of staff which do not fall to be dealt with by officers under the Scheme of Delegation.</p> <p>To formulate all human resource policies, including the matters set out below, and to make appropriate recommendations to the Council.</p> <p>(i) Scheme of Remuneration of Employees</p> <p>(ii) Performance Appraisal Policy of Staff</p>	<p>1. Staffing matters generally are dealt with by officers under the Scheme of Delegation.</p> <p>2. A sub-committee will be appointed with power to vary human resource policies for school-based staff following consultation through the approved consultation processes.</p>



	<p>(iii) Training Policy, including Management and Staff Development Activities</p> <p>(iv) Conditions of Employment</p> <p>(v) Employment Related Policies and Procedures</p> <p>(vi) Retirement and Redundancy Schemes</p> <p>(vii) Superannuation and Pensions</p> <p>(viii) Consultation Policy and Procedures in Respect of Industrial Relations</p>	
Appeals Committee	<p>To determine appeals against officer decisions for refusal of:</p> <ul style="list-style-type: none"> <li>• Discretionary Education Grants</li> <li>• Home to School Transport</li> </ul>	
Education Employment Sub-Committee	<p>To vary all human resources policies of the Council for School based staff including the matters set out below:-</p> <ol style="list-style-type: none"> <li>a. scheme of remuneration of employees;</li> <li>b. performance appraisal policy;</li> <li>c. training policy, including management and staff development</li> <li>d. conditions of employment;</li> <li>e. employment related policies and procedures;</li> <li>f. retirement and redundancy schemes;</li> <li>g. superannuation and pensions;</li> <li>h. staff consultation policies in respect of industrial relation.</li> </ol>	Most operational aspects fall to be dealt with by Officers under the Scheme of Delegation

<p>Education Governor Appointments Committee</p>	<ol style="list-style-type: none"> <li>1. Where the School Governance (Constitution) (England) Regulations 2007 apply to make appointments for local education authority representatives to serve on the governing bodies of maintained schools within the Borough.</li> <li>2. Where the School Governance (Constitution) (England) Regulations 2012 apply to make nominations for local education authority representatives to serve on the governing bodies of maintained schools within the Borough.</li> </ol>	
<p>Governance and Audit Committee</p>	<p>2.1 <u>External Audit</u></p> <ul style="list-style-type: none"> <li>• To consider the external auditors' annual letter and to determine what appropriate measures should be proposed in relation to the issues raised and to monitor the implementation of such measures</li> <li>• To approve the external audit plan</li> <li>• To comment on the scope and depth of the external audit work and to ensure it gives value for money and to make recommendations as appropriate</li> <li>• To consider any other reports by the external auditors</li> <li>• To liaise with the Audit Commission over the appointment of the Council's external auditor</li> <li>• To identify areas of potential work that may be appropriate for the external auditors</li> </ul> <p>2.2 <u>Internal Audit</u></p> <ul style="list-style-type: none"> <li>• Delivery of an adequate and effective system of internal audit</li> <li>• To consider the Head of Audit and Risk Management's annual audit opinion and the level of assurance given over the Councils corporate governance arrangements</li> <li>• To consider regular reports summarising internal audit activity and make recommendations as appropriate</li> <li>• To consider regular reports on the performance of internal audit provider as presented by the Head of Audit and Risk Management</li> </ul>	<p>The management of the internal audit service is delegated to the S151 officer.</p>

	<ul style="list-style-type: none"> <li>• To consider and approve the Internal Audit Strategy</li> <li>• To approve the annual internal audit plan, ensuring that there is sufficient and appropriate coverage</li> <li>• To consider any other reports the Chief Internal Auditor may make to the Committee.</li> </ul> <p>2.3 <u>Risk Management</u></p> <ul style="list-style-type: none"> <li>• To monitor the adequacy of procedures and processes in place to manage risk</li> <li>• To seek assurances that action is being taken on risk related issues</li> <li>• To ensure that assurance statements, including the Annual Governance Statement, properly reflect the risk environment</li> </ul> <p>2.4 <u>Governance</u></p> <ul style="list-style-type: none"> <li>• To monitor the adequacy of arrangements in place to meet best practice standards for good governance</li> <li>• To consider and approve the Annual Governance Statement</li> <li>• To ensure that appropriate action is taken with respect to the issues raised in the Annual Governance Statement</li> <li>• To review any issues of governance referred to the Committee</li> <li>• To review and monitor the Anti-Fraud and Corruption Policy</li> <li>• Review procedures for complaints</li> <li>• To keep under review the provisions of the Council's Constitution and to consider and formulate proposals for the amendment of the Constitution</li> </ul> <p>2.5 <u>Accounts</u></p> <ul style="list-style-type: none"> <li>• To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council</li> <li>• To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.</li> </ul>	
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	<p><u>2.6 Standards Committee</u></p> <ol style="list-style-type: none"> <li>1. To advise the Council on promoting and maintaining high standards of conduct by the Members and co-opted Members of the Council.</li> <li>2. To consider allegations of misconduct against Members of the Council, meaning a breach of the Council's Code of conduct or of any code or protocol adopted by the Council, and advise the Governance and Audit Committee as to whether any such allegation should be upheld and if so what the sanction should be.</li> <li>3. <ol style="list-style-type: none"> <li>a) To assist Members and co-opted Members of the Council to observe the Codes of Conduct.</li> <li>b) the adoption and revision of its Codes of Conduct.</li> <li>c) the adoption of appropriate protocols governing the ethical standards of the Members and Officers of the Council.</li> </ol> </li> <li>4. To monitor the operation of the Council's Codes of Conduct.</li> <li>5. To advise, train or arrange to train Members and co-opted Members of the Council on matters relating to their Codes of Conduct.</li> </ol>	
Licensing Panel	<ol style="list-style-type: none"> <li>1. To determine appeals in relation to licence applications (with the exception of licence applications made under the Licensing Act 2003) where there is a new statutory right of appeal.</li> <li>2. To determine applications and other matters (with the exception of functions under the Licensing Act 2003), where the Licensing and Safety Committee has determined that a person has a right of hearing before the Panel or the Director of Environment and Leisure has decided that the matter shall be referred to the Panel for determination.</li> </ol>	

Health and Wellbeing Board	<p>To discharge those functions required to be discharged by a Health and Wellbeing Board by the Health and Social Care Act 2012 (or any amending or replacing legislation) including:</p> <ol style="list-style-type: none"> <li>1. Overseeing the preparation of Joint Strategic Needs Assessments with relevant clinical commissioning groups, and</li> <li>2. Approving a strategy for meeting, by the exercise of Council functions, needs identified in the Joint Strategic Needs Assessment.</li> </ol>	
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All other functions, listed in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations (as amended), are the responsibility of the Council and shall be dealt with by the Council, except where those functions have been delegated to Officers under the Scheme of Delegation.

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## **5. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS**

- 5.1 Unless the Constitution or the law requires otherwise, the Executive is responsible for the formulation of the Budget and Policy Framework and the implementation of these in respect of all functions and services other than those listed in paragraphs 1 and 2. The Executive has specific responsibility for ensuring that best practice risk management strategies and procedures are embedded throughout the authority.
- 5.2 Individual Members of the Executive shall, at all times, act in compliance with the Council's Financial, Contracts and all other relevant procedure rules as set out in this Constitution.

### **5.3 Delegation of Executive Functions**

The Leader may provide for Executive functions to be discharged by:

- (i) the Executive as a whole;
- (ii) a Committee of the Executive;
- (iii) an individual Member of the Executive;
- (iv) an Officer;
- (v) jointly with another local authority
- (vi) another local authority

### **5.4 Delegation by the Leader**

At the Annual Meeting of the Council, the Leader will present to the Council, a written record of delegations made by him or her for inclusion in the Council's Scheme of Delegation. The document presented by the Leader will contain the following information about Executive functions in relation to the coming municipal year:

- (i) the names, addresses and wards of the people appointed to the Executive by the Leader;
- (ii) the extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;
- (iii) the Terms of Reference and Constitution of such Executive Committees as the Leader appoints and the names of Executive Members appointed to them;
- (iv) the nature and extent of any delegation of Executive functions to any other authority or any joint arrangements, and the names of those Executive Members appointed to any joint Committee for the coming municipal year.

At any time after the Annual Meeting of the Council, the Leader may, by written notice to the Proper Officer, alter the delegations made by him or her. The Notice to the Proper Officer shall contain the information, as set out above, insofar as it shall apply to the remainder of the municipal year. The Leader may at any time during the Municipal Year constitute a committee of the Executive by notice in writing to the Proper Officer setting out the information referred to in (ii) above. Any alteration to the delegations shall be reported to the next meeting of the Council.

### **5.5 Sub-delegation of Executive Functions**

- (i) Where the Executive, a Committee of the Executive or an individual Member of the Executive is responsible for an Executive function, they may delegate further to joint arrangements or an Officer.

- (ii) If the Leader delegates functions to the Executive, then the Executive may delegate further to a Committee of the Executive or to an Officer.
- (iii) Unless the Leader directs otherwise, a Committee of the Executive to whom functions have been delegated by the Leader, may delegate further to an Officer.
- (iv) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.
- (v) Where Executive functions have been delegated, the person, or body, to whom the functions have been delegated, may, by notice in writing to the Proper Officer, remove the delegation, either generally, or in respect of one, or more, specific matters. In such event, the person or body by whom the functions have been delegated may either discharge the function or, in accordance with paragraphs (i) to (iii) above, and on written notice to the Proper Officer, delegate the function.

## 5.6 Executive Committee Terms of Reference

Committee	Terms of Reference
Executive	<p>The Executive is appointed by the Leader of the Council and may have between 2 and 9 members who will normally be charged with responsibility for specific executive functions - their portfolio.</p> <p>The main functions of the Leader and the Executive are:</p> <ul style="list-style-type: none"> <li>- To develop and propose the policy framework to the Council.</li> <li>- To be responsible for all executive decision-making within the policy framework by the executive as a whole, individual portfolio holders or a committee of the executive.</li> </ul> <p>The Executive may appoint non-Executive councillors to assist with policy development.</p> <p>Meetings will normally be held in public, but may be held in private if no "key" decisions are to be made.</p>
Bracknell Town Centre Regeneration Committee	<p>In so far as they are Executive Functions, the Leader delegates the following responsibilities to the Bracknell Town Centre Regeneration Committee:</p> <ol style="list-style-type: none"> <li>1. General responsibility for the oversight of matters relating to the approved Master Plan for the regeneration of Bracknell Town Centre.</li> <li>2. Formulation of the Council's property strategy within</li> </ol>



	<p>Bracknell Town Centre, including dealings with existing land owners, the process for seeking and obtaining a development partner or partners and any Compulsory Purchase Order.</p> <ol style="list-style-type: none"> <li>3. Authorisation of land disposals and acquisitions required in connection with the regeneration of Bracknell Town Centre.</li> <li>4. Subject to the limitations contained in the general framework for delegations established by the Council and existing delegations to officers, approval of the terms of Development Agreements, other agreements with developers and those related to any CPO process, and other property agreements.</li> <li>5. Determination of all matters which may be necessary to secure implementation of the approved Master Plan other than development or building control functions.</li> </ol> <p>NB: The delegations set out above may be varied at any time at the discretion of the Leader.</p>
Executive Committee	<ol style="list-style-type: none"> <li>1. To take decisions in relation to Executive functions involving: <ul style="list-style-type: none"> <li>· Allocation of resources within a Council approved rolling programme between £100,000 and £250,000</li> <li>· Authorisation of capital expenditure above estimate not exceeding £50,000</li> <li>· Writing off debts in excess of £20,000 and not exceeding £50,000</li> <li>· Approval of terms for the acquisition of land and buildings in excess of £100,000 and not exceeding £500,000</li> <li>· Approval of terms for the disposal of land and buildings of less than 0.5 hectares and not exceeding £500,000</li> </ul> </li> <li>2. To determine any other non-key decision of a routine nature which the Council's Financial, Contracts or other procedure rules specify should not be taken by an individual member of the Executive.</li> </ol>
Joint Waste Disposal Board	<ol style="list-style-type: none"> <li>1. The function of the Committee is to administer the operation of the waste disposal arrangements of the Councils in accordance with the Joint Working Agreement and in accordance with the Principal Contract (as defined in the Joint Working Agreement and in particular Schedule 4 thereto once the delegations detailed in Schedule 4 have been confirmed by the Committee)</li> </ol>

	<p>Without prejudice to the generality of the foregoing the Committee will:-</p> <ol style="list-style-type: none"> <li>1.1 subject to the said confirmation by the Committee be responsible for the decisions assigned to it in Schedule 4 of the Joint Working Agreement; and</li> <li>1.2 exercise such powers as all of the Councils may from time to time delegate to the Committee with the agreement of the Committee; and</li> </ol> <ol style="list-style-type: none"> <li>2. For the avoidance of doubt, it is agreed that the Committee will not be responsible for making decisions on: <ol style="list-style-type: none"> <li>2.1 change to the policies and targets of the Councils</li> <li>2.2 the determination of the budget of the Councils regarding the Project</li> </ol> </li> <li>3. The Committee shall not be empowered to acquire land or any interest in land.</li> <li>4. The Committee may arrange for work to be carried out directly or on an agency or contract basis by any of the Councils</li> <li>5. Where any power exercisable by the Committee or by the Chairman or Vice-Chairman commits or is likely to commit the Councils to expenditure in excess of £100,000 or to result in the aggregate expenditure of the Councils under the Project for the then current financial year exceeding £100,000 then any such decision shall notwithstanding the other provisions of this Constitution be referred to the Councils for the decision to be taken by them. The figure of £100,000 shall be reviewed by the Councils at five yearly intervals the first such review to take place on the fifth anniversary of the review and in respect of each such review the reference in this clause to £100,000 shall be deemed to have been amended by the substitution therefore of the appropriate reviewed figure</li> </ol>
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#### 5.7 Individual Members of the Executive

Members of the Executive are allocated responsibility for the following functions:

**Executive Member for Council Strategy and Community Cohesion  
(Leader of the Council and Chairman of the Executive)**

The **Executive Member for Council Strategy and Community Cohesion** is responsible for the following functions, to the extent that they comprise Executive Functions:

- 1 The formulation and implementation of the Sustainable Community Plan.

- 2 Making arrangements for the formulation of proposals for the annual Revenue and Capital Budgets and of proposals for the level of Council Tax.
- 3 The powers and duties of the Council for the collection of local taxes.
- 4 The co-ordination of annual service planning, review and performance monitoring.
- 5 Matters relating to the Local Government Association and regional groupings.
- 6 The appointment of Members to Committees of the Executive, including, where the Executive Member for Council Strategy considers it appropriate, the appointment of the Chairman and the Vice-Chairman of those Committees.
- 7 The determination of the Terms of Reference of the Committees of the Executive.
- 8 The appointment of Members to external bodies, whose functions are the sole responsibility of Bracknell Forest's Executive.
- 9 To act as Chairman of meetings of the Executive.
- 10 The formulation and implementation of the Community Cohesion Strategy.
- 11 The Council's arrangements for community engagement particularly in relation to young people, vulnerable adults, black and minority ethnic groups and "hard to reach" groups.
- 12 The Council's arrangements to meet the requirements of Equalities legislation.

### **Executive Member for Culture, Corporate Services and Public Protection**

The **Executive Member for Culture, Corporate Services and Public Protection** is responsible for the following functions, to the extent that they comprise Executive Functions:

- 1 Overall performance and effective operation of the Corporate Services Department (Democratic and Registration Services, Information and Communications Technology, Legal Services, Customer Services and Community Centres.)
- 2 The development and introduction of Information and Communications Technology and its use.
- 3 The Council's powers under Sections 29 and 38 of the Local Government (Miscellaneous Provisions) Act 1976.
- 4 The Council's powers under Section 2 of the Local Government Act 2000 [the promotion of well-being.]

- 5 The provision, maintenance and development of leisure services and facilities – all the borough’s major built leisure facilities plus sports development.
- 6 Management and promotion of rights of way and recreational routes for the Borough.
- 7 Nature and Heritage Conservation – the conservation of the borough’s heritage and its appropriate promotion.
- 8 Biodiversity – the conservation and enhancement of the borough’s natural habitat and species.
- .9 Tourism information, initiatives and services.
- 10 Recreational Parks, Open Spaces and Countryside – management of land intended to be used for recreational and leisure purposes.
- 11 Tree management – the provision of tree advice and support services to land managers.
- 12 Measures to promote the health of Borough residents – including, but not limited to, keep fit, GP referrals and encouraging walking.
- 13 Arts and Cultural Activities – support South Hill Park.
- 14 The corporate public relations, marketing and communications function.
- 15 The Coroner’s Service, Cemeteries and the Crematorium.
- 16 Overall performance of the Environment, Culture and Communities Department relating to those parts for which the Executive Member is responsible.
- 17 Emergency Planning.
- 18 The formulation and implementation of the Safer Communities Strategy.
- 19 Liaison with the Royal Berkshire Fire and Rescue Service.
- 20 Liaison with the Thames Valley Police.
- 21 CCTV systems in public places.
- 22 Liaison with the Town and Parish Councils in the Borough.
- 23 Environmental standards including:-
  - Food and safety control
  - Control and monitoring of pollution and statutory nuisances
  - Infectious disease and pest control
- 24 Trading standards including:-
  - Weights and measures.
  - Fair trading.
  - Trade description.

- Consumer credit and safety.
  - Consumer complaints.
- 25 Health and Safety including:-
- Health, safety and welfare of people at, or affected by, work.
  - Promotion of health education and home safety.
- 26 Removal and disposal of abandoned vehicles.
- 27 Any functions under any licensing legislation which are Executive Functions and which do not fall within the remit of any other Executive Member.
- 28 The Library and Information Services.

### **Executive Member for Planning and Transport**

The **Executive Member for Planning and Transport** is responsible for the following functions, to the extent that they comprise Executive Functions:

- 1 The functions of the Council under Town and Country Planning legislation.
- 2 The functions of the Council as Local Highway Authority.
- 3 The functions of the Council as Streets Authority (including on-street parking.)
- 4 The functions of the Council under the Road Traffic Regulation legislation and in respect of road closures.
- 5 The functions of the Council relating to Public Rights of Way, cycle routes and pedestrian ways
- 6 Road Safety
- 7 The parking of vehicles in respect of Council functions and Orders where these relate to the public highway (other than abandoned vehicles and street trading)
- 8 The functions of the Council under the Transport Act 1985 and making representations and objections in respect of applications under HGV licensing legislation.
- 9 The functions of the Council under the Building Acts.
- 10 The overall performance of the Environment, Culture and Communities Department relating to those functions for which the Executive Member is responsible.
- 11 To represent the Council on regional and sub-regional planning and transportation matters.
- 12 To represent the Council on the Strategic Housing Partnership and the Strategic Transport Partnership.

- 13 The functions of the Council under the Traffic Management Act 2004
- 14 Car Park management and maintenance (including on-street schemes and the provision of car parking solutions.)

### **Executive Member for the Environment**

The **Executive Member for the Environment** is responsible for the following functions, to the extent that they comprise Executive Functions:

- 1 Waste and recycle collection
- 2 Public cleansing, including street sweeping, cesspools and private sewers.
- 3 Public Conveniences
- 4 Climate change (mitigation and adaptation)
- 5 Weighbridges
- 6 Rural hedges and ditches
- 7 Environmental Improvement Schemes
- 8 Waste disposal and recycling
- 9 Grounds maintenance, other than countryside maintenance and excluding tree management.
- 10 The overall performance of the Environment, Culture and Communities Department relating to those functions for which the Executive Member is responsible.

### **Executive Member for Children, Young People and Learning**

The **Executive Member for Children, Young People and Learning** is responsible for the following functions, to the extent that they comprise Executive Functions:

- 1 The Council's responsibilities for schools and related matters including extended schools, admissions and transport.
- 2 The Council's responsibilities for Adult and Community Learning.
- 3 The overall performance of the Children, Young People and Learning Department in respect of these functions.
- 4 The Council's responsibilities for children's social care and related matters including transition to adult.
- 5 The Early Years and Childcare Service.
- 6 Children's Centres.

- 7 To represent the Council on the Berkshire Adoption Panel.
- 8 To represent the Council on the Bracknell Forest and Windsor and Maidenhead Joint Fostering Panel.
- 9 Liaison with other providers of services to children and young people.
- 10 Overall performance of the Children, Young People and Learning Department in respect of these functions.
- 11 Communicating with, liaising with, and championing the needs of looked after children in the borough.

**Executive Member for Adult Services, Health and Housing  
(currently also Deputy Leader of the Council)**

The **Executive Member for Adult Services, Health and Housing** is responsible for the following functions, to the extent that they comprise Executive Functions:

- 1 The Council's functions as a Housing Authority.
- 2 The overall performance of the Adult Social Care, Health and Housing Department.
- 3 The Health & Wellbeing Board, liaison and joint commissioning with providers of health services, the Council's function on Public Health, including reducing smoking.
- 4 To represent the Council on the Supporting People Commissioning Body.
- 5 To represent the Council on the Older People's Forum.
- 6 To represent the Council as a member for the South East Councils with Adult Services responsibilities.

**Executive Member for Transformation and Finance  
(currently also Vice Chairman of the Executive)**

The **Executive Member for Transformation and Finance** is responsible for the following functions, to the extent that they comprise Executive Functions:

- 1 The formulation of the Council's annual revenue budget, and its implementation following its approval by Council.
- 2 The formulation of the Council's annual capital budget, and its implementation following its approval by Council.

- 3 The maximisation of the assets and revenue of the Council via contributions from external sources as a result of planning consents and agreements.
- 4 Financial (including investment and insurance) management, and management of the Council's balances.
- 5 To act as lead Member in relation to risk management.
- 6 Major capital projects.
- 7 The realisation of capital resources.
- 8 The management of all property and land owned by the Council other than that which is used as operational property for functions which are allocated to another Executive Member.
- 9 Strategic and planned maintenance of all Council properties other than schools.
- 10 The provision of, maintenance and management of the Council's central fleet of vehicles and mechanical equipment and plant.
- 11 To act as deputy chairman at meetings of the Executive.
- 12 Overall performance and effective operation of the Corporate Services Department (Corporate Property, Financial Services and Human Resources).
- 13 Transformation of services across the council's activities, by the examination of opportunities for partnerships, commissioning and sharing services.

### **Executive Member for Economic Development and Regeneration**

The **Executive Member for Economic Development and Regeneration** is responsible for the following functions, to the extent that they comprise Executive Functions:

- 1 The management, maintenance, improvement, development and redevelopment of Bracknell Town Centre, insofar as these functions are not the responsibility of the Bracknell Town Centre Regeneration Committee. Authority to vary the Development Agreement with BRP regarding the early transfer of land and property interests acquired under the CPO.
- 2 Bracknell Town Market.
- 3 Crowthorne Enterprise Centre.
- 4 In conjunction with the Executive Member for Planning and Transport, car parking strategies throughout the borough.



## 6. POWERS EXERCISABLE BY OFFICERS

6.1 Except where indicated otherwise, the following paragraphs of this Appendix describe the allocation of both Executive and non-Executive functions to Officers. Table 1 below sets out a list of powers which are exercisable by Officers. The list is without prejudice to the general provisions of this Appendix which follow.

### 6.2 Authorisations and Limitations

#### (a) Management Delegations

Subject to the exclusions summarised at (c) below, the limitations set out in (d) below and full compliance with the procedure rules, regulations and policies and procedures referred to in 3 below, each Director is authorised to exercise the Council's powers (including those relating to Executive responsibilities) in relation to the day-to-day management of the Department for which he or she is responsible, including authority to:-

- (i) appoint, manage and dismiss staff, save in respect of appointments and dismissals of senior Officer posts reserved for Member appointments;
- (ii) make minor alterations to departmental structures;
- (iii) place orders, and enter into contracts for, the supply of goods and services and, where appropriate, for building and engineering works; and to authorise or incur any other expenditure for which provision has been made in the appropriate Revenue or Capital Budget;
- (iv) manage any physical assets, including land and buildings, acquired by or allocated to the department for which the Director is responsible;
- (v) accept the surrender of leases and licences where these are in the interests of good asset management and where there is no significant adverse financial effect upon the Council;
- (vi) approve the release of Section 106 funds where these are included in an approved capital budget, in consultation with the appropriate Executive Member; and
- (vii) respond to consultation papers published by or on behalf of the government or a government agency, in consultation with the relevant Executive Member, Committee Chairman or the Mayor, as appropriate.
- (viii) appoint proper and statutory Officers save where such decisions are reserved for Members

For the purposes of the above, day to day management shall be taken to include those items which have been recognised as such by past practice or by specific Committee resolution, or which the Chief Executive, in consultation with the appropriate Director, agrees is ancillary to or

analogous with matters accepted as being within the scope of day to day business exercised by Officers.

(b) Authorised Delegations

Subject to the same considerations set out in (a) above, the Chief Executive or a Director may take operational decisions and exercise any of the Council's powers in relation to the service for which he/she is responsible as set out in Table 1 to this Part of the Constitution.

For this purpose, the term "operational decision" does not include:

- (i) decisions which cannot be made within established general policies or practices;
- (ii) decisions which lead to expenditure which cannot be met from approved budgets;
- (iii) the enactment, alteration or revocation of bylaws or private legislation;
- (iv) in the event of a civil emergency the Council's designated Senior Officer is authorised to exercise all the powers of the Council provided that the Senior Officer shall not be authorised to incur expenditure in excess of £100,000 without the concurrence of the Borough Treasurer or his designated nominee; and

(c) Limitation of Delegations

Delegations are subject to the following restrictions or conditions.

- (i) in exercising their delegated powers, officers shall also have regard to the authority and responsibility placed on the Chief Executive for the overall management and co-ordination of the Council and shall comply with any general management directives and requests for information.
- (ii) in dealing with matters requiring professional judgement, officers shall also have regard to any statutory responsibilities.
- (iii) where a matter requires a professional judgement and the officer is not professionally qualified in that subject, he/she shall seek appropriate professional advice before exercising his/her delegation.
- (iv) charges for services shall only be levied as set out in the annual budget approved by Council save that Directors may fix charges for any new service provided that such charges shall be reported to the next meeting of the Council's Executive Committee or Sub-Committee (as appropriate) and
  - (A) Directors may:-
    - set charges for any new service or vary charges for existing services (provided that such variation shall be reported to the next meeting of the Executive), and
  - (B) the Director of Environment, Culture and Communities may:-

- vary Leisure charges from time to time for limited periods for the purposes of promoting a service
- (C) the Director of Children, Young People and Learning may in consultation with the Borough Treasurer increase foster care allowances in accordance with scales recommended by the National Foster Carers Association
- (v) Notices and Orders shall not be issued other than by the Borough Solicitor if he/she has indicated that such Notices should be issued in his/her name
- (vi) the making of Compulsory Purchase Orders is not delegated to Officers
- (vii) setting the overall level of budgetary provision within the divisions of service is not delegated to Officers
- (viii) a Director or a Chief Officer shall not exercise any delegated powers for any regulatory function in respect of any premises the management of which they are responsible for.
- (d) Delegation to Subordinate Officers

A Director or other Officer referred to in Table 1 may arrange for other Officers under his/her control to exercise some or all of his/her powers, subject to.-

- (i) unless the Director otherwise agrees, such powers being exercised in the name of the Director;
- (ii) responsibility for any actions taken by a subordinate shall remain with the Director or other Officer referred to in Table 1.
- (iii) authority to incur expenditure or authorise payment shall only be delegated in accordance with Financial Regulations (Finance Procedure Rules); and
- (iv) notwithstanding the above, a valuation certificate which needs to be signed by a qualified valuer shall be signed by an Officer nominated by the Director of Corporate Services.

A Chief Officer who has been authorised to exercise a power pursuant to the above may arrange for the power to be exercised by an officer under his/ her control, subject to (i) to (iv) above.

A Director may delegate a function to an officer in another department, subject to concurrence of the Director to whom the proposed delegate reports.

The Chief Executive may delegate any of his functions as Electoral Registration Officer to the Head of Democratic and Registration Services.

An officer employed by another local authority but who is placed at the disposal of the Council for the purpose of powers exercisable by the Director or Chief Officer, under an agreement entered into pursuant to Section 113 of

the Local Government Act 1972, shall be treated as being under his/her control.

(e) Authorised Deputies

- (i) Where there is a vacancy in the post of Chief Executive, Director or other Officer referred to in Table 1 or such person is unable to act the powers authorised to be exercised by the postholder may be exercised by the person(s) who are performing the functions of the post pending an appointment or who would perform them if there were such a vacancy.
- (ii) Where the post of a Director or other person referred to in Table 1 is vacant or the post holder is unable to act and there is no person able to act pursuant to (i) above the powers of the post holder may be exercised by the Chief Executive or if he/she is unable to act then by any other member of the Corporate Management Team.
- (iii) Where the post of a Director or other person referred to in Table 1 is vacant or the post holder is unable to act the Chief Executive (or in his absence the Deputy Chief Executive) is authorised to designate an officer to exercise the relevant delegated powers.

**6.3 Standing Orders and Regulations etc Applying to Delegated Authority.**

(a) General

At all times Officers exercising the powers under the delegation arrangements described above are acting on behalf of and in the name of the Council unless statutory provisions indicate otherwise. In order to provide high standards in public service and to demonstrate value for money, Officers are required to exercise their delegated authority within the framework approved by the Council, as summarised below.

(b) Financial Management

In all matters of financial management, Officers shall comply with the provisions of the Council's Financial Regulations set out in this Constitution. (Separate Financial Regulations relating to schools are included in the Council's Scheme of Local Management in Schools.)

(c) Contracts and Purchasing

No Officer shall place orders or authorise contracts to be awarded, otherwise than in accordance with the Council's Procedure Rules, as set out in this Constitution.

(d) Personnel Management (a non-Executive responsibility)

- (i) Recruitment may only be authorised where there is sufficient financial provision in the department's budget for the current financial year and where the costs (if any) of the appointment in the following year can be contained within the approved plans.

- (ii) In all other matters of personnel management, including remuneration, selection, training and the consideration of proposals having a direct impact on employee groups, Officers shall comply with the Council's personnel policies, regulations and codes of practice.
- (iii) Directors shall consult with the Borough Human Resources Manager on staffing matters having corporate implications including:
  - any proposals involving redundancy or early retirement on efficiency or medical grounds;
  - the application of the Council's job evaluation and grading scheme;
  - any extension of sick pay on half pay after the expiry of contractual entitlement for periods of more than 3 months;
  - awarding honoraria in excess of £1,000;
  - granting leave of absence without pay for periods in excess of 3 months;
  - payment of excess flexitime;
  - authorising the carry over and/or payment of annual leave in excess of 10 days.

(e) Management of Land and Buildings

- (i) In managing land and buildings under their control Officers shall comply with the policies and procedures agreed by the Council.
- (ii) Where land and buildings under the control of a department cease to be used for the purpose for which they were acquired or allocated, the matter shall be referred to the Executive.

(f) Information Technology Strategy

In all matters involving the use of Information and Communications Technology (ICT), Officers shall comply with the Council's Information Systems and Technology Strategy.

**6.4 Urgent Decisions (including Recess Arrangements)**

6.4.1 Save in respect of the period from the date of Election to (and including) the date of the Annual Meeting of the Council following the Election, where an immediate decision is required in connection with a non-Executive function on:-

- (a) a matter which would normally be referred for a decision to Council or to a Committee of the Council (other than an Overview and Scrutiny Committee) or a Sub-Committee and
- (b) the Mayor or the Chairman does not consider it appropriate to convene a special meeting

then, subject to (c) below, all the powers and duties of the Council, Committee or Sub-Committee may be exercised by the Chief Executive, or the appropriate Director, provided that the Chief Executive or Director:-

- (i) obtains the written agreement of the Mayor (and in the case of a decision normally referred to Council the written agreement of The Leader and the Leader of any Minority Group) or appropriate Chairman to the course of action proposed;
  - (ii) shall submit a full report on the decision to the first available meeting of the relevant body, including an explanation of the reason for urgency.
- (c) the extent of delegation authorised under this paragraph 6.4.1 is subject to the same exclusions, limitations and conditions that would have applied had the matter been dealt with by the relevant Committee, or Sub-Committee.

6.4.2 In respect of the period from the date of Elections to the Council until (and including) the date of the Annual Meeting of the Council following the Elections, where an immediate decision is required in respect of either an Executive or non-Executive function and (if the matter relates to a non-Executive function) the Mayor does not consider it appropriate to convene a special meeting then the decision may be taken by the Chief Executive provided that the Chief Executive:-

- (i) obtains the written agreement of the Mayor (or, in the event of the Mayor not being immediately available, the Deputy Mayor) to the course of action proposed;
- (ii) shall submit a full report on the decision to the first available meeting of the relevant body, including an explanation of the reason for urgency.

The extent of delegation authorised under this paragraph 4.2 is subject to the same exclusions limitations and conditions that would have applied had the matter been dealt with by the relevant Committee, Sub-Committee or Executive authority.

## **7. Urgent Decisions – Key Decisions**

Articles 15 and 16 of the Access to Information Rules in Part 4 of this Constitution apply to Key Decisions which need to be taken urgently.

## **8. References to Legislation**

Any references to legislation shall be deemed to include subordinate legislation.

**A. CHIEF EXECUTIVE AND DIRECTORS - GENERAL POWERS**

The Chief Executive and, for the purposes of those powers and duties which they are respectively authorised to discharge, Directors, are authorised to take the following actions and measures:-

1. all actions and measures which are authorised by the Council's Contract Procedure Rules and Finance Procedure Rules.
2. authorising the Borough Solicitor to institute proceedings to recover monies due to the Council and/or to recover land owned by the Council.
3. authorising Officers to exercise powers to enter land, to exercise powers of inspection, seizure and to detain goods.
4. respond to requests under Data Protection and Freedom of Information legislation
5. make ex gratia payments to staff under Section 265 of the Public Health Act 1875 in respect of claims relating to damage or injury resulting from the actions of service users or in carrying out the Council's functions.
6. submit or authorise the submission of planning applications to the Council.

**B. CHIEF EXECUTIVE**

The Chief Executive is authorised to:-

1. take such measures as are appropriate in his or her capacity as the Head of the Paid Service.
2. take such steps as are properly required to ensure the effective implementation of the decisions of the Council, its Committees and Sub-Committees and the Executive.
3. act as Returning Officer.
4. witness and receive Declarations of Acceptance of Office and receive Declarations of Resignation of Office under Section 84 of the Local Government Act 1972.

In his/her absence the functions of the Chief Executive set out at paragraphs 1, 2 and 4 above will be vested in the Deputy Chief Executive. References to the Chief Executive in other parts of the Council's Constitution should in his/her absence be read and construed as referring to the Deputy Chief Executive.

The Chief Executive is designated as the Council's Electoral Registration Officer (the Head of Democratic and Registration Services is designated as the Deputy Electoral Registration Officer)

5. The Chief Executive (or Deputy Chief Executive in the Chief Executive's absence) may cancel a meeting of the Council, its Committees, the Executive or its Committees where the agenda has already been issued if it is considered expedient

to do so. The Chief Executive (or Deputy Chief Executive) shall not exercise such power without prior consultation with the Mayor, the Leader or the Committee Chairman (as appropriate). Any outstanding business will be held over to the next scheduled meeting on a date to be arranged.

#### Assistant Chief Executive

6. The Assistant Chief Executive is authorised to submit planning applications on behalf of the Council.

### **C. DIRECTOR OF CORPORATE SERVICES**

#### **Operational and Corporate Management**

The Director of Corporate Services is authorised to:-

- 1 secure and make arrangements for the provision of the following services to the Council:-
  - (a) Finance, including Procurement, Transport, Audit and Risk Management
  - (b) Legal
  - (c) Human Resources, including organisation development and Health and Safety
  - (d) Information and Communications Technology
  - (e) Democratic and Registration Services, including administrative support to the Council, Scrutiny Bodies and Regulatory Committees, the Executive, appeals and review processes; the management, repair and maintenance of the Council's Civic Offices, the provision of catering services for the Civic Offices and the provision of a courier service for the delivery of Council documents
  - (f) Property Services, including Facilities Management
  - (g) Customer Services, including Revenue Services
  - (h) Community Engagement and Equalities
- 2 make arrangements for Mayoral transport and other Member support.
- 3 maintain a Register of Members' Interests and Members' Allowances.

#### **Housing**

- 4 The Director of Corporate Services is authorised to exercise the powers of the Council under Schedule 16 of the Housing Act 1985 (Local Authority Mortgage Interest Rates).



## **Council Tax and National Non-Domestic Rate Collection**

- 5 The Director of Corporate Services is authorised to exercise the Council's powers and duties (including action to recover arrears) relating to Community Charge, Council Tax and Non-Domestic Rates excepting the determination of discretionary rate relief under Sections 47 and 48 Local Government Finance Act 1988.

## **D DIRECTOR OF CHILDREN, YOUNG PEOPLE AND LEARNING**

1. Subject to the exceptions, limitations and reservations set out below the Director of Children, Young People and Learning is authorised to exercise all the powers and perform all the duties of the Council in respect of the following functions:-

### **1.1 Children and Young People**

Those functions:-

- (a) which the Council is required to appoint a Director of Children's Services for under Section 18 of the Children Act 2004 but including those functions which are referred to in Section 18(3)(a) to (d) of the said Section 18 and any functions which may be prescribed pursuant to Section 18(3)(e).

### **1.2 Youth Service**

The Council's functions in respect of the provision of a youth service.

### **1.3 Complaints**

The taking of action (including the making of compensatory awards) on the recommendation of a Complaints Review Panel established in respect of any function for which the Director is responsible under paragraph 1.1 above.

### **1.4 Miscellaneous**

- (a) Varying and waiving charges to service users or their parents
- (b) Discretion to pay an applicant's legal expenses in applying for and obtaining Orders under Section 8 of the Children Act 1989 and Adoption Orders in respect of a child in care.
- (c) Discretion to make payments to holders of Residence and Adoption Orders for children previously in care where agreed prior to the Order being applied for and (in exceptional circumstances) subsequent to an Order.
- (d) Giving consent for the marriage of a young person in care under Section 3 of the Marriage Act 1949.
- (e) Determining applications of children and young persons in care who wish to join Her Majesty's Forces.
- (f) To act as a receiver in all matters in respect of persons under 18.

## **2 Exceptions and Limitations**

2.1 In respect of all of the functions referred to above:-

- (a) The approval of all statutory plans.
- (b) The formulation and approval of all policies (other than those concerning day to day management of the Children, Young People & Learning Department) including those relating to:-
  - (i) Home to School Transport
  - (ii) Denominational School Transport
  - (iii) School Admissions
  - (iv) School Meals
  - (v) Student Awards
  - (vi) Special Educational Needs
- (c) Approving bids for expenditure qualifying for Government grants.

2.2 In paragraph 1.1 above:-

- (a) Significant variations to the Scheme of Local Management of Schools and Special Education and the suspension or withdrawal of delegated budgets to schools.
- (b) Reorganisations deriving from reviews of primary, secondary and special education and the publication of statutory notices in connection therewith and the consequent necessary recommendations to the School Organisation Committee.
- (c) Arrangements for Member-level liaison and consultation of school governing bodies, head teachers and staff associations and other bodies involved in the provision of education.
- (d) Authorising the constitution of the Secure Accommodation Review Panel.
- (e) Approving day care reviews under Section 19 of the Children Act 1989.
- (f) Hearing Stage 3 complaints under Section 26 of the Children Act 1989.
- (g) Approving further delegations of the Education Service budget to schools.
- (h) The introduction of a Direct Payment Scheme.

## **E. DIRECTOR OF ADULT SOCIAL CARE, HEALTH AND HOUSING**

1. Subject to the exceptions, limitations and reservations set out below the Director of Adult Social Care, Health and Housing is authorised to exercise all the powers and perform all the duties of the Council in respect of the following functions:-

### **1.1 Adult Social Care**

Those functions which are “social services functions” within the meaning of the Local Authority Social Services Act 1970 other than those functions which are delegated to the Director of Children, Young People and Learning.

### **1.2 Health Services**

Functions under legislation relating to Health services save insofar as they are delegated to any other Director.

### **1.3 Complaints**

The taking of action (including the making of compensatory awards on the recommendation of a Complaints Review Panel established in respect of any function for which the Director is responsible under paragraph 1.1 above.

### **1.4 Housing**

- (a) As local housing authority and under legislation relating to housing.
- (b) Relating to Housing Benefits.
- (c) The negotiation and conclusion of nomination agreements with registered social landlords or similar organisations under which the Council secures the maximum nomination rights allowed by law and any relevant consents.
- (d) Under Parts VI, IX, X and XI of the Housing Act 1985.
- (e) The approval of grants for the renewal or improvement of housing.

### **1.5 Miscellaneous**

- (a) Administering the Disabled Persons Badge Parking Scheme.
- (b) To act as a receiver in all matters in respect of persons aged 18 or over.

## **2. Exceptions and Limitations**

2.1 In respect of all of the functions referred to above:-

- (a) The approval of all statutory plans.
- (b) The formulation and approval of all policies (other than those concerning day to day management of the Adult Social Care, Health and Housing Department).

- (c) Approving bids for expenditure qualifying for Government grants.

2.2 In respect of Paragraph 1.4:-

- (a) setting of rent levels.
- (b) section 17, Housing Act 1985 (acquisition of land for housing purposes).
- (c) section 19, Housing Act 1985 (appropriation of land).
- (d) section 23, Housing Act 1985 (Making of byelaws).
- (e) consideration of periodical review of housing needs.
- (f) section 27A, Housing Act 1985 (management agreements).
- (g) disposal of land other than council houses under the “Right to Buy” legislation, freehold reversions, small land sales and licences to occupy or access council land.
- (h) section 102, Housing Act 1985 (variation of terms of secure tenancies).
- (i) determination of arrangements for consultation with tenants, pursuant to section 105, Housing Act 1985.
- (j) determination of Housing Allocation Scheme.
- (k) warrants for possession of dwellings may only be sought after consultation with a designated member of the Executive.

**F. DIRECTOR OF ENVIRONMENT, CULTURE AND COMMUNITIES**

1 Subject to the exceptions and limitations set out in Paragraph 2 below, the Director of Environment and Leisure is authorised to exercise the functions of the Council:-

1.1 Relating to trees and hedgerows.

1.2 As Highways Authority, Street Authority, Traffic Authority, Local Traffic Authority and all other legislation relating to highways, transportation (including car and lorry parks), street management, street works and/or management and rights of way save for functions under the Town and Country Planning Acts.

1.3 Management of caravan sites, including allocation of pitches and removal of caravans.

1.4 Relating to Forest Care.

1.5 Under the Building Act 1984, and all other legislation relating to dangerous buildings and structures, protection of buildings, ruinous and dilapidated buildings and neglected sites and building control save for functions under the Town and Country Planning Acts.

- 1.6 That excepting the power to designate whether an area should be (a) subject to additional licensing (Section 56), and (b) subject to selective licensing (Section 80), to exercise all the powers and perform all of the duties of the Council under Parts 1,2,3,4 and 7 of the Housing Act 2004.
- 1.7 Relating to licensing (including as responsible authority), registration and permits.
- 1.8 Relating to the general duties under the Regulatory Enforcement and Sanctions Act 2008
- 1.9 Relating to weights and measures, fair trading, trade descriptions, consumer safety and trading standards
- 1.10 Enforcement and inspection functions, and related powers, under legislation relating to Health and Safety at work.
- 1.11 Relating to public health protection (excluding any functions which are the responsibility of the Director of Public Health or otherwise fall to be discharged by the Council under legislation relating to the National Health Service) including food safety and quality (including certificates in respect of the export and import of food products) pest control and notifiable diseases.
- 1.12 Relating to water quality, contaminated land, smoke control, pollution control, statutory nuisances, clean air and air quality.
- 1.13 Relating to the recycling, the collection, disposal, management and regulation of waste.
- 1.14 Relating to the processing and licensing of scrap metal merchants.
- 1.15 Relating to street maintenance and grounds maintenance.
- 1.16 Relating to weighbridges.
- 1.17 Relating to Bracknell Market.
- 1.18 Relating to Emergency Planning.
- 1.19 Relating to litter.
- 1.20 Relating to arrangements for the disposal of the dead, cemeteries and crematoria.
- 1.21 Relating to dogs and animal welfare.
- 1.22 Under the Berkshire Act 1986.
- 1.23 Relating to recreation, leisure, open spaces, arts and cultural activities.
- 1.24 Relating to grants.
- 1.25 Under Antisocial Behaviour legislation relating to:-
  - Antisocial Behaviour Orders where the securing of such Orders is considered appropriate in connection with any other functions delegated to the Director of Environment and Leisure.

- Fixed Penalty Notices for graffiti and fly-posting.
  - The sale of aerosol paints to children.
- 1.26 Relating to the Coroner's Service.
- 1.27 Relating to Explosives.
- 1.28 To appoint independent surveyors in the event of a Party Wall dispute.
- 1.29 Relating to flooding and drainage (including Land Drainage and functions under the Flood and Water Management Act 2010)
- 1.30 Relating to public conveniences, septic tanks, cesspools and private sewers.
- 1.31 Relating to the removal, and disposal of, abandoned vehicles and untaxed vehicles.
- 1.32 Objecting to the granting of Bookmakers' Permits and lodging objections to Betting Office Licences.
- 1.33 Arranging for the removal to suitable premises of persons in need of care and attention under Section 47 of the National Assistance Act 1948.
- 1.34 Relating to archives and museums.
- 1.35 Under Part 1 of the Health Act 2006 and under the Smoke Free (Premises and Enforcement) Regulations 2006.
- 1.36 **Library Services**
- (a) The Council's functions under the Public Libraries and Museums Act 1964.
- (b) In respect of libraries and museums:-
- (i) select and purchase books and audio visual material;
  - (ii) select and purchase newspapers and periodicals for public use within agreed policies;
  - (iii) determine the cost of replacement of library items and authorise the issue of legal proceedings for the recovery of the value of items not returned;
  - (iv) determine the method of disposal of withdrawn library items including sale charges;
  - (v) control the number of books reserved and the number of books on loan; and
  - (vi) set the fixed fees and charges for all loan services.

2. **Exceptions and Limitations**

- 2.1 Confirmation of Tree Preservation Orders where any valid objection has been received.
- 2.2 Paragraph 1.2:-
- (a) authorisation for the Borough Solicitor to enter into Agreements under Section 72 or 278 of the Highways Act 1980 can only be given where works to the highway and/or widening of the highway are required as part of a scheme for which planning consent has been obtained or which has been approved by, or on behalf of, the Executive.
  - (b) construction of road humps and approval to traffic calming works.
  - (c) street naming and renaming, numbering and renumbering should be carried out in accordance with the procedure agreed by the Planning and Transportation Committee on 1 October 1998.
  - (d) applications for consent to hold social events on a highway may only be determined following consultation with the relevant Executive Member, Ward Councillors, the Police and the relevant Town or Parish Council.
  - (e) Traffic management schemes and minor road improvements may only be authorised up to a maximum of £50,000 per scheme and if Ward Councillors have raised no objection, provided that any such works may be authorised where they are required urgently in the interests of road safety.
  - (f) authority to enter into Public Path Creation Agreements is limited to where there is no Capital payment by the Council.
  - (g) authority to instruct the Borough Solicitor to make Traffic Orders in respect of approved schemes is limited to where no objection has been received.
  - (h) the making of a Gating Order
- 2.3 Paragraph 1.07:-
- (a) the designation of streets under street trading legislation (the Director may take steps preliminary to the designation).
  - (b) the functions which the Licensing Act 2003 requires, or guidance issued by the Secretary of State there under advises, should be carried out by the Council, a Committee or Sub-Committee.
  - (c) the approval of model conditions.
- 2.4 Paragraph 1.12 – the designation of smoke control areas.
- 2.5 Paragraph 1.13 – the approval of policies as to waste receptacles.
- 2.6 Paragraph 1.16 – the setting of stall rentals or the letting of contracts for the operation of the market.
- 2.7 Paragraph 1.17 – the approval of the Emergency Plan.

- 2.8 Paragraph 1.18 – the designation of litter control areas.
- 2.9 Paragraph 1.20 – the approval of the Local Flood Risk Management Strategy.

## **G. BOROUGH TREASURER**

- 1 The Borough Treasurer is authorised to:-
  - 1.1 Take all appropriate steps and measures to discharge the function of the Borough Treasurer as having responsibility for the administration of the financial affairs of the Council, under Section 151 of the Local Government Act 1972.
  - 1.2 Arrange insurance on behalf of the Council.
  - 1.3 Authorise the Borough Solicitor to institute legal proceedings to recover monies due to the Council.
  - 1.4 Invest surplus monies in accordance with the Council's approved investment policies.
  - 1.5 Raise loans as required.
  - 1.6 In consultation with the Director of Children, Young People and Learning and the Borough Solicitor act in the administration of:-
    - (a) an estate of a deceased person where a child or young person for whom the Council has parental responsibility has an interest in the estate, or
    - (b) a child or young person who has died whilst in the care of the Council.
  - 1.7 Jointly with the Borough Solicitor, accept and manage money or other gifts from third parties for, and on behalf of, children or young persons.
  - 1.8 Write-off irrecoverable debts.
  - 1.9 To discharge his or her functions and exercise his or her powers under Contract Standing Orders and Financial Regulations.
  - 1.10 Jointly with the Chief Officer: Housing, subject to consultation with the Chief Officer: Property, to determine requests to waive repayment of discounts on "Right to Buy" disposals of Council housing (Section 185 of the Housing Act 2004).

## **H. BOROUGH SOLICITOR**

- 1 The Borough Solicitor is authorised to:-
  - 1. Make such orders, issue such notices and execute such agreements and instruments as are necessary to give effect to any decision or authorisation of the Council, its Committees, Sub-Committees, the Executive or of an Officer acting within the scope of his or her authorised powers.



2. On behalf of the Council, to defend, institute, participate in, appeal from, settle or abandon any legal proceedings whether administrative, civil or criminal in any court arbitration or tribunal where such action is necessary to give effect to decisions of the Council or in any case where the Borough Solicitor considers that such action is necessary to protect the Council's interests.
3. Pursuant to Section 223 of the Local Government Act 1972 and other relevant legislation and Practice Directions, authorise persons other than solicitors or barristers to represent the Council in legal proceedings.
4. Determine whether inspection of a document in the possession of the Council should not be allowed on the grounds that it is, or in the event of legal proceedings would be, protected by privilege arising from the relationship of solicitor and client.
5. Certify or authenticate any matter requiring certification or authentication on behalf of the Council.
6. Determine applications for formal registration or certification made in pursuance of any legislation conferring such a function upon the Council in any cases where a Director is not authorised to take such action.
7. In consultation with the Director of Children, Young People and Learning and the Borough Treasurer act in the administration of:
  - (a) an estate of a deceased person where a child or young person for whom the Council has parental responsibility has an interest in the estate, or
  - (b) a child or young person who has died whilst in the care of the Council.
8. Jointly with the Borough Treasurer, accept and manage money or other gifts from third parties for, and on behalf of, children or young persons in care.
9. Exercise the Council's powers to be a Trust Corporation.
10. Exercise the Council's powers and duties in relation to commons and town and village greens.
11. Act as the Monitoring Officer.
12. To discharge his or her functions and exercise his or her powers under Contract Standing Orders and Financial Regulations.
13. To discharge the Council's functions under the Data Protection and Freedom of Information legislation.

#### **I. CHIEF OFFICER: PROPERTY**

- 1 Subject to the exceptions and limitations in Paragraph 2 below, the Chief Officer: Property is authorised to:-
  - 1.1 Grant disposal, create or acquire land or interest in land (including wayleaves and easements).

- 1.2 Grant land disposals which are contractually required of the Council.
  - 1.3 Grant or secure licences relating to the occupation and use of land.
  - 1.4 Determine rent reviews and grant consents and/or take any other action under the terms of a transfer of land to, or by the Council, lease or licence relating to the use, ownership, and/or occupation of land
  - 1.5 Agree all payments in connection with the acquisition of land under Compulsory Purchase Powers, including home loss and disturbance payments.
  - 1.6 Authorise the service of Notices under Landlord and Tenant legislation and other Agreements in respect of land.
2. **Exceptions and Limitations**
- 2.1 The authority to grant any lease, licence, wayleave or easement does not apply if:-
    - (a) the consideration includes a premium of £50,000 or more, or
    - (b) the consideration includes a rental or other consideration of more than £50,000 per annum

Rent reviews providing for a rental of £50,000 or more shall be reported to the relevant Executive Member.
  - 2.2 The authority to take any lease, tenancy, licence, wayleave or easement by the Council does not apply to those cases where:-
    - (a) the consideration includes a premium of £50,000 or more, or
    - (b) the consideration includes a rental or other consideration of more than £10,000 per annum, or
    - (c) the duration of the interest will exceed five years.
  - 2.3 The acquisition of any freehold interest in the land is subject to the acquisition having been previously agreed, in principle, by, or on behalf of, the Executive and the consideration not exceeding £100,000.
  - 2.4 Authority to dispose of amenity land is limited to land not exceeding 0.1 hectares.
  - 2.5 Authority to dispose of the Council's interest in surplus land is limited to land not exceeding 0.2 hectares and to the disposal having been previously agreed, in principle, by, or on behalf of, the Executive.

**J. CHIEF OFFICER: PLANNING AND TRANSPORT**

1. Subject to the exceptions and reservations set out in paragraph 2 below the Chief Officer: Planning and Transport is authorised to exercise the functions of the Council as Local Planning Authority and contained in all other legislation relating to Town and Country Planning (including Listed Buildings and Conservation Areas) save for functions in respect of Tree Preservation Orders and hedgerows.

## 2. Exceptions and Limitations

- (a) applications (including applications to vary planning obligations or for a building to be listed but not including applications for Certificate of Lawful Use) which any single Member of the Council expressly requests should be determined by the Planning Committee, provided that the request is supported, in writing, by a valid planning reason. This exception does not apply to determination of Prior Approvals under paragraph A4 of Part 1 Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995.
- (b) applications (including applications to vary planning obligations or for a building to be listed but not including applications for Certificate of Lawful Use) attracting valid planning objections before a delegated decision is made, where objections arise from more than three households and/or organisations, may only be allowed by the Chief Officer: Planning and Transport if he considers it appropriate to do so following reference to the Chairman of the Planning Committee and Ward Councillors. This exception does not apply to determination of Prior Approvals under paragraph A4 of Part 1 Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995.
- (c) vary or release agreements made pursuant to Section 52 of the Town & Country Planning Act 1971 (whether made pursuant to other legislation or not) which either any single Member requests should not be determined by the Chief Officer or objections arise from more than three households and/or organisations
- (d) applications which, if approved, would be contrary to the Development Plan.
- (e) applications for buildings to be listed where there is significant public interest.
- (f) applications for schemes which the Chief Officer – Planning and Transport is responsible for promoting.
- (g) authority to authorise the Borough Solicitor to issue/withdraw/waive or relax Enforcement Notices, Stop Notices and Listed Building Enforcement Notices shall only be given following consultation with the Chairman of the Planning Committee.
- (h) the final approval of Local Development Documents and in respect of Development Plan Document approval for submission for examination in public.
- (i) the designation of Conservation Areas.
- (j) the revocation of planning permission.
- (k) the approval of a Supplementary Planning Document for public inspection.
- (l) decisions to modify a planning permission under Section 97 of the 1990 Act are not delegated, and

- (m) non-material amendments to a planning permission or approved plans should not be approved other than pursuant to an application under Section 96A of the 1990 Act.
- (n) confirmation of decisions to remove or restrict Permitted Development rights.

**K. CHIEF OFFICER: HOUSING**

- 1. The Chief Officer: Housing is authorised, jointly with the Borough Treasurer, subject to consultation with the Head of Property, to determine requests to waive repayment of discounts on “Right to Buy” disposals of Council housing (Section 185 of the Housing Act 2004).

**L HEAD OF DEMOCRATIC & REGISTRATION SERVICES**

- 1. The Head of Democratic & Registration Services is authorised to discharge the Council’s functions in connection with civil registration services and electoral registration.

**M CHIEF OFFICER: HUMAN RESOURCES**

- 1. The Chief Officer: Human Resources is authorised to sign Compromise Agreements to settle Employment Tribunal proceedings.

**N DIRECTOR OF PUBLIC HEALTH**

- 1. The Director of Public Health has delegated authority for those matters which they are required to be responsible for under the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012) including:
  - a) the duty imposed upon the Council to “take such steps as it considers appropriate for improving the health of the people in its area”
  - b) any public health functions of the Secretary of State which he requires local authorities to discharge on his/her behalf
  - c) dental health functions of the Council
  - d) the duty to co-operate with the prison service to secure and maintain the health of prisoners
  - e) the Council’s duties set out in Schedule 1 of the National Health Act 2006, which include medical inspection of pupils, the weighing and measuring of children and sexual health services
  - f) arrangements for assessing the risks posed by violent and sexual offenders.

## 1. INTRODUCTION

1.1 The Local Government Act 2000 which introduced Executive Arrangements requires the Council to have at least one Overview and Scrutiny Committee. Members of the Executive cannot be Members of an Overview and Scrutiny Committee. The legislation requires such committees to have the power:-

- to review or scrutinise decisions made, or other actions taken, in connection with Executive functions
- to make reports or recommendations to Full Council or the Executive concerning Executive functions
- to review or scrutinise decisions made, or other action taken, in connection with non-Executive functions
- to make reports or recommendations to Full Council or to the Executive in connection with non-Executive functions
- to make reports or recommendations to the Council or the Executive on matters which affect the Borough or its inhabitants

However, subject to one very limited exception in respect of Best Value Reviews Overview and Scrutiny Committee cannot discharge any functions of the Council.

1.2 Under the 2000 Act the arrangements which the Council puts in place for Overview and Scrutiny Committees must include provisions which enable a Member of the Committee to ensure that any matter which falls within the terms of reference of the committee to be included in the agenda for and discussed at the meeting. Overview and Scrutiny Committees may:-

- require Members of the Executive and/or officers to attend before the committee and to answer questions, and
- invite other parties to attend meetings of the Committee.

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## 2. OVERVIEW AND SCRUTINY COMMISSION

2.1 The Council will appoint an Overview and Scrutiny Commission, to discharge the functions conferred by Section 21 of the Local Government Act 2000 and regulations made thereunder.

### 2.2 Terms of Reference

The Overview and Scrutiny Commission shall:

- (i) develop a work programme of overview and scrutiny reviews and policy development projects, in consultation with the Executive and the Corporate Management Team.
- (ii) appoint a number of overview and scrutiny panels, managing and updating their work programme as necessary, including considering any request from an overview and scrutiny panel, or any Member thereof, to add an item to the work programme.
- (iii) review decisions made, but not yet implemented, by the Executive and any other Committee, where these have been called-in.
- (iv) itself, or through an overview and scrutiny panel:
  - review and/or scrutinise decisions made, or actions taken, in connection with the discharge of any of the Council's functions;
  - consider any matter affecting the Borough or its inhabitants.
- (v) Itself, or through an Overview and Scrutiny Panel: make reports and/or recommendations to Council and/or the Executive and/or any other committee in connection with the discharge of any functions.
- (vi) receive summary performance management information and question Members of the Executive and Officers thereon.
- (vii) ensure the efficient discharge of a robust and effective overview and scrutiny function.
- (viii) prepare and submit an annual report to the Council on overview and scrutiny activities and their outcomes.

### 2.3 Specific Functions

- (a) **Policy Development and Review** - The Overview and Scrutiny Commission, through its Overview and Scrutiny Panels, may:
  - (i) assist the Council and the Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
  - (ii) conduct research, community and other consultation in the analysis of particular issues and possible options;
  - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;

- (iv) question members of the Executive, other committees and officers about their views on issues and proposals affecting the area; and
  - (v) liaise with other external organisations operating in the area whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (b) **Scrutiny** The Overview and Scrutiny Commission may itself, or through an overview and scrutiny panel:
- (i) review and scrutinise the decisions made by and performance of the Executive, Committees and Council Officers both in relation to individual decisions and over time;
  - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - (iii) question members of the Executive, Committees and officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time or in relation to particular decisions, initiatives or projects;
  - (iv) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Commission or Panel and local people about their activities and performance; and
  - (v) question and gather evidence from any person (with their consent).
- and make recommendations to the Executive and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process.
- (c) **Finance** The Overview and Scrutiny Commission may exercise overall responsibility for the finances made available to them.
- (e) **Officers.** The Overview and Scrutiny Commission may exercise overall responsibility for the work programme of any officers employed to support their work.



### 3. OVERVIEW AND SCRUTINY PANELS

3.1 (a) The Overview and Scrutiny Commission shall establish such overview and scrutiny panels as it shall determine, including at least the following three panels:

- Environment, Culture and Communities Overview and Scrutiny Panel
- Adult Social Care, Health and Housing Overview and Scrutiny Panel
- Children, Young People and Learning Overview and Scrutiny Panel

with terms of reference as set out below. The Commission may discontinue any overview and scrutiny panel and/or appoint alternative or additional panels, subject to there being a minimum of the three standing panels. The Commission may also amend the terms of reference of the panels as appropriate.

(b) Where the Overview and Scrutiny Commission seeks to discontinue or appoint overview and scrutiny panels other than as set out in the Constitution, it may do so provided that it has consulted with interested parties, if appropriate. Any change will be reported to the proper officer and then to the next meeting of the Council by the chairman of the Commission, so that the Constitution may be amended accordingly

#### 3.2 Terms of Reference

The three above mentioned overview and scrutiny panels shall

- (i) conduct scrutiny reviews or policy development projects allocated by the Overview and Scrutiny Commission from the corporately agreed work-programme, preparing evidence-based reports and recommendations for consideration by the Commission.
- (ii) at the request of the Overview and Scrutiny Commission:
  - review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
  - consider any matter affecting the Borough or its inhabitants.

In addition, the following panels shall have responsibility for performance monitoring activities as set out in the table below.

Environment, Culture and Communities Overview and Scrutiny Panel	To receive Quarterly Service Reports on the work of the Environment, Culture and Communities Department and to question the relevant Executive portfolio holders and senior officers thereon, reporting to the Overview and Scrutiny Commission where necessary.
Adult Social Care, Health and Housing Overview and Scrutiny Panel	To receive Quarterly Service Reports on the work of the Adult Social Care, Health and Housing Department and to question the relevant Executive

	portfolio holder(s) and senior officers thereon in so far as it relates to the Adult Social Care functions of the Council, reporting to the Overview and Scrutiny Commission where necessary.
Children, Young People and Learning Overview and Scrutiny Panel	To receive Quarterly Service Reports on the work of the Children, Young People and Learning Department and to question the relevant Executive portfolio holder(s) and senior officers thereon in so far as it relates to the Children, Young People and Learning functions of the Council, reporting to the Overview and Scrutiny Commission where necessary.

In addition, the Council has established/participates in the following overview and scrutiny committees:

- (i) The Health Overview and Scrutiny Panel which shall undertake all the statutory functions of a scrutiny committee in accordance with Section 7 (and regulations made under that section) of the Health and Social Care Act 2001, relating to reviewing and scrutinising health service matters.
- (ii) The Joint East Berkshire Health Overview and Scrutiny Committee.
- (iii) The Joint East Berkshire Health Overview and Scrutiny Committee with Buckinghamshire County Council.

#### **4. CONDUCT OF PROCEEDINGS**

The Overview and Scrutiny Commission and the overview and scrutiny panels established by the Council will conduct their proceedings in accordance with the Overview and Scrutiny Procedure rules set out in Part 4 of this Constitution.

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## **PART 4 - THE WAY IN WHICH THE COUNCIL OPERATES**

1.1 This part of the Constitution sets out the way in which the Council operates, including the processes by which Council decisions should be made. Those processes vary, depending upon the nature of the decision to be made, whether the decision concerns an Executive or a non-Executive decision and whether the decision maker is the Council, a committee of the Council, the Executive, an Executive Member or an officer. It also sets out the Codes and Protocols which govern the conduct of Members and officers respectively.

1.2 This Part is divided into the following sections:-

Section 2 Principles of Decision Making – this section sets out the general principles which apply to the process of decision making. Importantly, it establishes a presumption in favour of decision making being open and transparent.

Section 3 Council Procedure Rules – this section sets out the rules which govern the conduct of meetings of the Full Council.

Section 4 Committee Procedure Rules – this section sets out the rules which govern the conduct of meetings of the Council Committees and Sub-Committees of the Council.

Section 5 Access to Information Procedure Rules – this section sets out the rights of members of the public to attend Council meetings, to access agendas, minutes and background papers and the circumstances in which those rights may be excluded.

Section 6 Budget and Policy Framework Procedure Rules – this section sets out the procedures to be followed in the formulation and adoption of the Council's budget and any document which is to form part of the Council's Policy Framework.

Section 7 Executive Procedure Rules – this section sets out the procedure for Executive Meetings.

Section 8 Protocol for Executive Decision-Making by Members Under Executive Arrangements – this section sets out the procedures for Decision Making by the Executive, an Executive Committee or by Individual Executive Members.

Section 9 Overview and Scrutiny Procedure Rules – this Section sets out the procedures relating to the Overview and Scrutiny Commission and its Panels.

Section 10 Financial Regulations – this section sets out the Council's Financial Regulations

Section 11 Contract Standing Orders – this section sets out the Council's rules relating to the award of contracts, procurement of goods, services and work.

- Section 12 Officer Employment Procedure Rules – this section sets out the procedures for the appointment, dismissal and taking disciplinary action in respect of the Chief Executive, Directors and Deputy Chief Officer posts.
- Section 13 Code of Conduct for Members and Co-Opted Members – this sets out the Code of Conduct for Members and Co-Opted Members.
- Section 14 Employees Code of Conduct – this section sets out the Code of Conduct for employees.
- Section 15 Member and Officer Protocol – this section sets out rules relating to the relationship between Councillors and employees.
- Section 16 Protocol for Members in Dealing with Planning Matters – this section sets out rules and guidance to Members in dealing with Planning Applications.
- Section 17 Legal Proceedings etc. – this section sets out rules relating to legal proceedings, authentication of documents and the common seal.
- Section 18 Leader and Chief Executive Protocol – this sets out the protocol for the Leader and Chief Executive.

## **SECTION 2 - PRINCIPLES OF DECISION-MAKING**

- 2.1 All decisions of the Council will be made and recorded in accordance with the terms of this Constitution.
- 2.2 Whichever body or individual is responsible for making a decision, the decision should be made, as far as possible, in accordance with the following principles:
- (a) there should be a presumption in favour of decision-making being open and transparent, with members of the public being afforded effective access to relevant information and the processes by which decisions are taken;
  - (b) due consultation should take place with those likely to be affected by a decision. So far as practicable, decision-making should be planned in advance and the public given due notification of forthcoming decisions;
  - (c) where a decision is likely to have wide-ranging or significant impact on the Community, additional time and emphasis should be given to consultation and members of the public actively encouraged to contribute their views
  - (d) decisions must be made with regard to all relevant considerations and ignoring all irrelevant matters;
  - (e) decisions should be made having regard to any approved policies or procedures of the Council;
  - (f) decisions should be made having regard to appropriate professional advice obtained from suitably-qualified Officers;
  - (g) the action required by a decision must be proportionate to the desired outcome; and
  - (h) decisions must be made in accordance with any relevant statutory requirements and with respect for human rights.
- 2.3 The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Section 9 of this Part 4 of the Constitution.
- 2.4 Every contract placed by the Council will comply with Contract Regulations as set out in Section 10 of this Part 4 of the Constitution.

### **General Duties in Decision Making**

- 2.5 Various legislation requires that the Council should have regard to or to take into account specified duties/objectives when making decisions. Those duties set out below apply to all decision making, whether Executive or non-Executive functions and whether the decisions are taken by Members or officers. The matters set out below will rarely if ever be the sole considerations to be taken into account but they must be had regard to in all decision making. In addition to those general duties set out below there will be occasions when "convention rights" are engaged under the Human Rights Act 1998. It is unlawful for the Council to act in a way which is incompatible with any of those rights. The convention rights which are most likely to be engaged in the discharge of Council functions are:-

- (a) Article 6 (right to a fair trial in the determination of civil rights and obligations and criminal charges);
- (b) Article 8 (right to respect for private and family life and a person's home);
- (c) Article 1 first protocol (right to peaceful enjoyment of possessions);
- (d) Article 2 first protocol (no person shall be denied the right to education);
- (e) Article 14 (non-discrimination in enjoyment of convention rights)

If there is any doubt as to whether any convention right is engaged and if so what the implications are, advice should be sought from the Borough Solicitor.

2.6 The general duties referred to in Section 2.5 above are as follows:-

**Sex Discrimination Act 1975**

Regard must be had to the need -

- (a) to eliminate unlawful discrimination and harassment, and
- (b) to promote equality of opportunity between men and women.

“Unlawful discrimination” includes contravention of Equal Pay legislation.

**Race Relations Act 1971**

Regard must be had to the need –

- (a) to eliminate unlawful racial discrimination; and
- (b) to promote equality of opportunity and good relations between persons of different racial groups.

**Disability Discrimination Act 1995**

Regard must be had to –

- (a) the need to eliminate discrimination that is unlawful under the Act.
- (b) the need to eliminate harassment of disabled persons that is related to their disabilities
- (c) the need to promote equality of opportunity between disabled persons and other persons
- (d) the need to take steps to take account of disabled persons disabilities, even where that involves treating disabled persons more favourably than other persons
- (e) the need to promote positive attitudes towards disabled persons; and



- (f) the need to encourage participation by disabled persons in public life.

**Crime and Disorder Act 1998**

Regard must be had to the likely effect of the decision on, and the need to do all that reasonably can be done to prevent:-

- (a) crime and disorder in the Borough (including anti-social and other behaviour adversely affecting the local environment); and
- (b) the misuse of drugs, alcohol and other substances in the Borough.

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## **SECTION 3 – COUNCIL PROCEDURE RULES**

<b>Rule</b>	<b>Title</b>	<b>Page</b>
1	Annual Meeting of the Council	83
2	Ordinary Meetings	84
3	Extraordinary Meetings	84
4	Appointment of Substitute Members to Committees and Sub-Committees	85
5	Time and Place of Meetings	86
6	Notice of, and Summons to, Meetings	86
7	Chair of Meeting	86
8	Quorum	87
9	Public Participation, Recording and Filming of Meetings and the Use of Social Media	87
10	Questions by Members	87
11	Motions on Notice	88
12	Motions without Notice	89
13	Rules of Debate	89
14	Previous Decisions and Motions	92
15	Voting	93
16	Reference to the Council	93
17	Minutes	94
18	Record of Attendance	94
19	Exclusion of the Public	94
20	Members' Conduct	94
21	Disturbance by the Public	95
22	Suspension and Amendment of Council Procedure Rules	95
23	Application to Committees and Sub-Committees	95
24	Notices	96
25	Disclosable Pecuniary Interests	96

Annex - Scheme for Public Participation at Meetings of the Council	97
Annex - Overview and Scrutiny Public Participation Scheme	103

## **1. ANNUAL MEETING OF THE COUNCIL**

### **1.1 Timing and Business**

In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in March, April or May.

The Annual Meeting will:

- (i) elect a person to preside if the Mayor is not present;
- (ii) elect the Mayor;
- (iii) appoint the Deputy Mayor;
- (iv) approve the minutes of the last meeting;
- (v) receive any announcements from the Mayor;
- (vi) at the first Annual Meeting after ordinary Elections elect the Leader;
- (vii) receive the report of the Leader on the number of Members to be appointed to the Executive and the Portfolios to be allocated to individual Executive Members;
- (viii) appoint at least one Overview and Scrutiny Committee, a Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive Functions (as set out in Part 3, Table 1 of this Constitution);
- (ix) where one covering the next municipal year is not in place, approve a programme of ordinary meetings of the Council for the year; and
- (x) consider any business set out in the Notice convening the meeting.

### **1.2 Appointment of Councillors to Committees and Outside Bodies**

At the Annual Meeting, the Council will:

- (i) decide which Committees to establish for the Municipal Year;
- (ii) decide the size and Terms of Reference of those Committees;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules;
- (iv) receive nominations of Councillors to serve on each Committee and Outside Body; and
- (v) appoint to those Committees and Outside Bodies except where appointment to those Bodies has been delegated by the Council or is exercisable only by the Executive.

## 2. **ORDINARY MEETINGS**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting, or at an earlier meeting of the Council prior to the scheduled Annual Meeting. Ordinary meetings will:

- (i) elect a person to preside if the Mayor and the Deputy Mayor are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from Members;
- (iv) receive any announcements from the Mayor, the Leader, Members of the Executive or the Chief Executive;
- (v) receive, and respond to, any submissions made by members of the public in accordance with the current Scheme for Public Participation at Council Meetings approved by the Council;
- (vi) deal with any business from the last Council meeting;
- (vii) receive reports from the Executive, the Overview and Scrutiny Commission and the Council's Committees and receive questions and answers on any of those reports;
- (viii) receive annual reports from individual Executive Portfolio Holders, provided that no more than two such reports shall be received at any meeting, and receive questions and answers on these reports;
- (ix) receive reports about, and receive questions and answers on, the business of joint arrangements and external organisations;
- (x) consider Motions; and
- (xi) consider any other business specified in the Summons to the Meeting, including consideration of proposals from the Executive in relation to the Council's Budget and Policy Framework and reports of the Overview and Scrutiny Committees for debate.

## 3. **EXTRAORDINARY MEETINGS**

### 3.1 **Calling Extraordinary Meetings**

Those listed below may request the Proper Officer to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Mayor;
- (iii) the Monitoring Officer; and
- (iv) any five Members of the Council if they have signed a requisition presented to the Mayor and he or she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

Only business specified in the Summons may be transacted at an extraordinary meeting of the Council.

### 3.2 **Special Meetings of Committees and Sub-Committees**

Those listed below may request the Proper Officer to call Committee and Sub-Committee meetings in addition to ordinary meetings:

- (i) the Committee or Sub-Committee by resolution
- (ii) the Chairman
- (iii) the Chief Executive
- (iv) one quarter of the whole number of Members of the Committee or Sub-Committee but in no case fewer than three Members

## 4. **APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES**

### 4.1 **Substitute Members - Committees**

In addition to appointing Members to serve on Committees, the Council may also, in accordance with the procedures set out in Rule 4.3 and Rule 4.4, appoint on the nomination of a political group represented on the Council a number of Councillors up to the maximum as shown in the table below, to act as substitutes for Members of their Group appointed to Committees.

<u>Size of Political Group</u>	<u>Maximum Number of Substitutes</u>
Less than 11	3
11-17	4
18 or more	5

### 4.2 **Substitute Members – Sub-Committees**

In addition to appointing Members to serve on Sub-Committees, Committees may also appoint, on the nomination of any of the political groups represented on the Council, up to three Councillors to act as substitutes for Members of their Group appointed to Sub-Committees, also in accordance with the procedures set out in Rule 4.3 and Rule 4.4.

### 4.3 **Conditions for Substitution**

A substitute Councillor may attend a meeting as substitute for a Member if the following conditions are satisfied:

- (a) the Member asks the eligible Councillor to attend as a substitute and the eligible Councillor agrees;
- (b) at least two hours before the start of the meeting, and during normal office hours, the Member gives notice to the appropriate Democratic Services

Officer, orally, or in writing, that the eligible Councillor (naming him or her) has agreed to attend as substitute Member; and

- (c) the eligible Councillor attends the meeting and confirms to the appropriate Democratic Services Officer that he or she attends as substitute for the Member.

#### **4.4 Status of Substituted Member**

- a) On notifying the Democratic Services Officer that a substitution will be made, the original Member shall immediately, and irrevocably, cease to be a Member of that Committee or Sub-Committee until the conclusion of the meeting and any adjournment of it and the Substitute shall be a full Member for the same period.
- b) Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

- 4.5 The appropriate Democratic Services Officer shall, at the commencement of any meeting, report any Substitution Notice(s) stating the name(s) of Member(s) attending as substitutes, together with the names of the Members they have replaced. These shall be recorded in the minutes of the meeting.

### **5. TIME AND PLACE OF MEETINGS**

The time and place of Council meetings will be determined by the Chief Executive and notified in the Summons.

### **6. NOTICE OF, AND SUMMONS TO, MEETINGS**

#### **6.1 Council Meetings**

The Chief Executive will give notice to the public of the time and place of any meeting of the Council, in accordance with the Access to Information Procedure Rules. At least five clear working days before a meeting, the Chief Executive will send a summons signed by him or her by post to every Member of the Council or leave it at their usual place of residence. The Summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

#### **6.2 Committee and Sub-Committee Meetings**

The arrangements for Notice of, and Summons to Committee and Sub-Committee meetings will be as in Rule 6.1, except that the Proper Officer shall be the Director of Corporate Services.

### **7. CHAIR OF MEETING**

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to Committee and Sub-Committee meetings, references to the Mayor also include the Chairman of Committees and Sub-Committees.



## 8. QUORUM

- (a) No business shall be conducted at a meeting of the Council unless a quorum of Members is present. The quorum of a meeting will be one quarter of the whole number of Members, provided that the quorum for a Committee or Sub-Committee shall be at least three Members.
- (b) If, at the expiration of fifteen minutes after the time at which any meeting of the Council is appointed to be held, there shall not be present a quorum of the Council, no meeting shall take place and the Mayor shall cause fresh Notices of a meeting to be issued for such day as he or she shall determine. In the event of there not being a quorum present, the names of the Members present shall be recorded in the Minute Book with a statement of the reason for the meeting not being held.
- (c) If during any meeting, the Mayor counts the number of Members present and declares there is not a quorum present then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## 9. PUBLIC PARTICIPATION, RECORDING AND FILMING OF MEETINGS AND USE OF SOCIAL MEDIA

- 9.1 Members of the public may make submissions to meetings of the Council in accordance with the current Schemes for Public Participation adopted by the Council. (Annexed to these Procedure Rules)
- 9.2 The Overview and Scrutiny Commission, the Licensing and Safety Committee, the Planning Committee and the Health and Wellbeing Board may make arrangements for public speaking at their meetings and meetings of their Sub-Committees.
- 9.3 Members of the public may record the proceedings of the Council meeting in accordance with the Protocol for Photography, Audio/Visual Recording and Use of Social Media at Council and Committee Meetings. (Annexed to these Procedure Rules)

## 10. QUESTIONS BY MEMBERS

### 10.1 On reports of the Executive or Committees

A member of the Council may ask the Leader or the Chairman of a Committee, any question without notice, upon an item of the report of the Executive or a Committee when that item is being received or under consideration at the meeting.

### 10.2 Questions on Notice at Council Meetings

Subject to Rule 10.4, a Member of the Council may ask:

- the Mayor;
- a Member of the Executive;
- the Leader; or

- the Chairman of any Committee or Sub-Committee, a question on any matter in relation to which the Council has powers or duties, or which affects the Borough.

### 10.3 Questions on Notice at Committees and Sub Committees

Subject to Rule 10.4, a member of a committee or sub-committee may ask the chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the Borough and which falls within the terms of reference of that committee or sub-committee.

### 10.4 Notice of Questions

A member may only ask a question under Rule 10.2 or 10.3 if either:

- the Member has given, in writing, the question to the Director of Corporate Services, by not later than 10.00am on the 6th working day prior to the date of the meeting; or
- the question relates to urgent matters and they have the consent of the person to whom the question is to be put and the content of the question is given to the Director of Corporate Services before the commencement of the meeting.

### 10.5 Response

An answer may take the form of:

- a direct oral answer;
- where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- where the reply cannot conveniently be given orally, a written answer circulated later to the Questioner.

### 10.6 Supplementary Question

A Member asking a question under Rule 10.2 or 10.3, may ask one supplementary question, without notice of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

## 11. MOTIONS ON NOTICE

### 11.1 Notice

Except for Motions which can be moved without notice under Rule 12, written notice of every Motion, from at least two Members, must be delivered to the Chief Executive by not later than 10.00am on the 6th working day prior to the date of the meeting. These will be entered in a book open to public inspection.

### 11.2 Motion Set Out in Agenda

Motions for which notice has been given will be listed on the Agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

### 11.3 **Scope**

Motions must be about matters for which the Council has a responsibility or which affect the Borough.

## 12. **MOTIONS WITHOUT NOTICE**

The following Motions may be moved without notice:

- (a) to appoint a Chairman of the Meeting at which the Motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the Agenda;
- (d) to refer something to an appropriate body or individual;
- (e) to appoint a Committee or Member arising from an item on the Summons for the meeting;
- (f) to receive reports for adoption of recommendations of Committees or Officers and any resolutions following from them;
- (g) to withdraw a Motion;
- (h) to give the consent of the Council where its consent is required by this Constitution.

## 13. **RULES OF DEBATE**

### 13.1 **No Speeches until Motion Seconded**

No speeches may be made after the Mover has moved a proposal and explained the purpose of it until the Motion has been seconded.

### 13.2 **Right to Require Motion in Writing**

Unless notice of the Motion has already been given, the Chairman may require it to be written down and handed to him or her before it is discussed.

### 13.3 **Secunder's Speech**

When seconding a Motion or Amendment, a Member may reserve their speech until later in the debate.

### 13.4 **Content and Length of Speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Mayor.

### 13.5 **When a Member May Speak Again**

A Member who has spoken on a Motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Member;
- (b) to move a further amendment if the Motion has been amended since he or she last spoke;
- (c) if his or her first speech was on an Amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he or she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

### 13.6 Amendments to Motions

- (a) An amendment to a Motion must be relevant to the Motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add words.

as long as the effect of (ii) to (iv) is not to negate the Motion.

- (b) Only one amendment may be moved and discussed at any one time and no further amendment may be moved until the amendment under discussion has been disposed of, provided that the Mayor may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Council's business.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the Motion, as amended, takes the place of the original Motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

### 13.7 Alteration of Motion

- (a) A Member may alter a Motion of which he or she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

- (b) A Member may alter a Motion which he or she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

### 13.8 **Withdrawal of Motion**

A Member may withdraw a Motion or Amendment which he or she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the Motion or Amendment after the Mover has asked permission to withdraw it unless permission is refused.

### 13.9 **Right of Reply**

- (a) The Mover of a Motion has a right to reply at the end of the debate on the Motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the Mover of the original Motion has the right of reply at the close of the debate on the Amendment, but may not otherwise speak on it.
- (c) The Mover of the Amendment has no right of reply to the debate on his or her Amendment.

### 13.10 **Motions Which May be Moved During Debate**

When a Motion is under debate, no other Motion may be moved except the following Procedural Motions:

- (a) to withdraw a Motion;
- (b) to amend a Motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Procedural Rules; and
- (h) to not hear further a Member named under Rule 20.3 or to exclude him or her from the meeting under Rule 20.4.

### 13.11 **Closure Motions**

- (a) A Member may move, without comment, the following Motions at the end of a speech of another Member:
  - (i) to proceed to the next business;

- (ii) that the question be now put;
  - (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a Motion to proceed to next business is seconded and the Mayor thinks the item has been sufficiently discussed, he or she will give the Mover of the original Motion a right of reply and then put the Procedural Motion to the vote.
- (c) If a Motion that the question be now put is seconded and the Mayor thinks the item has been sufficiently discussed, he or she will put the Procedural Motion to the vote. If it is passed, he or she will give the Mover of the original Motion a right of reply before putting his or her Motion to the vote.
- (d) If a Motion to adjourn the debate or to adjourn the meeting is seconded and the Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he or she will put the Procedural Motion to the vote without giving the Mover of the original Motion the right of reply.

#### **13.12 Points of Order**

A Member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure, or the law. The Member must indicate the rule or law and the way in which he or she considers it has been broken. The ruling of the Mayor on the matter will be final.

#### **13.13 Personal Explanation**

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Mayor on the admissibility of a personal explanation will be final.

### **14. PREVIOUS DECISIONS AND MOTIONS**

#### **14.1 Motion to Rescind a Previous Decision**

A Motion or Amendment to rescind a decision made at a meeting of Council within the past six months, cannot be moved unless the Notice of Motion is signed by at least one quarter of the Members of the Council or, unless subject to the prior approval of the Mayor, information which was not available when the Resolution was passed is placed before the Council.

#### **14.2 Motion Similar to One Previously Rejected**

A Motion or Amendment in similar terms to one that has been rejected at a meeting of the Council in the past six months cannot be moved unless the Notice of Motion or Amendment is signed by at least one quarter of the Members of the Council. Once the Motion or Amendment is dealt with, no one can propose a similar Motion or Amendment for six months.

## 15. VOTING

### 15.1 Majority

Unless this Constitution or the law 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. The Mayor shall ascertain the numbers voting for, and against, any question and the Mayor's declaration of the result shall be conclusive.

### 15.2 Chairman's Casting Vote

If there are equal numbers 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.

### 15.3 Show of Hands

Unless a recorded vote is demanded under Rule 15.4, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### 15.4 Recorded Vote

- (a) If, before the vote is taken, a Member of the Council present at the meeting demands it, the names for and against the Motion or Amendment or abstaining from voting will be taken down in writing and entered into the minutes.
- (b) A recorded vote shall not be taken where the Council is voting on appointments.

### 15.5 Right to Require Individual Vote to be Recorded

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

### 15.6 Voting on Appointments

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.

### 15.7 Recorded Vote at Budget Setting Meeting

At the budget setting meeting of the Council there must be a recorded vote on any decision related to the making of those calculations which result in the setting of the Council Tax for the next financial year.

## 16. REFERENCE TO COUNCIL

- 16.1 Subject to the provision in Paragraph 16.3 below, immediately following a vote on a decision taken by a Committee or Sub-Committee under delegated powers, one quarter of the Members of the Committee or Sub-Committee present and voting at



the meeting may require that the decision be submitted to the Council as a recommendation.

16.2 Where a reference has been made pursuant to the provision in Paragraph 16.1 above, the decision shall not be implemented before consideration of that recommendation by the Council.

16.3 The provisions in Paragraph 16.1 shall not apply to the Licensing and Safety Committee and the Planning Committee, or any Sub-Committee appointed by those Committees.

## 17. **MINUTES**

### 17.1 **Signing the Minutes**

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only matter in relation to the minutes that can be discussed is their accuracy.

### 17.2 **No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting**

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under Paragraph 3 of Schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to the signing of minutes.

### 17.3 **Form of Minutes**

Minutes will contain all motions and amendments in the exact form and order the Mayor put them.

## 18. **RECORD OF ATTENDANCE**

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

## 19. **EXCLUSION OF (PRESS AND) PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 Section 4 of this Constitution or Rule 21 (Disturbance by Public).

## 20. **MEMBERS' CONDUCT**

### 20.1 **Standing to Speak**

When a Member speaks at a Council meeting, he or she must stand and address the meeting through the Mayor. If more than one Member stands, the Mayor will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

## 20.2 **Mayor Standing**

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

### **20.3 Member Not to be Heard Further**

If a Member persistently disregards the ruling of the Mayor by behaving improperly or offensively, or deliberately obstructs business, the Mayor may move that the Member be not heard further. If seconded, the Motion will be voted on without discussion.

### **20.4 Member to Leave the Meeting**

If the Member continues to behave improperly after such a motion is carried, the Mayor may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the Motion will be voted on without discussion.

### **20.5 General disturbance**

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as he or she thinks necessary.

## **21. DISTURBANCE BY PUBLIC**

### **21.1 Removal of Member of the Public**

If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.

### **21.2 Clearance of Part of Meeting Room**

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

## **22. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES**

### **22.1 Suspension**

All of these Council Procedure Rules, except Rule 15.5 and 17.2, may be suspended by Motion on Notice, or without notice, if at least one half of the whole number of Members of the Council are present. Suspension may be for the consideration of a particular item of business or for the duration of that meeting.

### **22.2 Amendment**

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

## **23. APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

23.1 All of the Council Procedure Rules apply to meetings of the Council.

23.2 The Council Procedure Rules do not apply to meetings of the Executive or Overview and Scrutiny bodies, which are governed by their own procedure rules.

23.3 Council Procedure Rules 2 (i-iii), 3–8, 10, 12, 13, 15–23 (but not Rule 20.1) apply to meetings of Committees of the Council and their Sub-Committees.

23.4 Council Procedure Rules 13.1 – 13.13 do not apply to meetings of the Licensing and Safety Committee and its Sub-Committees, when a hearing is being conducted.

**24. NOTICES**

24.1 For the purposes of these Council Procedure Rules Notice sent by fax or by e-mail shall be deemed to constitute Notice in Writing.

**25. DISCLOSABLE PECUNIARY INTERESTS**

25.1 Any Member with a Disclosable Pecuniary Interest in any matter to be (or being) considered at a meeting of the Council shall:-

- (a) if the interest is not entered on the Council's register of interests, disclose the interest to the meeting (unless the interest is a Sensitive Interest in which case the Member shall simply advise the meeting that they have a Disclosable Pecuniary Interest),
- (b) if the interest is not entered on the Council's register of interests and is not the subject of a pending notification, notify the Monitoring Officer of the interest within 28 days,
- (c) unless the Member has been granted a dispensation by the Council, not participate in discussion or vote on the matter, and
- (d) unless the Member has been granted a dispensation by the Council, withdraw from the meeting (after disclosing the interest if required by the preceding provisions or disclosing to the Democratic Services Officer in attendance that they are withdrawing from the meeting because of a Disclosable Pecuniary Interest if they are not so required).

"Disclosable Pecuniary Interest" and "Sensitive Interest" shall each have the meaning as set out in the Code of Conduct.

## Scheme for Public Participation at Meetings of the Council

### 1. Why have a scheme?

The Council is committed to encouraging greater public participation in its work. This scheme will give members of the public the opportunity to tell Councillors directly at meetings of the Council about the things that concern them.

All issues raised by the public under this scheme will be given careful consideration.

While it will not be possible, in every case, to resolve an issue to the satisfaction of everyone, the Council will ensure that the issue is considered fairly.

### 2. What can the public do?

The public may use this scheme to make a submission to Councillors at a meeting of the Council in one of four ways:

(a) Petition

To present a petition at a Council meeting in order to request the Council to deal with any particular issue within the community. There is no minimum number of signatures.

(b) Question

To ask a question at a Council meeting. This may be addressed to the Mayor, a Member of the Executive or a Chairman of a Committee or Sub-Committee. The question must be about a Council Service, or a topic relevant to the Council.

A questioner who has put a question in person may also put one supplementary question, without notice, to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Paragraph 4 below.

(c) Statement

To make a Statement to a Council meeting about a Council Service, about something the Council has or has not done, or about a matter of local interest or concern.

(d) Deputation

To present to a Council meeting, a Deputation calling for action by the Council, registering a view about something the Council has or has not done, or about a matter of community interest.

A Deputation may only be made on behalf of an organised group of residents or other interested parties.

### **3. Relevance to the Council**

The content of any form of submission must be about something that is within the Council's responsibilities. This includes matters of interest to the Council as a community leader.

### **4. What falls outside the scheme?**

Some matters fall outside the scope of this scheme. These are:

- Individual's circumstances where it would not be appropriate for details to be aired in open session;
- Applications for legal consents where alternative procedures exist for the public to offer views; and
- Other proposals of any kind which have been formally published and where specific arrangements are made for the public to express their views.

The Chief Executive may also reject a submission if it:

- is not about a matter for which the local authority has a responsibility or which affects the Borough;
- is defamatory, frivolous or offensive;
- is substantially the same as a submission which has been put to a meeting of the Council in the past six months;
- Is about the subject of an appeal or review procedure that has not yet been concluded, or
- requires the disclosure of confidential or exempt information.

### **5. Number of submissions**

At any one meeting, no person may make more than one submission and no more than two submissions may be made on behalf of one organisation or group.

### **6. Notice of Submission**

A submission may only be made if notice has been given by delivering it, in writing, or by electronic mail, to the Head of Democratic and Registration Services, no fewer than **six** clear working days (the date of the Council meeting and the date of giving Notice shall not count as clear working days) before the day of the Council meeting.

A question must be set out, in full, and a written summary of all points to be raised in any other form of submission must be provided. This will ensure that time is available to prepare advice for the meeting, an individual Councillor or the person making the submission. Each submission must give the name and address of the person who will make the submission at the meeting and, in the case of questions,

must include the name, or office, of the Member of the Council to whom it is to be put.

#### **7. Advice on Content**

The Head of Democratic and Registration Services will be available to give advice to the public about the content of their submissions and the process. The Head of Democratic and Registration Services will also give advice to the Mayor and Members on such matters as necessary.

#### **8. Who can use the Scheme?**

The Scheme is open to any resident in the area covered by the Authority. The Scheme is also open to a representative of a business operating in the area of the Authority.

The Scheme is not open to employees of the Council wishing to make representations in that capacity. Employees' rights as private citizens to use this scheme are preserved.

Only one person may speak about each submission at the meeting. In the case of a Statement or Deputation on behalf of more than one person, the Notice should identify others who are party to the submission.

#### **9. At which meetings may submissions be made?**

Any submission under this scheme may be made at any ordinary meeting of the Council other than the Annual Meeting.

#### **10. Support for the Public**

The prospect of speaking at a formal meeting of the Council may be daunting for the public. Every help and support will be made available to those who wish to use this scheme. The Councillors and Officers present will treat members of the public with courtesy and respect.

#### **11. Time Limits**

No individual submission will be allowed more than three minutes at a meeting. This rule will be strictly enforced in fairness to all those who wish to address the meeting.

The overall time allowed at a meeting to hear and deal with submissions from the public will be decided by the Mayor, or by the meeting itself, but will not normally exceed thirty minutes. This will take into account the issues to be raised in the submissions, the number of submissions and the other business of the meeting.

Submissions will be heard in the order notice of them was received, except that the Mayor may group together similar matters. Where there is insufficient time to deal with all submissions received, the Mayor will decide which submissions should be dealt with at the meeting. Any submissions not dealt with will be formally received by the meeting and a written response will be given as soon as possible after the meeting.

#### **12. Balance**

The Mayor will ensure that those who are making submissions on opposite points of view on the same subject are treated equally as far as possible.

**13. How will submissions be dealt with at the meeting?**

Details of all submissions will be printed on the agenda for the relevant meeting. If the subject matter of the submission is already on the agenda for the meeting, the meeting will be prepared to defer consideration of the submission until that item on the agenda is reached.

If necessary, and convenient to the other business, the Mayor or the meeting itself will agree to advance that item in the order or proceedings.

The Mayor will invite the member of the public to address the meeting for up to three minutes. If the submission is in the form of a question, the Mayor will invite the Questioner to put the question to the Member named in the Notice. If a person who has made a submission is unable to be present, they may ask the Mayor to present the submission to the Council on their behalf. In the case of a question, the Mayor may ask the question on the Questioner's behalf or indicate that a written reply will be given. In any case the Mayor may decide, in the absence of the person making the submission, that the submission will not be dealt with.

**14. Councillors' Questions on Submissions**

Councillors will be allowed up to five minutes to ask solely factual questions of the person making each submission. This is included in the thirty minutes normally set aside for dealing with submissions.

**15. Written Answers to Questions**

Any question which cannot be dealt with during the allocated time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer. Written answers shall be sent to the Questioner and copied to all Members of the Council.

**16. Action the Meeting May Take**

In the case of a question, the Councillor named in the Notice will reply, or in his or her absence, the Mayor may ask another Councillor to reply. The reply will count against the thirty minute time limit. A written reply may be given where this is more convenient and can be circulated at the meeting.

Unless the submission relates directly to an issue to be dealt with at the meeting, petitions will normally be referred for consideration by the same, or another body, within the Authority on a report from Officers.

In the case of Statements and Deputations, the meeting will decide on the most appropriate course of action, which will be either to note the submission or to request an Officer report to a subsequent meeting of the Executive or appropriate Committee or Sub-Committee on the issue raised.



Any Member may move that a matter raised by a submission be referred to the executive or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

**17. General Information**

This scheme will be reviewed and adjustments made from time to time.

The public are welcome to attend Council, Executive, Committee and Sub-Committee meetings where open business is discussed, but may not speak to the meeting unless a Public Participation Scheme has been adopted for the meeting concerned. All such meetings will be held in accommodation that has reasonable access and seating for the public. A summary of public rights of access to information is contained in the Access to Information Procedure Rules available for inspection at the Council offices, Easthampstead House, Town Square, Bracknell.

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## Overview and Scrutiny Public Participation Scheme

### Speaking at Overview and Scrutiny Meetings

Bracknell Forest Council is committed to encouraging greater public participation in its work. This includes providing opportunities for the public to be involved and engaged with the Overview and Scrutiny (O&S) process, which is the principal means of ensuring transparent, democratic accountability for the running of the Council.

This public participation scheme allows members of the public to speak at meetings of the O&S Commission and O&S Panels, under the control of the Chairmen of the meetings. The scheme gives members of the public the opportunity to tell Councillors directly about the things that concern them. All issues raised by the public under this scheme will be given careful consideration.

The information below explains when you can speak and what will happen at the meeting.

### When is public speaking permitted?

Speaking is only permitted when:

1. A written notification (including by email or fax) of a request to speak at the Commission or Panel meeting is received by Democratic Services by 1200 noon at least three clear working days prior to the meeting;
2. The notification indicates the subject to be raised and the name of the person who intends to speak;
3. The subject is judged by the Council to fall within the Scheme (see below). Subjects will be excluded only in exceptional circumstances, and the reasons for rejection will be explained.
4. The time provided for public speaking has not been over-subscribed for the meeting in question. If it has, the Chairman will decide whether to curtail or defer questions to the following meeting, or exceptionally to lengthen the time for public speaking.

### What will happen at the Commission or Panel meeting?

1. The speakers must attend the meeting and report to the Democratic Services officer not less than 15 minutes prior to the start of the meeting.
2. Copies of questions or statements received will be circulated to members of the O&S Commission or Panel concerned, and will be made available to members of the public who attend the meeting.
3. Once the meeting has reached the agenda item on subjects raised by the public, the Chairman will invite each registered speaker in turn to speak for 3 minutes to outline his/her views. This time limit will be strictly enforced.
4. The speaker will not be allowed to ask supplementary questions of Councillors, officers or others at the meeting.
5. The Members of the Committee may ask the speaker, through the Chairman for clarification of any points raised.
6. The Chairman may choose to ask Council officers to comment on any points raised before the Commission or Panel proceeds with its deliberations.

## **What falls outside the scheme?**

Some matters fall outside the scope of this scheme. These are:

1. Personal circumstances where it would not be appropriate for details to be aired in open session.
2. Individual complaints. The Council has a corporate complaints procedure which must be accessed instead.
3. Matters appropriate to one of the Council's regulatory or decision making bodies.
4. Other issues of any kind which have been formally published and where specific arrangements are made for the public to express their views.
5. Matters unrelated to the remit of the relevant Overview and Scrutiny Commission or Panel.
6. The Chairman may also reject a submission if it:
  - is not about a matter for which the local authority has a responsibility or which affects the Borough;
  - is defamatory, frivolous or offensive;
  - is substantially the same as a submission which has been put to and considered by a meeting of the O&S Commission or an O&S Panel in the past six months;
  - is about the subject of an appeal or review procedure that has not yet been concluded; or
  - requires the disclosure of confidential or exempt information.

## **How do I arrange to speak at the meeting?**

To speak at an Overview and Scrutiny meeting you must register with the Council's Democratic Services section by 12 noon at least three clear working days before the day of the meeting.

Speakers are registered on a "first- come" basis and the Chairman will decide on the maximum number of speakers in the light of time available (usually a maximum of 20 minutes). Consequently, it cannot be guaranteed that everyone who applies will be allowed to speak.

The register of speakers is kept by the Democratic Services section at Easthampstead House, and the names of speakers will be publicly available at the appropriate O&S meeting.

To register, you must be resident in the Borough of Bracknell Forest, or a representative of a business operating in the area of the Authority. You must contact the office at Easthampstead House, Town Square, Bracknell, or on 01344 352000 during normal office hours. You must give your name, address, daytime contact number, your agreement that your name can be published and a summary of the subject to be raised. To assist you, a form is available on our website.

The Scheme is not open to employees of the Council wishing to make representations in that capacity. Employees' rights as private citizens to use this scheme are preserved. Only one person may speak about each submission at the meeting.

In the case of a statement on behalf of an organisation or more than one person, you must identify the organisation and others who are party to the submission.

## **What do I do at the meeting?**

If registered to speak, you must arrive at the meeting venue, which will usually be the Council Chamber at Easthampstead House, at least 15 minutes before the start of the meeting of the Commission or Panel, and report to the Democratic Services Officer who will be present. If you fail to do this, you may not be permitted to speak.

When the Commission/Panel reaches your item, and depending on the time available, the Chairman may call you to speak. You must behave appropriately for a meeting of a local authority, showing courtesy and respect for everyone else present, and not make any remarks which are insulting, offensive, defamatory or inflammatory. You should limit your speaking to three minutes, and you must cease speaking whenever instructed to do so by the Chairman.

The Chairman of the meeting may allow a discussion and questions to be raised on your statement.

The prospect of speaking at a formal meeting of the Council may be daunting for the public. All reasonable help and support will be made available to those who wish to use this scheme, including allowing you to use the PA system in the Council Chamber. The Councillors and Officers present will treat members of the public with courtesy and respect. If you have any special needs, please advise officers of this at least one working day before the meeting.

## **What happens after the meeting?**

The members of the O&S Commission or Panel concerned, or officers, may contact you afterwards to seek your further input. You will be informed of any action taken.

## **Where is the meeting?**

The Overview and Scrutiny Commission meets every two months and the O&S Panels meet every three months, usually at 7.30pm in the Council Chamber at [Easthampstead House](#).

[View information about Overview and Scrutiny at Bracknell Forest.](#)

Car parking is usually available at Easthampstead House in the evenings.

## **Further Information**

For further information, or to register for public speaking, please contact:

Customer Services  
Democratic Services  
Bracknell Forest Council  
Easthampstead House  
Town Square  
Bracknell  
RG12 1AQ  
Tel: 01344 352000

Email: [customer.services@bracknell-forest.gov.uk](mailto:customer.services@bracknell-forest.gov.uk)

NB: Our busy hours are between 9:30am and 11:30am.

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**PROTOCOL FOR PHOTOGRAPHY, AUDIO/VISUAL RECORDING AND USE OF SOCIAL MEDIA AT COUNCIL AND COMMITTEE MEETINGS**

**1. Introduction**

- 1.1 This Protocol provides guidance to members of the public or press who wish to photograph or record proceedings at any of the Council's public meetings.
- 1.2 The Council supports the principles of openness and transparency in the way it conducts its meetings. Sound recording, photographing, filming, and use of social media at meetings which are held in public is permitted:
  - (a) subject to the provisions of this Protocol; and
  - (b) provided that the Mayor/Chairman is satisfied that it will not be disruptive or distracting to the good order and conduct of the meeting.
- 1.3 No restrictions will be placed on anyone using social media at a public meeting subject to the limitations regarding photography and audio/visual recording set out in this Protocol.
- 1.4 Meetings which take the form of hearings, such as, but not limited to, Licensing Panel or Appeals Committee meetings, may not be suitable for recording due to the nature of some of the evidence given at the hearing. It will be at the Chairman's discretion to determine whether the recording of a particular hearing will be permitted.
- 1.5 Failure to follow the provisions within this Protocol will result in the Mayor/Chairman refusing to allow the proceedings to be photographed or recorded.
- 1.6 For the purposes of this Protocol 'recording' includes sound recording, photographing, filming, and use of social media. Social media includes, but is not limited to Twitter, Facebook and blogs.

**2. Before the meeting**

- 2.1 Those wishing to record proceedings at a meeting are advised to contact the Head of Democratic & Registration Services as early as possible before the start of the meeting so that arrangements can be discussed and the agreement of the Mayor/Chairman can be sought.
- 2.2 The name, organisation (if applicable) and contact details of the person wishing to record proceedings are required and should be provided before the meeting if possible:

**3. At the meeting**

- 3.1 Notices will be displayed in the meeting room advising that proceedings may be recorded, and the Mayor/Chairman will make an announcement to this effect at the beginning of the meeting if a request has been received.

- 3.2 Members of the public attending a meeting to ask a question, present a petition or make a representation will be deemed to have given consent to being photographed or recorded.
- 3.3 Members of the public seated in the public seating area who actively object, should not be photographed, filmed or recorded as long as this does not undermine the broader transparency of the meeting.
- 3.4 Photography or filming must take place from a fixed position in the meeting room approved by the Mayor/Chairman, to ensure that the view of Councillors, officers, public and press, is not obstructed.
- 3.5 The use of flash photography or additional lighting will only be permitted if agreed in advance with the Head of Democratic & Registration Services and the Mayor/Chairman.
- 3.6 Photography or audio/visual recording will be stopped if the Mayor/Chairman feels it is disrupting or inhibiting the meeting in any way or any pre-meeting agreement has been breached.
- 3.7 If someone refuses to stop recording when requested to do so the Mayor/Chairman will ask the person to leave the meeting. If the person refuses to leave, the Mayor/Chairman will adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption.
- 3.8 Anyone asked to leave a meeting because they have refused to comply with the Mayor/Chairman's request to do so, will be refused permission to record future meetings.

#### **4. After the meeting**

- 4.1 Photographs and audio/visual recordings must not be edited in a way that could lead to misinterpretation of the proceedings. This includes refraining from editing the views being expressed in a way that may ridicule or show lack of respect towards those being photographed or recorded.
- 4.2 If someone fails to comply with this Protocol the Mayor/Chairman will refuse to allow this person to record any future meetings.
- 4.3 The responsibility for how any photographs or audio/visual recording is used rests with the person who made the recording and not the Council.



## SECTION 4 – COMMITTEE PROCEDURE RULES

<b>Rule</b>	<b>Title</b>	<b>Page</b>
1	Constitution of Committees and appointment of Councillors	127
2	Appointment of Sub-Committees	127
3	Appointment of Chairman and Vice-Chairman	127
4	Ordinary meetings	127
5	Special meetings	128
6	Time and place of meetings	128
7	Notice of, and summons to, meetings	128
8	Cancelling meetings	128
9	Quorum	129
10	Appointment of substitute Members	129
11	Attendance of Non-members	130
12	Public Participation, Recording and Filming of Meetings and Use of Social Media	131
13	Requirement to attend for the entire item	131
14	Conduct of debate	131
15	Role of the Chairman	131
16	Rules of debate	132
17	Previous decisions and motions	136
18	Voting	136
19	Reference to Council	137
20	Minutes	137
21	Record of Attendance	137
22	Exclusion of the press and public	137
23	Disturbance of meetings	137
24	Suspension and amendment of Committee Procedure Rules	138
25	Application to Committees and Sub-Committees	138
26	Interpretation of Rules	138
27	Notice	138

28	Disclosable Pecuniary Interests	138
	Annex A - Rules of debate diagram	141

## **1. CONSTITUTION OF COMMITTEES AND APPOINTMENT OF COUNCILLORS**

- 1.1 At the Annual Meeting, the Council will:
- (i) decide which Committees to establish for the Municipal Year;
  - (ii) decide the size and Terms of Reference of those Committees;
  - (iii) decide the allocation of seats to political groups in accordance with the political balance rules;
  - (iv) receive nominations of Councillors to serve on each Committee, Steering Group or other body; and
  - (v) appoint to those Committees except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive.
- 1.2 Full Council may at any time dissolve a Committee or remove any of its Members or change the size of its membership.
- 1.3 On a vacancy arising in a Committee or Sub-Committee the Head of Democratic & Registration Services will take all necessary steps to enable the vacancy to be filled.
- 1.4 The proceedings of a Committee or Sub-Committee will not be invalidated by reason of any vacancy amongst its Members.
- 1.5 Where appointment to a particular Committee or Sub-Committee requires training, Members will be required to undertake the necessary training programme or activity.

## **2. APPOINTMENT OF SUB-COMMITTEES**

- 2.1 Committees appointed by Council may appoint Sub-Committees for purposes to be specified by the Committee.

## **3. APPOINTMENT OF CHAIRMAN AND VICE-CHAIRMAN**

- 3.1 The Chairman and Vice-Chairman of every Committee and Sub-Committee will be elected at the first meeting of the Committee or Sub-Committee after the Annual Council Meeting.
- 3.2 In the absence of the Chairman and Vice-Chairman from a meeting, a Chairman for that meeting will be elected from the membership of those present. The person presiding at the meeting may exercise any power or duty of the Chairman.

## **4. ORDINARY MEETINGS**

- 4.1 Ordinary meetings of Committees and Sub-Committees will take place in accordance with a programme decided at the Council's Annual Meeting, or at an earlier meeting of the Council prior to the scheduled Annual Meeting, or as subsequently agreed by the Committee or Sub-Committee. Ordinary meetings will:
- (i) elect a person to preside if the Chairman and the Vice-Chairman are not present;
  - (ii) receive any announcements from the Chairman;

- (iii) receive any declarations of interest from Members, either at the beginning of the meeting or as soon as the interest becomes apparent;
- (iv) approve the minutes of the last meeting;
- (v) receive any Items of business that the Chairman decides are urgent, pursuant to Section 100B(4)(b) of the Local Government Act 1972;
- (vi) consider any other business specified in the agenda.

## **5. SPECIAL MEETINGS**

5.1 Those listed below may request the Director of Corporate Services, or the Head of Democratic & Registration Services in his or her absence, to call Committee and Sub-Committee meetings in addition to ordinary meetings:

- (i) the Committee or Sub-Committee by resolution
- (ii) the Chairman
- (iii) the Chief Executive
- (iv) one quarter of the whole number of Members of the Committee or Sub-Committee, rounded up to the nearest whole number, but in no case fewer than three Members.

5.2 Only business specified in the agenda may be transacted at a special meeting.

## **6. TIME AND PLACE OF ORDINARY MEETINGS**

6.1 The time and place of Committee or Sub-Committee meetings will be determined by the Chief Executive and notified in the Summons.

## **7. NOTICE OF, AND SUMMONS TO, MEETINGS**

7.1 The Director of Corporate Services, or the Head of Democratic & Registration Services in his or her absence, will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least five clear working days before a meeting, an electronic and paper copy agenda will be sent to every Member of the Committee or Sub-Committee or left at their usual place of residence. The agenda will be the summons to the meeting and will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## **8. CANCELLING MEETINGS**

8.1 The Director of Corporate Services or the Head of Democratic & Registration Services in his or her absence, after consultation with the Chairman of the relevant Committee or Sub-Committee, (or in his or her absence the Vice-Chairman), shall be authorised to cancel an ordinary meeting where the agenda has not been issued, where there is insufficient business.

8.2 The Chief Executive, or Deputy Chief Executive, in his or her absence may cancel a Committee or Sub-Committee meeting where the agenda has been issued if it is considered expedient to do so, after consulting the Chairman of the relevant

Committee or Sub-Committee (or in his or her absence the Vice-Chairman). Any outstanding business will be held over to the next meeting.

## **9. QUORUM**

- 9.1 No business shall be conducted at a meeting unless a quorum of Members is present. The quorum of a Committee or Sub-Committee shall be a quarter of the voting membership, all figures to be rounded up to the nearest whole number, provided that at least three of the voting Members are present.
- 9.2 If a quorum is not present fifteen minutes after the time at which the meeting should have commenced it will not take place and the Chairman will ask the Head of Democratic & Registration Services to fix another time and date for the meeting and issue a fresh summons accordingly. The names of the Members present shall be recorded in the Minute Book with a statement of the reason for the meeting not being held.
- 9.3 If a meeting becomes inquorate after it has commenced no further business will be transacted and the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **10. APPOINTMENT OF SUBSTITUTE MEMBERS**

### **10.1 Substitute Members - Committees**

In addition to appointing Members to serve on Committees, the Council may also, in accordance with the procedures set out in Rule 10.3 and Rule 10.4, appoint on the nomination of a political group represented on the Council a number of Councillors up to the maximum as shown in the table below, to act as substitutes for Members of their Group appointed to Committees.

<u>Size of Political Group</u>	<u>Maximum Number of Substitutes</u>
Fewer than 11	3
11-17	4
18 or more	5

### **10.2 Substitute Members – Sub-Committees**

In addition to appointing Members to serve on Sub-Committees, Committees may also appoint, on the nomination of any of the political groups represented on the Council, up to three Councillors to act as substitutes for Members of their Group appointed to Sub-Committees, also in accordance with the procedures set out in Rule 10.3 and Rule 10.4.

### **10.3 Conditions for substitution**

A substitute Councillor may attend a meeting as substitute for a Member if the following conditions are satisfied:

- (i) the Member asks the eligible Councillor to attend as a substitute and the eligible Councillor agrees; and

- (ii) at least two hours before the start of the meeting, and during normal office hours, the Member gives notice to the appropriate Democratic Services Officer, orally, or in writing, that the eligible Councillor (naming him or her) has agreed to attend as substitute Member; or
- (iii) at least two hours before the start of the meeting, and during normal office hours, the substitute gives notice to the appropriate Democratic Services Officer, orally, or in writing, that he or she will be substituting for a particular Councillor (naming him or her); **and**
- (iv) the proposed Councillor attends the meeting and confirms to the appropriate Democratic Services Officer that he or she attends as substitute for the Member.

#### 10.4 **Status of substituted Member**

- (i) On notifying the Democratic Services Officer that a substitution will be made, the original Member shall immediately, and irrevocably, cease to be a Member of that Committee or Sub-Committee until the conclusion of the meeting and any adjournment of it and the substitute shall be a full Member for the same period.
- (ii) Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

10.5 The appropriate Democratic Services Officer shall, at the commencement of any meeting, report any Substitution Notice(s) stating the name(s) of Member(s) attending as substitutes, together with the names of the Members they have replaced. These shall be recorded in the minutes of the meeting.

10.6 Where acting as a substitute for a particular Committee or Sub-Committee requires training, Members will have undergone the necessary training or activity.

10.7 Substitutes are not permitted in respect of the Licensing and Safety Committee and the Planning Committee.

### 11. **ATTENDANCE OF NON-MEMBERS**

11.1 Members of the Council may attend meetings of Committees and Sub-Committees of which they are not Members provided that:

- (i) the visiting Member shall only address the Committee or Sub-Committee with the consent of the Chairman
- (ii) the visiting Member shall not have the right to vote
- (iii) the Committee or Sub-Committee may determine by resolution that the visiting Member should withdraw from the meeting.

11.2 A visiting Member may, with the consent of the Chairman move a motion or an amendment to a motion which must then be seconded by a Member of the relevant Committee or Sub-Committee for it to be discussed. Then the normal rules of debate will apply.

- 11.3 A visiting Member shall not second a motion or amendment.
- 11.4 Executive Members can only attend a meeting of the Overview and Scrutiny Commission or one of its panels if they have been invited to attend. This is to ensure compliance with section 21 (13) of the Local Government Act 2000.

## **12. PUBLIC PARTICIPATION, RECORDING AND FILMING OF MEETINGS AND USE OF SOCIAL MEDIA**

- 12.1 The Overview and Scrutiny Commission, the Licensing and Safety Committee, the Planning Committee, the Health and Wellbeing Board and the Appeals Committee may make arrangements for public speaking at their meetings and meetings of their Sub-Committees and Panels.
- 12.2 Members of the public may record the proceedings of Committee meetings in accordance with the Protocol for Photography, Audio/Visual Recording and Use of Social Media at Council and Committee Meetings. (Annexed to the Council Procedure Rules)

## **13. REQUIREMENT TO ATTEND FOR ENTIRE ITEM**

- 13.1 No Member will be entitled to take part or vote on any item for decision unless the Member has been present for the entire item.

## **14. CONDUCT OF DEBATE**

- 14.1 Members must comply with the Council's Code of Conduct and the law in relation to declarations of interest in respect of items under discussion. Declarations of interest should be made at the beginning of the meeting or as soon as the interest becomes apparent.
- 14.2 When a Member speaks at a Committee or Sub-Committee meeting, he or she may remain seated and should address the meeting through the Chairman.
- 14.3 Speeches must be directed to the motion under debate or to a personal explanation or point of order.
- 14.4 When the Chairman stands during a debate, any Member speaking at the time must stop and the meeting must be silent.
- 14.5 If a Member persistently disregards the ruling of the Chairman by behaving improperly, offensively or deliberately obstructing business, the Chairman may move that the Member is silenced for that item. If seconded, this will be voted on without discussion.
- 14.6 If the Member continues to behave improperly after such a motion is carried, the Chairman may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

## **15. ROLE OF THE CHAIRMAN**

- 15.1 The Chairman will manage the business of the meeting. He or she shall try to ensure all points of view are heard, but balance this obligation with the need to ensure

Last updated: June 2014 – Part 4: Section 4

business is dealt with in a timely manner. The Chairman may limit the number of speakers in any debate at his/her full discretion. The Chairman's decisions on who is to speak and how the debate is to be conducted are final.

- 15.2 The order of business may be varied at the meeting at the discretion of the Chairman.

## **16. RULES OF DEBATE**

- 16.1 A simplified diagram showing how decisions might be reached is annexed to these Rules.
- 16.2 Each item will be introduced by the Chairman. The Director or his/her representative may be asked to briefly present the report and respond to Members' questions.
- 16.3 Each item must be moved and seconded before it is debated further. The person moving the item may speak for a maximum of five minutes. Other speeches should not exceed three minutes without the consent of the Chairman.
- 16.4 The seconder may choose to speak later in the debate.
- 16.5 Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him or her before it is discussed.
- 16.6 A Member who has spoken on a motion may only speak again whilst it is the subject of debate:
- (i) to speak once on an amendment moved by another Member;
  - (ii) to move a further amendment if the motion has been amended since he or she last spoke;
  - (iii) if his or her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he or she spoke was carried);
  - (iv) in exercise of a right of reply;
  - (v) on a point of order; and
  - (vi) by way of personal explanation.
- 16.7 **Amendments to motions**
- (i) An amendment must be relevant to the motion and will either be:
    - (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
    - (b) to leave out words;
    - (c) to leave out words and insert or add others; or
    - (d) to insert or add words.



as long as the effect of (b) to (d) is not to negate the motion.

- (ii) Only one amendment may be moved and discussed at any one time and no further amendment may be moved until the amendment under discussion has been disposed of, provided that the Chairman may permit two or more amendments to be discussed (but not voted on) together if circumstances suggest that this course would facilitate the proper conduct of the Committee's business.
- (iii) If an amendment is not carried, other amendments to the original motion may be moved.
- (iv) If an amendment is carried, the motion, as amended, takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (v) After an amendment has been carried, the Chairman will read out the substantive motion before accepting any further amendments, or if there are none, debate continues on the substantive motion.

#### **16.8 Alteration of motion**

- (i) A Member may alter a motion which he or she has moved without notice with the consent of the seconder.
- (ii) Only alterations which could be made as an amendment may be made.

#### **16.9 Withdrawal of motion**

A Member may withdraw a motion or amendment which he or she has moved with the consent of the seconder. No Member may speak on the motion or amendment after the mover has asked permission of the seconder to withdraw it unless permission is refused.

#### **16.10 Right of reply**

- (i) The mover of a motion has a right to reply to the points raised at the end of the debate on the motion, immediately before it is put to the vote.
- (ii) If an amendment is moved, the mover of the original motion has the right of reply to the points raised at the close of the debate on the amendment, but may not otherwise speak on it.
- (iii) The mover of the amendment has no right of reply to the debate on his or her amendment.

#### **16.11 Procedural motions which may be moved during debate**

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (i) to withdraw the motion;
- (ii) to amend the motion;

- (iii) to proceed to the next business;
- (iv) that the motion be put;
- (v) to adjourn the debate;
- (vi) to adjourn the meeting;
- (vii) to exclude the public and press in accordance with the Access to Information Procedural Rules; and
- (viii) to not hear further a Member named under Rule 14.5 or to exclude him or her from the meeting under Rule 14.6.

#### 16.12 Closure motions

- (i) A Member may move, without comment, the following motions at the end of a speech of another Member:
  - (a) to proceed to the next business;
  - (b) that the motion be put;
  - (c) to adjourn the debate; or
  - (d) to adjourn the meeting.
- (ii) If a motion to proceed to the next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (iii) If a motion that the motion be put is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will put the procedural motion to the vote. If it is passed, he or she will give the mover of the original motion a right of reply before putting his or her motion to the vote.
- (iv) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he or she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 16.13 Points of order

A Member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Committee Procedure Rules, or the law. The Member must indicate the Rule or law and the way in which he or she considers it has been broken. The ruling of the Chairman on the matter will be final.

#### 16.14 Personal explanation

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may

appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

## **17. PREVIOUS DECISIONS AND MOTIONS**

### **17.1 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of the Committee or Sub-Committee within the past six months cannot be moved unless information which was not available when the resolution was passed is placed before the Committee or Sub-Committee.

### **17.2 Motion similar to one previously rejected**

- (i) A motion or amendment in similar terms to one that has been rejected at a meeting of the Committee or Sub-Committee in the past six months cannot be moved unless information which was not available when the motion or amendment was rejected is placed before the Committee or Sub-Committee.
- (ii) Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

## **18. VOTING**

### **18.1 Majority**

Unless this Constitution or the law provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the motion was put. The Chairman shall ascertain the numbers voting for and against, and his or her declaration of the result shall be conclusive.

### **18.2 Chairman's casting vote**

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

### **18.3 Show of hands**

Unless a recorded vote is demanded under Rule 18.4, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **18.4 Recorded vote**

- (i) If, before the vote is taken, a Member of the Committee or Sub-Committee present at the meeting demands it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.
- (ii) A recorded vote shall not be taken where the Committee or Sub-Committee is voting on appointments.

### **18.5 Right to require individual vote to be recorded**

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

## **18.6 Voting on appointments**

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.

## **19. REFERENCE TO COUNCIL**

- 19.1 Subject to the provision in Rule 19.3 below, immediately following a vote on a decision taken by a Committee or Sub-Committee under delegated powers, one quarter of the Members of the Committee or Sub-Committee present and voting at the meeting may require that the decision be submitted to the Council as a recommendation. All figures to be rounded up to the nearest whole number.
- 19.2 Where a reference has been made pursuant to the provision in Rule 19.1 above, the decision shall not be implemented before consideration of that recommendation by the Council.
- 19.3 The provisions in Rule 19.1 shall not apply to the Licensing and Safety Committee, the Planning Committee and the Appeals Committee, or any Sub-Committee appointed by those Committees.

## **20. MINUTES**

- 20.1 The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only matter in relation to the minutes that can be discussed is their accuracy.
- 20.2 There is no requirement for the minutes to be agreed at the next meeting if it is a special meeting. The minute can be held over for agreement to the next ordinary meeting instead.

## **21. RECORD OF ATTENDANCE**

- 21.1 All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

## **22. EXCLUSION OF THE PRESS AND PUBLIC**

- 22.1 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Part 4 Section 4 of this Constitution or Rule 23 (Disturbance of meetings).

## **23. DISTURBANCE OF MEETINGS**

### **23.1 General disturbance**

If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he or she thinks necessary.

## **23.2 Removal of member of the public**

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.

## **23.3 Clearance of part of meeting room**

If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

## **24. SUSPENSION AND AMENDMENT OF COMMITTEE PROCEDURE RULES**

### **24.1 Suspension**

All of these Committee Procedure Rules, except Rule 18.5 and 20.2, may be suspended if at least one half of the whole number of Members of the Committee or Sub-Committee are present, all figures to be rounded up to the nearest whole number. Suspension may be for the consideration of a particular item of business or for the duration of that meeting.

### **24.2 Amendment**

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

## **25. APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

25.1 The Committee Procedure Rules apply to all Committee, Sub-Committee, Panels and advisory meetings, including meetings of Overview and Scrutiny except where their own procedure rules differ from these general procedure rules, in which case their own procedure rules take precedence.

25.2 Committee Procedure Rules 16, 17 and 18 do not apply to meetings of the Licensing and Safety Committee and its Sub-Committees, or Appeals Committee meetings when a hearing is being conducted.

## **26. INTERPRETATION OF RULES**

26.1 The ruling of the Chairman of the Committee or Sub-Committee as to the application of these Procedure Rules shall be final and shall not be challenged.

## **27. NOTICE**

27.1 For the purposes of these Committee Procedure Rules, notice sent by email or fax shall be deemed to constitute notice in writing.

## **28. DISCLOSABLE PECUNIARY INTERESTS**

28.1 Any Member with a Disclosable Pecuniary Interest in any matter to be (or being) considered at a meeting of a Committee or sub-Committee of the Council or a joint Committee shall:-

- (i) if the interest is not entered on the Council's register of interests, disclose the interest to the meeting (unless the interest is a Sensitive Interest in which case the Member shall simply advise the meeting that they have a Disclosable Pecuniary Interest),
- (ii) if the interest is not entered on the Council's register of interests and is not the subject of a pending notification, notify the Monitoring Officer of the interest within 28 days,
- (iii) unless the Member has been granted a dispensation by the Council, not participate in discussion or vote on the matter, and
- (iv) unless the Member has been granted a dispensation by the Council, withdraw from the meeting (after disclosing the interest if required by the preceding provisions or disclosing to the Democratic Services Officer in attendance that they are withdrawing from the meeting because of a Disclosable Pecuniary Interest if they are not so required).

"Disclosable Pecuniary Interest" and "Sensitive Interest" shall each have the meaning as set out in the Code of Conduct".

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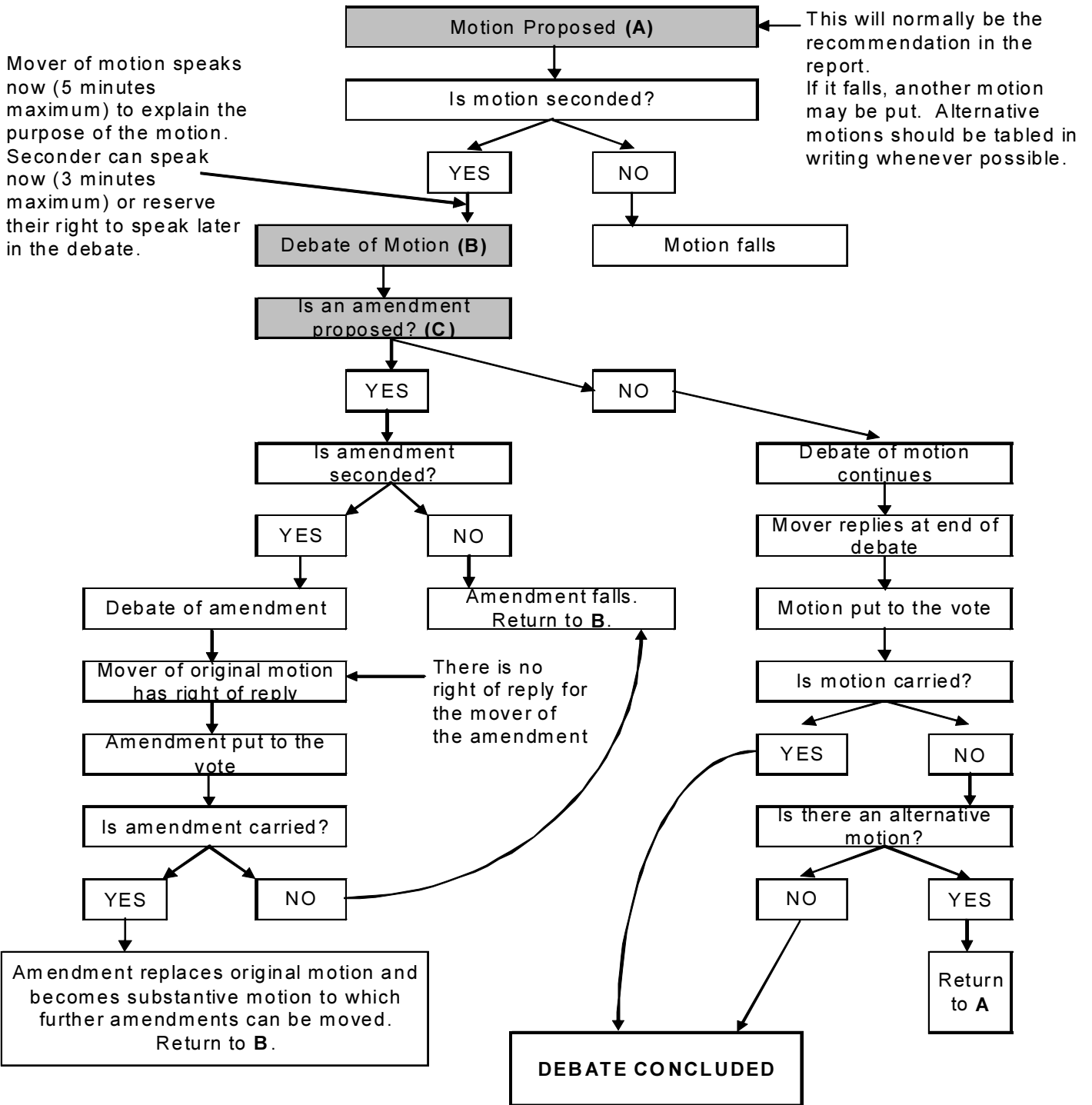


**RULES OF DEBATE**

Simplified diagram showing how decisions might be reached.

Item is introduced by the Chairman.

Chairman invites questions (numbers may be limited). Director or representative responds.



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## **IMPORTANT NOTE**

*The Access to Information Rules endeavour to reflect Part VA of the Local Government Act 1972 (in relation to non-Executive functions) and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. However, due to the complexities of that legislation, in cases of doubt or difficulty advice should be sought from Legal Services. Please note that it is a criminal offence to obstruct the inspection or copying of documents as required by these Rules. It is also a criminal offence to fail to supply a copy of a document as required by these Rules.*

## **SECTION 5 – ACCESS TO INFORMATION PROCEDURE RULES**

### **1. SCOPE**

- 1.1 These rules apply to all meetings of the Council, the Overview and Scrutiny Commission and its Panels, the Standards Committee and Regulatory Committees and public meetings of the Executive (together called meetings). Following the introduction of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 some particular rules apply to decision making in relation to Executive functions. “Executive Meetings” means meetings of the Executive, a Committee of the Executive or otherwise defined as a “decision making body” by the 2012 Regulations.
- 1.2 All of these Rules are subject to Rule 19 (restrictions on publication and disclosure of Confidential Information, Exempt Information and the advice of political assistants).

### **2. ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any more specific rights to information contained elsewhere in this Constitution, or the law. In particular, the public may have additional rights of access to information under the Freedom of Information Act 2000 and/or the Data Protection Act 1998.

### **3. RIGHTS TO ATTEND MEETINGS**

Members of the public may attend all meetings, subject only to the exceptions in these rules.

### **4. NOTICES OF MEETING**

The Council will give at least five clear working days (or where the meeting is convened at shorter notice at the time that the meeting is convened) notice of any meeting by posting details of the meeting at Easthampstead House, Town Square, Bracknell and publishing the notice on the Council’s website.

### **5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING**

The Council will make copies of the agenda and reports, which are open to the public, available for inspection at Easthampstead House, at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the Summons has been sent out, the designated Officer shall make each such report available to the public as soon as the report is

completed and sent to Councillors. Agenda and reports will be published on the Council's website when they are made available for inspection by the public.

## 6. **SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements, or particulars, necessary to indicate the nature of the items in the agenda; and
- (c) if the Head of Democratic and Registration Services thinks fit, copies of any other documents supplied to Councillors in connection with an item

to any person or to a newspaper (in either such case) on payment being made for postage copying or other necessary charge for transmission

Copies of agenda and those reports which are open to public inspection are available on the Council's web-site.

## 7. **ACCESS TO MINUTES ETC AFTER THE MEETING**

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting, or records of decisions made, together with reasons, for all meetings of the Executive, excluding any part of the minutes of proceedings which disclose Exempt Information or Confidential Information;
- (b) a summary of any proceedings not open to the public, where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

## 8. **BACKGROUND PAPERS**

### 8.1 **List of Background Papers**

The originating Director will set out, in every report, a list of those documents (called background papers) relating to the subject matter of the report which in his or her 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

but does not include published works, or those which disclose Exempt Information or Confidential Information, (as defined in Rule 10) and in respect of Executive reports, the advice of a political advisor.

## 8.2 Public Inspection of Background Papers

At the same time as a copy of the whole or part of a report is made available for inspection by the public in accordance with Rule 5 or Rule 14.2 the following shall for a period of four years be made available for inspection at Easthampstead House and (in respect of Executive Meetings and reports available for inspection pursuant to Rule 14.2) on the Council's website, namely:-

- (a) a copy of the list of background papers, and
- (b) a copy of each of the documents in that list

## 9. SUMMARY OF PUBLIC'S RIGHTS

A copy of these Rules containing a written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at, and available to, the public during normal office hours at Easthampstead House, Town Square, Bracknell.

## 10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

### 10.1 Requirement to Exclude the Public

The public must be excluded from meetings:-

- (a) 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 (See Regulation 10.3)
- (b) the meeting passes a resolution to exclude the public during that item where it is likely, in view of the nature of the item of business, that if members of the public were present during that item Exempt Information would be disclosed to them (See Rule 10.2); or
- (c) a lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent mis-behaviour at a meeting

A resolution under (b) must:-

- (i) identify the proceedings, or the part of the proceedings to which it applies, and
- (ii) state by reference to the categories listed in Rule 10.4 the description of Exempt Information giving rise to the exclusion of the public

The public may only be excluded under (a) or (b) above for the part or parts of the meeting during which it is likely that Confidential Information or Exempt Information would be disclosed.

### 10.2 Exempt Information – Discretion to Exclude the Public

The public may be excluded from meetings 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.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, 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 Article 6.

### 10.3 **Meaning of Confidential Information**

Confidential information means:-

- (a) information given to the Council by a Government Department on terms which forbid its public disclosure, or
- (b) information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court

and, in either case, a reference to the obligation of confidence is to be constructed accordingly.

### 10.4 **Meaning of Exempt Information**

Information falling within the following 7 categories (subject to any condition listed below) is Exempt Information if in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

- (1) Information relating to any individual.
- (2) Information which is likely to reveal the identity of an individual.
- (3) Information relating to the financial or business affairs of any particular person (including the authority holding that information), provided that Information in this category is not exempt information if it is required to be registered under the Companies Act 1985; the Friendly Societies Acts 1974 and 1992; the Industrial and Provident Societies Acts 1965 to 1978; the Building Societies Act 1986; or the Charities Act 1993.
- (4) Information relating to any consultations or negotiations, or contemplated consultations, or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or officer holders under, the authority.
- (5) Information in respect of which a claim of legal professional privilege could be maintained in legal proceedings.
- (6) Information which reveals that the authority proposes
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or,
  - (b) to make an order or direction under any enactment.
- (7) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

Information falling within any of categories 1-7 above is not exempt information if it relates to proposed development for which the Local Planning Authority may grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

The decision as to whether or not information should be considered to be exempt so as to permit exclusion of the public from a meeting and if so whether the public should be excluded will rest with the Council, Committee, Executive or Executive Committee receiving the report. The Borough Solicitor is authorised to determine whether or not information is Exempt Information for all other purposes.

## **11. PROCEDURE PRIOR TO PRIVATE EXECUTIVE MEETINGS**

11.1 This rule applies to private Executive Meetings (i.e. an Executive Meeting from which the public are to be excluded for all or part of its proceedings pursuant to Rule 10).

11.2 (A) Subject to 11.3 at least 28 clear days before the meeting:-

- (a) a notice of intention to hold the meeting in private must be placed on display at Easthampstead House. The notice must include a statement of the reasons for the meeting to be held in private, and
- (b) the notice must be published on the Council's website.

(B) At least five clear working days before the meeting:-

- (a) a notice must be placed on display at Easthampstead House giving further notice of intention to hold the meeting in private.

The notice must include:-

- (i) a statement of the reasons for the meeting to be held in private,
  - (ii) details of any representations received about why the meeting should be open to the public, and
  - (iii) a statement of response to any such representations,
- and
- (b) the notice must be published on the Council's website

11.3 Where the date by which a meeting must be held makes compliance with Rule 11.2 impracticable, the Executive Meeting may only be held in private where agreement that the meeting is urgent and cannot reasonably be deferred has been obtained from:-

- (a) the Chairman of the Overview and Scrutiny Commission or relevant Overview and Scrutiny Panel (as appropriate having regard to the subject matter of the relevant item), or
- (b) if the Chairman of the Overview and Scrutiny or relevant Overview and Scrutiny Panel is unable to act, the Mayor, or, if the Mayor is unable to act, the Deputy Mayor.

As soon as reasonably practicable after any such meeting a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred must be put on display at Easthampstead House and published on the Council's website.

## 12. DEFINITION OF AND PROCEDURE BEFORE TAKING KEY DECISIONS

- A. "Key Decision" means decision relating to an Executive function which is likely either:-
- (a) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
  - (b) to be significant in terms of its effects on communities living or working in an area comprising two or more Wards or electoral divisions in the Borough.

The Council has determined that "significant" means expenditure/savings of £400,000 or more.

- B. Subject to Paragraph D (General Exception) and Paragraph E (Special Urgency), a Key Decision may not be made unless the procedure set out below is complied with.
- C. A Key Decision cannot be made (whether by the Executive, an Executive Committee, an individual Executive Member or an officer) unless at least 28 clear days before the decision is taken a notice is placed on display at Easthampstead House and published on the Council's website stating:-
- (a) that a Key Decision is to be made
  - (b) the matter in respect of which the decision is to be taken
  - (c) where the decision is an individual that individuals' name and title
  - (d) where the decision is to be taken at an Executive Meeting, its name and list of its Members
  - (e) the date on which, or the period within which, the decision is to be made
  - (f) 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
  - (g) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available(h) that other documents relevant to those matters may be submitted to the decision maker, and
  - (i) the procedure for requesting details of these documents (if any) as they become available.

If the public may be excluded from the meeting at which the matter is to be discussed or, pursuant to these Rules, the documents relating to the decision



need not be disclosed to the public, the notice must contain particulars of the matter but may not contain any Confidential Information, Exempt Information or particulars of the advice of a political adviser or assistant.

**D. General Exception**

Subject to paragraph E, where publication of the intention to make a Key Decision under paragraph C is impracticable, the decision may only be made:-

- (a) where the Head of Democratic and Registration Services has informed the Chairman of the Overview and Scrutiny Commission or Chairman of the relevant Overview and Scrutiny Panel (as appropriate) or if there is no such person each Member of the Overview and Scrutiny Commission or relevant Overview and Scrutiny Panel (as appropriate) of the matter about which the decision is to be made, and
- (b) a copy of the notice given pursuant to (a) has been displayed for public inspection at Easthampstead House and on the Council's website for at least 5 clear working days.

As soon as reasonably practicable after the Head of Democratic and Registration Services has complied with (a) he or she shall make available for inspection at Easthampstead House and publish on the Council's website a notice setting out the reasons why compliance with paragraph B is impracticable.

**D. Special Urgency**

Where the date by which a Key Decision must be made makes compliance with paragraph C impracticable, the decision may only be made if the decision maker has obtained agreement that the making of the decision is urgent and cannot reasonably be deferred from:-

- (a) the Chairman of the Overview and Scrutiny Commission or the Chairman of the relevant Overview and Scrutiny Panel (as appropriate), or
- (b) if there is no such person or they are unable to act, the Mayor, or
- (c) if the Mayor is unable to act, the Deputy Mayor

As soon as reasonably practicable after obtaining any such agreement a notice of the reasons that the matter is urgent and cannot be deferred must be made available for public inspection at Easthampstead House and published on the Council's website.

**13.. REPORT TO COUNCIL**

**13.1 When the Overview and Scrutiny Commission can Require a Report**

Where an Executive decision has been made and was not treated as a Key Decision but the Overview and Scrutiny Commission or relevant Overview and Scrutiny Panel (as appropriate) are of the opinion that the decision should have been treated as a Key Decision the Commission or the Panel (as the case may be) may require the

Executive to submit a report to the Council within such reasonable time as the Commission specifies. The power to require a report rests with the Commission, but is also delegated to the Head of Democratic and Registration Services, who shall require such a report on behalf of the Commission when so requested by the Chairman or any five Members. Alternatively, the requirement may be raised by resolution passed at a meeting of the Commission.

### **13.2 Executive's Report to Council**

Where a report is required pursuant to Rule 13.1 the Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of receipt of the written Notice, or the Resolution of the Commission or Panel, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the reasons for the decision, the individual or body making the decision, and, if the Executive is of the opinion that it was not a Key Decision, the reasons for that opinion.

### **13.3 Quarterly Reports on Special Urgency Decisions**

In any event, the Leader will submit quarterly reports to the Council on the Executive Decisions made in the circumstances set out in Rule 12D (special urgency) in the preceding three months. The report will include the number of decisions so made and a summary of the matters in respect of which those decisions were made.

## **14. RECORDING OF EXECUTIVE DECISIONS**

### **14.1 This Paragraph 14 applies to:-**

- (a) decisions made at Executive Meetings.
- (b) decisions made by individual Executive Members, and
- (c) decisions made by officers in the exercise of Executive functions
  - to incur expenditure or the making of a saving of £10,000 or more
  - following public consultation
  - which will have a material impact upon ten or more persons
  - in exercise of an express delegation made to an officer by an Executive Meeting or an individual Executive Member
  - whether or not to list a property as an Asset of Community Value
  - whether or not to accept an expression of interest submitted under the Community Right to Challenge

### **14.2 As soon as reasonably practicable after the Executive Meeting or the decision has been made the Head of Democratic and Registration Services must produce a written statement of the decision which must include:-**

- (a) the decision including the date it was made

- (b) the reasons for the decision
- (c) details of any alternative options considered and rejected
- (d) any conflict of interest relating to the matter decided which was declared by any Member, and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the Chief Executive.

#### 14.3 Subject to Rule 19

As soon as reasonably practicable after a decision has been made to which this Rule applies the Head of Democratic and Registration Services must ensure that a copy of:-

- (a) the written statement required to be produced pursuant to Regulation 14.2, and
- (b) any report considered at the Executive Meeting or considered by the individual Executive Member or officer and relevant to the decision (or where only part of the report is relevant to the decision, that part)

is as soon as reasonably practicable available for inspection by the public at Easthampstead House and on the Council's website.

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

#### 15. **NOTICE OF PRIVATE MEETINGS OF THE EXECUTIVE**

Members of the Executive or its Committees will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

#### 16. **ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE**

##### 16.1 **Executive Members**

All Members of the Executive will be served notice of all private meetings of Committees of the Executive, whether or not they are Members of that Committee, and will be entitled to attend.

##### 16.2 **Other Members**

Members other than Executive Members will not be entitled to attend private Executive Meetings

##### 16.3 **Officers**

- a) The Chief Executive, the Borough Treasurer and the Monitoring Officer, and their nominees, shall be entitled to attend any Meeting. An Executive

Meeting may not meet unless the Head of Democratic and Registration Services has been given reasonable notice that a meeting is to take place.

- b) A private Executive Meeting may only take place in the presence of the Head of Democratic and Registration Services or his or her nominee, with responsibility for recording and publicising the decisions.

## 17. ADDITIONAL RIGHTS OF ACCESS – ALL MEMBERS

17.1 Subject to the following provisions of this Rule any documents which contain material relating to business to be transacted at a public meeting shall be open to inspection by any Member for at least five clear working days before the meeting except that:-

- (a) where the meeting is convened at shorter notice the documents must be available for inspection when the meeting is convened; and
- (b) where an item is added to the agenda at shorter notice the documents must be available for inspection when the item is added to the agenda.

17.2 Subject to the following provisions of this Rule any document which contains material relating to:-

- (a) any business transacted at a private meeting of the Executive
- (b) any decision made by an individual Executive Member, or
- (c) any decision made by an officer in respect of an Executive function

shall be available for inspection by any Member within twenty four hours of the meeting or decision being taken.

17.3 This Rule does not authorise the disclosure of Confidential Information.

17.4 This Rules does not require the inspection of any document if it appears that the document discloses Exempt Information unless the Exempt Information falls within Categories 3 (Information relates to the financial or business affairs of any particular person including the Council) or 6 (Information which reveals that the Council proposes to give a statutory notice imposing requirements or to make any statutory order or direction) of Schedule 12A to the Local Government Act 1972, provided that information falling within Category 3 is not required to be open for inspection to the extent that the information relating to any terms proposed or to be proposed by or to the Council in the course of negotiating for a contract.

17.5 This Rule does not require the disclosure of advice by a political adviser or assistant.

17.6 The rights conferred by this rule are in addition to any rights which Members may have at common law.

## 18. ADDITIONAL RIGHTS OF ACCESS – OVERVIEW AND SCRUTINY MEMBERS

18.1 Subject to the following provisions of this Rule, a Member of the Overview and Scrutiny Commission or an Overview and Scrutiny Panel is entitled to a copy of any document which contains material relating to:-

- (a) any business that has been transacted at the Council, a Committee, a sub-Committee or at an Executive Meeting
- (b) a decision made by an individual Executive Member, or
- (c) a decision made by an officer in relation to an Executive function

Documents requested must be provided as soon as reasonably practicable and in any event within ten clear days.

- 18.2 This Rule does not require disclosure of any document which discloses Exempt Information or Confidential Information unless the information is relevant to:-
- (a) an action or decision that the Member is reviewing or scrutinising, or
  - (b) any review contained in any programme of work of the Commission or Panel.
- 18.3 This Rule does not require the disclosure of the advice of a political assistant.
- 18.4 If disclosure of a document is declined the Commission or Panel shall be provided with a written statement setting out the reasons for the decision.

## **19. EXCLUSION OF PUBLIC ACCESS TO DOCUMENTS**

- 19.1 Nothing in these Rules shall require publication of or the disclosure to the public of any document which contains:-
- (a) Confidential Information
  - (b) Exempt Information, or
  - (c) the advice of a political assistant.
- 19.2 The whole or any part of a report not available for inspection by the public:-
- (a) must be marked "Not for Publication", and
  - (b) must state that it contains Confidential Information or by reference to the descriptions of categories of Exempt Information in Rule 10.4 a description of the Exempt Information applicable to the report.

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## **SECTION 6 - BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. In this Part –**

“Executive” and “Executive Leader” have the same meaning as in Part II of the Local Government Act 2000; and “plan or strategy” and “working day” have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.

### **2 The Framework for Executive Decisions**

The Council will be responsible for the adoption of its Budget and Policy Framework, as set out in Article 4. Once a budget or a Policy Framework is in place, it will be the responsibility of the Executive to implement it.

### **3 Process for Developing the Framework**

The process by which the Budget and Policy Framework shall be developed is:

- (a) The Executive or Executive Member will publicise a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework, and the arrangements for consultation. The Chairman of the Overview and Scrutiny Commission will also be notified. After publication of those initial proposals, there will be a consultation period of not less than 6 weeks in each instance.
- (b) At the end of that period, the Executive will then draw up firm proposals having regard to the responses to that consultation. If the Overview and Scrutiny Commission wishes to respond to the Executive in that consultation process, then it may do so. The Commission may investigate, research or report, in detail, with policy recommendations before the end of the consultation period. The Executive will take any response from the Commission into account in drawing up firm proposals for submission to the Council, and its report to the Council will reflect the comments made by consultees and the Executive’s response.
- (c) Once the Executive has approved the firm proposals, the Proper Officer will refer them, at the earliest opportunity, to the Council for decision.
- (d) In reaching a decision, the Council may adopt the Executive’s proposals, amend them, refer them back to the Executive for further consideration, or, in principle, substitute its own proposals in their place, in accordance with the provisions set out below.
- (e) If it accepts the recommendation of the Executive without amendment, the Council may make a decision which has immediate effect.
- (f) The decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader.
- (g) Following the submission of a draft plan or strategy to the Council for consideration and, where following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out in sub paragraph (h).

- (h) The Executive Leader may seek a short adjournment of the Council meeting to consider amending a draft plan or strategy brought before it for approval and for the Council to consider such amendments on reconvening. If the Council has objections to a draft plan or strategy (following consideration of any amendments proposed by the Leader, if appropriate), it must give the Leader instructions requiring the Executive to reconsider, in light of those objections, the draft Plan or Strategy submitted to it.
- (i) Where the Council gives instructions in accordance with sub-paragraph (h), it must specify a period of at least five working days, beginning on the day after the date on which the Executive Leader receives the instructions on behalf of the Executive within which the Executive Leader may -
  - (i) submit a revision of the draft Plan or Strategy, as amended by the Executive (the "revised Plan or Strategy"), with the Executive's reasons for any amendments made to the draft Plan or Strategy, to the Council for the Council's consideration; or
  - (ii) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.
- (i) When the period specified by the Council, referred to in sub-paragraph (i), has expired, the Council must, when -
  - (i) amending the draft Plan or Strategy or, if there is one, the revised draft Plan or Strategy;
  - (ii) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or a revised draft) of which any part is required to be so submitted; or
  - (iii) adopting (with or without modification) the Plan or Strategy,

take into account any amendments made to the draft Plan or Strategy that are included in any revised draft plan or strategy, the Executive's reasons for those amendments, any disagreements that the Executive has with any of the Council's objections and the Executive's reasons for that disagreement, which the Executive Leader submitted to the Council, or informed the Council of, within the period specified.
- (j) Subject to sub-paragraph (o), where, before 8 February in any financial year, the Executive submits to the Council for its consideration in relation to the following financial year -
  - (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
  - (ii) estimates of other amounts to be used for the purposes of such a calculation;
  - (iii) estimates of such a calculation; or



- (iv) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts, the Council has any objections to them, it must take the action set out in sub-paragraph (l) below.

- (k) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any sections referred to in sub-paragraph (k)(i), or issues a precept under Chapter IV of the Local Government Finance Act 1992, it must inform the Executive Leader of any objections which it has to the Executive's estimates, or amounts, and must give to him, instructions requiring the Executive to reconsider, in light of those objections, those estimates and amounts, in accordance with the Council's requirements.
- (l) Where the Council gives instructions in accordance with sub-paragraph (l), it must specify a period of at least five working days, beginning on the day after the date on which the Executive Leader receives the instructions on behalf of the Executive, within which, the Executive Leader may –
  - (i) submit a revision of the estimates, or amounts, as amended by the Executive ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Executive's reasons for any amendments made to the estimates or amounts, to the Council for consideration; or
  - (ii) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.
- (m) When the period specified by the Council, referred to in sub-paragraph (m), has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in sub-paragraph (k)(i), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account –
  - (i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - (ii) the Executive's reasons for those amendments;
  - (iii) any disagreement that the Executive has with any of the Council's objections; and
  - (iv) the Executive's reasons for that disagreement,which the Executive Leader submitted to the Council, or informed the Council of, within the period specified.
- (n) Sub paragraphs (k) to (n) shall not apply in relation to –
  - (i) calculations or substitute calculations which the Council is required to make in accordance with Sections 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and

- (ii) amounts stated in a precept issued to give effect to calculations, or substitute calculations, made in accordance with Section 52J or 52U of that Act.
- (p) In approving the Budget and Policy Framework, the Council will also specify the extent of virement within the Budget and degree of in-year changes to the Policy Framework which may be undertaken by the Executive, in accordance with Paragraphs 6 and 7 of these Rules (virement and in-year adjustments). Any other changes to the Policy and Budgetary Framework are reserved to the Council.

#### **4 Decisions Outside the Budget or Policy Framework**

- (a) Subject to the provisions of Paragraph 6 (virement), the Executive, Committees of the Executive, individual Members of the Executive, Officers or joint arrangements discharging Executive functions, may only make decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to, or not wholly in accordance with, the Budget approved by full Council, then that decision may only be taken by the Council, subject to 5 below.
- (b) If the Executive, Committees of the Executive, individual Members of the Executive and any Officers or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Borough Treasurer as to whether the decision they want to make would be contrary to the Policy Framework, or contrary to, or not wholly in accordance with, the Budget. If the advice of either of those Officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case, the provisions in Paragraph 5 (urgent decisions outside the Budget and Policy Framework) shall apply.

#### **5 Urgent Decisions Outside the Budget or Policy Framework**

- (a) The Executive, a Committee of the Executive, an individual Member of the Executive or Officers or joint arrangements discharging Executive functions, may make a decision which is contrary to the Council's Policy Framework or contrary to, or not wholly in accordance with, the Budget approved by full Council if the decision is a matter of urgency. However, the decision may only be made:
  - i) if it is not practical to convene a quorate meeting of the full Council; and
  - ii) if the Chairman of the Overview and Scrutiny Commission agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council, and the Chairman of the Overview and Scrutiny Commission's consent to the decision being made as a matter of urgency, must be noted on the record of the decision. In the absence of the Chairman of the Overview and Scrutiny Commission, the consent of the Mayor, and in the absence of both, the Deputy Mayor, will be sufficient.

- (b) Following the decision, the decision-maker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

## **6. Virement**

Steps taken by the Executive, a Committee of the Executive, an individual Member of the Executive or Officers, or joint arrangements discharging Executive functions to implement Council Policy, shall not exceed those budgets allocated to each Budget Head. However, such bodies or individuals shall be entitled to vire across Budget Heads as permitted under the Council's Financial Rules in this Constitution. Approval to any virement in excess of the limits specified across Budget Heads shall require the approval of the full Council.

## **7. In-year Changes to the Policy Framework**

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Executive, a Committee of the Executive or Officers, or joint arrangements discharging Executive functions, must be in line with it. No changes to any policy and strategy which make up the Policy 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) necessary to ensure compliance with the law, ministerial direction or Government guidance.

## **8. Call-in of Decisions Outside the Budget or Policy Framework**

- (a) Where the Overview and Scrutiny Commission is of the opinion that an Executive decision is, or if made, would be contrary to the Policy Framework, or contrary to, or not wholly in accordance with, the Council's Budget, then it shall seek advice from the Monitoring Officer, Borough Treasurer and other appropriate Officers.
- (b) In respect of functions which are the responsibility of the Executive, the Monitoring Officer's report and/or Borough Treasurer's report shall be sent to the Executive with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Executive must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Borough Treasurer conclude that the decision was a departure, and to the Overview and Scrutiny Commission if the Monitoring Officer or the Borough Treasurer conclude that the decision was not a departure.
- (c) 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 Borough Treasurer is that the decision is, or would be, contrary to the Policy Framework or contrary to, or not wholly in accordance with the Budget, the Overview and Scrutiny Commission may refer the matter to Council. In such cases, no further action will be taken in respect of the decision, or its implementation, until the Council has met and considered the matter. The Council shall meet within not less than 8 and not more than 15 working days of the request by the Overview and Scrutiny Commission. At the meeting, it

will receive a report of the decision, or proposals, and the advice of the Monitoring Officer and/or the Borough Treasurer. The Council may:

- i) endorse the decision or the proposal of the Executive decision maker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;  
  
or
- ii) amend the Council's Financial Regulations or Policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way;  
  
or
- iii) where the Council accepts that the decision, or proposal, is contrary to the Policy Framework, or contrary to, or not wholly in accordance with, the Budget, and does not amend the existing Framework to accommodate it, require the Executive to reconsider the matter in accordance with the advice of the Officers.

## **SECTION 7 – EXECUTIVE PROCEDURE RULES**

### **1. Conflicts of Interest and Disclosable Pecuniary Interests**

If the exercise of an Executive function has been delegated to a Committee of the Executive, an individual Member or an Officer, and should a conflict of interest arise, then the function will be exercised, in the first instance, by the person or body by whom the delegation was made.

Any Member with a Disclosable Pecuniary Interest in any matter to be (or being) considered at a meeting of the Executive or an Executive Committee shall:-

- (i) if the interest is not entered on the Council's register of interests, disclose the interest to the meeting (unless the interest is a Sensitive Interest in which case the Member shall simply advise the meeting that they have a Disclosable Pecuniary Interest),
- (ii) if the interest is not entered on the Council's register of interests and is not the subject of a pending notification, notify the Monitoring Officer of the interest within 28 days,
- (iii) unless the Member has been granted a dispensation by the Council, not participate in discussion or vote on the matter, and
- (iv) unless the Member has been granted a dispensation by the Council, withdraw from the meeting (after disclosing the interest if required by the preceding provisions or disclosing to the Democratic Services Officer in attendance that they are withdrawing from the meeting because of a Disclosable Pecuniary Interest if they are not so required).

If an Executive Member has a Disclosable Pecuniary Interest in any matter falling within the scope of their portfolio they must, unless the interest has been registered or notice of the interest has already been given to the Monitoring Officer, notify the Monitoring Officer of the interest within twenty-eight days of their becoming aware they have an interest in the matter. The Executive Member must not take any steps in relation to the matter, except for the purpose of enabling the matter to be dealt with by someone else.

"Disclosable Pecuniary Interest" and "Sensitive Interest" shall each have the meaning as set out in the Code of Conduct.

### **2. Meetings of the Executive**

The Executive will meet at least 10 times per year at times to be agreed by the Leader. The Executive shall meet at the Council's main offices or another location to be agreed by the Leader.

### **3. Public or Private Meetings**

Subject to the provisions for the exclusion of access by the public set out in the Access to Information Procedure Rules in Part 4.2 of the Constitution, the public may attend any meeting of the Executive where matters relating to key decisions will be discussed.

The Executive may decide whether meetings relating to matters which are not key decisions will be held in public or private but where the meeting will affect any person's civil rights or obligations, or adversely affect their possessions, the meeting will be open to the public, unless a private hearing is necessary for any of the reasons specified in Article 6 of the Human Rights Act 1998.

**4. Quorum**

The quorum for a meeting of the Executive, or a Committee of it, shall be three, not including any Executive Support Member who may be present at the meeting.

**5. How Decisions are Made**

- (i) Executive decisions which have been delegated to the Executive as a whole, will be made at a meeting convened in accordance with the Access to Information Procedure Rules, in Part 4 of the Constitution.
- (ii) Where Executive decisions are delegated to a Committee of the Executive, the rules applying to Executive decisions made by them shall be the same as those applying to those made by the Executive as a whole.

**6. Who presides at Executive Meetings?**

If the Leader is present, he or she will preside. In his or her absence, the Deputy Leader shall preside.

**7. Who may attend Executive Meetings?**

Attendance at meetings of the Executive shall be in accordance with the Access to Information Procedure Rules, in Part 4.2 of this Constitution.

**8. Order of Business at Executive Meetings**

At each meeting of the Executive, the following business will be conducted:

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the Executive (whether by the Overview and Scrutiny Commission or by the Council) for reconsideration by the Executive, in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules, as set out in Part 4 of this Constitution;
- (iv) consideration of reports from the Overview and Scrutiny Commission; and
- (v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not open to the public, in accordance with the Access to Information Procedure Rules, as set out in Part 4 of this Constitution.

## 9. Consultation

All reports to the Executive from any Member of the Executive, or an Officer, on proposals relating to the Budget and Policy Framework, must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultations, as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## 10. Who can put items on the Executive agenda?

- (i) The Leader will decide upon the schedule for the meetings of the Executive. He or she may put on the agenda of any Executive meeting, any matter which he or she wishes, whether or not authority has been delegated to the Executive, a Committee of it or any Member, or Officer, in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.
- (ii) Any Member of the Executive may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration. If he or she receives such a request, the Proper Officer will comply.
- (iii) The proper Officer will make sure that an item is placed on the agenda of the next available meeting of the Executive where the Overview and Scrutiny Commission, or the full Council, has resolved that an item be considered by the Executive.
- (iv) Any Member of the Council may ask the Leader to put an item on the agenda of an Executive meeting for consideration, and, if the Leader agrees, the item will be considered at the next available meeting of the Executive. The Notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting for the consideration of that item, whether or not it is a public meeting, and to speak, but not vote, on that item.
- (v) The monitoring Officer and/or the Borough Treasurer may include an item for consideration on the agenda of an Executive meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two from the Head of Paid Service, Borough Treasurer and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened, at which, the matter will be considered.

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## **SECTION 8 – PROTOCOL FOR EXECUTIVE DECISION-MAKING BY MEMBERS UNDER EXECUTIVE ARRANGEMENTS**

### **1. Introduction**

2. With the law allowing individual Members to make decisions which bind the Council, it is important that procedures be put in place to avoid:-

- Contractual commitments being entered into without the benefit of all relevant advice.
- Disputes as to whether or not the Council has entered into any legally binding commitment by a Member acting under actual, or perceived, authorisation from the Executive.
- Claims for compensation for misrepresentation arising from (alleged) comments, discussions and correspondence in the course of negotiations.

3. The legal framework for decision-making under Executive arrangements is complex but it includes the following:-

- Except in cases of urgency, the most significant decisions, known as “Key Decisions”, can only be made if they are included in a “Forward Plan” which will be published by the Council each month and will set out those Key Decisions to be made during the next four months.
- Where an individual Executive Member, or Officer, receives a report which they intend to take into account when taking a Key Decision, the decision cannot be made until the report has been available for public inspection for five clear days and a copy sent to the Chairman of the Overview and Scrutiny Commission.
- Whenever Executive Members make a decision and an Officer takes a key decision, a record must be made of
  - the decision
  - the reasons for the decision
  - the details of any options considered but rejected
  - any conflicts of interests declared by Members
  - any dispensation granted by the Standards Committee

The record must be made available for public inspection within two working days of the decision being made.

### **4. Purpose**

This Protocol has been adopted by the Council to help in the achievement of the following aims, namely that:-

- The financial and propriety interests of the Council are protected.

- Decisions are based upon complete and sound information and advice from appropriate professional staff.
- Decisions are made in accordance with the Council's agreed processes and standards.

## 5. **Scope**

The Protocol does not purport to be a complete guide as to how decisions are made under Executive arrangements. Members and Officers will also need to be aware of, and guided by, those provisions which are set out in:-

- The Members' Code of Conduct
- The Code of Conduct for Officers
- The Member and Officer Protocol

## 6. **The Executive Work Programme and Forward Plan**

Although the law only requires that Key Decisions be included in the Forward Plan, the Director of Corporate Services will use best endeavours to maintain an Executive Work Programme containing information as to **all** decisions to be made by Executive Members (whether individually or collectively) and Key Decisions to be made by Officers. Although a paper copy of the Forward Plan is published on the first day of each month to comply with statutory requirements, this and a list of non-key executive decisions to be made will be updated on an ongoing basis and can be viewed on the Council's intranet and external web site. As soon as the need for an Executive decision arises, the relevant Director shall input the details to the system and submit these to the Head of Democratic and Registration Services who will check that all the required details have been provided and, if so, publish the new item on the intranet and web site. When submitting a new item, Directors must include details of:

- (i) Whether it is a key or non-key decision
- (ii) The title of the item
- (iii) A short description of the purpose of the decision
- (iv) Any relevant financial implications known at the time of submission, or if they are to be determined, a statement to that effect
- (v) The name of the decision-maker (Executive, Executive Committee, Individual (named) Executive Member or named Officer)
- (vi) A list of the groups or individuals to be consulted prior to the decision
- (vii) The method of consultation, presentation, letter, Public Notice, etc
- (viii) How anyone wishing to make representations should do so by indicating to whom they should be sent and where appropriate, the address
- (ix) The documents to be considered by the decision-maker

- (x) The closing date for representations
- (xi) The date the decision will be made

The Corporate Management Team will review the work programme on a monthly basis to ensure that due corporate consideration is given to any items being determined by individuals, as well as reviewing the draft agenda for each meeting of the Executive itself.

With the exception of urgent matters, Executive decisions shall not be made by Executive Members (collectively or individually) or a Key Decision made by an Officer, unless it has been included on the Forward Plan. Where grounds for urgency exist, the General Exception and Special Urgency Procedures, as set out in Section 15 and 16 of the Access to Information Procedure Rules, shall also apply to non-key decisions.

## **7. Negotiations and Communications**

It will only rarely be appropriate for Executive Members to participate in the conduct of negotiations on behalf of the Council. Members should only participate where there are clear reasons to conclude that their involvement in the negotiation, rather than in setting the framework and making a final decision, will add real value to the process. When it is appropriate for Members to become involved in any process of negotiation, the appropriate Officers (i.e. Officers designated by the relevant Director or his or her Deputy) must always be present, except by prior agreement with the relevant Director. Members should not enter into any prior correspondence or communications concerning an Executive decision which is to be made. Members should not give any indication that they have made an Executive decision in advance of the meeting with the relevant Director or the meeting of the Executive Committee or the Executive (as the case may be).

## **8. Confidentiality**

Commercial transactions, by their nature, involve the commercial activities of a party, or parties, other than the Council and they might involve the disclosure to the Council of matters of commercial confidentiality, such as the Business Plans, performance standards or pricing structures of commercial organisations, disclosure of which, to a competitor, or to the market, could be very detrimental. This is even more so as Best Value encourages the development of Partnership and Open Book Transactions. The maintenance of confidentiality is essential both to maintain the integrity of the competitive procurement process and to ensure that those who have commercial dealings with the Council know that they can rely upon the Council to protect their commercial secrets, and are, therefore, able to be open with the Council.

- 9. It is important that Members should have access to the information necessary to enable them to understand the business of the Council and to ensure that it is being conducted in accordance with the Policies and Budgets of the Council and to the highest standards of propriety. Directors will ensure that all Members have the information necessary to enable them to perform their duties, but Members should only request access to confidential information where there are clear reasons why they need access to that information for the performance of their obligations, and should ensure that they do not disclose confidential information to unauthorised persons or organisations.

## 10. **Decision-making by individual Executive Members**

The process for a decision by individual Executive Members shall be as follows:-

- (i) A written report shall be prepared by the relevant Director. The report may be prepared by the Director on his or her own initiative or at the request of an Executive Member. A template for a report is shown at Annexe A to this Protocol.
- (ii) The Director's report shall set out the following:-
  - The Executive Portfolio within which the issues falls.
  - The issue to be decided.
  - Supporting Information – a summary of the facts relating to the matter under consideration. This Section of the report should also indicate whether or not the recommended decision is in accordance with the relevant policy framework of the Council.
  - The comments of the Borough Solicitor and the Borough Treasurer and shall include an Impact Assessment.
  - The Director's recommendations (if any) and the reasons for that recommendation.
  - Any consultations undertaken, the method of consultation, and a summary of any representations received.
  - Whether or not any Member consulted in connection with the matter, or participating in the making of the decision, has declared a conflict of interest.
  - If a conflict of interest has been declared, a note of any dispensation granted by the Standards Committee.
  - If the report contains confidential or exempt information, that must be stated.
  - A list of background papers.
- (iii) The Director may determine that the report should not be published until the Corporate Management Team has had an opportunity of considering it.
- (iv) The Executive Member shall make his or her decision at a meeting with the Director. A Schedule of Meetings for Executive Decisions will be agreed by the Director and the relevant Executive Member. Such meetings may, for example, be scheduled to commence immediately after meetings of Departmental Management Teams.
- (v) The Director shall forward a copy of the completed report to the Democratic and Registration Services Section not less than five clear days before the meeting with the Executive Member. The Director must have previously forwarded a copy of the draft report to the Borough Solicitor and the Borough

Treasurer, not less than three clear working days before it is sent to the Democratic and Registration Services Section. The Democratic and Registration Services Section will be responsible for ensuring that the report is available for public inspection for at least five clear working days prior to the meeting with the Executive Member and also for forwarding a copy of the report to the Chairman of the Overview and Scrutiny Commission.

- (vi) After each Executive decision has been made, the Executive Member shall, with the assistance of the relevant Director and Democratic and Registration Services, input that decision to the Modern.Gov System. The decision record must provide details of:
  - (i) Whether it was a key or non-key decision
  - (ii) The title of the item
  - (iii) A short description of the purpose of the decision
  - (iv) The name of the decision-maker (Executive, Executive Committee, Individual (named) Executive Member or named Officer)
  - (v) The decision
  - (vi) The reasons for the decision
  - (vii) The alternative options considered, if any
  - (viii) A list of any groups or other consultees contacted prior to making the decision
  - (ix) A list of the documents considered by the decision-maker, including the report of the relevant Director
  - (x) Any declarations of personal interest
  - (xi) Any dispensations granted by the Standards Committee in relation to declared conflicts of interest
  - (xii) The date on which the decision was made
  - (xiii) The date on which the decision will be implemented

Within two working days of the decision being made, the Democratic and Registration Services Section shall make available for public inspection, the record of the decision.

#### **11. Decision-making by Executive Committees and the Executive**

The process for decision-making by Executive Committees and by the Executive shall be as follows:-

- (i) A written report shall be prepared by the relevant Director. The report may be prepared by the Director on his or her own initiative or at the request of an Executive Member, an Executive Committee or the whole Executive. A template for decision making reports is shown at Annexe A.

- (ii) Paragraph 10(ii) shall apply to the Committee report.
- (iii) A draft of the report will be considered by the Corporate Management Team.
- (iv) Following the consideration of a report by the Corporate Management Team, the draft report (amended as necessary, or appropriate) shall be considered at a briefing meeting of the Executive, the purpose of which, will **solely** be for Officers to brief the Executive on matters connected with the making of the executive decisions for determination.
- (v) The Director shall be responsible for ensuring that a draft of the report is sent to the Borough Solicitor and Borough Treasurer not less than five working days before it is considered by the Corporate Management Team.
- (vi) Following the briefing meeting, the Director must forward a copy of the completed report to the Democratic and Registration Services Section, not less than seven clear days before the meeting of the Executive, or the Executive Committee. The Democratic and Registration Services Section will be responsible for ensuring that the report is available for public inspection for at least five clear working days before the Executive meeting.
- (vii) After each individual Executive decision has been made, a report on the Executive decision shall be made through the Executive Work Programme and Forward Plan System. Although the responsibility for each record being made is, legally, the responsibility of the Director of Corporate Services (or representative), all Members present at the meeting shall afford full co-operation on the completion of such form.

TO: NAME OF COMMITTEE  
DATE OF MEETING

---

TITLE OF REPORT  
Director of

**1 PURPOSE OF REPORT**

1.1

**2 RECOMMENDATION(S)**

2.1

**3 REASONS FOR RECOMMENDATION(S)**

3.1

**4 ALTERNATIVE OPTIONS CONSIDERED**

4.1

**5 SUPPORTING INFORMATION**

5.1

**6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

Borough Solicitor

6.1

Borough Treasurer

6.2

Equalities Impact Assessment

6.3

Strategic Risk Management Issues

6.4

Other Officers

6.5

## **7 CONSULTATION**

### Principal Groups Consulted

7.1

### Method of Consultation

7.2

### Representations Received

7.3

### Background Papers

### Contact for further information

Name of Officer, Department - 01344 35  
@bracknell-forest.gov.uk



## **SECTION 9 – OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1. General Arrangements**

Overview and Scrutiny is the responsibility of the Overview and Scrutiny Commission as described in Part 3 of the Constitution and the Council will appoint to it as it considers appropriate from time to time. The Commission shall appoint such overview and scrutiny panels as it determines, including those specified in Part 3 of the Constitution.

### **2. Who May Sit on the Overview and Scrutiny Bodies?**

All councillors except members of the Executive may be members of the Overview and Scrutiny Commission and/or one or more overview and scrutiny panels. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved. Council may also make appointments of people other than councillors to the Overview and Scrutiny Commission and Panels, to meet statutory and other requirements.

### **3. Co-optees**

The Commission and panels shall be entitled to appoint non-voting co-optees for the purpose of assisting with specific time limited reviews. Save for paragraph 9 references to “Members” in these rules shall be deemed not to include references to co-optees appointed pursuant to this Rule 3 or persons appointed pursuant to paragraph 4.

### **4. Education Representatives**

The Overview and Scrutiny Commission and the Children, Young People and Learning Overview and Scrutiny Panel shall include in their membership the following representatives:

- a) two voting parent governor representatives (one primary and one secondary) (Commission and Panel).
- b) two voting diocesan representatives (one Church of England and one Roman Catholic) (Commission and Panel).
- c) one non-voting teacher representative (Panel only).
- d) one non-voting children’s social care representative (Panel only).

These voting powers of representatives appointed pursuant to (a) to (b) above shall apply only to matters which relate wholly or in part to any education function which is the responsibility of the Executive. However, the representatives may remain in the meeting and speak whilst other matters are under consideration.

### **5. Meetings**

- (a) Six ordinary meetings of the Overview and Scrutiny Commission shall be held each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. Meetings may be called by the chairman, or by the proper officer if he/she considers it necessary or appropriate.

- (b) Overview and scrutiny panels shall determine the frequency and time of their own meetings, according to the work programme set by the Overview and Scrutiny Commission. Meetings may be called by the chairman, or by the proper officer if he/she considers it necessary or appropriate.

## **6. Quorum**

The quorum for the Commission or for an overview and scrutiny panel shall be one quarter of the whole number of its members, provided that for a panel the quorum shall be at least three.

## **7. Who Chairs Meetings?**

The chairmen of the Commission and panels will be drawn from among the councillors sitting on those bodies, and subject to this requirement the Commission/panel may appoint such a person as it considers appropriate.

## **8. Work Programme**

- (a) The work programme for overview and scrutiny panels shall be set annually by the Overview and Scrutiny Commission following consultation with the Executive and Senior Officers. In setting the work programme the Commission shall take into account the wishes of members who are not members of the largest political group on the Council.
- (b) The work programme shall identify topics for detailed consideration by the Overview and Scrutiny Commission and panels. Overview and scrutiny panels may recommend to the Overview and Scrutiny Commission at any time a proposed addition to the work programme. The Commission shall only consider proposed additions to the work programme that clearly identify the issue to be investigated.
- (c) The Commission shall allocate projects from the work programme to the service themed overview and scrutiny panels having regard to their service theme and shall allocate projects of a cross-cutting nature to any one of those overview and scrutiny panels, or to another panel at its discretion.
- (d) The Commission shall keep the work programme under review throughout the year, making additions and adjustments as necessary and shall be responsible for ensuring effective consultation with the Executive on developments.

## **9. Agenda items**

Any Member shall be entitled to give notice to the proper officer that he/she wishes an item relevant to its functions and which is not an "excluded matter" (as defined in regulations) to be included on the agenda for the next available meeting of the Commission or the panel (as the case may be). If the item proposes an addition to the work programme it shall fulfil the conditions set out in 8 (b), above. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.

The Overview and Scrutiny Commission shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Executive to review particular areas of Council activity.

## 10. Councillor Call for Action

Any Member may refer (“the Councillor Call for Action”) to the Overview and Scrutiny Commission or one of its panels of which he is not a Member a local government matter relevant to the functions of the Commission or the panel by the following procedure (in which event the provisions set out below shall apply):-

- (a) a Member wishing to invoke the Councillor Call for action shall specify to the Head of Overview and Scrutiny the issue which the Member wishes to be considered
- (b) the Head of Overview and Scrutiny shall record the issue and give notice thereof to the Chairman of the Commission or the panel, the relevant Executive Member or Committee Chairman (as the case may be) and relevant Director
- (c) the Head of Overview and Scrutiny shall convene a meeting with the Member who has raised the Councillor Call for Action, the relevant Executive Member or Committee Chairman, the Chairman of the Commission or the panel and the relevant Director (or his/her nominee) to ensure a full understanding of the issue, determine whether any exclusions apply and to explore the resolution which is sought by the Member
- (d) the Head of Overview and Scrutiny shall convene a meeting of the Commission or the panel, to be held within two months of the meeting referred to in (c) above
- (e) in the case of a Councillor Call for Action referred to a panel the panel shall submit to the Commission a report on the matter to the Commission advising whether or not the Commission should exercise any of its powers in relation to the matter and setting out any recommendations
- (f) if the Commission decides not to exercise any of its powers in relation to the matter it must give written notice to the Member of its decision and the reasons for it
- (g) if the Commission should make a report or recommendations to the Council or to the Executive on a matter it should (subject to paragraph 14 below) provide the Member with a copy of the report or recommendations
- (h) the Head of Overview and Scrutiny shall include in the Annual Report of Overview and Scrutiny the number and nature of any Councillor Calls for Action and their outcome.

In considering whether or not to exercise any of its powers the Commission or the panel may have regard to:-

- any powers which the Member may exercise in relation to the matter by virtue of Section 236 of the Local Government and Public Involvement in Health Act 2007 or
- any representations made by the Member as to why it would be appropriate for the Commission or the panel to exercise any of its powers

“local government matters” means, in relation to a Member, a matter which:-

- relates to the discharge of any function of the Council (or the Executive)
- affects all or part of the Member's Ward or any person who lives or works in that Ward, and
- is not an "excluded matter"

"Excluded Matter" means any matter which is a local crime and disorder matter (as defined in paragraph 15 below) or is of a description specified in regulations made by the Secretary of State

## **11. Policy Review and Development**

- a) The role of the Commission in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Commission may make proposals to the Executive for developments, including considering and passing on to the Executive reports and recommendations from overview and scrutiny panels.
- c) Within the work programme determined by the Overview and Scrutiny Commission, overview and scrutiny panels may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

## **12. Reports and Recommendations**

Other than pursuant to the Police and Justice Act 2006) a Panel may formulate a report or recommendations it shall submit itself or through the Overview and Scrutiny Commission. If the Panel cannot agree a single final report, then up to one minority report may be prepared and submitted for consideration annexed to the majority report or to the recommendations. The Commission or Panel shall determine whether it wishes to submit a report on the matter to the Executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council, as appropriate (for example, if a recommendation would require a departure from or a change to the agreed budget and policy framework).

Where the Commission or Panel has published a report on recommendations it must by notice in writing require the Council or the Executive within two months of receiving the report or recommendations:-

- to consider the report or recommendations
- to respond to the Commission or Panel indicating what (if any) action is proposed to be taken
- publish the response

- if the report or recommendation is in response to a Councillor Call for Action provide the Member with a copy of the response

The provisions of paragraph 14 below shall apply to the publication of a report or recommendation and to the response of the Council or the Executive.

The Council or the Executive to whom such notice is given shall comply with the notice.

**13.** If a report or recommendations of the Commission or Panel relates to a local improvement target which:-

- relates to a relevant partner authority (unless the report or recommendations is made by virtue of Section 244 of the National Health Service Act 2006 to an NHS Trust, NHS Foundation Trust or Primary Care Trust), and
- is specified in the Council's current Local Area Agreement

the Commission or Panel may by notice in writing to the relevant partner authority require it to have regard to the report or recommendations in exercising their functions. The notice must be accompanied by a copy of the report or recommendations. "Partner Authority" does not include a police authority or chief officer of police.

**14. Confidential and Exempt Information**

The following provisions apply to the publication of a report or recommendations of the Commission or Panel, the publication of the response of the Council or the Executive and the provision of a copy of any such document to a Member pursuant to paragraph 10 and 12 above or to a relevant partner authority under paragraph 13 above.

The Commission or Panel, the Council or the Executive in publishing the document or providing a copy to a relevant partner authority must exclude any confidential information and may exclude any relevant exempt information. The Commission or Panel, the Council or the Executive in providing a copy of the document to a Member may exclude any relevant exempt information.

Where information is excluded the Commission or Panel, the Council or the Executive may replace the information with a summary which does not disclose that information and **must** do so, if in consequence of excluding the information the document would be misleading or not readily comprehensible.

**15. Community Call for Action**

Any Member may refer a local crime and disorder matter to the Commission or Panel designated by the Council's Constitution as being the Crime and Disorder Committee. The procedures set out in paragraph 10 shall apply to the Community Call for Action. Where the Crime and Disorder Committee make a report or recommendations to the Council it must provide a copy of the same:-

- to the Member who made the reference, and
- to such of the responsible authorities and the co-operating persons and bodies as it considers appropriate

“local crime and disorder matter” in relation to a Member means a matter concerning:-

- (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment), or
- (b) the misuse of drugs, alcohol and other substances

which affects all or part of the Members Ward or any person who lives or works in that Ward.

#### **16. Response to Proposed Key Decisions**

The Overview and Scrutiny Commission will have access to the Executive’s forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an overview and scrutiny panel following a consideration of possible policy/service developments, the Commission will, at its discretion, be able to respond in the course of the Executive’s consultation process in relation to any Key Decision.

#### **17. Rights of Overview and Scrutiny Members to Documents**

- a) In addition to their rights as councillors, Members of the Overview and Scrutiny Commission and overview and scrutiny panels have (subject to paragraph 14) the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- b) Nothing in this paragraph prevents more detailed liaison between the Executive and the Overview and Scrutiny Commission as appropriate depending on the particular matter under consideration.

#### **18. Members and Officers Giving Account**

- a) The Overview and Scrutiny Commission and overview and scrutiny panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function, where in the case of a panel this falls within its remit. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, the head of paid service and/or any senior officer to attend before it to explain in relation to matters within their remit:
  - I. any particular decision or series of decisions;
  - II. the extent to which the actions taken implement Council policy; and/or
  - III. their performance.

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

- b) Where any Member or officer is required to attend a meeting under this provision, the chairman of that body will inform the proper officer. The proper officer shall inform the Member or officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice

will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the meeting. Where the account to be given to the Commission or panel will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the Commission or panel shall in consultation with the Member or officer arrange an alternative date for attendance (to take place within a maximum of ten days from the date of the original request).

## **19. Attendance by Others**

The Commission or panel may invite people other than those people referred to in paragraph 18 above 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 attend.

## **20. Call-in**

- a) When a decision is made by the Executive, an individual member of the Executive or a committee of the Executive, or a Key Decision is made by an officer with delegated authority from the Executive, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two working days of being made. The chairmen of the Overview and Scrutiny Commission and overview and scrutiny panels will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- b) The 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 5 working days after the date the decision is published, unless the decision is called in as described below.
- c) During the period, the proper officer may call-in a decision for scrutiny by the Overview and Scrutiny Commission if so requested by the chairman and any 2 Members of the Overview and Scrutiny Commission, or any 5 Members of the Council and shall then notify the decision-maker and all other Executive members of the call-in, a Member requesting a call-in shall provide the proper officer with a brief written summary of their reasons for the request, and insofar as they are able to do so, briefly set out what action arising from the call-in they wish to be taken. The proper officer shall call a meeting of the Commission on such date as he/she may determine, where possible after consultation with the Commission chairman, and in any case within 15 working days of the decision to call-in.
- d) For the purposes of this section, where the decision relates to the exercise of an education function, the duly appointed diocesan representatives and parent governor representatives shall have the same rights to seek or support the calling-in of a decision as any other member of the Overview and Scrutiny Commission.

- e) If, having considered the decision, the Commission is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred back the decision maker shall then reconsider within a further 7 working days, amending the decision or not, before adopting a final decision.
- f) If following an objection to the decision, the Overview and Scrutiny Commission does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body or to the Council, the decision shall take effect on the date of the meeting, or the expiry of the period in which the meeting should have been held, whichever is the earlier.
- g) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an Executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was made by the Executive, as a whole or a committee of it, a meeting will be convened to reconsider within 7 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 5 working days of the Council request.
- h) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- i) The call-in procedure set out above shall not apply where the decision being made by the Executive 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 interests. 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. The Mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the head of paid service or his/her nominee's consent shall be required. Decisions made as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- j) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## **21. The Party Whip**

When considering any matter in respect of which a member of the Overview and Scrutiny Commission or an overview and scrutiny panel is subject to a party whip the



Member must declare the existence of the whip, and the nature of it, before the commencement of the Commission's/panel's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

## **22. Procedure at overview and scrutiny meetings**

- (a) The Overview and Scrutiny Commission and overview and scrutiny panels shall consider the following business:
  - i) minutes of the last meeting;
  - ii) declarations of interest (including whipping declarations);
  - iii) submissions arising through the Overview and Scrutiny Public Participation Scheme;
  - iv) (Commission only) consideration of any matter referred to the Commission for a decision in relation to call-in of a decision;
  - v) responses of the Executive to Overview and Scrutiny reports; and
  - vi) the business otherwise set out on the agenda for the meeting.
- (b) Where an overview and scrutiny panel conducts investigations (e.g. with a view to policy development), it may also ask people to attend to give evidence at its meetings which are to be conducted in accordance with the following principles:
  - i) that the investigation be conducted fairly and all members of the panel be given the opportunity to ask questions of attendees, and to contribute and speak;
  - ii) that those assisting the panel by giving evidence be treated with respect and courtesy; and
  - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Commission or panel may prepare a report and make recommendations, and subject to the requirements of the Constitution on confidential and exempt information, shall make its reports and findings public.'

## **23. Matters within the Remit of More than One Panel**

In the event of an issue for review by an overview and scrutiny panel falling within the remit of more than one panel, the Overview and Scrutiny Commission shall determine which overview and scrutiny panel shall consider the matter.

## **24. Terms of Reference**

The terms of reference of the Overview and Scrutiny Commission and Overview and Scrutiny Panels shall be as set out in Article 6 of the Constitution.

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## SECTION 10 – FINANCIAL REGULATIONS

### 1 INTRODUCTION

- 1.1 Financial regulations provide the framework for managing the authority's financial affairs. This framework requires all Officers to carry out their responsibilities in an open and consistent manner. They have been designed to promote and maintain the high standards expected of the public sector in dealing with the Council's finances:
- a) placing clear authority and accountability with Officers appointed to manage resources;
  - b) establishing key principles and processes, supported by detailed operating arrangements, that must be approved by the Borough Treasurer;
  - c) providing for a continuous internal audit to provide assurance to the Members and senior management of the Council on the compliance with the approved procedures and standards.
- 1.3 In accordance with their relevant codes of conduct, Members and Officers have a general responsibility for taking reasonable actions to provide for the security of the assets under their control, and for ensuring that the use of Council resources is lawful, is properly authorised and provides value for money.
- 1.4 The Borough Treasurer is responsible for reporting, where appropriate, breaches of the financial regulations to the Chief Executive, Monitoring Officer, Council and/or to the Executive Members.
- 1.5 Directors are responsible for ensuring that all staff in their departments are aware of the existence and content of the authority's financial regulations and other internal regulatory documents and that they comply with them.
- 1.6 The Borough Treasurer is responsible for issuing advice and guidance to underpin the financial regulations that Members, Officers and others acting on behalf of the authority are required to follow. Any Officer requiring advice or assistance in interpreting, or operating, these regulations should contact their Departmental Accountant in the first instance. In their absence other staff within Corporate Services Finance are available to assist.
- 1.7 Delegations of a Director's responsibilities set out in the Financial Regulations and Financial Procedures should be set out in the Departmental Scheme of Delegation. Where such responsibilities have been delegated or devolved to another responsible officer, references to the Director in the regulations should be read as referring to them.
- 1.8 These Regulations shall not apply in the following circumstances:
- a) Where the Council has agreed that separate constitutional arrangements, incorporating different Financial Regulations, shall apply;
  - b) Where the Council undertakes work as Agent for another public body, under an agreement which requires compliance with different procedures.

- 1.9 These Regulations, as supplemented by the Scheme for Financing Schools (which sets out the roles of Head Teachers), shall apply to schools.
- 1.10 There are five topic areas covered by the financial regulations as follows:
- Financial Management
  - Financial Planning
  - Risk Management and Control of Resources
  - Systems and Procedures
  - External Arrangements.
- 1.11 The authority's detailed financial procedures, setting out how the regulations will be implemented, are contained in Appendices A to E attached to the financial regulations. These are set out in a consistent form identifying for each of the topic areas the following information:
- Why is this important?
  - Key Controls
  - Responsibilities of the Borough Treasurer
  - Responsibilities of Directors.
- 1.12 Various terms are used in these Regulations and Procedures and these are defined as follows:

Borough Treasurer	the S.151 Officer as defined in the Local Government Act 1972
Director	an Officer who is Head of a Department
Consultant:	any person, or Company, engaged by the Council in a capacity to advise on, or manage, any works or services commissioned by the Council or to provide services of a professional nature to the Council.
Cost Centre Manager	any single Officer who is responsible for the management of a budget.
Executive Members	the Executive, a Committee of the Executive or an individual Member of the Executive, depending upon the Scheme of Delegation for Executive Functions determined by the Leader of the Council.

## **FINANCIAL REGULATIONS**

### **2 FINANCIAL MANAGEMENT**

#### **2.1 Introduction**

Financial management covers all financial accountabilities in relation to the running of the authority, including the policy framework and budget. Explanation of the respective roles of each of the decision making bodies or individuals is set out in the following paragraphs.

#### **2.2 The Full Council**

The Full Council has the ultimate responsibility for the decisions and actions of the Council. It is responsible for adopting the authority's constitution and Members' code of conduct and for approving the policy framework and budget within which the Executive operates. It is also responsible for approving and monitoring compliance with the authority's overall framework of accountability and control. The framework is set out in its constitution.

#### **2.3 The Executive**

The Executive is responsible for proposing the policy framework and budget to the Full Council, and for discharging Executive functions in accordance with the policy framework and budget.

In taking a decision an individual Member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

#### **2.4 Governance and Audit Committee**

The Governance and Audit Committee's primary role is to maintain an overview of the Corporate Governance of the Council. It also approves the Council's Final Accounts and Annual Governance Statement. The committee is responsible for reviewing the internal auditor's assurance report, external auditor's reports and the annual audit letter.

### **2.5 THE STATUTORY OFFICERS**

#### **2.5.1 Head of Paid Service (Chief Executive)**

The Chief Executive is responsible for the corporate and overall strategic management of the authority as a whole. He or she must report to and provide information for the Executive, the Full Council, the Overview and Scrutiny Commission and other committees. He or she is responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation.

#### **2.5.2 Monitoring Officer (Borough Solicitor)**

The Borough Solicitor is responsible for providing advice and guidance on measures designed to maintain high standards of conduct and therefore provides support to the Standards Committee, Governance and Audit Committee, the Executive and Full

Council. The Borough Solicitor is also responsible for reporting any actual or potential breaches of the law to the Full Council and/or to the Executive.

The Borough Solicitor (together with the Borough Treasurer) is responsible for advising the Executive or Full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget. The Borough Solicitor is also responsible for reporting any findings of maladministration by a Local Government Ombudsman to the Executive and/or the Council.

### **2.5.3 Section 151 Officer (Borough Treasurer)**

The Borough Treasurer has statutory duties in relation to the financial administration and stewardship of the authority.

The Borough Treasurer is responsible for:

- the proper administration of the authority's financial affairs
- the setting and monitoring compliance with financial management standards
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
- providing financial information
- preparing the revenue budget and capital programme
- treasury management.

In accordance with Section 114 of the 1988 Act the Borough Treasurer nominates a properly qualified member of staff (currently either the Chief Accountant or Chief Technical Accountant) to deputise should he or she be unable to perform the required duties as the Section 151 Officer.

### **2.5.4 Statutory Scrutiny Officer (Director of Corporate Services)**

The Scrutiny Officer is responsible for:

- promotion of the role of the Council's Overview & Scrutiny function
- providing support to that function
- providing support and guidance to members on scrutiny matters

### **2.5.5 DIRECTORS**

Directors are responsible for:

- ensuring that Executive Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Borough Treasurer

- signing contracts on behalf of the authority (other than those required to be sealed by the affixing of the Council's Common Seal).

Where a matter arises in any Department, which could materially affect the Council's finances, other than a matter already approved, the Director shall consult the Borough Treasurer. This consultation must be before any expenditure is incurred or any commitment given.

## **2.6 OTHER FINANCIAL ACCOUNTABILITIES**

### **2.6.1 Virement**

The Full Council is responsible for agreeing procedures for virement of expenditure between budget headings.

The Executive and Directors are responsible for agreeing in-year virements within delegated limits, in consultation with the Borough Treasurer where required. They must notify the Borough Treasurer of all virements who will then maintain an updated budget reflecting these decisions.

### **2.6.2 Treatment of year-end balances**

The Full Council is responsible for agreeing procedures for budget carry forwards on budget headings.

The Executive and Directors are responsible for agreeing budget carry forwards within the delegated limits, in consultation with the Borough Treasurer where required.

### **2.6.3 Accounting policies**

The Borough Treasurer is responsible for selecting accounting policies and ensuring that they are applied consistently.

### **2.6.4 Accounting records and returns**

The Borough Treasurer is responsible for determining the accounting procedures and records for the authority.

### **2.6.5 The annual financial statements**

The Borough Treasurer is responsible for ensuring that the annual financial statements are prepared in accordance with all relevant accounting standards and accounting codes of practice. These have to be approved by the Governance and Audit Committee before the end of September following the completion of the annual external audit.

## **FINANCIAL REGULATIONS**

### **3 FINANCIAL PLANNING**

#### **3.1 Introduction**

The Full Council is responsible for agreeing the authority's policy framework and budget, which will be proposed by the Executive. In terms of financial planning, the key elements are:

- Medium Term Objectives and Key Actions
- Service plan
- Revenue budget
- Capital programme.

#### **3.2 Policy Framework**

The Full Council is responsible for approving the policy framework and budget. The policy framework is described in Section 3 Part 2 of the Constitution. Procedures for the formulation and adoption of the Budget and the Policy Framework are set out in Section 6 Part 4 of the Constitution (Budget and Policy Framework Procedure Rules)..

The Full Council is responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework.

The Full Council is responsible for setting the level at which the Executive may reallocate budget funds from one service to another (virement). The Executive is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.

#### **3.3 Preparation of the Medium Term Objectives, Key Actions and Service Plans**

The Chief Executive and Directors are responsible for proposing the medium term objectives, key actions and service plans to the Executive for consideration before their submission to the Full Council for approval.

#### **3.4 BUDGETING**

##### **3.4.1 Budget format**

The general format of the budget will be approved by the Full Council and proposed by the Executive following the advice from the Corporate Management Team. The draft budget should include allocation to different services and projects, proposed taxation levels, risk assessment and contingency funds.



### 3.4.2 Budget preparation

The Borough Treasurer is responsible for ensuring that an annual revenue budget and a medium term financial plan covering the next three years are prepared for consideration by the Executive, before submission to the Full Council. The Full Council may amend the budget or ask the Executive to reconsider it before approving it.

Guidelines on budget preparation are issued to Members and Directors by the Executive following agreement with the Borough Treasurer. The guidelines will take account of:

- legal requirements
- medium-term planning prospects
- the medium term objectives, key actions and service plans
- available resources
- spending pressures
- value for money and other relevant government guidelines
- other internal policy documents.

It is the responsibility of Directors to ensure that budget estimates reflect agreed service plans, demand and demographic changes and other socio-economic factors, and are submitted to the Executive and that these estimates are prepared in line with guidance issued by the Executive.

### 3.4.3 Budget monitoring and control

The Borough Treasurer is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations and report to the Corporate Management Team on the overall position on a regular basis.

It is the responsibility of Directors to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Borough Treasurer. They should report on variances within their own areas monthly to the Borough Treasurer. They should also take any action necessary to avoid exceeding their budget allocation and alert the Borough Treasurer to any problems. The Borough Treasurer will, on the basis of those returns, prepare a report for the Corporate Management Team. Each Director will report on progress against budgets in their Quarterly Service Report.

### 3.4.4 Preparation of the capital programme

The Borough Treasurer is responsible for ensuring that a capital programme is prepared on an annual basis for consideration by the Executive before submission to the Full Council.

### 3.5 MAINTENANCE OF RESERVES AND BALANCES

It is the responsibility of the Borough Treasurer to advise the Executive and/or the Full Council on prudent levels of reserves and balances for the authority taking into account cash flow requirements and financial risks.

## **FINANCIAL REGULATIONS**

### **4 RISK MANAGEMENT AND CONTROL OF RESOURCES**

#### **4.1 Introduction**

It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the authority. This should include the proactive participation of all those associated with planning and delivering services.

#### **4.2 Risk Management**

The Governance and Audit Committee is responsible for approving the authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The Executive is responsible for ensuring that proper insurance exists where appropriate.

The Borough Treasurer is responsible for preparing the authority's risk management policy statement and for promoting the approved strategy throughout the authority. The Borough Treasurer is responsible for advising the Executive on proper insurance cover where appropriate.

#### **4.3 Internal Control**

Internal control refers to the systems of control devised by management to help ensure the authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the authority's assets and interests are safeguarded.

The Borough Treasurer, in conjunction with the Chief Executive, Borough Solicitor and Director of Corporate Services, is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

It is the responsibility of Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

#### **4.4 Audit Requirements**

The Accounts and Audit (England) Regulations 2011 require every local authority to maintain an adequate and effective internal audit. The provision of this service is delegated to the Borough Treasurer with six monthly assurance statements being reported to the Governance and Audit Committee.

The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.

The authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

#### **4.5 Preventing Fraud and Corruption**

The Borough Treasurer is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.

#### **4.6 Assets**

Directors should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

#### **4.7 Treasury Management**

The authority has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.

The Full Council is responsible for approving the treasury management policy statement setting out the matters detailed in paragraph 15 of CIPFA's Code of Practice for Treasury Management in Local Authorities. The policy statement is proposed to the Full Council by the Executive. The Borough Treasurer has delegated responsibility for implementing and monitoring the statement.

All money in the hands of the authority is controlled by the Borough Treasurer.

The Borough Treasurer is responsible for reporting to the Executive a proposed treasury management strategy for the coming financial year at or before the start of each financial year.

All Executive decisions on borrowing, investment or financing shall be delegated to the Borough Treasurer, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.

The Borough Treasurer is responsible for reporting annually to the Executive on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers.

The Governance and Audit Committee is responsible for reviewing the treasury management policy statement and treasury activities during the year, making recommendations to the Executive and Full Council, as appropriate.

#### **4.8 Staffing**

The Full Council is responsible for determining how officer support for Executive and Non-Executive roles within the authority will be organised.

The Chief Executive is responsible for providing overall management to staff.

Directors are responsible for controlling total staff numbers by:

- advising the Executive on the budget necessary in any given year to cover estimated staffing levels
- adjusting the staffing to a level that can be funded within the devolved staffing budget, varying the provision as necessary within that constraint in order to meet changing operational needs
- the proper use of appointment procedures.

## **FINANCIAL REGULATIONS**

### **5 SYSTEMS AND PROCEDURES**

#### **5.1 Introduction**

Sound systems and procedures are essential to an effective framework of accountability and control.

#### **5.2 General**

The Borough Treasurer is responsible for the operation of the authority's accounting systems, the form of accounts and the supporting financial records. Any changes made by Directors to the existing financial systems or the establishment of new systems must be approved by the Borough Treasurer. However, Directors are responsible for the proper operation of financial processes in their own departments.

Any changes to agreed procedures by Directors to meet their own specific service needs should be agreed with the Borough Treasurer.

Directors should ensure that their staff receive relevant financial training that has been approved by the Borough Treasurer.

#### **5.3 Income and Expenditure**

It is the responsibility of Directors to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the Director's behalf, or on behalf of the Executive, in respect of payments, income collection and placing orders, together with the limits of their authority.

#### **5.4 Payments to Employees and Members**

The Borough Treasurer is responsible for all payments to staff and for payment of allowances to Members.

#### **5.5 Taxation**

The Borough Treasurer is responsible for advising Directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.

The Borough Treasurer is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

#### **5.6 Trading Accounts/Business Units**

It is the responsibility of the Borough Treasurer to advise on the establishment and operation of trading accounts and business units.

## **FINANCIAL REGULATIONS**

### **6 EXTERNAL ARRANGEMENTS**

#### **6.1 Introduction**

The local authority provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders.

#### **6.2 Partnerships**

The Council (in respect of non-Executive functions) or the Leader (in respect of Executive functions) are responsible for approving delegations, including frameworks for partnerships. The Executive is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

The Borough Treasurer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the authority. The Borough Treasurer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory.

The Borough Solicitor must consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies.

Directors are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

#### **6.3 External Funding**

The Borough Treasurer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the authority's accounts.

## **FINANCIAL PROCEDURES**

The Council's detailed financial procedures, setting out how the financial regulations will be implemented, are contained in the following appendices.

The following index sets out a detailed list of these appendices

- |          |  |                   |
|----------|--|-------------------|
| <b>1</b> | <b>Financial Management</b>                            | <i>Appendix A</i> |
|          | 1.1 Financial Management Standards                     |                   |
|          | 1.2 Preparing reports for Decision                     |                   |
|          | 1.3 Scheme of Virement                                 |                   |
|          | 1.4 Treatment of Year End Balances                     |                   |
|          | 1.5 Accounting Policies                                |                   |
|          | 1.6 Accounting records and returns                     |                   |
|          | 1.7 The Annual Financial Statements                    |                   |
| <b>2</b> | <b>Financial Planning</b>                              | <i>Appendix B</i> |
|          | 2.1 Budgeting – Format of the Budget                   |                   |
|          | 2.2 Revenue Budget preparation, monitoring and control |                   |
|          | 2.3 Budgets and Medium Term Planning                   |                   |
|          | 2.4 Resource Allocation                                |                   |
|          | 2.5 Capital Programmes                                 |                   |
|          | 2.6 Maintenance of Reserves                            |                   |
| <b>3</b> | <b>Risk Management and Control of Resources</b>        | <i>Appendix C</i> |
|          | 3.1 Risk Management                                    |                   |
|          | 3.2 Internal Controls                                  |                   |
|          | 3.3 Internal Audit                                     |                   |
|          | 3.4 External Audit                                     |                   |
|          | 3.5 Preventing Fraud and Corruption                    |                   |
|          | 3.6 Assets - Security                                  |                   |
|          | 3.7 Asset Disposal                                     |                   |
|          | 3.8 Treasury Management                                |                   |
|          | 3.9 Staffing   |                   |
| <b>4</b> | <b>Financial Systems and Procedures</b>                | <i>Appendix D</i> |
|          | 4.1 General  |                   |
|          | 4.2 Income   |                   |
|          | 4.3 Ordering, paying for work, goods and services      |                   |
|          | 4.4 Payments to Employees and Members                  |                   |
|          | 4.5 Taxation   |                   |
| <b>5</b> | <b>External Arrangements</b>                           | <i>Appendix E</i> |
|          | 5.1 Partnerships                                       |                   |
|          | 5.2 External Funding                                   |                   |
|          | 5.3 Work for Third Parties                             |                   |



## 1.1 FINANCIAL MANAGEMENT STANDARDS

### Why is this important?

All staff and Members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

### Key controls

The key controls and control objectives for financial management standards are:

- (a) their promotion throughout the authority
- (b) a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to Executive Members.

### Responsibilities of the Borough Treasurer

To ensure the proper administration of the financial affairs of the authority.

To set the financial management standards and to monitor compliance with them.

To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the authority.

To advise on the key strategic controls necessary to secure sound financial management.

To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

### Responsibilities of Directors

To promote the financial management standards set by the Borough Treasurer in their departments and to monitor adherence to the standards and practices, liaising as necessary with the Borough Treasurer.

To promote sound financial practices in relation to the standards, performance and development of staff in their departments.

## 1.2 PREPARING REPORTS FOR DECISIONS

### Why is it important?

All decisions taken by Members or Officers on the basis of reports presented to them by an Officer must take into account all of the key legal and financial issues and implications arising from the recommendations of that report.

### Key Controls

All Member and Corporate Management Team decision reports and reports seeking authorisation for a Key Decision to be made by an officer must include a section within the report for comments from the Borough Treasurer and Borough Solicitor.

It is the responsibility of the report author to ensure that any report contains these comments from the Borough Treasurer and Borough Solicitor prior to publication of the report.

The report author must allow sufficient time (usually five days) prior to sending for publication for the Borough Treasurer and the Borough Solicitor to enable the appropriate comment to be provided

### Responsibilities of Borough Treasurer and Borough Solicitor

To provide appropriate professional advice on the contents and recommendations of the report within a reasonable time period after receiving copy of report.

If a report is published which, in the opinion of the Borough Treasurer or Borough Solicitor, does not contain appropriate and accurate financial or legal information, to report to the Chief Executive or Director of Corporate Services who will consider withdrawing the report from the agenda.

### Responsibilities of Directors

All draft reports which require decision by Members or a Key Decision by an officer, except where the Borough Treasurer has otherwise decided, shall contain a section dealing with the financial implications of the matter(s) covered by the report. Officers preparing reports must consult, and satisfy, the Borough Treasurer that the financial information is appropriate and accurate before the report is finalised and published.

All draft reports which require decision by Members or a Key Decision by an officer, except where the Borough Solicitor has otherwise decided, shall contain a section dealing with the legal implications of the matter(s) covered by the report. Officers preparing reports must consult and satisfy the Borough Solicitor that the legal information is appropriate and accurate before the report is finalised and published.

## 1.3 SCHEME OF VIREMENT

### Why is this important?

The scheme of virement is intended to enable the Executive, Directors and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the Full Council, and therefore to optimise the use of resources.

### Key controls

The overall budget is proposed by the Executive and approved by the Full Council. Any addition to the overall budget will require approval by the Full Council. Directors and budget managers are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement; that is, switching resources between approved estimates or heads of expenditure. For the purposes of this scheme, a budget head is considered to be a line in the approved and published cash budget.

Virement does not create additional overall budget liability. Directors are expected to exercise their discretion in managing their budgets responsibly and prudently. They should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Directors must plan to fund such commitments from within their own budgets.

Virement is administered by the Borough Treasurer within guidelines approved by the Full Council and these are as follows:

Approval of the full Executive is required for any virement, of whatever amount, where it is proposed to vire between budgets managed by different Directors or Executive Members. Virement is only allowed where at the time of approving the virement the Directors overall budget is not expected to be overspent. The following authorisation levels apply to all virements between one budget head and another.

Value	Authoriser
Up to and including £25,000	Director
Over £25,000 up to and including £50,000	Executive Member
Over £50,000 up to and including £100,000	Executive
Over £100,000	Full Council

Where virements require Member approval they can only be approved following a joint report by the Borough Treasurer and the Director, which must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year.

Virement is not allowed between any funds from internal recharges, capital charges, interest, support service recharges to other budget heads without the approval of Full Council.

Virement can only be applied to the Devolved Staffing Budget if the effects are contained within the same financial year.

Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:

- (a) the amount is used in accordance with the purposes for which it has been established
- (b) the Executive has approved the basis and the terms on which it will be allocated.

### **Responsibilities of the Borough Treasurer**

To administer the scheme of virement.

To prepare jointly with the Director a report to the Executive on proposed virements which are in excess of the delegated limits.

### **Responsibilities of Directors**

A Director may exercise virement on budgets under their control for amounts up to £25,000 on any one budget head during the year, following notification to the Borough Treasurer in accordance with the key controls set out above.

A school's governing body may transfer budget provision between heads of expenditure within the delegated school budget in accordance with the Scheme for Local Management of Schools.

## 1.4 TREATMENT OF YEAR END BALANCES

### Why is this important?

Any revenue budget provision which remains unspent at the end of the financial year is returned to general balances. However, there may, occasionally, be exceptional circumstances which require some unspent provision to be carried forward to the following year. This will only be permitted provided that the carry forward does not result in either the individual budget head, or the Service Budget, overspending its approved budget. For the purposes of this scheme, a budget head is considered to be a line in the approved and published cash budget.

### Key controls

Appropriate accounting procedures are in operation to ensure that carried-forward totals are correct.

The Officer approval of budget carry forwards can only be made where the whole Council's budget is under spent and the relevant Department's budget is under spent.

### Responsibilities of the Borough Treasurer

To administer the scheme of budget carry-forwards within the guidelines approved by the Full Council.

To report all budget carry-forwards to the Corporate Management Team, Executive and Full Council.

### Responsibilities of Directors

Any request for a carry forward must be made, in writing, by the relevant Director to the Borough Treasurer who, with the Chief Executive, may authorise the necessary funding to be set aside. In such cases, any carry forward allocation lasts for one year only, at the end of which, any unused funds are automatically returned to General Balances.

All revenue budget lines can be carried forward except for the following:

- Capital Charges
- Inter-Directorate Charges
- Employees
- Income.

Directors can carry forward Capital Budgets for one additional year. For subsequent years, funding may only be rolled forward automatically if work on a project has commenced on-site, otherwise the approval of the Full Council must be obtained.

The Council's Local Management of Schools Scheme of Delegation for Primary, Secondary and Special Schools, includes the statutory requirement for schools to be able to carry forward funds on their delegated Budget. By the same rule, any

overspends are brought forward as a first charge to their next year's Budget. This rule is extended to cover budgets devolved to the Language and Literacy Centres, Pupil Referral Units and Adjustment Centres. Budgets held for the Schools Specific Contingency may also be automatically carried forward.

## 1.5 ACCOUNTING POLICIES

### Why is this important?

The Borough Treasurer is responsible for the preparation of the authority's statement of accounts, in accordance with proper practices as set out in the format required by all relevant accounting standards and accounting codes of practice, for each financial year ending 31 March.

### Key controls

The key controls for accounting policies are:

- (a) systems of internal control are in place that ensure that financial transactions are lawful
- (b) suitable accounting policies are selected and applied consistently
- (c) proper accounting records are maintained
- (d) financial statements are prepared which present fairly the financial position of the authority and its expenditure and income.

### Responsibilities of the Borough Treasurer

To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31 March each year, and covers such items as:

- (a) separate accounts for capital and revenue transactions
- (b) the basis on which debtors and creditors at year end are included in the accounts
- (c) details on substantial provisions and reserves
- (d) fixed assets
- (e) depreciation
- (f) capital charges
- (g) work in progress
- (h) stocks and stores
- (i) deferred charges
- (j) accounting for value added tax
- (k) government grants

- (l) leasing
- (m) pensions.

### **Responsibilities of Directors**

To adhere to the accounting policies and guidelines approved by the Borough Treasurer.



## 1.6 ACCOUNTING RECORDS AND RETURNS

### Why is this important?

Maintaining proper accounting records is one of the ways in which the authority discharges its responsibility for stewardship of public resources. The authority has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the authority's resources.

### Key controls

The key controls for accounting records and returns are:

- (a) all Executive Members, Finance Staff and Budget Managers operate within the required accounting standards and timetables
- (b) all the authority's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis
- (c) procedures are in place to enable accounting records to be reconstituted in the event of systems failure
- (d) reconciliation procedures are carried out to ensure transactions are correctly recorded
- (e) prime documents are retained in accordance with legislative and other requirements.

### Responsibilities of the Borough Treasurer

To determine the accounting procedures and records for the authority. Where these are maintained outside the finance department, the Borough Treasurer should consult the Director concerned.

To arrange for the compilation of all accounts and accounting records under his or her direction.

To comply with the following principles when allocating accounting duties:

- (a) separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them
- (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

To make proper arrangements for the audit of the authority's accounts in accordance with the Accounts and Audit (England) Regulations 2011.

To ensure that all claims for funds including grants are made by the due date.

To prepare and publish the audited accounts of the authority for each financial year, in accordance with the statutory timetable and with the requirement for the Full Council to approve the statement of accounts before 30 September (delegated to the Governance and Audit Committee).

To ensure the proper retention of financial documents in accordance with the requirements set out in the authority's document retention schedule.

### **Responsibilities of Directors**

To consult and obtain the approval of the Borough Treasurer before making any changes to accounting records and procedures.

To comply with the following principles when allocating accounting duties:

- (a) separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them
- (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.

To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Borough Treasurer.

## 1.7 THE ANNUAL FINANCIAL STATEMENTS

### Why is this important?

The authority has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The Full Council is responsible for approving the statutory annual financial statements and this has been delegated to the Governance and Audit Committee.

### Key controls

The key controls for the annual financial statements are:

- the authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs. In this authority, that officer is the Borough Treasurer
- the authority's financial statements must be prepared in accordance with proper practices as set out in all relevant accounting standards and accounting codes of practice.

### Responsibilities of the Borough Treasurer

To select suitable accounting policies and to apply them consistently.

To make judgements and estimates that are reasonable and prudent.

To comply with all relevant accounting standards and accounting codes of practice.

To sign and date the financial statements, stating that they present fairly the financial position of the authority at the accounting date and its income and expenditure for the year ended 31 March.

To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

### Responsibilities of Directors

To comply with accounting guidance provided by the Borough Treasurer and to supply the Borough Treasurer with information when required.

## 2.1 BUDGETING – FORMAT OF THE BUDGET

### Why is this important?

The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

### Key controls

The key controls for the budget format are:

- (a) the format complies with all legal requirements
- (b) the format complies with all relevant accounting standards and accounting codes of practice
- (c) the format reflects the accountabilities of service delivery.

### Responsibilities of the Borough Treasurer

To advise the Executive on the format of the budget that is approved by the Full Council.

### Responsibilities of Directors

To comply with accounting guidance provided by the Borough Treasurer.

## 2.2 REVENUE BUDGET PREPARATION, MONITORING AND CONTROL

### Why is this important?

Budget management ensures that once the budget has been approved by the Full Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the authority to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

By continuously identifying and explaining variances against budgetary targets, the authority can identify changes in trends and resource requirements at the earliest opportunity. The authority itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the authority in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.

For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required by the Director's scheme of delegation.

### Key controls

The key controls for managing and controlling the revenue budget are:

- (a) budget managers should be responsible only for income and expenditure that they can influence
- (b) there is a nominated budget manager for each cost centre heading
- (c) budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities
- (d) budget managers follow an approved certification process for all expenditure
- (e) income and expenditure are properly recorded and accounted for
- (f) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.
- (g) budget managers have completed sufficient training to enable them to fulfil their role

### Responsibilities of the Borough Treasurer

To establish an appropriate framework of budgetary management and control that ensures that:

- (a) budget management is exercised within annual cash limits unless the Full Council agrees otherwise

- (b) each Director has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
- (c) expenditure is committed only against an approved budget head
- (d) all officers responsible for committing expenditure comply with relevant guidance, and the financial regulations
- (e) each cost centre has a single named manager, determined by the relevant Director. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure
- (f) significant variances from approved budgets are investigated and reported by budget managers regularly.

To submit reports to the Executive and to the Full Council, in consultation with the relevant Director, where a Director is unable to balance expenditure and resources within existing approved budgets under his or her control.

To prepare and submit reports on the authority's projected income and expenditure compared with the budget on a monthly basis to Corporate Management Team based on information provided by Directors.

The Borough Treasurer will have the right to independently monitor budgets and raise any concerns with the relevant Director.

The Borough Treasurer will facilitate the training of budget managers by ensuring there is suitable and up to date training material available and that appropriate training courses are identified and supported.

### **Responsibilities of Directors**

To maintain budgetary control within their departments and to ensure that all income and expenditure are properly recorded and accounted for.

To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Director (grouped together in a series of cost centres) and has completed sufficient training to enable them to fulfil their role. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.

To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.

Where there is a need to incur expenditure on any item, without delay, for which no budgetary provision exists, or where the provision is insufficient, a Director may incur such expenditure provided they seek approval through the appropriate Urgent Decisions Outside the Budget or Policy Framework process set out in the Constitution (Part 4 Section 6 – Budget and Policy Framework Procedure Rules).

To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.

To prepare and submit in their Quarterly Service Report a report on the service's projected expenditure compared with its budget, in consultation with the Borough Treasurer.

To ensure prior approval by the Full Council or Executive (as appropriate) for new proposals, of whatever amount, that:

- (a) create financial commitments in future years
- (b) change existing policies, initiate new policies or cease existing policies
- (c) materially extend or reduce the authority's services.

To ensure compliance with the scheme of virement.

## 2.3 BUDGETS AND MEDIUM-TERM PLANNING

### Why is this important?

The authority is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the authority's plans and policies.

The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the Full Council. Budgets (spending plans) are needed so that the authority can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for an authority to budget for a deficit.

Medium-term planning (or a three- to five-year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the authority is always preparing for events in advance.

### Key controls

The key controls for budgets and medium-term planning are:

- (a) specific budget approval for all expenditure
- (b) budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Executive for their budgets and the level of service to be delivered
- (c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

### Responsibilities of the Borough Treasurer

To prepare and submit reports on budget prospects for the Executive, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.

To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by the Full Council, and after consultation with the Executive and Directors.

To prepare and submit reports to the Executive on the aggregate spending plans of departments and on the resources available to fund them, identifying, where appropriate, the implications for the level of Council Tax to be levied.

To advise on the medium-term implications of spending decisions.

To encourage the best use of resources and value for money by working with Directors to identify opportunities to improve economy, efficiency and effectiveness,



and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.

To advise the Full Council on Executive proposals in accordance with his or her responsibilities under Section 151 of the Local Government Act 1972.

### **Responsibilities of Directors**

To prepare estimates of income and expenditure, in consultation with the Borough Treasurer, to be submitted to the Executive.

To prepare budgets that are consistent with any relevant cash limits, within the authority's annual budget cycle and within guidelines issued by the Executive. The format should be prescribed by the Borough Treasurer in accordance with the Full Council's general directions.

To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.

In consultation with the Borough Treasurer and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by appropriate groups.

When drawing up draft budget requirements, to have regard to:

- (a) spending patterns and pressures revealed through the budget monitoring process
- (b) legal requirements
- (c) policy requirements as defined by the Full Council in the approved policy framework
- (d) initiatives already under way.

## 2.4 RESOURCE ALLOCATION

### Why is this important?

A mismatch often exists between desired outcomes and those resources required to deliver the outcomes. It is therefore imperative that needs/desires are carefully prioritised and that resources are appropriately allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

### Key controls

The key controls for resource allocation are:

- (a) resources are acquired in accordance with the law and using an approved authorisation process
- (b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for
- (c) resources are securely held for use when required
- (d) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

### Responsibilities of the Borough Treasurer

To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.

To assist in the allocation of resources to budget managers.

### Responsibilities of Directors

To work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.

To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

## 2.5 CAPITAL PROGRAMMES

### Why is this important?

Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the authority, such as land, buildings, and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.

Capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources. For the purposes of these Financial Regulations, a scheme or project is defined as a line within the annual Capital Programme Report approved by the Council.

### Key controls

The key controls for capital programmes are:

- (a) specific approval by the Full Council for the programme of capital expenditure
- (b) for any scheme estimated to cost £50,000 or more, a detailed project plan, progress targets and associated revenue expenditure
- (c) proposals for improvements and alterations to buildings must be approved by the appropriate Director
- (d) schedules for individual schemes, each estimated to cost less than £50,000, within the overall budget approved by the relevant Executive Member (for example, refurbishment/replacement in leisure sites)
- (e) the development and implementation of asset management plans
- (f) accountability for each proposal is accepted by a named manager
- (g) monitoring of progress in conjunction with expenditure and comparison with approved budget.
- (h) Council to approve a capital strategy which is subject to regular review and updates.
- (i) Funds can be transferred between schemes, up to the following limits, where the overall schemes for the department are underspending:

Value	Authoriser
Up to and including £25,000	Director
Over £25,000 up to and including £50,000	Executive Member
Over £50,000 up to and including £100,000	Executive
Over £100,000	Full Council

Specific arrangements apply to the overall school's capital budget.

## **Responsibilities of the Borough Treasurer**

To prepare capital estimates jointly with Directors and the Chief Executive and to report them to the Executive for approval. The Executive will make recommendations on the capital estimates and on any associated financing requirements to the Full Council.

The definition of 'capital' will be determined by the Borough Treasurer, having regard to government regulations and accounting requirements.

To decide on financing of capital schemes – capitalise revenue budgets where in compliance with regulations and accounting policies and in the Councils overall financial interest

To prepare a quarterly budget monitoring report for CMT on Capital Schemes based on information provided by Directors.

To prepare and maintain the Council's Capital Strategy.

To review the robustness of the financial estimates and associated risk assessment before recommending to Corporate Management Team the release of funding from the Invest-to-Save budget

To approve virements of up to £250,000, in consultation with the Children, Young People and Learning Capital Programme Board, within the overall capital budget for schools.

## **Responsibilities of Directors**

To comply with guidance concerning capital schemes and controls issued by the Borough Treasurer.

To ensure that all capital proposals have undergone a project appraisal in accordance with the Capital Strategy.

To submit to the Borough Treasurer, Invest to Save proposals in accordance with the Capital Strategy.

To prepare quarterly budget monitoring reports for submission to the Borough Treasurer. This quarterly budget monitoring statement to be included in their Quarterly Service Reports.

To ensure that adequate records are maintained for all capital contracts.

To proceed with projects only when there is adequate provision in the capital programme and where the full revenue impact has been provided for within the revenue budget or plans of the Council

Directors are authorised to incur expenditure up to £25,000 above the estimated sum included for an approved scheme or project in their Department's section of the Capital Programme, subject to the total sum approved by the Council, in their Department's section of the Capital Programme, not being exceeded.

Where expenditure on a scheme is below the approved budget, the responsible Director may use the level of under spend for other schemes within their Department's section of the Capital Programme subject to:

- a) the total sum approved by the Council, in their Department's section of the Capital Programme, not being exceeded,
- b) a maximum of £25,000 can be transferred from or to any one scheme.

To prepare, in consultation with the Borough Treasurer, any reports seeking agreement to the transfer of more than £25,000 from or to any one scheme.

To prepare and submit reports to the Executive, of any variation in contract costs greater than the budget and to seek approval from the Full Council for additional funding where necessary.

To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Borough Treasurer.

To approve the allocation of capital resources within a Council approved rolling programme of up to £400,000.

#### **Responsibilities of Relevant Directors and Portfolio Holders**

To approve the allocation of capital resources within a Council approved rolling programme of £400,000 or more, but no greater than £1,000,000.

#### **Responsibilities of the Whole Executive**

To approve the allocation of capital resources within a Council approved rolling programme of more than £1,000,000.

To authorise capital expenditure above the estimated cost of a scheme of more than £25,000, but no more than £50,000.

## 2.6 MAINTENANCE OF RESERVES AND BALANCES

### **Why is this important?**

The local authority must decide the level of general reserves and balances that it wishes to maintain before it can decide the level of Council Tax. Reserves and balances are maintained as a matter of prudence. They enable the authority to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

### **Key controls**

To maintain reserves in accordance with all relevant accounting standards and accounting codes of practice.

For each reserve or balance established, the purpose, usage and basis of transactions should be clearly identified.

Authorisation and expenditure from reserves approved in accordance with the approved terms for the use of the reserve or balance. These terms to be approved by the Executive.

### **Responsibilities of the Borough Treasurer**

To advise the Executive and/or the Full Council on prudent levels of reserves and balances for the authority, and to take account of the advice of the external auditor in this matter.

### **Responsibilities of Directors**

To ensure that resources provided from reserves or balances are used only for the purposes for which they were intended.

### 3.1 RISK MANAGEMENT

#### Why is this important?

All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.

It is the overall responsibility of the Governance and Audit Committee to approve the authority's risk management strategy, and to promote a culture of risk management awareness throughout the authority.

#### Key controls

The key controls for risk management are:

- (a) procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the authority
- (b) a monitoring process is in place to review regularly the effectiveness of risk management.
- (c) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives
- (d) provision is made for losses that might result from the risks that remain
- (e) procedures are in place to investigate claims within required timescales
- (f) acceptable levels of risk are determined and insured against where appropriate
- (g) the authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

#### Responsibilities of the Borough Treasurer

To offer insurance cover to schools.

To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.

To prepare and promote the authority's risk management policy statement.

To develop risk management controls in conjunction with other Directors.

To maintain the Council's Strategic Risk Register.

### **Responsibilities of Directors**

To notify the Borough Treasurer immediately of any loss, liability or damage that may lead to a claim against the authority. To provide on a timely basis all information or explanations required by the Borough Treasurer or the authority's insurers to defend claims against the Council.

To take responsibility for risk management and insurable risks, having regard to advice from the Borough Treasurer and other specialist officers (eg crime prevention, fire prevention, health and safety).

To ensure that there are regular reviews of risk within their departments and to maintain an up to date and complete departmental risk register documenting all significant operational risks.

To notify the Borough Treasurer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.

To consult the Borough Treasurer and the Borough Solicitor on the terms of any indemnity that the authority is requested to give.

To ensure that employees, or anyone covered by the authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.



## 3.2 INTERNAL CONTROLS

### Why is this important?

The authority is complex and beyond the direct control of any one individual. It therefore requires internal controls to manage and monitor progress towards strategic objectives.

The authority has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.

The authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.

The system of internal controls is established in order to provide measurable achievement of:

- (a) efficient and effective operations
- (b) reliable financial information and reporting
- (c) compliance with laws and regulations
- (d) risk management.

### Key controls

The key controls and control objectives for internal control systems are:

- (a) key controls should be reviewed on a regular basis and the Head of Audit and Risk Management should make a formal statement annually to the effect that he/she is satisfied that the systems of internal control are operating effectively
- (b) managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities
- (c) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems
- (d) an effective internal audit function that is properly resourced. It should operate in accordance with statutory obligations and the principles contained within any regulations or professional guidance.

### **Responsibilities of the Borough Treasurer**

To assist the authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

### **Responsibilities of Directors**

To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.

To review existing controls in the light of changes affecting the authority and to establish and implement new ones in line with guidance from the Borough Treasurer. Directors should also be responsible for removing controls that are unnecessary or not cost or risk effective - for example, because of duplication.

To ensure staff have a clear understanding of the consequences of lack of control.

### 3.3 INTERNAL AUDIT

#### Why is this important?

The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit (England) Regulations 2011 more specifically require that a "relevant body must undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with proper practices in relation to internal control".

Accordingly, internal audit is an independent and objective appraisal function established by the authority for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

#### Key controls

The key controls for internal audit are:

- (a) that it is independent in its planning and operation
- (b) the Head of Audit and Risk Management has direct access to the Chief Executive, all levels of management and directly to elected Members
- (c) the internal auditors comply with all relevant regulations and professional guidance.

#### Responsibilities of the Borough Treasurer

To ensure that internal auditors have the authority to:

- (a) access authority premises at reasonable times
- (b) access all assets, records, documents, correspondence and control systems
- (c) receive any information and explanation considered necessary concerning any matter under consideration
- (d) require any employee of the authority to account for cash, stores or any other authority asset under his or her control
- (e) access records belonging to third parties, such as contractors, when required
- (f) directly access the Chief Executive, the Executive and Governance and Audit Committee.

To prepare annual audit plans, which take account of the characteristics and relative risks of the activities involved for approval by the Governance and Audit Committee.

To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

Ensure that any person engaged in internal audit work is aware that they must maintain confidentiality regarding the operations and management information relating to the part of the Council being reviewed or investigated.

### **Responsibilities of Directors**

To ensure that internal auditors are given access at all times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.

To ensure that auditors are provided with all information and explanations that they need in the course of their work to enable them to draw appropriate conclusions.

To ensure that Internal Auditors are not misled or provided incorrect information.

To consider and respond promptly to recommendations in audit reports.

To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

To notify the Borough Treasurer immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting, the Director should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.

To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Head of Audit and Risk Management prior to implementation.

### 3.4 EXTERNAL AUDIT

#### **Why is this important?**

The Local Government Finance Act 1982 set up the Audit Commission, which is responsible for appointing external auditors to each local authority in England and Wales. The external auditor has rights of access to all documents and information necessary for audit purposes.

#### **Key controls**

External auditors are appointed by the Audit Commission normally for a minimum period of five years. The Audit Commission prepares a code of audit practice, which external auditors follow when carrying out their audits.

#### **Responsibilities of the Borough Treasurer**

To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.

To ensure there is effective liaison between external and internal audit.

The Chief Executive and Borough Treasurer shall agree with the Council's External Auditors, their plans for audit. Recommendations made by External Auditors shall be considered by the Borough Treasurer and reported to the Corporate Management Team and then to the Council, Governance and Audit Committee or the Executive, as appropriate.

#### **Responsibilities of Directors**

To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.

To implement any recommendations made by the External Auditors in so far as they are accepted by the Governance and Audit Committee.

To ensure that all records and systems are up to date and available for inspection.

### 3.5 PREVENTING FRAUD AND CORRUPTION

#### Why is it this important?

The authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority.

The authority's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

The authority also expects that individuals and organisations (eg suppliers, contractors, service providers) with whom it comes into contact will act towards the authority with integrity and without actions involving fraud and corruption.

#### Key controls

The key controls regarding the prevention of financial irregularities are that:

- (a) the authority has an effective fraud and corruption policy and maintains a culture that will not tolerate fraud or corruption
- (b) all Members and staff act with integrity and lead by example
- (c) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the authority or who are corrupt
- (d) the maintenance of a register of interests and hospitality or gifts register
- (e) whistle blowing procedures for staff are in place and operate effectively
- (f) legislation including, but not limited to, the Public Interest Disclosure Act 1998 is adhered to.

#### Responsibilities of the Borough Treasurer

To monitor and update the fraud and corruption policy and to issue guidance and procedures for officers on the use of the policy.

To maintain adequate and effective internal control arrangements.

To ensure that significant irregularities are reported to the Head of Audit and Risk Management, the Chief Executive, the Monitoring Officer, Executive and the Governance and Audit Committee. The Borough Treasurer shall determine the arrangements for investigating these irregularities. The Borough Treasurer shall ensure that the appropriate persons are informed of the outcome of any investigation.

The Borough Treasurer shall consider, during the course of any investigation or at its conclusion, as they deem appropriate, whether the matter may require investigation by the Police and/or notification to the External Auditor. Where appropriate, the advice of the Borough Solicitor shall be sought. The Chief Officer: Human Resources will be informed in any case where Officers are involved so that the agreed internal disciplinary procedures may be complied with.

At the conclusion of any investigation, or earlier if appropriate, the Borough Treasurer, shall agree with the Director concerned, the steps that should be taken to mitigate any loss and prevent a recurrence of it.

### **Responsibilities of Directors**

To maintain, in consultation with Internal Audit, adequate processes in place to identify where fraud may be perpetrated and put in place effective controls to minimise the risk of such fraud from arising.

To ensure that all suspected irregularities are reported to the Borough Treasurer or the Head of Audit and Risk Management.

To instigate the authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.

To ensure that the staff within their Department are aware of their responsibilities within the Fraud and Corruption Policy.

To ensure that where financial impropriety is discovered, the Borough Treasurer is informed

To maintain a departmental register of staff interests

To maintain a departmental register of gifts and hospitality received and provided by staff.

### 3.6 ASSETS - SECURITY

#### Why is this important?

The authority holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

#### Key controls

The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:

- (a) resources are used only for the purposes of the authority and are properly accounted for
- (b) resources are available for use when required
- (c) resources no longer required are disposed of in accordance with the law and the regulations of the authority so as to maximise benefits
- (d) an asset register is maintained for the authority, assets are recorded when they are acquired by the authority and this record is updated as changes occur with respect to the location and condition of the asset
- (e) all staff are aware of their responsibilities with regard to safeguarding the authority's assets and information, including the requirements of the Data Protection Act and software copyright legislation
- (f) all staff are aware of their responsibilities with regard to safeguarding the security of the authority's computer systems, including maintaining restricted access to the information held on them and compliance with the authority's information management policies.

#### Responsibilities of the Borough Treasurer

To receive the information required for accounting, costing and financial records from each Director.

To ensure that assets are valued in accordance with all relevant accounting standards and accounting codes of practice

#### Responsibilities of Directors

Each Director is responsible for, and shall make arrangements for, the safe custody and care of all assets in their Department including, where appropriate, exercising proper control over the use of those assets.



Directors shall maintain a database in a form approved by the Borough Treasurer for all properties, plant and machinery and moveable assets currently owned or used within their Department.

Directors are responsible, so far as land and property under their control is concerned, for obtaining the best economic return possible, consistent with Council Policy, and shall ensure that all rents and charges due under property agreements are regularly reviewed.

The Chief Officer: Property shall maintain a terrier recording details of all land and properties held by the Council.

To ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Chief Officer: Property in consultation with the Borough Solicitor, has been established as appropriate.

To ensure the proper security of all buildings and other assets under their control.

To pass deeds referring to Council land (including leases and licences) to the Borough Solicitor who is responsible for custody of all such deeds.

To ensure that no authority asset is subject to personal use by an employee other than that permitted by Council Policies or Procedures.

To ensure that assets (including IT assets) are identified, their location recorded and that they are appropriately marked and insured.

To consult the Borough Treasurer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

To ensure cash holdings on premises are kept to limits agreed with the Council's Insurers.

To ensure that keys to safes and similar receptacles are in the custody of those responsible at all times; loss of any such keys must be reported to the Borough Treasurer as soon as possible.

To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the Borough Treasurer, the Executive agrees otherwise.

The Chief Officer: Property will arrange for the valuation of assets for accounting purposes to meet requirements specified by the Borough Treasurer.

The Director of Children, Young People and Learning and the Director of Adult Social Care, Health and Housing shall be responsible for the safe custody of the private property of residents in Council establishments and shall maintain records of property so held in a format agreed by the Borough Treasurer.

## **Inventories**

To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery above £1,000 in value and any asset that is attractive, valuable and portable such as computers, cameras and video recorders but not limited to these examples.

To carry out an annual check of all items on the inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive, valuable and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the authority.

To make sure that property is only used in the course of the authority's business, unless the Director concerned has given permission otherwise.

## **Stocks and Stores**

To make arrangements for the care and custody of stocks and stores in the department.

To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.

To investigate and remove from the authority's records (ie write off) discrepancies between the inventory and actual assets held.

To authorise or write off disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless, following consultation with the Borough Treasurer, the Executive decides otherwise in a particular case.

### 3.7 ASSET DISPOSAL

#### **Why is this important?**

It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the authority.

#### **Key controls**

Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the authority, and best price or benefit reasonably obtainable is secured, bearing in mind other factors, such as environmental issues, economic conditions and the Medium Term Objectives of the Council. For items of significant value, disposal should normally be by competitive tender or public auction.

Procedures to protect staff involved in the disposal from accusations of personal gain.

#### **Responsibilities of the Borough Treasurer**

To issue guidelines representing best practice for disposal of assets.

To ensure appropriate accounting entries are made to remove the value of disposed assets from the authority's records and to include the sale proceeds if appropriate.

#### **Responsibilities of Chief Officer: Property**

To dispose of land and buildings in order to obtain maximum benefit to the Council taking into account current economic and market conditions and the Medium Term Objectives of the Council within the officer delegations for this post set out in the Constitution.

#### **Responsibilities of Directors**

To seek advice from purchasing advisors on the disposal of surplus or obsolete assets (other than land and buildings).

To ensure that income received for the disposal of an asset (other than land and buildings) is properly banked and coded.

### 3.8 TREASURY MANAGEMENT

#### Why is this important?

Millions of pounds pass through the authority's books each year. This led to the establishment of codes of practice. These aim to provide assurances that the authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the capital sum.

#### Key controls

That the authority's borrowings and investments comply with the CIPFA Code of Practice on Treasury Management and with the Council's Treasury Management Strategy Statement.

#### Responsibilities of Borough Treasurer

Treasury management and banking:

- To arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the authority's Capital Prudential Indicators, Treasury Management Strategy Statement and Investment Strategy.
- To report annually on treasury management activities to the Executive.
- To operate bank and credit card accounts as are considered necessary - opening or closing any bank or credit card account shall require the approval of the Borough Treasurer.
- To regularly review the Council's Capital Prudential Indicators, Treasury Management Strategy Statement and Investment Strategy and seek approval for changes from the Full Council.

Investments and borrowing:

- To ensure that all investments of money are made in the name of the authority or in the name of nominees approved by the Full Council.
- To ensure that all securities that are the property of the authority or its nominees and deeds relating to land in the authority's ownership are held in the custody of the Borough Solicitor.
- To effect all borrowings in the name of the authority.
- To act as the authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the authority.
- To authorise loans to third parties in accordance with the Councils budgets.

Imprest accounts:

- To provide employees of the authority with cash or bank imprest accounts to meet minor expenditure on behalf of the authority and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the prescribed amount.
- To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
- To reimburse imprest holders as often as necessary to restore the imprests.

### **Responsibilities of Directors**

Treasury management and banking:

- To follow the instructions on banking issued by the Borough Treasurer.

Investments and borrowing:

- To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises.

Trust funds and funds held for third parties:

- To arrange for all trust funds to be held, wherever possible, in the name of the authority. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Borough Treasurer, unless the deed otherwise provides.
- To arrange for the secure administration of funds are held on behalf of third parties and to maintain written records of all transactions.
- To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

Imprest accounts

To ensure that employees operating an imprest account:

- (a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained
- (b) make adequate arrangements for the safe custody of the account
- (c) produce upon demand by the Borough Treasurer cash and all vouchers to the total value of the imprest amount
- (d) record transactions promptly

- (e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
- (f) provide the Borough Treasurer with a certificate of the value of the account held at 31 March each year
- (g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made
- (h) on leaving the authority's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Borough Treasurer for the amount advanced to him or her.

### 3.9 STAFFING

#### Why is this important?

In order to provide the highest level of service, it is crucial that the authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

#### Key controls

The key controls for staffing are:

- (a) an appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched
- (b) procedures are in place for forecasting staffing requirements and cost
- (c) controls are implemented that ensure that staff time is used efficiently and to the benefit of the authority
- (d) checks are undertaken prior to employing new staff to ensure that they are competent, appropriately qualified, experienced and trustworthy
- (e) all staff are to be paid through the payroll unless the Director can demonstrate that the person meets the HM Revenues and Customs criteria for self employed persons.

#### Responsibilities of the Borough Treasurer

To ensure that budget provision exists for all existing and new employees.

To act as an advisor to Directors on areas such as National Insurance and pension contributions, as appropriate.

#### Responsibilities of Chief Officer: Human Resources

To act as an advisor to Directors to ensure that measures are in place to ensure that the key controls are implemented, monitored and effective.

#### Responsibilities of Directors

To comply with the Personnel Guide for Managers and to seek advice as appropriate from the Borough Treasurer and Chief Officer: Human Resources on staffing issues.

To produce an annual staffing budget (Devolved Staffing Budget).

To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).

To monitor staff activity to ensure adequate control over all staffing costs including authorised and unauthorised absences.

To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.

Use of agency or casual staff may be made in covering posts that are vacant (permanently or temporarily), or to undertake special projects. Directors shall first ensure they have adequate budgetary provision, but shall not contravene any directive or policy in force at the time. Payment of such staff shall be in accordance with the requirements of the Borough Treasurer.

To ensure that checks are undertaken prior to employing new staff to ensure that they are competent, appropriately qualified, experienced and trustworthy.

To ensure that there is a regular review of the employment status of the workforce which is not paid through payroll.



## 4.1 FINANCIAL SYSTEMS AND PROCEDURES - GENERAL

### Why is this important?

Departments have many systems and procedures relating to the control of the authority's assets, including purchasing, costing and management systems. Departments are reliant on computers for their financial management information. The information must be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

The Borough Treasurer has a professional responsibility to ensure that the authority's financial systems are sound and should therefore be notified of any new developments or changes.

### Key controls

The key controls for systems and procedures are:

- (a) basic data exists to enable the authority's objectives, targets, budgets and plans to be formulated
- (b) financial performance is communicated to the appropriate managers on an accurate, complete and timely basis
- (c) early warning is provided of deviations from plans and budgets that require management attention
- (d) financial operating systems and procedures are secure.

### Responsibilities of the Borough Treasurer

To make arrangements for the proper administration of the authority's financial affairs, including to:

- (a) issue advice, guidance and procedures for officers and others acting on the authority's behalf
- (b) determine the accounting systems, form of accounts and supporting financial records
- (c) establish arrangements for audit of the authority's financial affairs
- (d) approve any new financial systems to be introduced
- (e) approve any changes to be made to existing financial systems.

### Responsibilities of Directors

To ensure that accounting records are properly maintained and held securely.

To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with the Councils Records Retention and Destruction Schedule/Information Asset Register.

To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.

To incorporate appropriate controls to ensure that, where relevant:

- (a) all input is genuine, complete, accurate, timely and not previously processed
- (b) all processing is carried out in an accurate, complete and timely manner
- (c) output from the system is complete, accurate and timely.

To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.

To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.

To ensure that systems are documented and staff trained in operations.

To consult with the Borough Treasurer before changing any existing system or introducing new systems.

To establish a scheme of delegation in writing identifying officers authorised to act upon the Director's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.

To supply lists of authorised officers, with specimen signatures and delegated limits, to the Borough Treasurer, together with any subsequent variations.

To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.

The Director will ensure that only bona fide data is transferred between subsidiary systems and the Financial Management System. Directors shall ensure that there are adequate controls to verify correct transfer of data has taken place and shall ensure that systems under their control are fully, and regularly reconciled.

## 4.2 INCOME

### Why is this important?

Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the authority's cashflow and also avoids the time and cost of administering debts.

### Key controls

The key controls for income are:

- (a) all income due to the authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed
- (b) all fees and charges are subject to at least annual review and approval by the Full Council. In determining charges, the Council, shall have regard to
  - current legislation
  - the need to cover the cost of the service, as a minimum
  - market rates, where a service operates in free market conditions
  - the value of the service to users
  - the cost of collecting the income
  - the advice of the Director and Borough Treasurer
- (c) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery
- (d) all money received by an employee on behalf of the authority is paid without delay to the Borough Treasurer or, as he or she directs, to the authority's bank, and properly recorded. The responsibility for cash collection should be separated from that:
  - for identifying the amount due
  - for reconciling the amount due to the amount received
- (e) prompt and effective action is taken to pursue non-payment within defined timescales
- (f) formal approval for debt write-off is obtained
- (g) appropriate write-off action is taken within defined timescales
- (h) appropriate accounting adjustments are made following write-off action
- (i) all appropriate income documents are retained and stored for the defined period in accordance with the Records Retention and Destruction Schedule/Information Asset Register
- (j) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

## **Responsibilities of the Borough Treasurer**

To set arrangements for the collection of all income due to the authority and to approve the procedures, systems and documentation for its collection.

To provide advice, set the framework, collect and review annually proposals for fees and charges from each Director for submission to the Executive and Full Council for approval.

To approve all debts to be written-off up to £50,000 in consultation with the relevant Director and to keep a record of all sums written off up to the approved limit and to adhere to the requirements of the Accounts and Audit (England) Regulations 2011.

To obtain the approval of the Executive in consultation with the relevant Director for writing off debts in excess of £50,000.

To ensure that appropriate accounting adjustments are made following write-off action.

To approve arrangements for the submission of all claims for grants to Government Departments and other outside bodies.

## **Responsibilities of Directors**

To review annually the fees, charges and concessions including the appropriate charging of VAT in line with the Council's policies.

Where charges are assessed according to ability to pay, the Director may make arrangements for the reduction of charges in accordance with policies approved by the Council or the Executive.

Directors may make variations to charges which are set in order to cover specified costs, in consultation with the Borough Treasurer.

To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.

To establish and initiate appropriate prompt recovery procedures, including legal action where necessary, for debts that are not paid promptly.

To issue official receipts or to maintain other documentation for income collection.

To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.

To hold securely receipts, tickets and other records of income for the appropriate period.

To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.

To ensure that income is paid fully and promptly into the appropriate authority bank account in the form in which it is received. Appropriate details should be recorded on

to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.

To ensure income is not used to cash personal cheques or other payments.

To supply the Borough Treasurer with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Borough Treasurer to record correctly the sums due to the authority and to ensure accounts are sent out promptly.

Directors have a responsibility to assist the Borough Treasurer and Borough Solicitor in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the authority's behalf.

Ensure that cash held on any Council premise is in accordance with the agreed levels of insurance cover approved by the Borough Treasurer.

To keep a record of every transfer of money between employees of the authority. The receiving officer must sign for the transfer and the transferor must retain a copy.

To recommend to the Borough Treasurer all debts to be written off and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.

To obtain the approval of the Borough Treasurer when writing off debts in excess of the approved limit, and the approval of the Executive where required.

To notify the Borough Treasurer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Borough Treasurer and not later than 30 April.

## 4.3 ORDERING AND PAYING FOR WORK, GOODS AND SERVICES

### Why is this important?

Public money should be spent with demonstrable probity and in accordance with the authority's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Council's Contract Standing Orders and Procurement Manual.

### General

Every officer and Member of the authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority.

Official orders must be in a form approved by the Borough Treasurer. Official orders must be issued for all work, goods or services to be supplied to the authority, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Borough Treasurer.

Each order must conform with Contract Standing Orders and any relevant category strategy. Standard terms and conditions must not be varied without the prior approval of the Borough Solicitor.

The normal method of payment from the authority shall be by BACS.

Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of authority contracts.

### Key controls

The key controls for ordering and paying for work, goods and services are:

- (a) all works, goods and services are ordered only by persons with appropriate delegated authority and are correctly recorded in accordance with the Procurement Manual.
- (b) all works, goods and services shall be ordered in accordance with the authority's Contract Standing Orders
- (c) works, goods and services received are checked to ensure they are in accordance with the order or contract
- (d) payments are not made unless the goods services or works have been received by the authority in the correct quantity, at the correct quality standards and at the correct price. Payments in advance should only be made in exceptional circumstances.
- (e) all invoices are authorised by the relevant cost centre manager and that the authoriser cannot order or receive the goods and services

- (f) all payments are made to the correct person/organisation, for the correct amount and are properly recorded, regardless of the payment method
- (g) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the Records Retention and Destruction Schedule/Information Asset Register
- (h) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected
- (i) that processes are in place to maintain the security and integrity of data for transacting business electronically.

### **Responsibilities of the Borough Treasurer**

To ensure that all the authority's financial systems and procedures are sound and properly administered.

To approve any changes to existing financial systems and to approve any new systems before they are introduced.

To make payments from the authority's funds on a Director's authorisation that the expenditure has been duly incurred in accordance with financial regulations.

To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.

To make payments to contractors on the certificate of the appropriate Director, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.

To provide advice on making payments by the most economical means.

To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation.

### **Responsibilities of the Borough Solicitor**

To approve the form of official orders and associated terms and conditions.

### **Responsibilities of Directors**

To ensure that an Agresso purchase requisition is raised for all goods and services, other than where it has been agreed with the Borough Treasurer that manual orders can be issued.

To ensure that orders are only used for goods and services provided to the Directorate.

To ensure that only those staff authorised by him or her sign orders and to maintain an up- to-date list of such authorised staff identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Value for money should

underpin the authority's approach to purchasing. Value for money should always be achieved.

To ensure that goods and services are checked on receipt to verify that they are in accordance with the order and are entered into Agresso. This check should be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.

To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:

- (a) receipt of goods or services
- (b) that the invoice has not previously been paid
- (c) that expenditure has been properly incurred and is within budget provision
- (d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices
- (e) correct accounting treatment of tax
- (f) that the invoice is correctly coded or matched with the Agresso order within agreed tolerances
- (g) that discounts have been taken where available
- (h) that appropriate entries will be made in accounting records.

To ensure that at least two authorised members of staff are involved in the ordering, receiving and payment process. A different officer from the person who authorised the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.

To ensure that the department maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers and details of the limits of their authority shall be forwarded to the Borough Treasurer.

To encourage suppliers of goods and services to receive payment by the most economical means for the authority. All payments made by direct debit must have the prior approval of the Borough Treasurer.

To secure compliance with the Council's Contract Standing Orders.

To adhere to the procedures established in the Council's various category management strategies and by putting purchases, where appropriate, out to competitive quotation or tender.

To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Borough Treasurer. This is because of the potential impact on the authority's borrowing powers, to protect the authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.



To notify the Borough Treasurer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Borough Treasurer.

With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Borough Treasurer the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.

To notify the Borough Treasurer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.

To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the Records Retention and Destruction Schedule/information Asset Register.

#### 4.4 PAYMENTS TO EMPLOYEES AND MEMBERS

##### Why is this important?

Staff costs are the largest item of expenditure for most authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are authorised in accordance with the scheme adopted by the Full Council.

##### Key controls

The key controls for payments to employees and Members are:

- (a) having a scheme of Members Allowances approved in accordance with the relevant statutory procedures
- (b) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
  - starters
  - leavers
  - variations
  - enhancements

and that payments are made on the basis of timesheets or claims
- (c) frequent and regular reconciliation of payroll expenditure against approved budget and bank account
- (d) all appropriate payroll documents are retained and stored for the defined period in accordance with the Records Retention and Destruction Schedule/information Asset Register.
- (e) that HM Revenue and Customs regulations are complied with.

##### Responsibilities of the Borough Treasurer

To arrange and control secure and reliable payment of salaries, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.

To record and make arrangements for the accurate and timely payment of statutory payments, superannuation and other deductions.

To make arrangements for payment of all travel and subsistence claims.

To make arrangements for paying Members travel or other allowances upon receiving the prescribed form, duly completed and authorised.

To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis within the terms of the Service Level Agreement with the Pension Fund Managers.

### **Responsibilities of Chief Officer: Human Resources**

The Chief Officer: Human Resources shall maintain a list of authorised permanent posts. This list shall include all relevant details regarding the grade and pay range of the job, the hours contracted (expressed as a percentage of a "full time equivalent"), the post holder and their start date and actual spinal point, plus details of other allowances.

To notify the Borough Treasurer following the receipt of the information from Directors of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Borough Treasurer.

### **Responsibilities of Directors**

To ensure appointments are made in accordance with the regulations of the authority and approved establishments, grades and scale of pay and that adequate budget provision is available.

To notify the Chief Officer: Human Resources of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Chief Officer: Human Resources.

To ensure that adequate and effective systems and procedures are operated, so that:

- payments are only authorised to bona fide employees
- payments are only made where there is a valid entitlement
- conditions and contracts of employment are correctly applied
- employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness

To maintain and regularly update a list of the names of officers authorised to sign records associated with the payment to employees to the Borough Treasurer, together with specimen signatures.

To ensure that payroll transactions are processed only through the payroll system. Directors should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The HM Revenue and Customs applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Borough Treasurer.

To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the authority, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be

given to tax implications and that the Borough Treasurer is informed where appropriate.

To ensure that the Borough Treasurer is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.

To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the Records Retention and Destruction Schedule/information Asset Register.

## 4.5 TAXATION

### **Why is this important?**

Like all organisations, the authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

### **Key controls**

The key controls for taxation are:

- (a) budget managers are provided with relevant information and kept up to date on tax issues
- (b) budget managers are instructed on required record keeping
- (c) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
- (d) records are maintained in accordance with instructions
- (e) returns are made to the appropriate authorities within the stipulated timescale

### **Responsibilities of the Borough Treasurer**

To complete all HM Revenue and Customs returns regarding PAYE.

To complete a monthly return of VAT inputs and outputs to HM Revenue and Customs.

To provide details to the HM Revenue and Customs regarding the construction industry tax deduction scheme.

To maintain up-to-date guidance for authority employees on taxation issues.

### **Responsibilities of Directors**

To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenue and Customs regulations.

To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.

To ensure that all persons employed by the authority are added to the authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.

To follow the guidance on taxation issued by the Borough Treasurer.

## 5.1 PARTNERSHIPS

### Why is this important?

Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others - public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.

Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

### General

The main reasons for entering into a partnership are:

- (a) the desire to find new ways to share risk
- (b) the ability to access new resources
- (c) to provide new and better ways of delivering services
- (d) to forge new relationships.

A partner is defined as either:

- (a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project
- (b) a body whose nature or status give it a right or obligation to support the project.

Or, Partners participate in projects by:

- (a) acting as a project deliverer or sponsor, solely or in concert with others
- (b) acting as a project funder or part funder
- (c) being the beneficiary group of the activity undertaken in a project.

Partners have common responsibilities:

- (a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
- (b) to act in good faith at all times and in the best interests of the partnership's aims and objectives
- (c) be open about any conflict of interests that might arise

- (d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors
- (e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature
- (f) to act wherever possible as ambassadors for the project.

### **Key controls**

The key controls for working with authority partners are:

- (a) to comply with financial regulations and Contract Standing Orders (if applicable)
- (b) to ensure that risk management processes are in place to identify and assess all known risks
- (c) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
- (d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences
- (e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

### **Responsibilities of the Borough Treasurer**

To advise on effective controls that will ensure that resources are not wasted.

To advise on the key elements of funding a project. They include:

- (a) a scheme appraisal for financial viability in both the current and future years
- (b) risk appraisal and management
- (c) resourcing, including taxation issues
- (d) audit, security and control requirements
- (e) carry-forward arrangements.

To ensure that the accounting arrangements are satisfactory.

### **Responsibilities of Directors**

To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Borough Treasurer.

To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Borough Treasurer.

To ensure that such agreements and arrangements do not impact adversely upon the services provided by the authority.

To ensure that all agreements and arrangements are properly documented.

To provide appropriate information to the Borough Treasurer to enable a note to be entered into the authority's statement of accounts concerning material items.

To ensure that partnerships are established and operated having regard to the Council's partnership toolkit.



## 5.2 EXTERNAL FUNDING

### Why is this important?

External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the authority. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from third parties such as the National Lottery or Developers (S106) provide additional resources to enable the authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the authority's overall plan.

### Key controls

The key controls for external funding are:

- (a) to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood
- (b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by the Full Council
- (c) to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

### Responsibilities of the Borough Treasurer

To ensure that all funding notified by external bodies is received and properly recorded in the authority's accounts.

To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.

To ensure that audit requirements are met.

### Responsibilities of Directors

To inform the Borough Treasurer of all claims for funds and that they are made by the due date.

To ensure that the project progresses in accordance with any agreement with the third party and that all expenditure is properly incurred and recorded.

To ensure that future financial commitments arising from external funded schemes are incorporated into the Council's Medium Term Financial Plan.

### 5.3 WORK FOR THIRD PARTIES

#### Why is this important?

Current legislation enables the authority to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires.

#### Key controls

The key controls for working with third parties are:

- (a) to ensure that proposals are costed properly in accordance with guidance provided by the Borough Treasurer
- (b) to ensure the Borough Solicitor is consulted in cases of doubt or difficulty as to the power to undertake the work
- (c) to ensure that contracts are drawn up using guidance provided by the Borough Solicitor and that the formal approvals process is adhered to
- (d) to issue guidance with regard to the financial aspects of third party contracts.

#### Responsibilities of Borough Treasurer

To issue guidance with regard to the financial aspects of third party contracts.

#### Responsibilities of Directors

To ensure that the approval of the Executive is obtained before any negotiations are concluded to work for third parties.

To maintain a register of all contracts entered into with third parties.

To ensure that appropriate insurance arrangements are made.

To ensure that the authority is not put at risk from any bad debts.

To ensure that no contract is subsidised by the authority unless approved by the Executive or the Full Council.

To ensure that, wherever possible, payment is received in advance of the delivery of the service.

To ensure that the department/unit has the appropriate expertise to undertake the contract.

To ensure that such contracts do not impact adversely upon the services provided for the authority.

To ensure that all contracts are properly documented.

To provide appropriate information to the Borough Treasurer to enable a note to be entered into the statement of accounts.

To ensure that the Council has the legal power to enter into the contract by consulting the Borough Solicitor in cases of doubt or difficulty.

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## SECTION 11 – CONTRACT STANDING ORDERS

These Contract Standing Orders are made under section 135 of the Local Government Act 1972.

Guidance regarding the use of these Standing Orders and further explanation as to how they operate can be found in the Procurement Manual.

### **DEFINITIONS**

In these Standing Orders, the following expressions have the following meanings:

“Category Manager”	The officer of the Council to whom the Corporate Management Team has allocated responsibility for the delivery and management of a Category Strategy for a defined category of works, goods or services
“Category Strategy”	The written strategy for a defined Category, which has been formally approved by the Executive in accordance with these Standing Orders.
“Corporate Contract”	A contract relating to the procurement of supplies, works or services that has been tendered and managed by the Council
“Corporate Finance System”	Agresso or its replacement
“Director”	The Chief Executive or the most senior officer in a department of the Council or the Governing Body of a school with delegated responsibilities under the Local Management of Schools Regulations
“Executive Member”	Means the Member of the Executive with responsibility for the service for which a procurement is being carried out
“Executive”	Means a meeting to which the Leader and all those Members that are serving as Executive Members have been invited, or in the case of non-executive functions references to “the Executive” are deemed to be references to the Council or the committee or sub-committee to which the Council has delegated responsibility for that function
“Framework Agreement”	Means an agreement or other arrangement between one or more contracting authorities and one or more suppliers which establishes the terms (in

particular as to price and, where appropriate, quantity) under which suppliers will enter into one or more contracts with the Council in the period during which the framework agreement applies

“Grant”	Means a grant as defined and described in paragraph 2.4 of these Contract Standing Orders
“Non Commercial Considerations”	<ol style="list-style-type: none"><li>1. whether contractors employ self-employed individuals,</li><li>2. any involvement of the business activities or interests of the contractor with irrelevant fields of Government policy,</li><li>3. the conduct of the contractor in industrial disputes,</li><li>4. the country of origin or location of suppliers,</li><li>5. any political, industrial or sectarian interest of the contractor,</li><li>6. financial support or lack of financial support by the contractor for any institution,</li><li>7. use or non use by a contractor of technical or professional services provided by the Council under the Building Act 1984.</li></ol>
“Procurement Plan“	Means the Procurement Plan available from the Procurement pages on the Council’s intranet
“Procurement Manual”	The manual containing guidance and mandatory rules on the procurement of all supplies services and works and any further matters referred to in these Contract Standing Orders
“Public Contracts Regulations”	The Public Contracts Regulations 2006 (SI 2006 No 5) as amended
“Responsible Officer”	The Director or a person to whom the Director has given clear written delegated responsibility to exercise a function which these Contract Standing Orders identify may be performed by a Responsible Officer to the extent of such delegation
“Supplies and Services Threshold”	<b>£173,934</b> or any different figure that may be substituted by Statutory instrument from time to time

“Total Contract Value”	The whole of the estimated value net of value added tax which the Council expects to give under the contract, calculated according to the valuation rules set out in the Procurement Manual
“Threshold”	Means the Supplies and Services Threshold or the Works Threshold as the case may be
“Works Threshold”	<b>£4,348,350</b> or any different figure that may be substituted by statutory instrument from time to time

## 1. Introduction and application of Standing Orders

These Contract Standing Orders set out the framework for the procurement of supplies, works and services. They are an essential set of rules and compliance with them will ensure that officers both seek and obtain good value for money and that public money is properly spent and accounted for. **These Standing Orders apply to all contracts for the procurement of supplies, the provision of services (Including adults and children's care services) or the execution of works by the Council or on its behalf.**

- 1.1 In any procurement where quotations or tenders are required no matter what the value may be, officers must always apply procedures that allow a fair and non-discriminatory competitive process, and equal treatment of all potential suppliers and contractors.
- 1.2 Contracts must not be artificially split to avoid the application of the key thresholds contained in these Standing Orders.
- 1.3 Officers dealing with the procurement of standard or repetitive supplies and services should always consider the use of Framework Agreements and corporate contracts and should seek guidance from the Head of Procurement or from the Borough Solicitor.
- 1.4 These Contract Standing Orders do not apply to the following:
  - A contract for service for the employment of staff by the Council
  - The engagement of Counsel
  - The acquisition disposal or transfer of land or an interest in land and property
  - Hire of premises
  - Grants made by the Council
  - Direct payments to individuals for social care services or services brokered on behalf of individuals in receipt of an individual budget.

## 2. Roles and responsibilities

- 2.1 Directors are responsible for ensuring that chief officers and all staff with procurement responsibilities within their directorates fully understand and comply with these Standing Orders.
- 2.2 Directors are responsible for all purchase orders and contracts tendered and let by their directorates, are accountable to the Executive for the performance of their duties in relation to contract letting and management and must ensure that all council officers comply with these Standing Orders. The duties set out in paragraph 2.3 also apply to a Responsible Officer (except for paragraphs 2.3.5, and paragraphs 2.3.13 to .15 which are duties to be complied with by a Director personally)
- 2.3 Their duties are as follows:
  - 2.3.1 To seek and obtain value for money and secure continuous improvement in all procurements.
  - 2.3.2 To ensure no contract is entered into by their Directorate without there being adequate and agreed budget provision.



- 2.3.3 To ensure compliance with all applicable UK and EU legislation, seeking advice from the Borough Solicitor or the Head of Procurement at an early stage in the process whenever appropriate.
- 2.3.4 To ensure that Non Commercial Considerations do not influence any decision to seek quotations or tenders or to enter into any contract.
- 2.3.5 To ensure all staff (including any agents or consultants acting on their behalf) dealing with procurement for their directorate are fully aware of and comply with these Standing Orders and those parts of the Procurement Manual which are stated therein as compulsory in accordance with these Standing Orders and to arrange adequate training on their operation.
- 2.3.6 To declare to the council any pecuniary interest whether direct or indirect they personally have in any contract to be let, and to make that declaration in writing to the Borough Solicitor.
- 2.3.7 In the event of any breach of these Standing Orders to take immediate action and report it to the Borough Solicitor and/or the Borough Treasurer.
- 2.3.8 To ensure every contract over £100,000 has a named officer with responsibility for it.
- 2.3.9 To keep securely proper records of all purchase orders, signed contracts and copies of all relevant documentation so as to provide a full audit trail of actions taken.
- 2.3.10 To comply with the Council's arrangements for the obtaining and opening of quotations and tenders as set out in the Procurement Manual.
- 2.3.11 To ensure that the council's seal is affixed to any contract with a total contract value of £400,000 or more and to ensure that all other contracts are signed by a Director or by a person authorised under delegated powers to act on his or her behalf or placed through the Corporate Finance System.
- 2.3.12 To keep a record of any waivers of these Standing Orders.
- 2.3.13 To keep a written record of any delegations they make of their powers under these Standing Orders and ensure these are published on the Council's Intranet.
- 2.3.14 To ensure that records are kept in a manner that ensures reviews of contracts are undertaken in good time ideally at least one year in advance of termination dates and that appropriate action is taken.
- 2.3.15 To make arrangements for the publication of tenders and of contracts awarded as the Council may require from time to time.
- 2.3.16 To assist and support Category Managers in the preparation of Category Strategies and to comply with the provisions of Category Strategies approved by the Executive in accordance with these Contract Standing Orders
- 2.3.17 To ensure that all reports recommending the award of a contract for the procurement of works, supplies or services within a category, which are the subject of an approved Category Strategy, contain the comments of the relevant Category Manager.

2.4 These Standing Orders do not apply to grants awarded by the Council. A grant is an arrangement where money is given for the benefit of all or for a section of the local community for a stated purpose other than for the procurement of services whether the services are to be given to the council or to third parties. An arrangement where payments are made to secure the provision of services whether to the Council or to some third party is a contract for services to which these Contract Standing Orders apply.

### **3. Consultation and approvals prior to advertising a procurement**

3.1 Officers must take advice from the Head of Procurement or the Borough Solicitor on the relevance of the Public Contract Regulations for any procurement where the Total Contract Value is estimated to be more than £100,000.

3.2 When it can reasonably be anticipated that the Total Contract Value might exceed £100,000 the Director must ensure that an estimate of the anticipated Total Contract Value is prepared and recorded in writing. The estimate should not be more than twelve months old when tenders or quotations are invited and is to be exclusive of Value Added Tax.

3.3 For all procurements of supplies and services with an estimated Total Contract Value in excess of £100,000, a Procurement Plan in the form set out in the Procurement Manual and incorporating comments from the Borough Treasurer, Borough Solicitor and Head of Procurement, must be prepared for the approval of the Director and, if appropriate the Executive Member (see Appendix 1). In all cases the Procurement Plan must be approved before the contract is advertised in accordance with paragraph 4.4 below.

### **4. Obtaining quotations and tenders**

4.1 (a) Subject to paragraph 4.1(b) below, where any procurement of supplies or services has an estimated Total Contract Value of less than the Supplies and Services Threshold, the required number of quotations or tenders must be sought in accordance with the financial limits and procedures set out in Appendix 1. Where the estimated Total Contract Value of any procurement of supplies or services is for more than £100,000, invitations to tender must be issued in accordance with the procedures set out below and in the Procurement Manual.

(b) Procurements of residential care placements, care and or support provided in the person's home or for the special educational or other needs of younger people (including fostering) shall be carried out in accordance with procedures authorised by the relevant Director in consultation with the Executive Member with the advice of the Borough Treasurer, the Borough Solicitor and the Head of Procurement and published in the Procurement Manual

4.2 Where any works contract is to be let the required number of quotations or tenders must be sought in accordance with the financial limits and procedures set out in Appendix 2.

4.3 The Responsible Officer must ensure that the selection of suppliers from whom tenders or quotations are sought is carried out openly, fairly and transparently. The requirements for advertising, which are made to ensure compliance with legal requirements for transparency and freedom from discrimination, are set out in Appendix 1 and Appendix 2 and must always be followed.

## 5. Contract documentation and standard contract conditions

5.1 The provisions of any Statute, Regulation, Treaty or Directive of the European Union take precedence over anything said in these Standing Orders, and all contracts entered into by the Council must comply with all of those requirements.

5.2 The Council's standard conditions of contract shall always be employed unless,

(1a) Leasing arrangements are involved, or

(1b) the requirement is particularly complex and the use of the standard conditions is inappropriate

AND in each such case the formal advice of the Borough Solicitor has been given, or

(2) the supplier requires the Council to contract on terms supplied by it, and the total value is no more than £35,000.

In all cases where the Total Contract Value is expected to exceed the Threshold, the advice of the Borough Solicitor must be sought on any appropriate additions to the Council's standard terms.

## 6. Approval and acceptance of quotations and tenders

6.1 All requests for quotations and tenders for works, services or supplies must be carried out according to the procedures set out in the Procurement Manual .

6.2 The evaluation of written quotations and tenders and any pre-qualification of bidders must be carried out according to the procedures set out in the Procurement Manual, clearly documented and, if above the Threshold, advice must be sought from the Head of Procurement.

6.3 Where the estimated Total Contract Value is more than £100,000 and only one tender is received the Director must take advice from the Head of Procurement and the Borough Solicitor on the appropriate action.

6.4 The Responsible Officer may accept a tender or quotation for **works, supplies or services** where the Total Contract Value is not more than £400,000. Where the tender is above £100,000, a report should be submitted by officers to the Director, but if a Director has not delegated power to a Responsible Officer to accept a quotation the Director must prepare a report on the acceptance of the tender or quotation and keep it available for auditing.

6.5 The Director shall not accept tenders for supplies, services or works where the Total Contract Value is more than £400,000 and less than £1,000,000 without securing the written agreement of the Executive Member.

6.6 For all contracts where the Total Contract Value is greater than £1,000,000, acceptance of the tender must be approved by the Executive upon a report by the Director.

6.7 Where the Director wishes to accept a tender other than the lowest acceptable tender, full supporting documentation must be kept to evidence why the lowest acceptable tender was not accepted. If the tender is one to which paragraphs 6.5

or 6.6 applies, the Director shall report the values of all tenders received and the reasons for selecting the preferred tender.

6.8 All contracts entered into by the Council shall be completed (subject to delegated financial limits) in accordance with the following requirements.

<b>Total Value</b>	<b>Method of Completion</b>	<b>Signed By</b>
Up to and including £5,000	Council's official written order	Responsible Officer
£5,000 to £100,000	Acceptance Letter or Council's official order	Responsible Officer
£100,000 – Threshold (currently £173,934)	Signed contract	Responsible Officer
Threshold - £400,000	Signed Contract or Deed as advised by the Borough Solicitor	Responsible Officer or in accordance with the requirements for sealing of contracts
Over £400,000	Execution under seal	Borough Solicitor and Mayor

6.9 All contracts must be signed or sealed before the supply, service or construction work begins.

## **7. Waiver of Contract Standing Orders**

7.1 If there are special circumstances to waive or suspend any section or sections of Contract Standing Orders, the following approvals must be obtained depending on contract value:

1. for all contracts up to *and including* £35,000, the Director may approve.
2. for contracts in excess of £35,000 but *up to and including contracts for* £400,000 the Borough Solicitor and the Chief Executive (taking advice from the Head of Procurement) may approve.
3. for contracts over £400,000 a report must be made to the Executive, incorporating advice from the Head of Procurement, for approval save that where the Borough Solicitor and Chief Executive have confirmed that there is genuine urgency and it is not possible to obtain approval from the Executive in time, the Leader may approve, but shall report his decision to the next meeting of the Executive for information

7.2 The standard Waiver form is to be used and the approval must be retained by the Director.

7.3 The Director must ensure that a record of all cases where Contract Standing Orders have been waived is sent to the Head of Procurement, including those authorised under the Director's own delegated powers, recording the reasons for waiver and the approvals obtained. The Head of Procurement shall maintain a full record, sequentially numbered, of all Waivers granted.

## **8. Contract extensions**

8.1 Where a contract, which was not required to be advertised by the Public Contracts Regulations or any preceding Regulations, does not have any provision for an extension, one extension, where similar terms and conditions will apply, may be

agreed for a maximum period of one year, but the written approval of the Director, who must consult with the Borough Solicitor and the Treasurer, must be given.

- 8.2 Where a contract does provide for an extension, the extension may be implemented, subject to the prior written approval of the Director being given.
- 8.3 If a contract has already been extended under a provision for extension it contains, it may not be extended further under 8.1 above.
- 8.4 If a contract has been extended in accordance with 8.1 or 8.2 above any further request for an extension must be approved by the Executive Member on a written report.

### **Contract variations**

- 8.5 A contract variation can be only be approved where the proposed variation does not materially alter the terms of the contract. Guidance on what constitutes a material alteration is given in the Procurement manual. The Director must obtain advice from the Borough Solicitor before proceeding to agree to a variation and must ensure there is an adequate budget for the variation.

## **9. Framework Agreements**

- 9.1 Framework Agreements let by other contracting authorities may only be used in accordance with the requirements set out in the Procurement Manual.

## **10. Category Management**

- 10.1 The Council has adopted the principles of category management in order to provide a more strategic approach to procurement and to help increase efficiencies and value for money through better coordination and aggregation of requirements across the Council.
- 10.2 A Category Manager shall be responsible for the preparation of a Category Strategy for the commissioning and procurement of any works, supplies or services relevant to the category in consultation with any Director who holds a budget that will be affected by the Category Strategy.
- 10.3 A Category Strategy shall identify responsibility for contract awards for contracts of up to £1 million that are in compliance with the strategy, but if no responsibility for such contract award is allocated, the Director to whom the Category Manager usually reports shall be responsible for making the decision. Corporate Contracts which are not within a Category Strategy shall be the responsibility of the Director of Corporate Services.

# Appendix 1 Supplies and Services

## Minimum Requirements

✓ = Mandatory

Total Contract Value		Up to £5K	>£5K to £10K	>£10K to £35K	>£35K to £100K	>£100K to £400K	>£400K to £1m	>£1m
Procurement Plan	Director* to approve, with advice from Head of Procurement				Optional	✓	✓	✓
	Executive Member to approve						✓	✓
Format	Request for Quotation (RFQ)	✓ oral	✓	✓	✓			
	Invitation to Tender (ITT)				Optional	✓	✓	✓
Specification		✓ oral	✓ outline	✓ outline	✓	✓	✓	✓
Terms	BFC terms and conditions	Preferred	Preferred	Preferred	✓			
	Special terms - contact Legal Services				Optional	✓	✓	✓
Competition	Minimum 1 quote	✓ oral	✓					
	Minimum 3 quotes			✓	✓			
	Formal Tender min 5					✓	✓	✓
	Order under a Framework Agreement	mini competition of all suppliers able to meet the requirement - or otherwise as defined in the Framework Agreement						
Advertising	SE Business Portal			Optional	✓	✓	✓	✓
	European website (TED)					✓	✓	✓
Contract SO Waiver	Director to record reasons on file	✓	✓	✓				
	Chief Executive and Borough Solicitor to approve				✓	✓		
	The Executive to approve						✓	✓
Contract Award	Director*	✓	✓	✓	✓			
	Report to Director* for approval				Optional	✓		
	Report to Director and Executive Member for approval						✓	
	Report to the Executive for approval							✓
Contract Award Notice	Regional website (SECE)			Optional	✓	✓	✓	✓
	European website (TED)					✓	✓	✓
Form of Contract	Purchase Order	✓ oral	✓	✓	✓			
	Contract signed by Director*				Where used	✓		
	Deed signed under seal by Mayor and Borough Solicitor						✓	✓

\* Or Responsible Officer with formal written delegation of these powers from the Director

## Appendix 2 Works

### Minimum Requirements

✓ = Mandatory

	Total Contract Value	Up to £5K	>£5K to £10K	>£10K to £35K	>£35K to £100K	>£100K to £400K	>£400K to £1m	>£1m
Procurement Plan	Director* to approve, with advice from Head of Procurement				Optional	Optional	✓	✓
	Executive Member to approve						✓	✓
Format	Request for Quotation (RFQ)	✓ oral	✓	✓	✓			
	Invitation to Tender (ITT)				Optional	✓	✓	✓
Specification		✓ oral	✓ outline	✓ outline	✓	✓	✓	✓
Terms	BFC terms and conditions	Preferred	Preferred	Preferred	✓			
	Special terms - contact Legal Services				Optional	✓	✓	✓
Competition	Minimum 1 quote	✓ oral	✓					
	Minimum 3 quotes			✓	✓			
	Formal Tender min 5					✓	✓	✓
	Order under a Framework Agreement	mini competition of all suppliers able to meet the requirement						
Advertising	SE Business Portal			Optional	Optional	Optional	✓	✓
	European website (TED)							Optional below Threshold: mandatory above
Contract SO Waiver	Director to record reasons on file	✓	✓	✓				
	Chief Executive and Borough Solicitor to approve				✓	✓		
	The Executive to approve						✓	✓
Contract Award	Director*	✓	✓	✓	✓			
	Report to Director* for approval				Optional	✓		
	Report to Director and Executive Member for approval						✓	
Contract Award Notice	Regional website (SECE)			Optional	✓	✓	✓	✓
	European website (TED)					✓	✓	✓
Form of Contract	Purchase Order	✓ oral	✓	✓	✓			
	Contract signed by Director*				Where used	✓		
	Deed signed under seal by Mayor and Borough Solicitor						✓	✓

\* Or Responsible Officer with formal written delegation of these powers from the Director

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## **SECTION 12 – OFFICER EMPLOYMENT PROCEDURE RULES**

### **1. Recruitment and Appointment**

#### **(a) Declarations**

- (i) the Council will draw up a statement requiring any candidate for appointment as an Officer to state, in writing, whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council; or of the partner of such persons, or are otherwise known to them in any capacity.
- (ii) no candidate so related to a Councillor, or an Officer, will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him or her.

#### **(b) Seeking Support for Appointment**

- (i) the Council will disqualify any applicant who directly, or indirectly, seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) no Councillor will seek support for any person for any appointment with the Council.

### **2 Recruitment of Head of Paid Service, Directors and Chief Officers**

Where the Council proposes to make an appointment to the designated posts listed in Table 1, and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

- (a) draw up a statement specifying:
  - (i) the duties of the Officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (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; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

### **3 Appointment of Head of Paid Service**

The full Council will approve the appointment, or dismissal, of the Head of Paid Service, following the recommendation of such an appointment by a Committee or Sub-Committee of the Council. That Committee or Sub-Committee must include at least one Member of the Executive.

#### **4 Appointment to Designated Posts**

##### Chief Officer Posts

Unless otherwise directed by the Council, a Committee or Sub-Committee of the Council, the Council will appoint Chief Officers listed in column 1 of Table 1. That Committee or Sub-Committee must include at least one Member of the Executive.

##### Deputy Chief Officer Posts

The Head of Paid Service, or his or her nominated representative, in consultation with the relevant Executive Member, or Members, and the Leader of the Council, may determine whether any appointment to a Deputy Chief Officer post, listed in column 2 of Table 1, is to be made exclusively from the Council's existing Officers. Where the Head of Paid Service, or his or her nominated representative, determines that such an appointment is to be made exclusively from the Council's existing Officers, such an appointment may be made by the Head of Paid Service, or his or her nominated representative.

Where a recruitment process is undertaken involving external candidates, a Committee or Sub-Committee will be appointed to interview the short-listed candidates and to make the final appointment. That Committee or Sub-Committee must include at least one Member of the Executive.

#### **5 Assistants to Political Groups.**

Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

##### **Appointment and Dismissal of Staff and Disciplinary Action**

6. Subject to Paragraphs 7 and 11 below, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged by the Head of Paid Service or by an Officer nominated by him or her.
7. Paragraph 6 shall not apply to the appointment, or dismissal of, or disciplinary action against –
  - (a) the Officer designated as the Head of the Council's Paid Service;
  - (b) a statutory Chief Officer within the meaning of Section 2(6) of the Local Government and Housing Act 1989;
  - (c) a non-statutory Chief Officer within the meaning of Section 2(7) of the 1989 Act;
  - (d) a Deputy Chief Officer within the meaning of Section 2(8) of the 1989 Act; or
  - (e) a person appointed in pursuance of Section 9 of the 1989 Act (assistants to political groups).
8. Where a Committee or Sub-Committee of the Council is discharging, on behalf of the Council, the function of the appointment or dismissal of any Officer referred to in (a), (b), (c) or (d) of Paragraph 7 above, at least one Member of the Executive must be a Member of that Committee or Sub-Committee.

- 9 (1) In this Paragraph “Appointor” means, in relation to the appointment of a person as an Officer of the Council, the Council or, where a Committee, or Sub-Committee or Officer is discharging the function of appointment on behalf of the Council, that Committee, Sub-Committee or Officer, as the case may be.
- (2) An offer of appointment as an Officer referred to in sub-paragraph (a), (b), (c) or (d) of Paragraph 7 above must not be made by the Appointor until –
- (a) the Appointor has notified the Proper Officer of the name of the person to whom the Appointor wishes to make the offer, and any other particulars which the Appointor considers are relevant to the appointment;
- (b) the Proper Officer has notified every Member of the Executive of the Council of –
- (i) the name of the person to whom the Appointor wishes to make the offer
- (ii) any other particulars relevant to the appointment which the Appointor has notified to the Proper Officer; and
- (iii) the period within which any objection to the making of the offer is to be made by the Executive Leader, on behalf of the Executive, to the Proper Officer; and
- (c) either –
- (i) the Executive Leader has, within the period specified in the Notice, under sub-paragraph (b)(iii), notified the Appointor that neither he nor any other Member of the Executive has any objection to the making of the offer;
- (ii) the Proper Officer has notified the Appointor that no objection was received by him within that period from the Executive Leader; or
- (iii) the Appointor is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.
- 10 (1) In this paragraph, “Dismissor” means, in relation to the dismissal of an Officer of the Council, by the Council or, where a Committee, Sub-Committee or another Officer is discharging the function of dismissal on behalf of the Council, that Committee, Sub-Committee or other Officer, as the case may be.
- (2) Notice of the dismissal of an Officer referred to in sub-paragraph (a), (b), (c) or (d) of Paragraph 7 above, must not be given by the Dismissor until –
- (a) the Dismissor has notified the Proper Officer of the name of the person who the Dismissor wishes to dismiss, and any other

- particulars which the Dismissor considers are relevant to the dismissal;
- (b) the Proper Officer has notified every Member of the Executive of the Council of –
    - (i) the name of the person to whom the Dismissor wishes to dismiss;
    - (ii) any other particulars relevant to the dismissal which the Dismissor has notified to the Proper Officer; and
    - (iii) the period within which any objection to the dismissal is to be made by the Executive Leader, on behalf of the Executive, to the Proper Officer; and
  - (c) either –
    - (i) the Executive Leader has, within the period specified in the Notice, under sub-paragraph (b)(iii), notified the Dismissor that neither he, nor any other Member of the Executive has any objection to the dismissal;
    - (ii) the Proper Officer has notified the Dismissor that no objection was received by him within that period from the Executive Leader; or
    - (iii) the Dismissor is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.
- 11 Nothing in Paragraph 6 shall prevent a person from serving as a Member of any Committee or Sub-Committee established by the Council to consider an appeal by –
- (a) another person against any decision relating to the appointment of that person as a member of staff of the Council; or
  - (b) a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
- 12 In Paragraph 13, “Chief Finance Officer”, “disciplinary action”, “Head of the Paid Service” and “Monitoring Officer”, have the same meaning as in Regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 and “designated independent person” has the same meaning as in Regulation 7 of those Regulations.
- 13 No disciplinary action in respect of the Head of the Council’s Paid Service, its Monitoring Officer or its Chief Finance Officer, except action described in Paragraph 14, may be taken by the Council, or by a Committee, a Sub-Committee, a Joint Committee on which the Council is represented, or any other person acting on behalf of the Council, other than in accordance with a recommendation in a report made by a designated independent person under Regulation 7 of the Local Authorities (Standing Orders) (England) Regulations 2001 (investigation of alleged misconduct).
- 14 The action mentioned in Paragraph 13 is suspension of the Officer for the purpose of investigating the alleged misconduct occasioning the action; and any such

suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

The following posts are designated for the purpose of the Officer Employment Procedure Rules.

**Column 1**

The Chief Executive and all Director posts

**Column 2**

Chief officers remunerated on the Senior Salary Scale

The Head of Overview and Scrutiny

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## SECTION 13 – CODE OF CONDUCT FOR MEMBERS AND CO-OPTED MEMBERS

### 1. INTRODUCTION

- 1.1 This Code of Conduct has been adopted by the Council pursuant to the Localism Act 2011 and the duty to promote and maintain high standards of conduct by Members and Co-opted Members of the Council.
- 1.2 Failure to comply with the requirements of Section 7 of this Code, other than paragraph 7.3(c), constitutes a criminal offence for which you may be prosecuted. Failure to comply with any of the other sections of the Code or paragraph 7.3(c) may result in public censure of you by the Council.
- 1.3 Common law developed by the courts indicates that, at least in relation to “quasi-judicial” functions such as Licensing and Planning, Members should not participate if a reasonable member of the public who is neither complacent nor unduly sensitive or suspicious would in the circumstances conclude that there is a real possibility of bias. This Code requires Members to excuse themselves from involvement in decision making where they have a “Disclosable Pecuniary Interest” or an “Affected Interest” (as defined by the Code) in the matter under consideration. However, it is possible that when exercising such a “quasi-judicial” function interests other than Disclosable Pecuniary Interests or Affected Interests could lead a reasonable member of the public to conclude that there was a real possibility of bias on the part of a Member. In such circumstances the Member should not participate in the decision making process (*i.e. the Member should not vote nor, unless they are requested by the Chairman of the Committee on a point of clarification, speak on the matter*). In cases of doubt or difficulty advice should be sought from the Borough Solicitor.

### 2. APPLICATION

- 2.1 This Code of Conduct applies to you when you are acting as a Member or Co-opted Member of the Council. A Co-opted Member is a person who is not a Borough Councillor but who –
- (a) is a Member of any Committee or sub-Committee of the Council; or
  - (b) is a Member of, and represents the Council on, any Joint Committee or joint Committee of the Council

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

Throughout this Code “Member” shall be deemed to refer also to Co-opted Members.

- 2.2 This Code of Conduct is consistent with and based upon the following principles:-

- Selflessness
- Integrity
- Objectivity

- Accountability
- Openness
- Honesty
- Leadership

The above terms are expanded in the Annexe to this Code under the heading 'The Principles'.

### **3. GENERAL OBLIGATIONS**

3.1 You must treat others with respect.

3.2 You must not:-

- (a) do anything which may cause the Council to be in breach of any duty not to discriminate contained in the Equality Act 2012;
- (b) bully any person;
- (c) do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of the Council;
- (d) conduct yourself in a manner which could reasonably be regarded as bringing your office as a Member of the Council into disrepute;
- (e) use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

### **4. ACCESS TO AND DISCLOSURE OF INFORMATION**

4.1 Do not disclose information given to you in confidence by anyone (including exempt information provided to you by the Council) or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:-

- (i) you have the consent of a person authorised to give it
- (ii) you are required to do so by law
- (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:-
  - (a) in the public interest
  - (b) made in good faith
  - (c) in the case of exempt information provided to you by the Council, only made after giving two clear working days notice of the intention to disclose (in writing, specifying the information proposed to be disclosed) has been given to the Chief Executive or in his absence the Deputy Chief Executive.



“exempt Information” means information described either as such or as confidential.

- 4.2 Do not prevent another person from accessing information if that person is entitled to do so by law.

## 5. DECISION MAKING

- 5.1 When reaching decisions on any matter you must:-
- (a) have regard to any advice provided to you by *the Head of Paid Service (the Chief Executive)* by the Borough Treasurer and/or the Monitoring Officer pursuant to their statutory duties, and
  - (b) give reasons for the decisions in accordance with any legal requirements or any additional requirements imposed by the Council.

## 6. RESOURCES

- 6.1 When using or authorising the use by others of the resources of the Council you must:-
- (a) act in accordance with the Council's requirements, and
  - (b) ensure that such resources are not used improperly for political purposes (including party political purposes);
- 6.2 You must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986

## 7. INTERESTS

### **Disclosable Pecuniary Interests**

- 7.1 You have a Disclosable Pecuniary Interest if it falls within the description set out in the Schedule to this Code and either:-
- (a) it is your interest, or
  - (b) it is an interest of your spouse or civil partner, a person with whom you are living as husband and wife/as if you were civil partners AND you are aware that such other person has an interest.
- 7.2 Within 28 days of becoming a Member you must notify the Monitoring Officer of any Disclosable Pecuniary Interests which you have. Where you become a Member as a result of re-election or re-appointment the requirement to notify the Monitoring Officer only applies in relation to Disclosable Pecuniary Interests not already notified.
- 7.3 If you are present at a meeting of the Council, a Committee, Sub-Committee, Joint Committee, the Executive or an Executive Committee and you are

aware that you have a Disclosable Pecuniary Interest in any matter to be considered:-

- (a) if the interest is not registered you must disclose the interest to the meeting **and** notify the Monitoring officer within 28 days;
- (b) you must not participate in discussion of the matter, or vote on the matter **unless** you have been granted a dispensation by the Monitoring Officer or by the Governance and Audit Committee.
- (c) if you are required by the Council's Standing Orders to withdraw from the meeting you should notify the Democratic Services Officer in attendance at the meeting that you are withdrawing as you have an Interest in the matter.

7.4 If you are an Executive Member acting alone in the discharge of a Council function (i.e. if the matter falls within the Executive Member's portfolio) and you have a Disclosable Pecuniary Interest in a matter:-

- (a) you must not take any steps in relation to the matter other than for the purpose of enabling it to be dealt with by another Member, and
- (b) if the interest is not registered you must notify the Monitoring Officer of the interest.

7.5 If you have a Disclosable Pecuniary Interest in a matter you must not seek improperly to influence a decision about it.

## **8. AFFECTED INTERESTS**

8.1 You have an Affected Interest in a matter if:-

- (a)
  - (i) a decision in relation to that matter might reasonably be regarded as affecting the financial position of an Affected Person to a greater extent than the majority of other residents in your Ward, or
  - (ii) it is an application for a Licence, permission or consent made by an Affected Person or which (to your knowledge) an Affected Person has made objection to the Council

AND

- (b) a member of the public, who knows the relevant facts, would reasonably think that the interest is so significant that it would be likely to prejudice your judgement of the Public Interest.

The following are "Affected Persons":-

- (a) you
- (b) your spouse/partner
- (c) your parents and grandparents and those of your spouse/partner
- (d) your children and grandchildren and those of your spouse/partner

- (e) your sibling or his/her spouse or partner
- (f) your employer, business partner or any person whom you have undertaken work for in the previous two years, and
- (g) your employee
- (h) a company in which the total nominal value of the securities held by you/your spouse or partner exceeds £25,000 or more than ten per cent of the total issued share capital
- (i) a company which you, your spouse, partner, parent, grandparent, child or grandchild is a Director of
- (j) a company which your sibling or his/her spouse or partner is a Director of
- (k) a Limited Liability Partnership in which you, your spouse, partner, parent, grandparent, child or grandchild is a Partner
- (l) a Limited Liability Partnership in which your sibling or his/her spouse or partner is a Partner
- (m) a person with whom you have a close association

8.2 Within 28 days of becoming a Member you must notify the Monitoring Officer (in order for him/her to make entries in the Register of Member's Interests):-

- (a) the name of any company which you, your spouse or partner are a director of and
- (b) the name of any Limited Liability Partnership which you, your spouse or partner are a partner in.

8.3 If you are present at a meeting of the Council, a Committee, Sub-Committee, Joint Committee, or an Executive Committee and you are aware that you have an Affected Interest in a matter to be considered:-

- (a) if the interest is not registered you must disclose the interest to the meeting **and** (unless you have previously notified the Monitoring Officer of the interest) notify the Monitoring Officer within 28 days (if the Monitoring Officer determines that the interest is a Disclosable Pecuniary Interest the interest shall be entered on the Council's register of interests).
- (b) you must not participate in discussion of the matter or vote on the matter **unless** you have been granted a dispensation by the Monitoring officer or by the Governance and Audit Committee.
- (c) if you are required by the Council's Standing Orders to withdraw from the meeting you should notify the Democratic Services Officer in attendance at the meeting that you are withdrawing as you have an interest in the matter.

8.4 If you are an Executive Member acting alone in the discharge of a Council function (i.e. if the matter falls within the Executive Member's portfolio) and you have an Affected Interest in a matter:-

- (a) you must not take any steps in relation to the matter other than for the purpose of enabling it to be dealt with by another Member, and
- (b) if the interest is not registered you must notify the Monitoring Officer of the interest

- 8.5 If you have an Affected Interest in a matter you must not seek improperly to influence a decision about it.

## **9. SENSITIVE INTERESTS**

- 9.1 If you have a Disclosable Pecuniary Interest or an Affected Interest but you consider that disclosure of the interest could lead to you or a person connected with you being subject to violence or intimidation **and** the Monitoring Officer agrees with that assessment then instead of disclosing the interest you need only disclose *the fact* that you have a Disclosable Pecuniary Interest or an Affected Interest (as the case may be) *without giving details of that interest*.

## **10. MEMBERSHIP OF EXTERNAL ORGANISATIONS AND ASSOCIATION**

- 10.1 This section of the Code applies where you are a member of or in a position of general control or management of any body:-

- (a) exercising functions of a public nature
- (b) directed to charitable purposes, or
- (c) one of whose principal purposes includes the influencing of public or policy (including any political party or trade union)

and you have **not** been appointed or nominated in such capacity by the Council.

- 10.2 Within 28 days of becoming a Member you must notify the Monitoring Officer of your membership/position. Where you become a Member as a result of re-election or reappointment the requirement to notify the Monitoring Officer only applies in relation to a membership/position not already notified. The membership/position will be recorded on the Council's register of Member's interests.

- 10.3 If you are present at a meeting of the Council, a Committee, Sub-Committee, Joint Committee, the Executive or an Executive Committee at which a matter is to be considered which affects that body to a greater extent than the majority of residents in your Ward you shall disclose to the meeting your connection to the body immediately prior to consideration of the matter. You need not withdraw from the meeting but you should within 28 days notify the Monitoring Officer of the membership/position unless notification has previously been given.

## **11. REGISTRATION OF GIFTS AND HOSPITALITY**

- 11.1 You should promptly notify the Head of Democratic and Registration Services of :-

- (a) gifts or hospitality the value of which exceeds £25.
- (b) gifts or hospitality (of any value) the value of which combined with the value of any other gift or hospitality from the same source providing the gift or hospitality in the preceding period of one year exceeds £25

which you and/or your spouse/partner receive because (or which a reasonable member of the public would infer because) you are a Member of the Council or you have been appointed to any position by or on behalf of the Council.

Where the value is not immediately apparent the value is that which a reasonable member of the public would estimate for the gift or hospitality. You should err on the side of caution i.e. if there is any doubt as to whether the gift or hospitality is registrable you should register it.

The notice to the Head of Democratic and Registration Services should state:-

- (a) the nature of the gift or hospitality provided
- (b) the identity of the source providing the gift or hospitality, and
- (c) the date on which the gift or hospitality was provided.

The register of gifts or hospitality will be made available for public inspection.

**Categories of Disclosable Pecuniary Interests**

<b><u>Subject</u></b>	<b><u>Prescribed Description</u></b>
Employment, office trade, professional or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a Member, or towards your 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
Contracts	Any contract which is made between you or a relevant person (or a body in which you or a relevant person has 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
Land	Any beneficial interest in land which is within the Borough.
Licences	Any licence (alone or jointly with others) to occupy land in the Borough for a month or longer.
<b><u>Subject</u></b>	<b><u>Prescribed Description</u></b>
Corporate tenancies	Any tenancy where (to your knowledge) - (a) the landlord is the Council; and (b) the tenant is a body in which you or a relevant person has a beneficial interest
Securities	Any beneficial interest in securities of a body where – (a) that body (to your knowledge) has a place of business or land in the Borough; 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 you or a person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

## **Definitions**

“body in which you or a relevant person has a beneficial interest” means a firm in which you or a relevant person is a partner or a body corporate of which you or a relevant person is a Director, or in the securities of which you or a relevant person has a beneficial interest.

“director” includes a member of the Committee of management of an industrial provident society.

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for you or a relevant person (alone or jointly with another) to occupy the land or to receive income.

“relevant period” means the period of one year ending with the day on which you give a notification of your Disclosable Pecuniary Interests to the Monitoring Officer.

“relevant person” is a person falling within 7.1(b) above.

“securities” means shares, debentures, debenture stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**THE PRINCIPLES**

- **Selflessness**  
Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
- **Honesty and Integrity**  
Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour
- **Objectivity**  
Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
- **Accountability**  
Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.
- **Openness**  
Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.
- **Leadership**  
Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.



## **SECTION 14 – EMPLOYEES’ CODE OF CONDUCT**

### **CODE OF CONDUCT FOR EMPLOYEES**

#### **WHO THE CODE IS AIMED AT**

Inevitably, some of the issues covered by this Code will affect senior, managerial and professional employees more than it will others. The Code is intended to cover all employees under any contract of employment within the Council, including office holders such as Registrars. Employees serving as representatives of the Council as a Director of a company, as a Trustee or on the management committee of a voluntary organisation will be expected to abide by the provisions of this Code when acting in such a capacity unless to do so would create a conflict of interest in their role as Director, Trustee or management committee member; any employee who believes that such a conflict of interest may arise should consult the Borough Solicitor.

#### **OVERVIEW**

The public is entitled to expect the highest standards of conduct from all employees who work for Bracknell Forest Borough Council. This Code provides guidance as to the Standard of Conduct, which the Council expects of its employees to assist them in their day-to-day work. Any breach of this Code may be investigated under the Council’s Disciplinary Procedure and action taken appropriately. The Code of Conduct for Members is underpinned by seven “General Principles”. Not all of those General Principles are of relevance to officers but those which are relevant are set out below and should be used in the interpretation and application of this Code.

##### *Selflessness*

Employees should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

##### *Honesty and Integrity*

Employees should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

##### *Objectivity*

Employees should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

##### *Accountability*

Employees should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

##### *Respect for Others*

Employees should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual

orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

#### *Duty to Uphold the Law*

Employees should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

#### *Stewardship*

Employees should use the authority's resources prudently and in accordance with the law.

The Council expects high standards from its employees because:

- Council services can affect the health, wealth and well-being of local people
- the Council is subject to democratic control and is accountable to the electorate
- local people fund Council spending and take an interest in the way money is spent

### **STATUS OF THE CODE**

The aim of the Code is to establish guidelines for Bracknell Forest Borough Council employees which will help maintain and improve standards and protect employees from misunderstanding or criticism. It may be supplemented and clarified by additional guidance where necessary.

### **STANDARDS**

Council employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality. Employees will be expected, through agreed departmental procedures and, without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety, unless an employee has reasonable grounds to believe that their manager is party to the impropriety (in such cases the Council's Whistleblowing Procedure may be used).

### **DISCLOSURE AND USE OF INFORMATION**

Although the Council endeavours to practise "open government" some information is by necessity confidential and should not be disclosed. Information which the Council, a Council committee, the Executive or an Executive Committee has determined as "Exempt Information" (i.e. information appearing in pink papers on the agenda) should not be disclosed to the public without the prior permission of the Borough Solicitor. Other information which an employee receives which might reasonably be regarded as being of a confidential nature should not be disclosed to anyone else except in the following circumstances:-

- the person imparting the information has given their consent to the disclosure
- the information is disclosed to another employee or to a Councillor on a "need to know" basis for the proper fulfilment of their responsibilities
- the disclosure is required by law.

Employees should not prevent another person from gaining access to information which that person is entitled to by law.

Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Council should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required by law.

## **CRIMINAL CONVICTIONS**

Employees subject to Criminal Record Bureau checks in their capacity as an employee who are subsequently convicted of an offence which may impact on their work with the Council are required to report that conviction to their management and/or Human Resources. Failure to do so may become a disciplinary matter, the seriousness of the matter being dictated by the nature of the offence and the role of the employee.

## **POLITICAL NEUTRALITY**

Employees must not do anything which compromises or is likely to compromise their own political impartiality, or that of those who work for, or on behalf of, the Council. Without Prejudice to the generality of that principle this means that employees should:-

- provide appropriate advice to all Councillors with impartiality
- serve the Council as a whole i.e. all Councillors and not just those of, for example, a particular political group
- observe the individual rights of all Councillors (e.g. to have access to relevant information).

Some employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality.

Employees, whether or not politically restricted, must have proper regard to every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.

Employees must not infringe the requirements of legislation not to publish any material which, in whole or in part, appears to be designed to affect public support for a political party.

## **RELATIONSHIPS**

### **Councillors**

Employees are responsible to the Council through its senior managers. For some, their role is to give advice to councillors and senior managers and all are there to carry out the Council's work. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

## **The Local Community and Service Users**

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by Council policies.

### **Contractors**

Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors should declare that relationship to the appropriate manager.

Orders and contracts must be awarded on merit, normally by fair competition against other tenders or quotations, and no special favour should be shown to businesses run by, for example, friends, partners or relatives. Employees must comply with the Council's Contract Standing Orders. No part of the local community should be discriminated against. By law, if it comes to the knowledge of an employee that a contract in which they have a financial interest, whether direct or indirect, has been or is proposed to be entered into the employee must as soon as practicable give notice in writing of that interest to the Council; failure to do so constitutes a criminal offence; any such notice should be given to the Director of the department in which the employee works.

### **Relatives and Partners**

Employees should not be involved in decisions relating to partners, relatives or close friends; If it comes to the knowledge of an employee that they are involved in any decision which could result in a particular advantage or disadvantage to a partner, relative or close friend the employee must, as soon as practicable, inform the appropriate manager.

## **APPOINTMENT AND OTHER EMPLOYMENT MATTERS**

Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment that was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.

Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner etc.

## **APPLICATIONS**

Employees making applications to the Council (for example, for planning permission, purchase of land or an improvement grant) on their own behalf should notify their Director. However, employees may not make any applications on behalf of a member of the public.

Employees may not gain financial benefit by way of fees or gratuities or receive any other consideration for advice given to others who submit applications to the Council.

## **OUTSIDE COMMITMENTS AND USE OF RESOURCES**

All employees must consult their Chief Officer (or in the case of a Chief Officer their Director) before engaging in any other work (whether as an employee or on a self-employed basis). All employees should be clear about their contractual obligations and should not take outside work which may conflict with the Council's interests.

Any employee engaging in outside work must give written notice to his/her Chief Officer (or in the case of a Chief Officer their Director) setting out the nature of the work, the length and duration of the work and the identity of the person/firm/company for whom they are working.

The Council will retain intellectual property rights or copyrights on any matters e.g. software or written materials, developed by an employee during the course of employment with it.

Employees must not use any of the Council's facilities or equipment, which may include premises, computers, materials, transport, telephones, stationery and secretarial services, other than for Council business or other approved purposes.

## **PERSONAL INTEREST**

Employees must declare to their Chief Officer (or in the case of a Chief Officer their Director and in the case of a Director to the Chief Executive) any non-financial interests which might reasonably be considered could bring about conflict with the Council's interests.

Employees must declare to their Chief Officer (or in the case of a Chief Officer their Director and in the case of a Director to the Chief Executive) any financial interests which could conflict with the Council's interests.

An employee should declare to their Chief Officer (or in the case of a Chief Officer their Director and in the case of a Director to the Chief Executive) membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.

The Council welcomes the involvement of employees in voluntary organisations. However, in order to ensure that public confidence is maintained an employee should inform his/her Chief Officer (or if a Chief Officer their Director) in writing if the service which the employee gives to any such organisations could conflict with the work which the employee carries out for the Council or if the organisation receives a grant from or has a contract (or service level agreement) with the Council.

Employees must not use their position as employees of the Council to favour any voluntary or other bodies which they give service to. If an employee's job involves assessing a funding application or assessing an application for a consent or permission for a voluntary body which they give service to they should inform their Chief Officer (or in the case of a Chief Officer their Director) in writing and seek their guidance of the manager.

Directors and Chief Officers are required to register their personal interests in accordance with the process set out in Annexe A of this Code.

## **PREJUDICIAL INTERESTS**

A Prejudicial Interest is a matter which affects an employee's financial interest or relates to a licensing or a regulatory matter in which he or she has an interest and where a member of the public, who knows the relevant facts, would reasonably think that the employee's personal interest is so significant that it is likely to prejudice his or her judgement of the public interest. A Prejudicial Interest in a licensing or regulatory matter may stem from a direct financial interest or from a more tangential interest, where, for instance, approval for a licence may affect a body with which the employee has a personal interest or will affect him or her personally.

Employees with a Prejudicial Interest should declare such an interest to their Chief Officer or if a Chief Officer to their Director. Where possible, they should take steps to avoid influential

involvement in the matter. Where this is not possible, the Prejudicial Interest and its nature must be made clear.

## **EQUALITY ISSUES**

All members of the local community, customers and other employees have a right to be treated with fairness and equity. All employees are required to observe the law and the policies of the Council regarding non-discrimination and the promotion of equalities.

## **TENDERING AND FAIRNESS TO CONTRACTORS**

Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness. Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

Employees who are privy to confidential information concerning tenders or quotations from either internal or external contractors should not disclose that information to any other party or organisation, unless the Borough Solicitor has confirmed in writing that such disclosure is required by law. For these purposes, confidential information includes the amount of any sum comprised in a tender or quotation, the identity of those submitting tenders or quotations, the identity of others who have been invited to tender or quote and any other information the disclosure of which could be used to undermine the integrity of the tendering or quotation process.

Information given to suppliers should be limited to that required for submitting their own tender or quotation. For the avoidance of doubt information or clarification requested by a party who has a personal interest in or been invited to submit a tender or quotation may be provided to all persons expressing an interest and who have been so invited provided such information does not concern the content of a quotation or tender submitted by another party.

## **CORRUPTION**

Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

## **USE OF FINANCIAL RESOURCES**

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

## **EXPENSES**

Expenses should only be claimed in accordance with the Council's Expenses Policy.

## **GIFTS AND HOSPITALITY**

Gifts and hospitality accepted by an employee must be recorded in the appropriate gifts/hospitality register. Similarly, gifts and hospitality given to external organisations or individuals must, as also required by the Council's rules in force at the time, be recorded in

the appropriate gifts/hospitality register; these must be approved by the appropriate manager.

### **Giving Hospitality and Gifts**

- Offers of hospitality should only be given if the event to which an external organisation or its representative is invited is directly related to the Council's business. Examples and further details are given in the Council's Guidance for Employees and Councillors on travel, subsistence and other expenses and giving or receiving hospitality from external organisations and their representatives, which is available on BORIS.
- Where employees issue invitations to external organisations or individuals, these must be properly authorised by the appropriate manager and must be recorded in the appropriate register when the cost exceeds £25.
- Other than small items of token value (£25 or less) personal gifts to contractors and/or outside suppliers should never be given or offered. Examples could include Council mouse mats, book marks, pens, mugs etc.
- When offering authorised hospitality, all employees should be particularly sensitive to the timing of possible decisions which the Council may be taking which could affect those accepting the hospitality offered. The extent of the hospitality offered must be reasonable and proportional to the event/activity for which it is being offered. Hospitality should never be offered unless authorised by the Chief Executive, a Director or a Chief Officer.
- The use of Council resources to fund or part fund internal parties e.g. a retirement party for a long serving employee would not be considered a suitable use of Council resources and could lead to disciplinary action against the person who authorised such expenditure. However, specific activities such as the Long Service Award annual event are authorised and approved as an acceptable use of the Council's financial resources.
- Each Director may, however, identify a separate budget (not exceeding £1,000 per annum) from which they may incur expenditure for the holding of functions to promote staff morale and/or to celebrate the securing of an award or achievement by the Council.

### **Offers of and Receiving Hospitality and Gifts**

- Cash, cash vouchers, token and monetary gifts should always, without exception, be refused.

Offers of hospitality should only be accepted if there is a genuine need to impart information or if it is appropriate that the Council should be represented at the function in the interests of working effectively with partner organisations. However, in deciding whether or not to accept any offer of hospitality particular regard should be had to the timing of the functions and to public perception as to whether attendance of the function by a Council officer would be appropriate. Examples and further details are given in the Council's Guidance for Employees and Councillors on travel, subsistence and other expenses and giving or receiving hospitality from external organisations and their representative which is available on BORIS. .

- Attendance must be properly authorised and recorded in the hospitality register for the Department (usually held by the Director's PA).

- Where hospitality has to be declined, this should be done in a courteous, polite and firm manner whilst informing those making the offer of the Council's procedures.
- Other than small items of token value (£25 or less) personal gifts from contractors and outside suppliers must never be accepted. .
- When receiving authorised hospitality, all participants should be particularly sensitive to the timing of possible decisions which the Council may be taking which could affect those providing the hospitality.

Employees, cannot directly or indirectly in connection with their office or employment, personally accept any fee or reward whatsoever other than their proper remuneration. The Council has particular rules in respect of the acceptance of Bequests – a copy of the Policy is available on BORIS.

### **SPONSORSHIP – GIVING AND RECEIVING**

Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

Where the Council wishes to sponsor an event or service, neither an employee nor any partner, relative or close friend must benefit from such sponsorship in a direct way without there being full disclosure to the appropriate manager of any such interest.

Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

### **CONTACT WITH THE MEDIA**

Employees must observe the Council's rules on contact with the media as set out in the section of the Employee Handbook entitled "Press Contacts and Reporting of Council Business". In particular:-

- only those employees who are in the list of officers for press contact held by the Communications Section may give information to or answer questions from the Press
- employees on the authorised list are only permitted to release factual information in reply to questions from journalists. All comments of a political nature are for Councillors only.
- employees should not use the media as a vehicle to promote personal grievances; the Council's proper processes should be used.

### **APPEARANCE**

The appearance which Council employees present to the public, Councillors and to each other is important. Although many styles of dress are acceptable, employees must dress appropriately for their job and give a positive image of the service they provide. Any special clothing or identification provided by the Council should be worn where required.



## **WORKING SAFELY**

The Council is committed to promoting good health, welfare and safe working among its employees. Each employee has a legal obligation to take reasonable care for their own health and safety and for the safety of others who may be affected by his/her acts or omissions. Employees should ensure that they:-

- follow safety policies, instructions, guidance etc
- comply with hygiene requirements
- wear any safety clothing supplied by the Council
- report any accidents or near misses at work
- never risk injury or danger to themselves or others.

## **DRUGS AND ALCOHOL**

Except for medical reasons, employees must not take any substances that may affect their work. Employees must not consume alcohol when they are on duty or whilst wearing Council supplied uniforms which mean they can be clearly identified as a Council employee unless agreed beforehand for a specific occasion by their manager. Employees must ensure that any alcohol which they consume out of working hours (including lunchtime) will neither impair their work nor cause them to conduct themselves so as to damage the good reputation of the Council. Employees and Managers affected by this issue should refer to the Council's Substance Abuse Policy.

## **WORKING TOGETHER**

Employees are expected to show loyalty to the Council and support its managers. A climate of mutual confidence, trust and respect between managers, employees and other partners is critical to achieving the Council's aims and providing high quality services. Within the workplace, employee behaviour should be conducive to a productive and harmonious work environment, with all employees having a right to be treated with courtesy and fairness. Unless there are good reasons why not (e.g. for legal reasons or in accordance with the Whistleblowing Procedure) employees should always first follow recognised internal procedures to resolve problems.

Employees should carry out any reasonable and lawful instructions given by their manager. If an employee disagrees with or wishes to query an instruction the employee should express their concern to, or seek clarification from, the manager who gave the instruction.

Employees should work reliably and diligently. They should complete accurately and honestly any document form or record needed for work.

## **INFORMATION TECHNOLOGY DATA SECURITY AND SOCIAL NETWORKING**

Employees must ensure that they follow the Council's rules and procedures in relation to the use of computers and the proper use and management of data. . The Data Protection Act 1998 requires the Council and its employees to abide by "Data Protection Principles" in the use of data. Further guidance and information is available through the Information Management Hub on BORIS. .

## **PROFESSIONAL CONDUCT**

Staff employed in work in respect of which there is a recognised Code of Professional conduct (e.g. Royal Town Planning Institute) should comply with such Codes irrespective of whether they are members of that professional body.

## **ADVICE AND GUIDANCE FROM THE MONITORING OFFICER AND/OR BOROUGH TREASURER**

If an employee has any doubts as to whether a proposed course of action may involve any illegality then they should consult with and comply with any guidance given by the Monitoring Officer. If an employee has concerns that a proposed course of action may involve misuse of Council monies then they should seek advice from and comply with any guidance given by the Borough Treasurer.

## **REGISTRATION OF PERSONAL INTERESTS - DIRECTORS AND CHIEF OFFICERS**

Within 28 days of this Code coming into effect Directors and Chief Officers must register any interests set out in the categories below. Directors and Chief Officers appointed subsequent to this Code coming into effect are to register any interests set out in the categories below within 28 days of taking up their appointment. The registration must be made in writing and given to the Monitoring Officer.

The registration of interests protects the Directors and Chief Officers by giving early warning of any possible areas of conflict of interest and provides assurance to the public that the senior Officers of the Council are acting transparently. Only registration of a personal interest in areas where there are clear areas of concerns that such an interest could give rise to accusations of partiality in decision making and working practices of the authority are required.

These are:-

- your membership, or position of control on management, in bodies exercising functions of a public nature (that is, carrying out a public service, taking the place of a local or a central governmental body in providing a service, exercising a function delegated by a local authority or exercising a function under legislation or a statutory power).
- any business you might own or have a share in, where that shareholding is greater than £25,000 or have a stake of more than 1/100<sup>th</sup> of the value or share capital of the company
- any contracts between the Council and any company you have an interest in, as above
- any land or property in the Borough in which you have a beneficial interest, other than your sole or main residence

A Director or Chief Officer may seek to exempt their Personal Interest from the Register of Interest if they consider, for instance, that having this information on record and publicly available might put themselves or others at risk. In such cases the Director or Chief Officer should discuss the matter with the Monitoring Officer.

The Register of Interests will be available for public inspection (this includes making the Register of Interests available on the Council's web-site).

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## **SECTION 15 – MEMBER AND OFFICER PROTOCOL**

### **1 INTRODUCTION**

- 1.1 The Council exists to administer local government (together with Parish and Town Councils) in the Borough. Members and Officers have a joint responsibility to ensure that they work collaboratively to ensure an efficient, transparent and democratic Council.
- 1.2 Members and Officers will, from time to time, review the current culture and practices of the Authority, to ensure that we all continue to maintain high standards in our mutual contacts.
- 1.3 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another.
- 1.4 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to those issues will serve as a guide to dealing with other issues.
- 1.5 The Council also has in place additional guidance for Members about their role in relation to specific functions or areas of the Council. Examples of this additional guidance include the Planning Protocol, additional guidance for Members regarding Social Services and Housing and guidance to Members about the Corporate Parenting role. Further guidance and protocols may be adopted by the Council.
- 1.6 This Protocol is supplemental to, but subject to, the Members' Code of Conduct.

### **2 ROLES OF MEMBERS AND OFFICERS**

- 2.1 Members and Officers are servants of the public and they depend upon each other in carrying out the work of the Council. Members are responsible to the electorate and serve so long as their term of office lasts, whilst Officers are responsible to the Council. Officers give advice to the Council (whether in the form of full Council, Committees of the Council, including the Overview and Scrutiny Commission and its Panels, or the Executive) as well as to individual Members, and carry out the Council's work under the direction and control of the Council and its various bodies.
- 2.2 Members undertake many different roles. Broadly, these are:-
  - Politician 

In expressing political values and, in the case of Members belonging to a political group represented on the Council, usually supporting the Policies of the Group to which he or she belongs.

- **Policy and Strategic Direction** They set the policy and direction for the Council; are responsible for ensuring that adequate management arrangements are in place; develop and allocate the Council's physical, financial and human resources and monitor the performance, development, continuity and overall well-being of the Organisation.
- **Ward Members** Subject to constraints arising from the Members' Code of Conduct and the law, Members represent their communities and bring their views into the Council's decision-making process. They deal with individual case work and represent constituents in resolving particular concerns or grievances.
- **Champion** Individual Members may be designated to act as a positive focus for a particular section of the community or range of activities

2.3 Legislation requires the Council to designate some Members with specific responsibilities, these include:-

- **The Mayor** – to act as the Chairman of the Council and to fulfill certain civic functions (see Section 12)
- **The Deputy Mayor** – to act as the Chairman of the Council in the absence of the Mayor
- **The Leader of the Council** – under the system of Executive Arrangements introduced by the Local Government Act 2000 the Leader has the overall responsibility for the Executive and the performance of the Executive functions
- **Deputy Leader of the Council** – under the legislation relating to Executive Arrangements the Council is required to designate an Executive Member to substitute for the Leader in his/her absence.
- **The Lead Member for Children's Services** – to have responsibility at Member levels for the discharge of the Council's functions as local education authority and those Social Services functions which relate to children.

2.4 Officers have the following main roles:-

- managing and providing the Services and Functions for which the Council has given them responsibility. They are accountable for the efficiency and effectiveness of those Services and for proper professional practice in discharging their responsibilities and taking decisions, within agreed policies.
- providing advice to the Council, and to individual Members, in respect of the Services provided
- initiating policy proposals
- implementing agreed Policy

- ensuring that the Council acts lawfully, and in accordance with the principles of sound financial management
- representing the Council on external organisations

2.5 By law, the Council is required to designate Officers with the following responsibilities:-

- **Head of Paid Service** – the Head of the Officer Corps, who has overall responsibility for advising the Council on the matter in which the Council's functions are discharged, and the organisation and proper management of the Council's staff. The Chief Executive is the Head of Paid Service.
- **Monitoring Officer** - The role of the Monitoring Officer is, essentially, to ensure that the Council acts lawfully, to bring any Ombudsman reports with findings of maladministration to the attention of the Council and to discharge certain responsibilities under the statutory framework relating to Member conduct. The Borough Solicitor is the Council's Monitoring Officer.
- **Responsible Financial Officer** – designated as the Section 151 Officer who is responsible for the proper administration of the Council's financial affairs, ensuring that the Council does not incur unlawful expenditure and that the Council's expenditure does not exceed its resources. The Borough Treasurer is the Council's Section 151 Officer
- **Director of Children's Services** – designated as having responsibility for (inter alia) those functions exercisable by the Council in its role as local education authority and for social services functions so far as those functions relate to children.
- **Director of Adult Social Services** – designated as having responsibility for those social services functions so far as those functions relate to adults.
- **Traffic Manager** - to have responsibility for the management of traffic under the Traffic Management Act 2004.
- **Overview and Scrutiny Officer** – the Council is required to designate an officer to provide advice and support to the Overview and Scrutiny Commission and the Overview and Scrutiny Panels.

### 3 RESPECT AND COURTESY

- 3.1 The Council's vision is set out in the Sustainable Community Strategy. For that vision to be realised, Members and Officers must work together in a harmonious relationship based upon mutual respect, courtesy, trust, honesty and understanding of each others roles. This should prevail in all meetings and contacts, whether formal or informal.
- 3.2 Neither Members nor Officers should seek to take unfair advantage of their position in their dealings with each other. Members should be aware that Officers, especially junior Officers, may sometimes be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold official and/or political office.

- 3.3 A Member should not apply pressure on an Officer either to do anything that he or she is unwilling to do or is not empowered to do. If a Member considers that an officer has behaved unreasonably in response to the Member he/she should take the matter up with the officer's Director. Similarly, an Officer must not seek to use influence on an individual Member to make a decision in his or her personal favour. They (Officers) should not raise personal matters to do with their job or make claims or allegations about other employees except through the Council's formal personnel procedures for consultation, grievances, whistle blowing and so on. Officers who wish to pursue issues of this nature must do so through the appropriate procedure.
- 3.4 Close personal familiarity between individual Members and Officers can damage the perception of disinterested mutual respect. It could also, intentionally or unintentionally, lead to the passing of confidential information which should not properly be passed between them, such as personal details. Such familiarity could also cause embarrassment to other Members and/or other Officers and could even give rise to suspicions of favouritism. It should, therefore, be avoided.

#### **4 OFFICER SUPPORT TO THE EXECUTIVE**

- 4.1 It is clearly important that there should be a close working relationship between Executive Members and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers ability to deal impartially with other Members and other Party Groups. Officers must ensure that even if they are predominantly supporting the Executive, their political neutrality is not compromised.
- 4.2 Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration on the Agenda of a forthcoming meeting, it must be recognised that, in some situations, an Officer will be under a professional duty to submit a report. The Chief Executive, Director or other senior Officer will always be responsible for the contents of any report submitted in his or her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. Any issues arising between an Executive Member and a Director in this area should be referred to the Chief Executive for resolution, in conjunction with the Leader of the Council.
- 4.3 Officer advice must be full and impartial and should include all relevant options. It should not seek to second-guess the decisions of Members, for example by excluding presumed unpalatable options. Members are entitled to reject Officer advice and to give effect to their lawful policies even if these are clearly at variance with the views of Officers. Members should be particularly careful if they propose not to follow advice given in a capacity as Monitoring Officer or Section 151 Officer.
- 4.4 Where functions which are the responsibility of the Executive are delegated to Officers or other structures outside the Executive, the Executive will, nevertheless, remain accountable to the Council, particularly through the Overview and Scrutiny Commission and its Panels, for the discharge of those functions. This is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out.
- 4.5 Under Executive arrangements, individual Members of the Executive are allowed to take formal decisions. The Executive, Executive Members and Officers must satisfy themselves that they are clear what exactly they can and cannot do. The Council



has put in place a protocol for Executive decision-making which stipulates that no Executive decision shall be made by a Member without a written report, incorporating advice from the Borough Solicitor and Borough Treasurer, being submitted by the appropriate Director to the Member.

- 4.6 Executive Members should appreciate that the Overview and Scrutiny Commission, or one of its Panels, may require an Officer to attend before them to explain advice which the Officer has given to the Executive (or an individual Executive Member) and/or to give advice to the Overview and Scrutiny Commission or the Panel, as the case may be. Accordingly, Executive Members should not assume that the advice which they receive from Officers will not be disclosed and/or subject to scrutiny.

## **5. OFFICERS SUPPORT FOR THE OVERVIEW AND SCRUTINY COMMISSION AND ITS PANELS**

- 5.1 It is clearly important that there should be a close working relationship between the Chairman and Vice-Chairman of the Overview and Scrutiny Commission and the Chairman and Vice-Chairman of its Panels and those Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other Party Groups. Officers must ensure that even if they are predominately supporting the Overview and Scrutiny Commission and/or its Panels, their political neutrality is not compromised.
- 5.2 It is not the role of the Overview and Scrutiny Commission, or its Panels, to act as a Disciplinary Tribunal in relation to the actions of Members or Officers. Neither is it the role of Officers to become involved in what would amount to disciplinary investigation on behalf of the Commission or a Panel. In relation to staff, such matters must be dealt with under the Council's disciplinary procedures whilst Members are accountable for their behaviour through the Code of Conduct for Members, local protocols and the respective frameworks established to secure compliance.

## **6 OFFICER SUPPORT FOR THE CHAIRMEN AND MEMBERS OF OTHER COMMITTEES**

- 6.1 The Council has a range of Committees which deal with "Non-Executive" matters. The main ones are:-
- the Planning Committee
  - the Licensing and Safety Committee
  - the Employment Committee
- 6.2 Some Officers, as part of their normal duties, will be in regular contact with the Chairman and Members of those Committees. Much of what is said in Section 4 about the relationship between Officers and the Executive will also apply, allowing for the different circumstances, to the relationship between Officers and Chairmen/Vice-Chairmen and Members of Non-Executive Committees.
- 6.3 To summarise, the main principles are:-
- relevant Officers will need to maintain a close working relationship with the Chairmen and Vice-Chairmen concerned

- that relationship must not be such as to call in to question Officers' impartiality
- there should be dialogue between relevant senior Officers and the Chairman
- it is the author's responsibility to ensure that reports include only proper advice and correct information
- Members must not put Officers under pressure to give advice or information in any other way
- Officer advice should be full and impartial
- the decision whether or not a report should be submitted to a Committee is for the Chief Executive, Director or relevant senior Officer

## **7 DELEGATED DECISION-MAKING BY OFFICERS**

- 7.1 The Executive, a Committee of the Executive or an individual Executive Member may decide to delegate a decision to a Director, in consultation with one or more Members. Directors must consider carefully any comments made to them by the Members concerned, but Members must bear in mind that it is the Officer, not the Member, who takes the decision in these circumstances and is responsible for it. It needs to be borne in mind that no Officer can be compelled to take a decision with which he or she does not agree, or which he or she considers to be wrong or inequitable; an Officer must take any such decision in accordance with his or her professional judgment.
- 7.2 If a Non-Executive function is delegated to an Officer, he or she is not obliged to take a decision on the matter; and may refer the matter to the appropriate Committee for a decision. Indeed, a Director should refer the matter to the Committee if they feel that the matter raises some new point of principle which was not contemplated when the delegation was first agreed.

## **8 MEMBERS ACCESS TO DOCUMENTS**

- 8.1 Members' legal rights to inspect Council documents are covered partly by statute and partly by common law. Members, generally, have a statutory right to inspect Agendas, Minutes and Background Papers of the Council, the Executive, Overview and Scrutiny Commission and its Panels and Committees. However, this does not apply to certain items which contain "exempt information", for example because they relate to individual employees, to contractual negotiations or applicants for Council's services. The statutory rights are set out more fully in the Access to Information Procedure Rules in the Council's Constitution.
- 8.2 The common law right is based on the principle that any Member has, on the face of it, a right to inspect Council documents if access to those documents is reasonably necessary to enable the Member properly to perform his or her duties as a Member of the Council. This is often referred to as the "need to know" principle. However, Members do not have a "roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.

8.3 A Member requesting access to documents should direct his or her enquiry to the relevant Director, Assistant Director or Head of Service. Officers will be concerned to furnish a Member with such information, advice and access to documents which he or she requires for the proper performance of his or her duties as a Councillor. There may be occasions, though, when an Officer believes that the Member does not have a right of access to a document and that it would be inappropriate, on that occasion, for the Member to see the document. Examples of when it might be considered inappropriate to disclose a document to a Councillor who does not have a right of access, include sensitive Social Services cases or where there is a special need to secure commercial confidentiality in a proposed transaction. If that were the case, the Officer shall advise the Member that, in the Officer's view, disclosure is neither required, nor appropriate, and the reasons why disclosure would not be appropriate. Any dispute regarding a Member's access to a document should be referred to the Monitoring Officer.

## 9 INFORMATION AND ADVICE TO MEMBERS

9.1 Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, namely in connection with the Member's duties as a Councillor, unless the information is already in the public domain.

9.2 The Code of Conduct for Members provides that Members must not disclose information given to them in confidence by anyone (this includes the Council), or information acquired by the Council which they believe or ought reasonably to be aware, is of a confidential nature except where:-

- the Member has the consent of a person authorised to give it,
- the Member is required by law to disclose,
- 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
- the disclosure is reasonable and in the public interest **and** made in good faith and in compliance with the reasonable requirements of the Council

9.3 In relation to the last stated exception (disclosure thought to be reasonable and in the public interest) disclosure should not be made unless at least two clear working days has elapsed from the Member notifying the Chief Executive or in his/her absence the Deputy Chief Executive in writing (which includes e-mail) that the Member proposes to disclose the information specifying the information proposed to be disclosed. Both Members and officers should be aware that the disclosure of confidential information may constitute a breach of Data Protection legislation; generally, personal information cannot be released without the consent of the person to whom it relates. Improper disclosure of confidential information can put the Member and the Council at legal and financial risk.

9.4 Regular contact between Members and senior Officers is necessary to ensure the efficient working of the Council. In this context it is the responsibility of Directors to identify within their Departments the senior Officers who should have regular contact with Members. This will depend upon the nature of the Service they provide and the nature of the Member contact envisaged. In identifying which Officers will have regular contact with Members, Directors should take into account that, with some

Services, which regularly impact upon Ward interests, it may be appropriate to designate Officers at a relatively less senior level than for other Services. Members should always bring major concerns about issues affecting a Department directly to the attention of the Director concerned.

9.5 In the following circumstances, information or advice provided by an Officer to a Member will be disclosed:-

- if the information or advice relates to a matter in the Forward Plan, to the relevant Executive Member
- if the information or advice relates to a matter to be considered at a Committee, to the Chairman of the Committee (or in his or her absence the Vice Chairman)
- if the information or advice relates to a matter being considered by the Overview and Scrutiny Commission, or one of its Panels, to the Chairman (or in his/her absence the Vice-Chairman) of the Commission or the relevant Panel

## **10 OFFICERS AND POLITICAL GROUPS**

10.1 Officers are politically neutral and must be seen to be so. They serve the whole Council and not a political group. However, it is recognised that, from time to time, there will be occasions, particularly on major policy matters, when it is in the Council's interests that a political group should receive the professional advice of Officers on a specific matter.

10.2 Officers cannot be required to attend party group meetings. Any request for an officer to attend a party group meeting should be directed to the Chief Executive or relevant Director and indicate the subject upon which information and/or advice is to be sought. If the Chief Executive or Director is of the opinion that it would be inappropriate for there to be an Officer in attendance, his or her decision shall be final. If Officer attendance is appropriate, the Chief Executive or Director shall determine which Officers should attend. Normally it would not be appropriate to request any Officer to attend other than the Chief Executive, a Director, Assistant Director or Head of Service.

10.3 If an Officer does attend a political meeting, the following points should be borne in mind:-

- Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. Both Members and Officers should refrain from any conduct which could lead to the political impartiality of Officers being seriously called into question
- political group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions and it is essential that they are not interpreted or acted upon as such
- Officers may, at their discretion, decline to disclose exempt information

- any advice given to a political group will be treated with strict confidentiality by the Officers concerned and will not be accessible to any other political group. It is acknowledged, however, that information upon which any advice is based will, if requested, be available to all political groups
- it must not be assumed by any political group, or Member, that an Officer is supportive of any Policy or Strategy developed because of that Officer's assistance in the formulation of that Policy or Strategy
- Officers must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussion to another political group
- where Officers provide information and advice to a political group meeting in relation to a matter of Council business, it should be understood that the Officers have a duty to provide all necessary information and advice to a relevant decision-making body of the Council whenever the matter in question is considered
- special care needs to be exercised by Officers involved in providing information and advice to political group meetings where there are non-Members of the Council present. Persons who are not elected Members will not be bound by the Code of Conduct for Members, in particular, the provisions relating to the Confidentiality of Information. For this, and other reasons, Officers may not be able to provide the same level of information and advice as they would to a Members only meeting

## **11 PORTFOLIO REVIEW GROUPS**

11.1 The Council has established a number of Portfolio Review Groups to allow Members of the majority group to discuss proposed agenda items for meetings of the Executive and to formulate recommendations to the Executive. The Chief Executive, Directors, the Assistant Chief Executive, the Borough Treasurer, the Borough Solicitor and officers authorised by any of those officers may attend meetings of Portfolio Review Groups. However, as with Group meetings:-

- Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business.
- Portfolio Review Groups have no power to take decisions on behalf of the Council and any recommendations which they formulate are not binding upon the Executive.

Although, it is legitimate for an officer to amend a draft report in light of discussions at a Portfolio Review Group meeting (if the officer considers it appropriate to do so) the report to the Executive and the recommendations therein will remain those which the officer in his/her professional opinion considers appropriate.

11.2 Members who do not belong to the majority group are also entitled to officer advice and to information (subject to the limitations previously set out in this Protocol) in

connection with Executive agenda items. The process by which such advice is secured shall be as agreed between the Member and the Chief Executive/ Director/Assistant Chief Executive, Borough Treasurer or Borough Solicitor.

## **12 CORRESPONDENCE**

- 12.1 Save in exceptional circumstances, all correspondence (letters, faxes or e-mails) on official Council business should be sent out only in the name of the appropriate Officer (exceptions might be, for example, the Leader of the Council raising an issue on behalf of the Council with a Government Minister or special circumstances where it would be appropriate for correspondence setting out the Policy of the Council to be sent in the name of an Executive Member or Committee Chairman). This does not, of course, prevent a Member responding in his or her own name to correspondence addressed to him or her in his or her official capacity (e.g. Executive Member, Chairman of the Committee) or as a Ward Member such as a letter of complaint.
- 12.2 Correspondence which creates obligations, or give instructions on behalf of the Council, should never be sent out under the name of a Member.

## **13 THE MAYOR**

- 13.1 The Mayor presides at meetings of the Council and takes the leading role in the civic life of the Borough, representing the Borough at civic engagements, within and outside Bracknell Forest. The role of Mayor, as the leading resident of the Borough, although largely ceremonial, is important to the public perception of the Authority and enjoys the respect of Bracknell Forest residents. Officers and Members should treat the Mayor with the respect due to his or her office on all occasions when the Mayor is acting in that capacity. Officers and Members must do everything appropriate to ensure that the dignity of the Office is upheld. The Mayor is entitled to receive support and advice from all levels of the Organisation in carrying out his or her Mayoral duties. As a matter of good practice, Members should, when appropriate, advise the Mayor's Office in advance if they propose to attend a function at which they know the Mayor will be present.
- 13.2 The provisions of Paragraph 12.1 above apply in respect of the Deputy Mayor when he or she deputises for the Mayor.

## **14 PUBLIC RELATIONS AND PRESS RELEASES**

- 14.1 The Communications Team within the Chief Executive's Office serves the Council as a whole and must operate within the limits of the Local Government Act 1986, which prohibits the Council from publishing material which appears to be designed to affect public support for a political party. The legislation provides that in determining whether or not the publication of any material is prohibited, regard shall be had to (inter alia):-
- the content and style of the material
  - the time and other circumstances of publication (particular caution is required during an Election period)

- the likely effect on those to whom the material is directed
  - whether the material refers to a political party or to persons and/or points of view associated with a political party
- 14.2 Council press releases are drafted by Officers and will often contain quotations (within the limits of the Local Government Act 1986) from the Leader, the Deputy Leader, Executive Member or Chairman of a Committee whose service is involved as well as from the Mayor or Deputy Mayor about ceremonial events. Such press releases are issued on behalf of the Council and it would not, therefore, be appropriate when repeating quotations from Members to indicate their party political affiliation.
- 14.3 The Member's Code of Conduct stipulates that Members when using or authorising the use by others of the resources of the Council must:-
- (a) act in accordance with the Council's requirements and
  - (b) ensure that such resources are not used improperly for political purposes (including party political purposes). "Resources" includes the time, skills and assistance of anybody employed by the Council. Accordingly, when drafting press releases or any other publication with the assistance of Officer advice, the provisions of the Code of Conduct should be observed. There is, of course, nothing to prevent any Member from communication with the Media in a personal or political capacity using their own resources or those of their political party.

## **15 COUNCIL PROPERTY, SUPPORT SERVICES TO MEMBERS, USE OF PHOTOGRAPHS**

- 15.1 Support Services (such as typing, printing, photocopying and transport) and resources (such as stationery and lap-top computers) can lawfully be provided to Members to assist them in discharging their role as Councillors. However, such services and resources should only be used for Council business and not for personal or political use. In relation to the use of computer and other ICT equipment supplied by the Council, Members should observe the terms of any agreement between the Member and the Council and should also ensure that they comply with all relevant Council policies relating to such equipment. The Information Commissioner has power to impose extremely heavy financial sanctions for breaches of Data Protection legislation and it is therefore particularly important that Members observe Council procedures relating to Information Security. Members have a responsibility to ensure that any such resources made available to them are not used by any other person.
- 15.2 Photographs supplied to Members or taken on behalf of the Council shall not be reproduced (nor permitted to be reproduced) in any form whatsoever or be used in any publication without the express consent, in writing, of the Monitoring Officer.

## **16 INVOLVEMENT OF WARD MEMBERS**

- 16.1 It is important to all Members that they should be kept particularly informed of, and have an input into, matters of Council business which affect their Wards, including the Mayor's official engagements. Therefore, whenever a public meeting is arranged

by the Council to consider an issue local to a Ward, or one or more Wards in a part of the Borough, the Ward Member(s) should normally be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on an issue local to a Ward or particularly affecting a part of the Borough, the appropriate Officers should normally notify the Ward Members of the consultation and request their views on the matter in issue.

## **17 MEMBERS ACTING AS ADVOCATE FOR OR SUPPORTING THIRD PARTIES IN APPEALS AGAINST COUNCIL DECISIONS**

- 17.1 Members have the same rights to represent third parties on appeals against Council decisions or to support third parties in such appeals as any member of the public. However, it is important to ensure that when acting in either role, Members should not seek to take improper advantage of their position as a Member of the Council and that Council Officers are not deterred from defending the Council's decision as vigorously as in any other case. For those reasons, Members should, in such circumstances, be particularly careful:-
- (a) not to disclose any information which they have received from the Council in their capacity as a Member which would not be available to a member of the public
  - (b) not to disclose, or make reference to, briefings on the relevant matter which they have received from Officers (other than in a part of a Committee meeting which the public are not excluded from)
  - (c) to ensure that in the conduct of the appeal they do not seek or appear to seek preferential treatment
  - (d) not to present themselves as representing the views of the Council.
- 17.2 Members acting as an Advocate or as a supporter of an appeal against a Council decision must expect to be treated by Officers in exactly the same way as any other Advocate or supporter

## **18 VISITS TO ESTABLISHMENTS**

- 17.1 In some circumstances, it will be inappropriate for Members to visit an establishment, such as for example, a Social Services care facility, without prior notification being given to a Director, Assistant Director or other designated Officer. Each Department may prepare guidance for Members on when prior notification is required. In the event of the Council giving approval to any such guidance, Members shall abide by the same. Pending the preparation and approval of any guidance, Members should give consideration to whether prior notification is appropriate before visiting an establishment.

## **19 DISPUTES**

- 18.1 With goodwill, respect and integrity on both sides, there ought to be very few occasions when a disagreement between an Officer and a Member cannot be resolved amicably. If there is a serious dispute of substance it should be discussed,



in the first instance, between the Member and the Officer concerned, involving the Officer's Director, if appropriate. If such discussions should not produce an acceptable settlement, reference may be made to the Chief Executive, but this should be seen as a last, rather than a first resort. If the matter cannot be resolved satisfactorily after reference to the Chief Executive, it may be referred to the Monitoring Officer who shall, in consultation with the Chairman of the Standards Committee, determine whether the matter should be brought before the Standards Committee.

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# **PROTOCOL FOR MEMBERS IN DEALING WITH PLANNING MATTERS**

## **1. INTRODUCTION**

- 1.1 One of the key purposes of the planning system is to manage development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that the Council should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting that a decision has been partial, biased or not well founded in any way.
- 1.2 Members role in the Planning process is to make decisions openly, impartially, with sound judgement and for justifiable planning reasons. When planning applications are reported to Committee, the report will contain an Officer recommendation as to whether planning permission should be granted or refused. Members are entitled to bring their own judgment to bear on planning applications and to make a decision contrary to Officer recommendation but it is important that such decisions are taken on sound planning grounds which will withstand scrutiny at a possible appeal (if planning permission is refused) or if the decision is referred to the Local Government Ombudsman.
- 1.3 Members should bear in mind their overriding duty is to the whole community, not just to the people in their Ward and, taking account of the need to make decisions impartially, they should not favour, or appear to favour any persons, business or locality irrespective of other considerations.

## **2. WHEN THE CODE APPLIES**

- 2.1 This Protocol applies to all Member involvement in Planning functions (i.e. whether or not they are Members of the Planning Committee or hold any Executive responsibilities for Planning), including not only consideration and determination of applications for Planning Permission but also Planning enforcement action and the formulation and adoption of Planning policies.

## **3. RELATIONSHIP TO THE MEMBERS' CODE OF CONDUCT: GENERAL**

- 3.1 The rules set out in the Members' Code of Conduct apply equally to Planning matters as it does to other Council functions. This Protocol clarifies and supplements the Members Code of Conduct for the purposes of planning.
- 3.2 A breach of this Protocol may, in some circumstances, constitute a breach of the Members' Code of Conduct. However, in various respects, this Protocol goes beyond the requirements set out in the Code. Although, in some instances, a breach of the Protocol will not constitute a breach of the Code of Conduct the process for dealing with complaints alleging a breach of the Code of Conduct will apply also to complaints alleging a breach of this Protocol. A complaint may be made to the Council's Monitoring Officer who, in consultation with the Chairman of the Standards Committee will determine whether or not there are reasonable grounds for believing

that there has been such a breach and, if so, whether the complaint warrants investigation and reference to the Council's own Standards Committee.

#### **4. DEVELOPMENT PROPOSALS AND MEMBERS' INTERESTS**

- 4.1 If a Member has a Disclosable Pecuniary Interest or an Affected Interest, as defined by the Code of Conduct for Members, in a Planning matter, they should disclose the existence and nature of the interest in any discussions or meeting relating to the matter with officers or other Members.
- 4.2 The Council's Code of Conduct for Members provides that a Member has an Affected Interest in a matter if:-
- (a) a decision in relation to that matter might reasonably be regarded as affecting the financial position of an Affected Person to a greater extent than the majority of other residents in their Ward, or
  - (b) it is an application for a Licence, permission or consent made by an Affected Person or which (to the Member's knowledge) an Affected Person has made objections to the Council.

AND (in relation to both (a) and (b)) a member of the public who knows the relevant facts would reasonably think that the interest is so significant that it would be likely to prejudice the Member's judgement of the public interest.

The following are "Affected Persons":-

- (a) the Member
  - (b) the Member's spouse/partner
  - (c) the Member's parents and grandparents and those of the Member's spouse/partner
  - (d) the Member's children and grandchildren and those of the Member's spouse/partner
  - (e) the Member's employer, business partner or any person whom the Member has undertaken work for in the previous two years, and
  - (f) an employee of the Member
  - (g) a company in which the total nominal value of the securities held by the Member and/or the Member's spouse or partner exceeds £25,000 or more than ten per cent of the issued share capital
  - (h) a person with whom the Member has a close association
- 4.3 Development on a particular site will frequently have a financial impact upon other properties. In determining whether or not a development would have a financial impact upon a property owned by an Affected Person Members should have regard to the following factors in particular:-
- the proximity of the property of the Affected Person to the development site

- the visual impact which the development would have on or from the Affected Person's property
- whether the development would generate significant additional traffic passing or very near to the Affected Person's property

If a Member has any doubt as to whether a development would have a financial impact upon an Affected Person's property they should consult the Borough Solicitor who, jointly with the Director of Corporate Services, will make a determination.

#### 4.4 Where a Member has a Disclosable Pecuniary Interest or an Affected Interest

4.4.1 They should not participate, or give the appearance of trying to participate, in the making of any decision on the matter by the Council

4.4.2 They should not try to represent ward views; they should get another Ward Member to do so instead.

4.4.3 They should not get involved in the processing of the Application (other than as provided for by 4.4.5 below).

4.4.4 They should not seek or accept any preferential treatment, or place themselves in a position that could lead the public to think they are receiving preferential treatment, because of their position as a Councillor.

4.4.5 They should not make representations in connection with the matter except in writing to the Officer having conduct of the matter and/or to another Member appointed to the Planning Committee (or to the relevant Executive Member if the matter in issue is an Executive responsibility). All correspondence should expressly state that the Member has a Disclosable Pecuniary Interest/an Affected Interest and indicate the nature of the interest.

4.4.6 They should withdraw from a meeting of the Council, a Committee, a Sub-Committee, a Joint Committee, the Executive or an Executive Committee prior to the relevant matter being considered after first advising the Democratic Services Officer in attendance at the meeting that they are withdrawing from the meeting as they have a Disclosable Pecuniary Interest or an Affected Interest (as the case may be).

4.5 Members should not act as an Agent for anyone else in pursuing an application for planning consent, enforcement issue or other planning matter.

4.6 Members should inform the Monitoring Officer, in writing, of any application for a planning permission or consent which they intend to seek.

## 5. BIAS

5.1 Case law has established that if a Member participates in consideration of a matter in circumstances where a fair minded and informed observer, having considered the facts, would conclude that there was a real possibility of bias, the decision taken will be unlawful and, if challenged in the courts, will be likely to be quashed.

5.2 The Council's Code of Conduct for Members and Standing Orders require a Member to withdraw from a meeting and to refrain from involvement in decision making where the Member has a Disclosable Pecuniary Interest or an Affected Interest. However,

there may, exceptionally, be other interests which do not fall within the category of either Disclosable Pecuniary Interests or Affected Interests but which may give rise to a real possibility of bias. The test to be applied is that set out in paragraph 5.1 above. If a Member concludes that there is a real possibility of bias they should withdraw from a meeting when the matter is discussed and Members should refrain from any involvement in decision making. In case of doubt or difficulty Members should discuss the matter with the Monitoring Officer.

## **6. PRE-DETERMINATION**

- 6.1 The law also provides that a decision will be unlawful and liable to be quashed if a Member who has pre-determined the issue makes or participates in the making of the decision. Pre-determination means approaching the matter with a closed mind. i.e. that in advance of the meeting the Member has decided which way they will vote/what decision they will make, regardless of the officer advice or what is said by other Members during debate.
- 6.2 Section 25 of the Localism Act has modified the case law on pre-determination by providing that a Member is not to be taken to have had a closed mind when making the decision **just because** they had previously done anything that directly or indirectly indicated what view they would take.
- 6.3 Section 25 does not abolish the rule against pre-determination but it does re-affirm a distinction between pre-disposition and pre-determination. A Member may arrive at a meeting pre-disposed to voting or making a decision in a particular way so long as they have not entirely closed their mind to any alternatives. Members are entitled to express to their constituents their view on a particular application in advance of the meeting so long as they do not bind themselves to vote at the meeting in a particular way.
- 6.4 The law provides that it is lawful for a Party Group Whip to be applied to a Planning matter. In reaching their view as to which way they will vote Members of the Group may have regard to the views of colleagues as expressed through the imposition of the Group Whip but should not abdicate their personal responsibility by considering that they have to blindly follow the Group Whip. The Council in the formulation of this Protocol has determined that Party Group Whips may only be applied in connection with the formulation and adoption of Planning policies, including the formulation and adoption of Development Plan Documents (Local Plans) and Supplementary Planning Documents. Accordingly, it would be a breach of this Protocol if a Group Whip were to be applied in relation to an application for planning permission or a decision on whether or not to take enforcement action.

## **7. DISCUSSIONS WITH CONSTITUENTS**

It is important that Members should be able to receive the views of their constituents. Accordingly, Members may discuss Planning matters with any of their Ward constituents including those constituents who have made or intend to make an application for Planning Permission. For the protection of Members it would be prudent for a Member having any such discussion to make a written note of the meeting. If a Member considers that it would be appropriate to have an officer present when they meet with a constituent they should contact the Head of Development Management to agree the arrangements. If a Member is requested to meet with a constituent to discuss a Planning matter they should make clear that no third party (such as a developer who is not a constituent or a planning agent) can be present. If the constituent advises that they wish a third party to be involved the

Member should advise their constituent that they should use the Pre-Application process as set out in Section 9 below. If in the event a constituent does attend the meeting with a third party the meeting should not proceed further.

- 7.2 In any discussions with constituents (and as provided by Section 9 on Pre-Application discussions and Section 10 on Presentations) Members may indicate their view in relation to the matter but should not commit themselves to voting or determining the matter in a particular way.
- 7.3 In any discussions concerning planning applications (whether with constituents or as provided by Section 9 below) Members should be careful not to convey the impression or to represent that they are doing anything other than expressing their personal views i.e. Members should be careful to avoid giving the impression that they have authority to speak on behalf of the Council.
- 7.4 Members should inform the Monitoring Officer if they feel that they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), whether from a constituent or a third party.

## **8. DISCUSSIONS WITH NON-CONSTITUENTS**

- 8.1 Members should not have discussions with persons (including developers and their planning agent or other representative) who are not constituents of the Ward which they represent save:-
  - (a) as provided by Section 9 below,
  - (b) with constituents of the Ward in which the Member resides,
  - (c) with other Members, or
  - (d) with officers

## **9. PRE-APPLICATION DISCUSSIONS**

- 9.1 The National Planning Policy Framework recognises the value of and encourages Pre-Application discussions between Local Planning Authorities and developers. The NPPF notes that the more issues that can be resolved at pre-application stage, the greater the benefits, and exhorts Local Planning Authorities to encourage developers to take up any pre-application services offered. The appropriate involvement of Members in the Pre-Application process in accordance with the provisions set out below should enhance its value. As a general principle, Members should, where appropriate, seek to encourage promoters of development schemes to engage in the Pre-Application process.
- 9.2 Promoters of development schemes wishing to engage in Pre-Application discussions will be advised that:-
  - (a) if they wish to secure Member input into the Pre-Application discussions they can request that the Ward members attend a meeting with a Planning Officer present. The decision as to whether or not a Ward Member attends such a meeting rests with the Member.
  - (b) although (subject to the Environmental Information Regulations Act and any other relevant legislation) the Council will respect the confidentiality of

information which the scheme promoter makes clear is disclosed in confidence, Members will have access to Council files on Pre-Application discussions.

- 9.3 The Planning section will include new requests for Pre-Application discussions on the weekly list of Planning applications circulated to Members.
- 9.4 If a Member wishes to express their views on a matter the subject of Pre-Application discussions they may set out those views in writing sent to the relevant Planning Officer who will place a copy of the communication from the Member on the Pre-Application file. Members should be aware that such comments may in due course become publically available.
- 9.5 Members should not disclose any confidential information or documents held on Pre-Application files other than to another Member or to an officer of the Council.
- 9.6 The Executive Member with responsibility for Planning, the Chairman and Vice Chairman of the Planning Committee may attend any meeting for Pre-Application discussions.

## **10. PUBLIC EXHIBITIONS AND PRESENTATIONS**

- 10.1 Members may attend exhibitions of development proposals arranged by developers which the general public may attend. There is no need for an officer to be present or to inform the Planning section of a proposed attendance. However, the preceding provisions of this Protocol, notably those relating to Pre-determination and Members not conveying the impression that they have any authority from the Council, apply equally to attendance at exhibitions and presentations as they do to other occasions.
- 10.2 Members should not attend exhibitions arranged by developers on an occasion when the general public are not able to attend.
- 10.3 On occasions developers may in advance of an application being considered by the Planning Committee wish to give a presentation to Members to explain their development proposals and/or to provide an opportunity for Members to raise questions in connection with the proposals. The decision on whether to agree to a request for a presentation rests with the Chief Officer: Planning and Transport following consultation with the Executive Member with responsibility for Planning and the Chairman (or in his/her absence the Vice-Chairman of the Planning Committee). Any such presentation will be open to the public and public notice of the presentation shall be given.
- 10.4 The foregoing provisions shall not preclude Members from attending a closed meeting or presentation by a developer which the Member attends in a non-Planning capacity (for example, in the Council's capacity as a landowner).

## **11. OFFICERS**

- 11.1 Members should not put pressure on Officers to put forward a particular recommendation. (This does not prevent Members from asking questions or submitting views to the Head of Development Management or the Chief Officer: Planning & Transportation, which may be incorporated into any Committee report).
- 11.2 Members should recognise and respect that Officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of



Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, Planning Officers views and opinions will be presented on the basis of their overriding obligation of professional independence, which may, on occasion, be at odds with the views, opinions or decisions of the Committee or its Members. Members should bear in mind that in assessing planning applications and formulating their recommendations officers will, in light of the statutory obligation placed upon the Council to determine applications in accordance with the statutory Development Plan unless other material consideration indicate otherwise, have particular regard to the Council's adopted planning policies.

## **12. DECISION MAKING**

- 12.1 Members should ensure that if they request a proposal to go before the Committee rather than be determined through Officer delegation, that their reasons are recorded and repeated in the report to the Committee.
- 12.2 All reports on Planning applications will contain an officer recommendation. Members are **not** required to consider a motion in the terms of the officer recommendation before any other motion is considered. If prior to a meeting of the Planning Committee a Member forms the view that they are likely to move a Motion contrary to the Officer's recommendation (whether for approval or refusal) they should contact the Case Officer to discuss the Application as soon as reasonably practicable to discuss their reasons for departing from the Officer recommendation. If the Member remains of the view that they wish to move a Motion contrary to the Officer recommendation, they should formulate reasons for refusal or approval (as the case may be) and ensure that a copy is circulated to all Members of the Committee when the item is considered. If a Member decides during the course of debate at the Planning Committee that they wish to move a Motion contrary to the officer recommendation they will still need to formulate reasons for the decision which should be read to the Committee. Officers may assist Members in the formulation of wording for a Motion to be put to the Planning Committee and supporting reasons but should officers do so such assistance should not be understood as constituting support for either the Motion or reasons. The Chairman of the Planning Committee may at his/her discretion request officers to appraise the Committee of their views on the Motion and supporting reasons.
- 12.3 Members should not vote or take part in the meeting's discussion on a proposal unless they have been present to hear the entire debate, including the Officers' introduction to the matter.
- 12.4 If a Member proposes, seconds or supports a decision contrary to Officer recommendation, or the Development Plan, they should clearly identify and understand the planning reasons leading to this conclusion or decision. Those reasons must be given prior to the vote and be recorded. Members should be aware that they may have to justify the resulting decision by giving evidence in the event of any appeal or challenge.

## **13. SITE VISITS**

- 13.1 This section relates to site visits arranged by Officers prior to a meeting of the Planning Committee or made pursuant to a resolution of the Committee; it does not relate to visits made by individual Members (usually Ward Members) to the location of a planning application to assist him/her in formulating his/her views on an application. Individual Members making such visits should not enter on to private

land unless they are authorised to do so by the owner and should bear in mind that no discussions should be held save in accordance with the preceding provisions of this Protocol.

- 13.2 The site inspection should only be treated as an opportunity to seek information and to observe the site.
- 13.3 Through the Officers present at the site meeting, questions should be asked or clarification of matters which are relevant to the site inspection should be sought.
- 13.4 If at all possible, representations from the Applicant (or their Planning agent and/or other representative) or third parties should not be received.
- 13.5 Opinions or views to the Applicant (or their Planning agent and/or other representative) and/or Site Owner should not be expressed.

#### **14. APPEALS**

- 14.1 An applicant applying for planning permission whose application is refused by the Council has a statutory right of appeal. Rights of appeal are also afforded in respect of certain types of other refusals (e.g reserved matters consent, listed buildings consent). Such appeals may be determined by way of written representation, informal hearing or public inquiry. Once an appeal is made, the Council ceases to have jurisdiction in the matter and Members are able to make representations on the matter to the Inspector appointed to determine or hear the appeal. However, a Member with a Disclosable Pecuniary Interest or an Affected Interest in the matter should disclose that fact and the nature of the interest when making representations.
- 14.2 Although a Member when making representations in connection with an appeal may disclose to the Inspector that they are a Member of the Council care should be taken to avoid the impression that the Member is making representations on behalf of the Council or is authorised by the Council to make such representations.
- 14.3 On rare occasions, notably in some cases where Members have refused permission against Officer advice, it may be appropriate for a Member to give evidence on behalf of the Council.

## **SECTION 17 – LEGAL PROCEEDINGS ETC**

### **16.1 Legal Proceedings**

The Borough Solicitor is authorised to institute, define or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council, or in any case where the Borough Solicitor considers that such action is necessary to protect the Council's interest.

### **16.2 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Borough Solicitor, or other person authorised by him or her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

### **16.3 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Borough Solicitor. 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, which in the opinion of the Borough Solicitor should be sealed. The affixing of the Common Seal will be attested by the Borough Solicitor, or some other authorised by him or her, and the Mayor or Deputy Mayor, or in their absence, another Member nominated by either of them.

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## **SECTION 18 - LEADER AND CHIEF EXECUTIVE PROTOCOL**

### **1. The Need for a Protocol**

- 1.1 The CIPFA/Solace publication on 'Good Governance in Local Government' forms the framework for the Council's Code of Governance. It recommends the development of a protocol to ensure that the Leader and Chief Executive (as Head of the Council's Paid Service) negotiate their respective roles early in their relationship and that a shared understanding of roles and objectives is maintained.
- 1.2 The Council acknowledges that a successful working relationship is critical to its success and the achievement of its policies and strategies both in terms of the authority itself and its relationship with partners. Both roles are defined in legislation and in the Council's constitution which should be read in conjunction with this protocol. A mutual understanding of each other's responsibilities, especially as incumbents change, is key to the development of respect, tolerance and a shared appreciation of their respective roles both individually and to set the tone for good Member/officer relationships throughout the authority.

### **2. Shared Values**

- 2.1 The Nolan Committee's Report on Standards of Conduct in Local Government which provides the backdrop for improved standards of conduct in local government saw a need for a written statement or protocol governing relations between Members and officers. The Committee commented in their final report that 'one particular area that gave us cause for concern was the potential for improper behaviour if the normal professional relationship between Members and officers became unsatisfactory by being too comfortable or too combative'. That is especially appropriate in the case of the Leader and Chief Executive.
- 2.2 Member standards of conduct are now governed by the Members Code of Conduct. Employee standards are set by the Employees Code of Conduct contained in the Council's Constitution which, although not based upon a statutory model, reflects the same principles as the Members' code. A protocol on Member/officer relations, again set out in the Council's Constitution, sets out the importance of effective relationships but there is a danger that these will founder if a good example is not set at the highest level by the Leader and Chief Executive.
- 2.3 Mutual respect and trust should be founded on the ten principles of public life which the Leader and Chief Executive have undertaken to uphold. The principles, which apply equally to Members and employees and are reproduced in the preamble to the Members Code of Conduct in the constitution, are
  - Selflessness
  - Honesty and Integrity
  - Objectivity
  - Accountability
  - Openness
  - Personal Judgment
  - Respect for Others
  - Duty to Uphold the Law
  - Stewardship
  - Leadership

- 2.4 The Leader and the Chief Executive subscribe to those general principles and policies which underpin the high standards of behaviour and relationships necessary for the Council to offer effective leadership in the community and fulfil its statutory functions.
- 2.5 All dealings between the Leader and the Chief Executive should be conducted with mutual respect, trust, honesty and courtesy. Neither should place inappropriate pressure on the other and, in their dealings with each other, they should not do anything that brings the Council into disrepute, cause any embarrassment either to themselves or the Council or lead to a breakdown in Member/officer relations.
- 2.6 The roles of each are defined in legislation but it is the sum of the parts that makes the unique partnership that is effective local government. In furtherance of that principle, the Leader and Chief Executive undertake to recognise –
- The need for a close working relationship
  - The requirement for an understanding of each other's roles and responsibilities
  - The desirability of regular liaison through both formal and informal means
  - The importance of effective communication
  - A respect for each other's views, advice, guidance and integrity
  - The need for openness and mutual understanding
  - The desirability of maintaining impartiality and independence of role
  - The need to avoid bias and prejudice
  - The need to demonstrate effective leadership and their responsibility to set an example for others
  - That any tensions that arise in their relationship need to be resolved swiftly and amicably
- 2.7 In addition, they acknowledge –
- The Leader's position as leader of the majority political party group
  - The Chief Executive's wider role to serve the Council and Members as a whole, irrespective of political party.
- 2.8 To assist in that mutual recognition of each other's roles and responsibilities, these are summarised below.

### **3. The Role of the Leader**

- 3.1 The Council has chosen to adopt the Executive Leader and Cabinet model of executive arrangements under the Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007.
- 3.2 Under these arrangements, the Leader is elected by the Council from among its membership. The Leader's primary functions are to –
- Arrange for the discharge of the executive functions of the Council, including the arrangements for executive responsibilities
  - Determine the size and membership of the Executive
  - Act as chairman of meetings of the Cabinet
  - Provide the political leadership of the Council
  - Act as the leader of his (usually the majority) political party group
- 3.3 Through the effective operation of the Executive, the Leader is accountable for –

- Proposing the Council's policy framework and setting priorities and objectives
- Overseeing the implementation of policies and strategies to achieve priorities and objectives
- Proposing the Council's budget to achieve its objectives
- Managing the process for allocating resources to policy priorities
- Ensuring the Council fulfils its statutory duties
- Creating strategic frameworks for effective partnership working
- Publishing a Forward Plan of future Executive decisions
- Making policy decisions in an open and accountable way
- Ensuring continuous improvement in service standards and monitoring performance
- Providing political leadership of the Council
- Communicating and advocating the Council's priorities, objectives and decisions.

3.4 The Leader has no line management responsibilities for Council employees who are responsible to the Council as a whole. Any concerns over the performance of employees either individually or collectively will be referred by the Leader to the Chief Executive to address as he considers appropriate. Matters relating to the appointment, dismissal and disciplinary action in respect of employees is contained in the Officer Employment Procedure Rules set out in the Council's constitution. However the Leader, in conjunction with other leading Members, is responsible for the annual assessment of the Chief Executive's performance.

#### **4 The Role of the Chief Executive**

4.1 The Chief Executive has overall corporate management and strategic responsibility for the Council and its delivery of services . He is responsible for the provision of professional and impartial advice to all aspects of the decision making process and is accountable to the Council for the implementation of strategies, policies and decisions.

4.2 As the Head of the Paid Service of the Council, the Chief Executive has certain defined responsibilities under the Local Government and Housing Act 1989 to report on –

- The coordination of the discharge of the Council's functions
- The level, organisation, grades and management of employees required to discharge those functions.

The Chief Executive also carries the separate appointment of Returning Officer for the purpose of elections to the Council.

4.3 The Chief Executive is accountable to the Council as a whole. His post is politically restricted inasmuch as he is not permitted to be an elected member of another authority. While this does not prevent the Chief Executive from being a member of a political party, it is recognised that this is inadvisable if the Chief Executive is to maintain a politically impartial role in advising the Council. As such, the Chief Executive is required to work effectively with all elected Members within the Cabinet and Scrutiny system of governance and to be able to demonstrate political sensitivity and an ability to interpret political will.

4.4 The Member/officer protocol sets out guidance relating to the attendance of officers at political group meetings. The protocol emphasises that officers are politically

neutral and must be seen to be so but that on occasions it may be appropriate for senior officers (including the Chief Executive) to attend group meetings in order to provide professional (as distinct from political) advice. The guidance in the protocol applies equally to officer attendance at both minority and majority group meetings.

- 4.5 The Chief Executive's performance will be monitored annually by the Leader and other leading Members under the Council's Appraisal Scheme.



## PART 5 - CITIZENS AND THE COUNCIL

### Citizens' Rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution:

- (a) **Voting and Petitions** - Citizens on the electoral roll for Borough have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information** - Citizens have the right to:
  - (i) attend meetings of the Council and its Committees, Sub-Committees and Panels except where confidential or exempt information is likely to be disclosed, and the meeting is, therefore, held in private;
  - (ii) attend meetings of the Executive and Executive Committees when key decisions are being considered, except where confidential or exempt information is likely to be disclosed, and the meeting is, therefore, held in private;
  - (iii) find out from the Forward Plan what "Key Decisions" will be taken by, or on behalf of, the Executive and when;
  - (iv) see reports and background papers, and any records of decisions made by the Council and the Executive;
  - (v) see reports and background papers, and any records of "Key Decisions" made on behalf of the Executive; and
  - (vi) inspect the Council's accounts and make their views known to the External Auditor.
- (c) **Participation** - Citizens have the right to participate in the Council's meetings according to the Council's Scheme for Public Participation and in any meetings of the Council's committees which operate a similar scheme, and to contribute to investigations by Scrutiny bodies, where invited.
- (d) **Complaints** - Citizens have the right to complain to:
  - (i) the Council itself under its Complaints' Scheme;
  - (ii) the Ombudsman, if dissatisfied after using the Council's own Complaints Scheme;
  - (iii) the Standards Board for England about a breach of the Councillor's Code of Conduct.

### Community Representation

Citizens have the right to contact either their local Member or officers of the Council about any matter of concern to them concerning the functions and responsibilities of the Council.

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## **PART 6 – MEMBERS’ ALLOWANCES**

### **Introduction**

By law each Council must have a scheme for the payment of allowances to Councillors. The Scheme must include a “Basic Allowance” payable to each Councillor. The Scheme may also include provision for the payment of additional allowances (“Special Responsibility Allowances”) to Councillors having special responsibilities. A Scheme can only be adopted or amended following the consideration of recommendations from an Independent Remuneration Panel consisting of at least three persons, none of whom is a Member of the Council.

### **The Bracknell Forest Scheme of Members’ Allowances**

The Bracknell Forest Borough Council, in exercise of the powers conferred upon it by the Local Authorities (Members Allowances) (England) Regulations 2003, and having regard to the recommendations of an Independent Remuneration Panel, hereby makes the following Scheme:

1. This Scheme may be cited as the Bracknell Forest Borough Council Members' Allowances Scheme and shall have effect from 1 May 2014 and subsequent years until it is reviewed by the Independent Remuneration Panel and is superseded by a revised Scheme.

2. **In this Scheme:**

"Councillor" means a Member of the Bracknell Forest Borough Council who is a Councillor.

"Year" means the 12 months ending on 31 March.

“Co-opted Member” means a non-Councillor appointed by the Council to serve as a member of a Council Committee or Overview and Scrutiny Committee or Sub Committee.

“Statutory Co-opted Member” means a Co-opted Member appointed by the Council in pursuance of a legislative or regulatory requirement.

3. **Membership of Another Authority**

As required by regulations, where a Councillor is also a member of another authority, that Councillor may not receive allowances from more than one authority in respect of the same duties.

4. **Basic Allowance**

Subject to paragraphs 9 (Civic Dignitaries’ Allowance) and 10 (Dependants’ Carers’ Allowance), for each year the Basic Allowance shall be paid to each Councillor.

This allowance covers broadband provision, in-Borough travel, in-Borough parking, occasional use of taxis and all incidental expenses not otherwise expressly specified in this Scheme.

## **5. Special Responsibility Allowance (SRA)**

- (1) For each year a Special Responsibility Allowance shall be paid to those Councillors who hold the special responsibilities in relation to the Authority that are specified in the Schedule to this Scheme.
- (2) Subject to paragraph 9 (Civic Dignitaries Allowance) and 10 (Dependants' Carers' Allowance), the amount of each such allowance shall be the amount specified against that special responsibility in that Schedule.
- (3) Any Councillor who, by virtue of holding more than one office, would otherwise become eligible to receive more than one Special Responsibility Allowance, shall be entitled to receive the highest Special Responsibility Allowance only.

## **6. Minority Group Leader(s)**

The SRA for a single Minority Group Leader would be as specified in the Schedule to this Scheme. When there are two minority groups, each Leader's SRA would be proportionate to the SRA of a single Minority Group Leader. An Minority Group Leader's SRA would be payable to no more than two minority groups.

## **7. Minority Group Deputy Leader(s)**

The SRA for a single Deputy Leader of a minority group would be as specified in the Schedule to this Scheme. When there are two minority groups, each Deputy Leader's SRA would be proportionate to the SRA of a single Deputy Leader of a minority group.

A Deputy Leader's SRA would only be payable when a group reached seven in number and would be payable to no more than two minority groups.

## **8. Co-optees' Allowance**

For each year the Co-optees' Allowances, as are specified in Schedule 1 of this Scheme, shall be paid to Statutory Co-optees appointed by the Council to serve on Committees of the Council and its Overview and Scrutiny Committees and Sub Committees.

## **9. Civic Dignitaries' Allowances**

The Council is empowered under s3(5) and s 5(4) of the Local Government Act 1972 to pay to the Mayor and Deputy Mayor an allowance which it thinks reasonable for the purposes of meeting the expenses of those offices. This is often known as a 'civic dignitaries' allowance'. It was agreed at Council on 3 December 2003 that the civic dignitaries allowances paid to the Mayor and Deputy Mayor be set at £10,967 and £3,655 respectively, with effect from 21 May 2003 and that these allowances would be indexed from the annual meeting each year, on the same basis as Members' Basic and Special Responsibility Allowances, see paragraph 23 (Annual Adjustments).

The Mayor and Deputy Mayor will receive the Civic Dignitaries Allowance in addition to any Special Responsibility Allowance they are eligible for. These allowances do not fall within the remit of the Independent Remuneration Panel and the level at which they are

set is a matter for the Council to determine. The current allowances are as specified in Schedule 1 of this Scheme.

Therefore both the Mayor and Deputy Mayor receive an allowance which is meant to cover all incidental expenses incurred during the Mayoral year excluding mileage to formal engagement duties both within and outside the Borough but otherwise on the same terms as the Members' Allowances Scheme, as set out in paragraph 13 (Payments).

## **10. Dependants' Carers' Allowance**

### **10.1 Eligibility**

Any Bracknell Forest Borough Councillor with a dependant, who has incurred expenses for the care of that dependant while carrying out any of the approved duties set out in Schedule 2 to this Scheme, is eligible to claim Dependants' Carers' Allowance.

Co-opted Members, statutory or otherwise, are not eligible as they have no express right to claim Dependants' Carers' Allowance under current legislation.

### **10.2 Conditions and amount payable**

Two types of care are recognised within the Scheme: a childcare element and care for dependants on social or medical grounds, for example elderly parents or disabled siblings dependant upon a Member and who are normally resident within the Member's household (see (1) and (2) below).

This allowance does not apply where the babysitter or carer is a member of the Councillor's own household.

The total Dependants' Carers' Allowance claimable is capped at £50 per approved duty and at a maximum of 40 hours within any one week, including travel time up to a maximum of one hour per approved duty. The maximums payable may only be exceeded in exceptional circumstances with the prior agreement of the Head of Democratic and Registration Services, for instance when attending conferences.

Receipts, completed by the carer/babysitter and claimant, must be provided to support any claim and are available from Members Services. The carer or babysitter must be 18 or over.

#### *(1) Childcare*

Allowances are only claimable in respect of children aged 15 or under. The hourly rate payable will be no more than the minimum wage applicable to the age of the carer, or the actual reimbursement of expenses if less. No allowance is claimable for periods whilst children are at school.

(2) *Medical/Social Care*

Any Member wishing to claim under this part of the Scheme will be required to register and complete the appropriate form, available from Member Services. Claims will only be paid in respect of registered dependants.

The hourly rate payable will be no more than the average hourly rate paid to a home help in Bracknell Forest Borough Council's Social Services Department, or actual reimbursement of expenses if less.

**11. Renunciation**

A Councillor or Statutory Co-optee may by notice in writing given to the Head of Democratic and Registration Services elect to forego any part of his or her entitlement to an allowance under this Scheme.

**12. Part-Year Entitlements**

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

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

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

(b) beginning with the day on which an amendment takes effect and ending with the day before that in which the next amendment takes effect, or (if none) within the year

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

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

(4) Where this Scheme is amended as mentioned in sub-paragraph (2) and the term of office of a Councillor does not subsist throughout the period mentioned in sub-paragraph (2)(a), the entitlement of any such Councillor to a Basic Allowance shall be to the payment of such part of the Basic Allowance referable to each such period (ascertained in accordance with that sub-paragraph) as

bears to the whole the same proportion as the number of days during which this term of office as a Councillor subsists bears to the number of days in that period.

- (5) Where a Councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her to a Special Responsibility Allowance, that Councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.
- (6) Where this scheme is amended as mentioned in sub-paragraph (2), and a Councillor has during part, but does not have throughout the whole, of any period mentioned in sub paragraph (2)(a) of that paragraph any such special responsibilities as entitle him or her to a Special Responsibility Allowance, that Councillor's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.

### **13. Payments**

- (1) Subject to sub-paragraph (2), payments in respect of Basic and Special Responsibility Allowance shall be made, in instalments of one-twelfth of the amount specified in this scheme on the last working day of each month.
- (2) Where a payment of one-twelfth of the amount specified in this Scheme in respect of a Basic Allowance or a Special Responsibility Allowance would result in the Councillor receiving more than the amount to which, by virtue of paragraph 12 (Part-Year Entitlements), he or she is entitled, the payment shall be restricted to such amount as will ensure that no more is paid than the amount to which he or she is entitled.
- (3) In an election year payments in respect of Basic Allowances and Special Responsibility Allowances will be made from 1 May of that year and will be adjusted at the end of the Councillor's term of office, or when there is a change to the level of their Special Responsibility Allowance, so that no Councillor will receive more than the amount to which they are entitled over their term of office. In respect of Special Responsibility Allowances, this means that in the final year of a full term of office the payment to each Member in receipt of a Special Responsibility Allowance will be made until the end of April that year to take this into account.
- (4) Payslips detailing payments will be sent out each month.

### **14. Councillors' Pensions**

From 1 April 2014 newly elected Councillors will not have access to the Local Government Pensions Scheme. Access to the Scheme for existing Councillors will be terminated when their term of office ends which will be May 2015 at the latest. The policy set out in Schedule 3 to this Scheme shall apply to Councillor Pensions.

## 15. Travel Allowances

A list of the approved duties for which travel and subsistence allowances can be claimed is attached as Schedule 2 to this Scheme.

Councillors using a private vehicle for Council business, including travelling to and from home for meetings or other duties, must ensure that their vehicle insurance provides cover for such journeys. The Council will not be liable for any claims made against a Councillor in respect of motoring incidents or parking offences.

### (1) *Travel Allowance – approved duties within the Borough*

Councillors must meet the cost of any travel within Borough from their own basic allowance. **There are no exceptions to this rule.**

### (2) *Travel Allowance – approved duties outside the Borough*

Councillors and/or Co-Opted Members are eligible to claim for travel to an approved duty when this is conducted at a venue outside of the Borough. Travel should be undertaken as one continuous journey and start either from the Councillor's home or from, not via, another approved duty in the Borough. All elements of the journey would be eligible for reimbursement including parking and travel within the Borough.

### (3) *Use of car*

If a Councillor or Co-opted Member uses his or her own car to travel to an approved duty outside of the Borough and the mileage rate exceeds the cost of an ordinary class rail fare, the cost of the rail fare only will be reimbursed, unless good reason could be given for necessitating car travel. For instance, if it is significantly quicker to use a car, thus not necessitating the cost of an over night stay or for medical reasons, as set out in paragraph 18 (Exceptions).

If a Councillor or Co-opted Member uses a hire car (other than a taxi) the rate of travel shall not exceed the rate which would have been applicable had the vehicle belonged to the Councillor or Co-opted Member who hired it (see above).

Mileage allowances payable to Councillors or Co-opted Members are the same as those payable to Officer casual users, with the maximum rate for car journeys outside the Borough subject to a maximum of 45p per mile to avoid the need to submit tax returns. The rates are set out at a level to cover fuel consumption, vehicle wear and tear, and to contribute towards maintenance and insurance costs. If a Councillor or Co-opted Member is claiming such allowances, s/he will be asked to provide details of their vehicle to the Head of Democratic and Registration Services and may be required to produce evidence to confirm insurance cover.



(4) *Passenger supplement – approved duties outside the Borough*

Councillors or Co-opted Members shall be eligible to claim a Passenger Supplement Rate at HMRC rates limited to a maximum of 4 passengers, who must be fellow Councillors and/or Officers in Bracknell or from a neighbouring authority.

(5) *Air travel*

The cost of air travel will only be reimbursed:

- If, in the UK the saving in time is so significant as to justify payment of the fare for travel by air
- If, the amount paid is based on the ordinary (economy) fare or any available cheap fare for travel by regular air service
- If, reimbursement does not exceed the rate applicable to travel by an appropriate alternative means of transport, together with an allowance equivalent to the amount of any saving in subsistence allowance resulting from travel by air

Approval to travel by air must be given by the Director of Corporate Services in advance.

(6) *Travel by Train*

Standard Class rail travel should always be used. **There are no exceptions to this rule other than on health grounds as set out in paragraph 18 (Exceptions).**

(7) *Travel by Taxi*

If a Councillor chooses to travel by taxi only the equivalent of the fare for appropriate public transport or the relevant mileage / parking is claimable **unless:**

- no public transport is reasonably available
- luggage or equipment has to be carried
- the claimant has a medical condition or disability which precludes the Councillor from driving or using public transport, as set out in paragraph 18 (Exceptions)
- the claimant can demonstrate that this is cheaper than driving or using public transport

In these cases a claim may be submitted for the actual fare and any reasonable gratuity paid. This means, for example, a Councillor using a taxi on non-urgent business during the day when there is a bus service available or the Councillor

could have driven will only be reimbursed the cost of the bus fare or the mileage/parking.

## 16. Subsistence Allowances and Accommodation

- (1) Councillors and Co-opted Members shall not be entitled to claim subsistence allowances in respect of approved duties within the Borough. **There are no exceptions to this rule.**
- (2) Where Councillors or Co-opted Members attend approved duties outside of the Borough, Councillors shall be reimbursed subsistence at the same rates that are payable for Officers. **There are no exceptions to this rule.**
- (3) Councillors and Co-opted Members are not entitled to claim accommodation in respect of approved duties that take place within less than 50 miles from the Borough (Easthampstead House) unless it would mean that the Councillor would arrive back home after 12.00 midnight.
- (4) Where an approved duty takes place over 50 miles away (Easthampstead House) it only qualifies for overnight accommodation
  - where a Member would otherwise be required to leave home before 7am to attend the approved duty in time **or**
  - is unable to return home before 12.00 midnight
- (5) Where Councillors or Co-opted Members attend approved duties over 50 miles from the Borough (Easthampstead House):
  - wherever possible Member Services will organise meals and accommodation on behalf of the Councillor, in advance
  - where this is not practicable, Councillors shall be reimbursed accommodation costs at the following levels:
    - £ 150 overnight stay in London (subject to the criteria set out in (3) above)
    - £ 95 overnight stay outside London
  - for meals that cannot be pre-booked and paid by the Council and are in excess of current rates payable to officers, Councillors' reasonable costs shall be reimbursed on production of receipts up to a limit of £25 per day.

Discretion to exceed these limits shall only be exercised in relation to conferences/seminars/training events as set out in paragraph 17 (Attending Conferences/Seminars).

## 17. Attending Conferences/Seminars

Members attending conferences or seminars, either on the Council's approved list or where prior approval has been obtained to attend the event under the procedure for attendance at non-approved conferences, may claim travelling allowance in

accordance with paragraph 15 (Travel Allowances) and unless subsistence and accommodation is an integral part of a training or conference package then reimbursement limits will be as per paragraph 16 (Subsistence Allowances and Accommodation).

The accommodation limits referred to in paragraph 16(5) may be exceeded in exceptional circumstances at the discretion of the Head of Democratic and Registration Services, e.g., to enable a Councillor and an Officer attending a conference to stay at the same accommodation, subject to there being sufficient budget provision.

All conference bookings and arrangements for overnight accommodation and travel will be made by Member Services.

The list of approved conferences is attached as Schedule 4 together with the current guidelines for attendance at conferences not on the approved list. If a Member wishes to attend a conference not on the approved list, s/he should contact the Head of Democratic and Registration Services.

Unless otherwise stated the Council will usually send the relevant Executive Member(s) as its representative(s) at approved conferences. However the Leader of the Council may appoint alternative Members if necessary. In order to minimise financial loss to the Council, Group Leaders are required to make substitution arrangements if a nominated Member is unable to attend.

Members should observe the requirement within the Council's Code of Conduct to register in writing, within 28 days, any gift or hospitality received at conferences exceeding £25 in value or declare the combined value of gifts or hospitality (of any value) once it exceeds £25 when received in one year from the same source.

Members will be invited to provide feedback evaluating the effectiveness and value of any conference they attend.

Members attending non-approved conferences and seminars without prior approval will not have their claims for reimbursement of expenses accepted.

## **18. Exceptions**

Exceptions to the out-of-Borough travel and accommodation rules can only be made on health grounds and must be supported by submission of the following evidence:

- a letter from the Councillor's doctor to say they have a disability **or**
- evidence to show that the Councillor is in receipt of one of the following benefits or support
  - Disability Living Allowance (DLA)
  - Access to Work Grant
  - Disabled Students Allowance
  - Support from Social Services
  - Direct Payments from a Council
  - Blue Badge

The Director of Corporate Services will consider how medical needs affect specific aspects of the Scheme rather than the removal of all travel, subsistence and accommodation rules for that individual including whether reasonable alternatives are available. Where an exception has been granted it will be reconsidered on an annual basis by the Director of Corporate Services.

## **19. Provision of Information and Computer Technology (ICT)**

### *(1) Personal Computers (PCs)*

All Members are entitled to receive such computer hardware and software that enables them to perform their duties more effectively, at a level agreed by the Council. The Council will provide helpdesk support during office hours to all Members who have the Council's equipment installed. Members will be required to sign an agreement regarding usage of the equipment.

### *(2) Mobile Phones and Smartphone Devices*

Councillors receive a Basic Allowance to cover costs associated with being a Councillor which includes telephone expenses. However, there are roles that some Councillors undertake such as that of an Executive Member or Chairman of a Committee, that require them to be contactable either via telephone or email to a significantly greater degree than other Councillors. The list of roles that Councillors undertake that will entitle them to a Council device are set out in the Council's Telephony Usage Standards.

Members are required to sign an agreement regarding usage of the equipment and use of these devices will be monitored on a regular basis.

Members will be sent statements periodically in order for them to review their bills and pay for all personal calls; payment to be received within two months of receipt of the bill.

## **20. Education Appeals Panels**

Education Appeals Panel Members can be paid for actual loss of earnings up to the following limits:

- £30.14 for a period not exceeding 4 hours
- £59.10 for a period between 4 and 24 hours

Education Appeal Panel Members may also be compensated for costs for caring for dependants while undertaking appeals and associated training, considered against the same criteria for Members as set out in the Members' Allowance scheme.

## **21. How to claim**

The principle in claiming for reimbursement of expenses incurred is that all claims are readily corroborated against the Council's approved duties and therefore should include

all relevant information to ensure claims can be substantiated, including dates of approved duties, place, purpose etc.

Only claims completed on the Members' Allowances claim forms and supported by valid receipts or proof of expenditure will be accepted (excluding mileage). No reimbursement will be made when valid receipts or proof of expenditure are not submitted as the expense will be categorised as an incidental expense to be covered by the Councillor's basic allowance. **There are no exceptions to this rule.**

The Basic and Special Responsibility Allowances will be paid in twelve monthly instalments for which claims are not required.

Claims should be submitted to Member Services by the last working day of the month and within three calendar months from the date when the approved duty occurred. Claims outside of the three month deadline will be referred to the Head of Democratic and Registration Services. However at the end of the financial year claims will need to be submitted in good time to be processed before the end of the financial year and close of accounts. Claims made at this time of year must be submitted by the date in April specified each year.

No claims relating to a financial year for which the accounts have been closed will be considered except in exceptional circumstances. The Director of Corporate Services will be the arbiter of whether an exception to this deadline can be accepted.

Claims should clearly indicate the duty concerned, including the name of the committee or body attended and in the case of meetings with Officers, the names of the Officers concerned and the place of the meeting. This will avoid any uncertainty about the eligibility of the duty and any consequent delay that might entail in processing claims.

Members are advised to refer to the guidance issued by the Head of Democratic and Registration Services in the completion of their claim form.

When expenses claims relate to an approved duty as the Council's representative on an outside body, and the outside body has established its own expenses scheme, the claim should be submitted to the outside body in the first instance.

## **22. Suspension**

If a Councillor is suspended from acting as a Councillor or as a member of a Committee of the Council after being found in breach of the Code of Conduct then the Standards Committee shall be empowered to suspend in whole or part the allowances payable to that Councillor. This provision shall also apply to travel and subsistence allowances.

## **23. Annual Adjustments**

Members' allowances are indexed as follows:

- (1) *Basic Allowance, SRAs and Co-Optees' Allowances*

No indexation will be applied until the Panel undertakes a further review

(2) *Travel Allowance – Out of Borough Mileage Rates*

Indexed to Officer casual user rates

(3) *Subsistence Allowance – Out of Borough*

Indexed to Officer rates, unless related to actual cost reimbursement

(4) *Overnight Accommodation*

Both London and outside of London maximum rates indexed to the annual local government pay increase as agreed each April (linked to spinal column 49 of the National Joint Council for Local Government Services), to be implemented in that year from the date of the next following Annual Council meeting

(5) *Dependants' Carers' Allowance – Maximum Rates £50 per approved duty:*

Indexed to the annual local government pay increase as agreed each April (linked to spinal column 49 of the National Joint Council for Local Government Services), to be implemented in that year from the date of the next following Annual Council meeting.

## SCHEDULE 1

The following are specified as the special responsibilities in respect of which **Special Responsibility Allowances** are payable, and the amounts of those allowances, excluding the Basic Allowance of £8,687 paid to all Councillors:

These are effective from 1 April 2012,

	£
Leader of the Council	28,954
Deputy Leader of the Council	17,372
Single Leader of Opposition Party	9,651
Deputy Leader of Opposition Party	965
Executive Member with Portfolio:	15,926
Adult Services, Health & Housing (Deputy Leader)	
Children, Young People and Learning	
Council Strategy and Community Cohesion (Chairman of the Executive)	
Economic Development and Regeneration	
Environment	
Culture, Corporate Services & Public Protection	
Planning and Transport	
Transformation and Finance (Vice-Chairman of the Executive)	
Chairman – Overview and Scrutiny Commission	7,239
Chairman – Adult Social Care, Health and Housing Overview & Scrutiny Panel	5,791
Chairman – Children, Young People & Learning Overview & Scrutiny Panel	5,791
Chairman – Environment, Culture and Communities Overview & Scrutiny Panel	5,791
Chairman – Health Overview & Scrutiny Panel	5,791
Commuters' Champion	2,201
Corporate Business Champion	2,201
Older Peoples' Champion	2,201
Small Business Champion	2,201
Voluntary Sector Champion	2,201
Chairman of Employment Committee	2,201
Chairman of Governance & Audit Committee	2,201

Chairman of Licensing & Safety Committee	5,626
Vice Chairman of Licensing & Safety Committee	553
Chairman of Planning Committee	7,239
Vice-Chairman of Planning Committee	723

Note: Only the highest Special Responsibility Allowance may be paid to a Member holding more than one qualifying office – see paragraph 4 (3) of the Scheme.

### **Co-optees' Allowances**

The following are specified as the positions in respect of which **Co-optees' Allowances** are payable, and the amounts of those allowances:

Independent Chairman of Standards Committee	638
Independent Members of Standards Committee and its Sub Committees	291
Diocesan representatives (2) on the Overview and Scrutiny Commission and its Sub groups	291
Parent Governor Representatives (2) on the Overview and Scrutiny Commission and its Sub groups	291

These and all other Co-optees appointed by the Council shall be eligible to claim travel and subsistence allowance for out-of Borough approved duties in accordance with the provisions of the Scheme.

Note: Only the highest Co-optees' Allowance may be paid to a Co-optee holding more than one qualifying office – see paragraph 4 (3) of the Scheme.

### **Civic Dignitaries Allowances**

The following are specified as the positions in respect of which **Civic Dignitaries Allowances** are payable, and the amounts of those allowances:

Mayor	12,703
Deputy Mayor	4,234



## SCHEDULE 2

### Approved Duties for Travel and Subsistence Allowances

#### For Councillors in receipt of a Special Responsibility Allowance:-

- all duties carried out in connection with that responsibility

#### For all Councillors:-

- (i) Attendance at meetings of the Council
- (ii) Attendance as a member or substitute member at meetings of Committees, Sub Committees, advisory panels etc.
- (iii) Attendance at a meeting authorised by the Council, a Committee or the Executive
- (iv) Attendance at a site visit authorised in respect of a forthcoming Committee meeting
- (v) Attendance as the Council's appointed representative at any meeting of an association of which the Council is a member (except where such associations pay the Councillor's expenses)
- (vi) Attendance as the Council's appointed representative at meetings of any external organisation, its Committees or Sub Committees (except where such organisations pay the Councillor's expenses)
- (vii) Carrying out a statutory inspection of premises on behalf of the Council
- (viii) Attendance at a meeting, briefing or event at the invitation of a Director
- (ix) Attendance at an approved conference
- (x) Attendance at seminars or non-approved conferences where prior approval has been obtained to attend in line with the agreed procedure.

The Council **cannot** pay any Councillor's expenses in relation to their attendance at Party Group meetings, single party briefings other than executive briefings with officers, or activities organised by a political party or party group.

The Head of Democratic and Registration Services (tel: 01344 352260) or the Principal Democratic Services Officer (Governance) (tel: 01344 353108) will advise in the event of uncertainty.

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### SCHEDULE 3

#### **Pension Policy Framework for Councillors**

The general framework to be adopted in the case of pensions for Councillors will be as follows:

- (i) To make any ill-health retirement under dispute subject to a second independent medical opinion.
- (ii) Not to reduce or waive Councillor contributions for those with forty or more years' membership.
- (iii) Not to agree to Voluntary Early Retirement for those aged between 50 and 59 years and pay them with immediate benefits.
- (iv) To increase pensionable service at retirement for Councillors with less than five years' service only in very exceptional circumstances.
- (v) Not to add to a Councillor's pensionable service on recruitment.
- (vi) Not to institute a shared cost Additional Voluntary Contribution arrangement.
- (vii) Any proposal involving Councillor early retirement benefits to be subject to Council approval.

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## SCHEDULE 4

### APPROVED CONFERENCES

<u>Conference</u>	<u>Delegate</u>
Centre for Public Scrutiny Annual Conference	Chair of the Overview & Scrutiny Commission
Chartered Institute of Housing South East Region Conference	Relevant Executive Member
CIPFA	Leader or relevant Executive Member
Institute of Licensing Conference	Licensing & Safety Committee Chair
LACORS Environmental Health and Trading Standards Year Ahead Conference	Relevant Executive Member
LGA Annual Conference	Leader, Leader of the Opposition and one other majority group Member
LGA / ADASS – the National Children’s and Adult Services Conference	Executive Members for Adult and Children’s Services and Chairmen of Adult Social Care, Health and Housing and Children, Young People and Learning Overview and Scrutiny Panels
LGA Annual Culture, Tourism and Sport Conference	Relevant Executive Member
LGA Group Improvement and Innovation Conference and Exhibition	Relevant Executive Member
Regional Health & Safety Partnership Conference	Relevant Executive Member
SOCITM annual IT conference	Relevant Executive Member

#### **Guidelines for Attendance at Non-Approved Conferences**

1. Applications to attend a conference not on the approved list should be made to the Head of Democratic and Registration Services.
2. Members should complete a standard proforma which will require the following information:
  - Conference details (i.e. topic, venue, date(s), cost)
  - Reasons for wishing to attend
  - Likely benefits to the authority
  - Whether an officer would be attending
3. Democratic and Registration Services staff will check whether there is sufficient budget provision available before passing the proforma to be countersigned by the Leader of the Council and the Director of Corporate Services. In the case of a request from the Leader of the Council, the proforma will be passed to the Chief Executive to be counter-signed.
4. Where there is no identifiable source of funding the application may still be approved in exceptional circumstances, in particular if the Council would be disadvantaged if a Councillor did not attend.

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## **PART 7 – REVIEW REVISION SUSPENSION INTERPRETATION AND PUBLICATION**

### **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.

### **2. Protocol for Monitoring and Review of the Constitution by the 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, as set out in Article 1. In undertaking this task, the Monitoring Officer may:

1. observe meetings of different parts of the Member and Officer Structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him or her by Members, Officers, the Public and other relevant stakeholders; and
4. compare practices in this Authority with those in other comparable authorities, or national examples of best practice.

### **3. Approval**

Changes to the Constitution will only be approved by the Council after consideration of the proposal by the Monitoring Officer.

### **4. Suspension of the Constitution**

#### **(a) Limit to Suspension**

The Articles of this Constitution may not be suspended. The Procedure Rules, as specified in Part 4 of the Constitution, may be suspended only to the extent permitted within those Rules and the law.

#### **(b) Procedure to Suspend**

A Motion to suspend any 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, as set out in Article 1.

### **5. Interpretation**

The ruling of the Mayor as to the construction or application of this Constitution, or as to any proceedings of the Council, shall not be challenged at any meeting of Council. Such interpretation will have regard to the purposes of this Constitution, as contained in Part 2 of Article 1.

6. **Publication**

- (a) The Chief Executive will give a printed copy of this Constitution to each Member of the Council upon delivery to him or her of that individual's Declaration of Acceptance of Office on the Member first being elected to the Council.
- (b) The Director of Corporate Services will ensure that copies are available for inspection at Council offices, Libraries and other appropriate locations, and can be purchased by Members of the local press and the public on payment of a reasonable fee.
- (c) The Director of Corporate Services will ensure that the Summary of the Constitution is made widely available within the area and is updated as necessary.