

# **ROCHFORD DISTRICT COUNCIL**



## **CONSTITUTION**

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# CONSTITUTION OF THE COUNCIL

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## RECORD OF REVISIONS TO THIS CONSTITUTION

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# **PART 1**

## **SUMMARY AND EXPLANATION**

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## **1. Summary and Explanation**

- 1.1 The Local Government Act 2000 requires the Council to prepare, keep up-to-date and publicise a document known as the Constitution. The Constitution sets out how the Council operates, how decisions are made and the procedures followed to ensure that these are efficient, transparent and accountable to local people. Some processes within the Constitution are required by the law, while others are a matter for the Council to choose.
- 1.2 The Constitution is divided into 15 articles that set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

## **2. What's in the Constitution?**

- 2.1 Article 1 of the Constitution commits the Council to provide clear leadership, involve residents and take decisions and deliver services efficiently and effectively to the community. Articles 2 – 15 explain the rights of residents and how the key parts of the Council operate.

These are: -

- Members of the Council (Article 2)
- Residents and the Council (Article 3)
- The Full Council (Article 4)
- Chairing the Council (Article 5)
- Regulatory and Other Committees (Article 6)
- Joint Arrangements (Article 7)
- Officers (Article 8)
- Decision Making (Article 9)
- Finance, Contracts and Legal Matters (Article 10)
- Review and Revision of the Constitution (Article 11)
- Suspension, Interpretation and Publication of the Constitution (Article 12)

## **3. How the Council Operates**

- 3.1 The Council is composed of 39 Councillors, with one-third elected three years in four. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. On acceptance of elected office, Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties.

## **4. Decision Making**

- 4.1 All Councillors meet together as the Council. Meetings of the Council are open to the public, except where exempt information is being considered. Here Councillors decide the Council's overall policies and set the budget each year.

The Council decides on all major policies affecting the District and the services the Council provides. It also appoints the Leader and Deputy Leader of the Council, sets up Committees and appoints Councillors to sit on those Committees.

4.2 The Council appoints a number of Committees which make recommendations and decisions relating to the specific functions which fall within their remit. The Committees must act within the overall budget and policy framework agreed by the Council.

4.3 Meetings of the Council's Committees are open to the public except where personal or confidential matters are being discussed.

## **5. The Council's Staff**

5.1 The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Member-Officer Protocol has been adopted to help Members and Officers to work effectively together and to create a clear separation of roles and responsibilities.

## **6. Residents' Rights**

6.1 Residents have a number of rights in their dealings with the Council.

6.2 These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes.

6.3 Where members of the public use specific Council services they may have additional contractual rights. These are not covered in this Constitution.

6.4 Residents have the right to: -

- Vote at local elections if they are registered.
- Contact their local Councillor about any matters of concern to them.
- Obtain a copy of the Constitution.
- Attend meetings of the Council and its Committees, except where, for example, personal or confidential matters are being discussed.
- Petition to request a referendum on a Mayoral form of Executive.
- Submit and receive responses to questions on notice at Council and Committee meetings.
- See Council Committee reports and background papers, and any record of decisions made by the Council and Committees.
- Complain to the Council when dissatisfied with a service provided or action taken by the Council or on its behalf by a contractor.
- Complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process.
- Complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- Inspect the Council's accounts and make their views known to the external auditor.



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## **PART 2**

# **ARTICLES OF THE CONSTITUTION**

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# **Article 1 – The Constitution**

## **1.01 Powers of the Council**

This article sets out the fundamental provisions of this Council. It confirms that the Council will exercise all its powers and duties in accordance with the law and the provisions of this Constitution.

## **1.02 The Constitution**

This Constitution, and all its parts, is the Constitution of the Rochford District Council.

## **1.03 Purpose of the Constitution**

The purpose of the Constitution is to:-

1. set out the Council's overall governance arrangements;
2. enable the Council to provide clear leadership to the community in partnership with residents, businesses and other organisations;
3. support the active involvement of residents in the process of local authority decision making;
4. assist Councillors to represent their constituents more effectively;
5. enable decisions to be taken efficiently, effectively and transparently;
6. create a powerful and effective means of holding decision-makers to public account;
7. ensure that no-one will review or scrutinise a decision in which they were directly involved;
8. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
9. provide a means of improving the delivery of services to the community.

## **1.04 Interpretation and Review of the Constitution**

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

The Council may call upon the Monitoring Officer to provide an interpretation of any aspect of the Constitution from time to time.

The Procedural Rules provide mechanisms for interpreting and operating the Constitution. The Chairman of any particular meeting will have the final decision on the correct application of the procedure rules to said meeting, having taken into account relevant advice.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 13.

## Article 2 – Members of the Council

### 2.01 Composition and Eligibility

- (a) **Composition.** The Council will comprise 39 Members, otherwise called Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the district or those living or working there or those that occupy as tenant or own land or property in the district will be eligible to hold the office of Councillor.

### 2.02 Election and Terms of Councillors

**Election and Terms.** The regular election of at least one third of Councillors will generally be held on the first Thursday in May each year (for three out of four years, with the County Council elections being held on the fourth year). The terms of office of Councillors, subject to them making a declaration of office, will start on the fourth day after their election and will finish on the fourth day after the date of the regular election four years later.

### 2.03 Roles and Functions of All Councillors

- (a) **Key Roles.** All Councillors will:-
  - (i) collectively be the ultimate policymakers and carry out a number of strategic and corporate management functions.
  - (ii) contribute to the good governance of the area and actively encourage community participation and residents' involvement in decision-making.
  - (iii) effectively represent the interests of the Council and their ward and of individual constituents as a community leader.
  - (iv) respond to constituents' enquiries and representations, fairly and impartially and assist in the resolutions of concerns and grievances.
  - (v) contribute to the governance and effective management of the Council's business at meetings of the Council and other Committees; and
  - (vi) maintain the highest standards of conduct and ethics.
- (b) **Rights and Duties**
  - (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
  - (ii) Councillors will not make public information that is confidential or exempt without the consent of the Monitoring Officer or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.

- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

#### **2.04 Conduct**

Councillors will maintain the highest standard of conduct and ethics and will all times observe the Codes of Conduct and the Protocols set out in Part 4 and 5 of this Constitution.

#### **2.05 Allowances**

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

#### **2.06 Training**

The Council will ensure that Councillors have the opportunity for adequate training for their roles and duties.

Members are to have received appropriate training in the case of planning and licensing matter which will be refreshed annually, the Standards Sub-Committee (when considering Code of Conduct hearings) and the relevant Committee when determining employment related matters ie senior officer appointments, dismissals and staff appeals.

#### **2.07 Political Groups**

##### **a) Application**

As required by law, the Members of the Council are to be treated as divided into different political groups when there is at least one political group constituted in accordance with paragraph (b) below

##### **b) Constitution**

- (i) A political group shall be treated as constituted when there is delivered to the Head of Paid Service a note in writing which:-

- (a) Is signed by two or more Members of the Council who wish to be treated as a political group; and
- (b) Complies with the provision in paragraph (iii)

- (ii) A political group shall cease to be constituted if the number of persons who are to be treated as Members of that group is less than two

- (iii) A notice under paragraph (i) shall state:-

- (a) That the Members of the Council who have signed it wish to be treated as a political group;
- (b) The name of the group;
- (c) The name of one member of the group who has signed the notice and who is to act as leader

- (iv) A notice under paragraph (i) may specify the name of one other member of the group who has signed the notice and who is authorised to act in the place of the leader of that group

- (v) The Local Government (Committees and Political Groups) Regulations 1990 as amended applied and its provisions are supplemental to the above.

### **Chairman and Vice-Chairman of Committees and Leader and Deputy Leader of the Council**

#### **(a) Chairman and Vice-Chairman of Committees**

The Council shall appoint at each Annual Committee of the Council the Chairman and Vice-Chairman of the Council's Committees.

The role of the Chairman (and in their absence, the Vice-Chairman) is as follows:-

- Ensure effective conduct of committee meetings
- Maintain a good understanding of the nature of the business of the committee and key issues within its remit
- Act as a Council spokesman as appropriate on matters within the committees remit, including responding to questions at Full Council relating to the business and functions of the Committee media enquiries etc
- Maintain good communication with each other to ensure the co-ordination and efficient management of all committee activity
- Represent the Council in connection with matters within the committee's remit for example other local authorities etc and positively promote the Council within the media

The Chairman and Vice-Chairman shall remain in office until the Annual Meeting following their appointment unless they resign, cease to be elected or are removed by a resolution passed by a majority of the Council.

Chairmen of Policy/Service Committees shall assume the role as 'Lead Member' for issues within their committees remit.

#### **(b) Procedure for Appointments**

Appointments to the positions of Chairman and Vice-Chairman of Committees shall be conducted in accordance with Council Procedure Rules in Part 4 of this Constitution

#### **(c) Leader and Deputy Leader of the Council**

A Leader and Deputy Leader of the Council shall be appointed at each Annual Meeting and shall remain in office until the Annual Meeting following their appointment unless they resign, cease to be elected or are removed by a resolution passed by a majority of the Council.



The role of the Leader of the Council is to:-

- Provide a focal point for political leadership and strategic direction for the Council
- Represent the interests of the Council
- Ensure effect decision making including working with all political groups to seek to achieve, where possible, cross part co-operation
- Be the key political contact for outside organisations (including Central Government, Local Authority Associations and Council partners) and internally for the Council's Management Team
- Be the representative for the Council for example, in its dealings with Central Government, other local authorities etc and positively promote the Council within the media
- Promote the long-term financial, business and economic stability of the Council

The Deputy Leader of the Council will assist the Leader generally in the conduct of the role and will assume the full role of the Leader in any circumstances in which the Leader of the Council is unable to act or is unavailable.

## **Article 3 – Residents and The Council**

### **3.01 Residents' Rights**

Residents have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:-

#### **(a) Voting and Petitions**

- (i) People on the Electoral Register for the District have the right to vote in elections in their ward and sign a petition to request a referendum for a change from one form of governance to another. For a petition to be valid to require a referendum, the number of signatures to it must equate to no less than 5% of the electorate of the area. If there is such a referendum, registered electors will have a right to vote.
- (ii) Other petitions  
The Council has adopted a petitions scheme which is set out in Part 5 of this Constitution.

#### **(b) Information.** Residents have the right to:-

- (i) attend meetings of the Council, Committees and Sub-Committees, with the exception of task and finish groups and working groups set up outside of the Committee structure, other than by invitation. However, where confidential or exempt information is likely to be disclosed, the meeting or part of the meeting may be held in private with the press and public excluded.
- (ii) see reports and background papers and any records of decisions made by the Council; and
- (iii) inspect the Council's accounts as published by law and make their views known to the External Auditor.

Further information is detailed in the Access to Information Procedure Rules set out in Part 4 of this Constitution.

#### **(c) Consultation and Participation.**

Article 8 sets out the range of consultation and participation opportunities available to the local community. In summary, the opportunity exists for local people to:-

- (i) Be consulted on proposals for service delivery
- (ii) Contribute to Scrutiny reviews at the appropriate time
- (iii) Ask questions at Council and Committee meetings, as set out in the Council and Committee Procedure Rules
- (iv) Submit a petition, as set out in the Council's Petitions Scheme in Part 5 of the Constitution

(d) **Complaints.** Residents have the right to complain to: -

- (i) the Council itself under its complaints procedure either by submitting a complaint via the Council's website or by completing the Council's complaints form.
- (ii) the Local Government and Social Care Ombudsman after using the Council's own complaints scheme.
- (iii) the Council's Monitoring Officer about an alleged breach of the Councillors' Code of Conduct which sets out the standards of behaviour expected of a Councillor and is contained within Part 5 of this Constitution.

They may also contact their local Councillor or Member of Parliament about any matters of concern to them.

### 3.02 **Residents' Responsibilities**

Residents must not be violent, abusive or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.

## **Article 4 – The Full Council**

### **4.01 Meanings**

#### **(a) Policy Framework.**

The policy framework means the following plans and strategies:-

(i) those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) to be adopted by the Council:-

- Community Safety Partnership Action Plan
- Development Plan documents
- Licensing Authority Policy Statement
- Plans and alterations which together comprise the Development Plan
- Plans or strategies for the control of the Council's borrowing or capital expenditure.
- Plans or strategies or draft plans or strategies of any of the above descriptions which must be submitted to the Secretary of State or a Minister for approval.

(ii) other plans and strategies of a kind recommended by guidance to be adopted by the Council as part of the Policy Framework:-

- Council's Business Plan
- Local Code of Corporate Governance
- Corporate Equality Policy

#### **(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 and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits, but does not include the approval of supplementary estimates, the setting of fees and charges and other minor variations to budget or capital programme, so far as these are delegated to an officer or a Committee.

### **4.02 Functions of the Full Council**

Only the Council will exercise the following functions:-

- (a) adopting and changing the Constitution other than set out in Article 11;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer.
- (d) appointing the Leader and Deputy Leader of the Council.
- (d) removal of the Leader and Deputy Leader of the Council.
- (e) receiving any resignation of the Leader or Deputy Leader of the Council.

- (f) appointing the Chairman of the Council.
- (g) receiving any resignation of the Chairman of the Council.
- (h) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them (except for authorised substitutions to Committees under Rule 2 of the Committee and Sub-committee Procedure Rules in Part 4 of this Constitution);
- (i) appointing representatives to outside bodies unless the appointment has been delegated by the Council.
- (j) adopting an allowances scheme under Article 2.05 (details of which can be found under Part 6 of this Constitution).
- (k) adopting a Members' Code of Conduct.
- (l) changing the name of the district.
- (m) conferring the title of Honorary Alderman.
- (n) approving the appointment or dismissal of Statutory Officers.
- (o) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills; and
- (p) all other matters which by law must be reserved to Council.

**4.03 The Full Council is not required to approve:-**

- (i) amendments or revocations of any plan or strategy necessary to give effect to the requirements of the Secretary of State or Minister made when he was asked to approve it;
- (ii) amendments or revocations to any plan or strategy if the Council has delegated the power to amend or revoke it to a committee or sub-committee or officer, either in this constitution or at the time it approved the plan or strategy.

**4.04 Council Meetings**

There are three types of Council meeting:-

- (a) the Annual Meeting.
- (b) Ordinary Meetings.
- (c) Extraordinary Meetings

All meetings will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.05 **Responsibility for Functions**

The Council will maintain the provisions in Part 3 of this Constitution setting out the responsibilities for the Council's functions including those responsibilities which have been delegated to committees, sub-committees or officers.

4.06 **Setting the budget and approving policy**

The process for setting of the budget and determining policy is set out in the Budget and Policy Framework Procedure Rules in Part 4 of this Constitution.

## **Article 5 – Chairing The Council**

Whilst this constitution refers to the person Chairing the Council as ‘The Chairman’ the person elected to that post may use such other title as fits their personal preference, provided that said title does not misrepresent the role and responsibilities. Examples of suitable alternatives include ‘Chair’, ‘Chairwoman’ or ‘Chairperson’.

### **5.01 Role and Function of the Chairman**

The Chairman of the Council and, in their absence, the Vice-Chairman, will have the following roles and functions:-

#### **Ceremonial Role**

The Chairman acts in a non-political capacity as a symbol of the Authority. On civic and ceremonial occasions, the Chairman represents the district and its inhabitants and fulfils the role of ambassador for the Council in its relationship with society at large.

The role shall include:-

1. To promote public involvement in the Council’s activities
2. To be the conscience of the Council; and
3. To attend such civic and ceremonial functions of the Council as they determine appropriate.

#### **Chairing the Council Meeting**

The Chairman will be elected by the Council annually. The Chairman 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 in an impartial fashion so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community. The ruling of the Chairman as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the aims of this Constitution contained in Article 1.
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community so that its business can be carried out efficiently in accordance with the law and this Constitution with regards to the rights of Councillors and the interests of the community.

## **Article 6 – Regulatory and Other Committees**

### **6.01 Roles and Functions**

#### **1. Committees**

The Council will establish such committees as it requires for efficient and effective decision making and as required by law. Such Committees will include a Policy and Resources Committee

#### **2. Roles and Functions**

The roles and functions of Committees and any Sub-Committees established are set out in Part 3 of this Constitution.

#### **3. Proceedings**

Committees will conduct their proceedings in accordance with the relevant Procedure Rules set out in Part 4 of this Constitution.

#### **4. Membership**

The size, membership and the Chairman and Vice-Chairman of all Committees and Sub-Committees established is set out in Part 7 of this Constitution. All Committees of this Council will be subject to the political balance rules as set out in s.15 of the Local Government and Housing Act 1989.

### **6.02 Sub-Committees**

A committee may appoint a Sub-Committee of its members for a specific function within that Committee's terms of reference. A Sub-committee will be subject to the political balance rules and all usual rules of procedure applicable to an ordinary committee.

### **6.03 Working Groups**

A committee can form a working group to consider a topic informally and at pace. The membership of the working group will be decided by the Committee, which may include non-committee members and people from outside the Council. Working groups will not be subject to the political balance rules nor will substitutions be allowed as continuity of membership is important. Meetings of the working group will not be held in public, and all agendas and minutes will not be publicly available. The working group will report back to the parent committee with its findings.



## **Article 7 – Standards Arrangements**

### **1. Introduction**

- a) Under Section 28(6) and (7) of the Localism Act 2011, the Council must have “arrangements” in place which set how a complaint that an elected or co-opted Member of this Council (or of a Parish/Town Council within its area) has failed to comply with the Councillors’ Code of Conduct can be made, and sets out how the Council will deal with allegations of a failure to comply with the Councillors’ Code of Conduct.
- b) The Council had adopted a Members Code of Conduct and “arrangements” for complaints to be made and investigated which can be found in Part 4 of this Constitution.

### **2. Roles and Functions**

The Audit and Governance Committee will promote and maintain high ethical standards of conduct by Councillors in their public life shall form a Sub-Committee to consider standards complaints referred by the Monitoring Officer. Further details on the role and functions of the Audit and Governance Committee and the role, functions and membership of the Standards Sub-Committee are set out in Part 3 of this Constitution.

### **3. Independent Persons**

- (a) The “arrangements” made under Section 28(6) and (7) of the Localism Act must provide for the Council to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision that the Code of Conduct has been breached, and whose views may be sought by the Council at any other stage in the process, or by a Member (or a Member or co-opted Member of a Parish/Town Council) against whom an allegation has been made.
- (b) The Council shall appoint \* Independent Persons
- (c) The Standards Sub-Committee shall oversee the recruitment of Independent Persons and make recommendations for appointments to the Full Council.

### **4. Proceedings**

The Standards Sub-Committee will conduct its proceedings in accordance with the relevant Committee and Sub-Committee Procedure Rules and the Code of Conduct Complaints Process and Standards Sub-Committee Procedure Rules set out in Part 4 of this Constitution.

## Article 8 – Community Consultation and Participation

1. The Council will promote community consultation and participation through a range of opportunities set out in the table below and has adopted a Consultation and Engagement Policy:

<b><u>Consultation and Participation Opportunity</u></b>	<b><u>Form, Function and Scope</u></b>
Asking Questions	Members of the public can ask a question at meetings of Full Council and other Committees. The arrangements for this is set out in Part 4 of the Consultation
Local Councils	Autonomous local authorities within a set area able to raise funds through the Council Tax to provide local services (ie Town, Parish and Village Councils)
Petitions	The Council has approved and published a Petitions Scheme detailing how it will respond to petitions received from the community which is set out in Part 5 of the Constitution
Surveys and Consultations	Throughout the year a number of surveys and consultations are undertaken to seek residents' views
Participation in Overview and Scrutiny Reviews	Reviews undertaken by the Overview and Scrutiny Task and Finish Groups may include consultation with the local community, where appropriate

## **Article 9 – Joint Arrangements**

### **9.01 Arrangements to Promote Well-Being**

The Council, 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.
- (d) create partnerships and partnership bodies.

Subject in all cases to compliance with any relevant statutory provisions.

### **9.02 Joint Arrangements**

- (a) The Council may establish joint arrangements with one or more Local Authorities to exercise functions in any of the participating Authorities or advise the Council. Such arrangements may involve the appointment of a joint Committee with these other Local Authorities.
- (b) A joint committee is a committee set up with one or more local authorities, or with a combination of one or more local authorities and another body or bodies for purposes in respect of which they are jointly interested.
- (c) The political balance requirements do not apply to such appointments.
- (d) Details of any joint arrangements including any delegations to Joint Committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

### **9.03 Access to information**

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

### **9.04 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 decision whether or not to accept such a delegation from another Local Authority shall be reserved to the Council meeting.

### **9.05 Contracting Out**

The Council 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.

## Article 10 – Officers

### 10.01 Management Structure

- (a) General.

The Full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

- (b) Chief Officers. The Full Council will engage persons for the following posts, who will be designated Chief Officers:-

Post	Designation
Chief Executive	Head of Paid Service
Strategic Director (Deputy Chief Executive)	Monitoring Officer
Director of Resources*	Chief Finance (S.151) Officer

\*or successor in title

Such posts will have the functions described in Article 8.02 – 8.04 below.

- (c) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

### 10.02 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Restrictions on Functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if they are a qualified accountant.

### 10.03 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 widely 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 Chief Finance Officer, the Monitoring Officer will report to the Full Council in relation to executive functions if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the 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 of conduct and make reports and recommendations the Standards Committee.
- (e) **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.
- (f) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.
- (g) **Designation of Deputy.** An officer will be designated by the Monitoring Officer to deputise for them during any absence.

#### 10.04 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision-making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council and the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and

policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.

- (e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

**10.05 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief**

**Finance Officer**

The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**10.06 Conduct**

Officers will comply with the Officers' Code of Conduct and the Member and Officer Protocol set out in Part 5 of this Constitution.

**10.07 Employment**

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

**10.08 Pay Policy Statement**

The Council is required by the Localism Act 2011 to annually approve and publish a pay policy statement that sets out:

- (a) the remuneration of its chief officers
- (b) the remuneration of its lowest paid employees, and
- (c) the relationship between –
  - (i) the remuneration of its chief officers and
  - (ii) the remuneration of its employers who are not chief officers.

# **Article 11 – Decision Making**

## **11.01 Responsibility for Decision-Making**

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

## **11.02 Principles of Decision-Making**

All decisions of the Council will be made in accordance with the following principles:-

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers.
- (c) respect for human rights.
- (d) a presumption in favour of openness.
- (e) clarity of aims and desired outcomes.
- (f) consideration of all options available.
- (g) only relevant matters to be taken into account.
- (h) due weight to be given to all material considerations and
- (i) proper procedures shall be followed.

## **11.03 Type of Decision**

- (a) Decisions Reserved to Council – Decisions relating to the functions listed in Article 4 will be made by the Council and will not be delegated
- (b) Decisions made by committees appointed by the Council – power to make such decisions is delegated by the Council as set out in the terms of reference contained in Part 3 of this Constitution in accordance with Section 101 of the Local Government Act 1972.
- (c) Decisions made by Sub-Committees appointed either by Full Council or the main Committees with power delegated to them to make decisions in accordance with the terms of reference contained in Part 3 of the Constitution.
- (d) Decisions made by officers in accordance with the scheme of delegation contained in Part 3 of the Constitution.

#### **11.04 Decision-Making by the Full Council**

The Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **11.05 Decision Making by Committees and Sub-committees Established by this Council**

Council committees and sub-committees will follow those parts of the committee and sub-committee Procedure Rules set out in Part 4 of this constitution as apply to them.

#### **11.06 Decision Making by Council Bodies Acting as Tribunals**

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



## **Article 12 – Financial, Contracts and Legal Matters**

### **12.01 Financial Management**

The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Part 4 of this Constitution.

### **12.02 Contracts**

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution.

### **12.03 Legal Proceedings**

The Monitoring Officer is authorised to institute, defend 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 Monitoring Officer considers such action is necessary to protect the Council's interests.

### **12.04 Authentication of Documents**

Where any document is necessary for any legal procedure or proceedings on behalf of the Council, it will be signed by the Monitoring Officer or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

Any contract shall be entered into on behalf of the authority and will be in accordance with the Contract Procedure Rules set out in Part 4 of this Constitution.

### **12.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. 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 Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer, or some other person authorised by them.

## **Article 13 – Review and Revision of the Constitution**

### **13.01 Duty to Monitor and Review the Constitution**

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect and will make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1.

In undertaking this task, the Monitoring Officer may:-

- (a) Observe meetings of different parts of the Member and Officer structure
- (b) Undertake an audit trail of a sample of decisions
- (c) Record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders
- (d) Compare practices in the Authority with those in other comparable Authorities, or national examples of best practice

The Chief Finance Officer shall be responsible for keeping under review the Financial Regulations and Contract Procedure Rules set out in the Constitution and shall make any necessary amendments and revisions as are required from time to time. If revisions are made they should be reported to Council for approval.

### **11.02 Changes to the Constitution**

Changes to the constitution shall only be approved at a meeting of the Council after consideration of the proposal by the Audit & Governance committee unless in the reasonable opinion of the Monitoring Officer a change is:-

- (a) a legislative requirement.
- (b) a minor variation which is of a non-substantive nature.
- (c) required to be made to remove any inconsistency or ambiguity; or
- (d) required to be made so as to put into effect any decision of the Council or its committees, in which case the Monitoring Officer may make such a change and publicise such changes on the council's website.

Any such change made by the Monitoring Officer shall come into force with immediate effect but shall be referred to Full Council as soon as is reasonably possible and shall continue to have effect only if Full Council agrees.

Other changes to the constitution shall come into effect at such a date as the Council may stipulate.

The Council should review the constitution at least annually.

## **Article 14 – Interpretation and Publication of the Constitution**

### **14.01 Suspension of the Constitution**

- (a) **Limit to suspension.** The Articles in Part 2 of this Constitution may not be suspended. The Rules in Part 4, except for rules 17.5, 18.2 and 23.1 of the Council Procedure Rules and of the committee and sub-committee Procedure Rules may be suspended to the extent permitted within those Rules and the law. Other parts of the Constitution may be suspended in any lawful manner from time to time.
- (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 are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the constitution set out in Article 1.

### **14.02 Interpretation**

The ruling of the Chairman of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this constitution contained in Article 1.

### **14.03 Publication**

- (a) The Monitoring Officer will give details of the website address for this Constitution to each member of the authority upon delivery to them of that individual's declaration of acceptance of office on the member first being elected to the Council and will provide a hard copy if requested by the elected member.
- (b) The Monitoring Officer 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 Monitoring Officer will ensure that the Constitution is published on the Council's website.
- (d) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

## **PART 3**

# **RESPONSIBILITY OF FUNCTIONS**

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# **RESPONSIBILITY FOR FUNCTIONS**

## **PART A**

### **ALLOCATION OF RESPONSIBILITY FOR FUNCTIONS**

#### **1. INTRODUCTION**

- 1.1 The Full Council is the ultimate decision-making body of Rochford District Council and the principal forum for major political debate. All 39 Councillors who have been elected to represent the district attend the Council meetings. The Full Council will meet at least 6 times per municipal year in addition to the Annual Council Meeting.
- 1.2 The Council decides the overall objectives, major policies and financial strategies of the Council. It also considers recommendations from the Policy, Scrutiny and Regulatory Committees on issues of significance.
- 1.3 In order to operate effectively, the Council delegates powers through the Constitution to Committees and Officers. Part 3 of the constitution sets out the way these functions and powers have been distributed in order that there is clarity as to who may exercise powers or make decisions in the name of the Council.
- 1.4 This Part is divided into three sections dealing with the distribution of functions and exercise of powers by the Full Council (Part A), Committees (Part B) and Officers (Part C).
- 1.5 This Part of this Constitution should be read in conjunction with Articles 4 (The Full Council), 8 (Officers) and 9 (Decision Making).
- 1.6 Part 3 of this constitution shall be interpreted in accordance with the relevant provisions of the Local Government Act 2000 and The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended). In the event of any conflict between this Part and a provision in any piece of legislation, the latter shall prevail.

#### **2. SOLE RESPONSIBILITY OF FULL COUNCIL**

- 2.1 Decisions about the Council's policy framework and budget, and other constitutional matters may only be taken by Full Council. A full list of these matters is contained in Article 4 to this Constitution ('The Full Council'). The exercise of these functions may not be delegated to a committee or officer.
- 2.2 Full Council is also responsible for most regulatory functions and has established regulatory committees (the Development committee and the Licensing & Regulatory Committee) to discharge these functions.

**3. POLICY COMMITTEES**

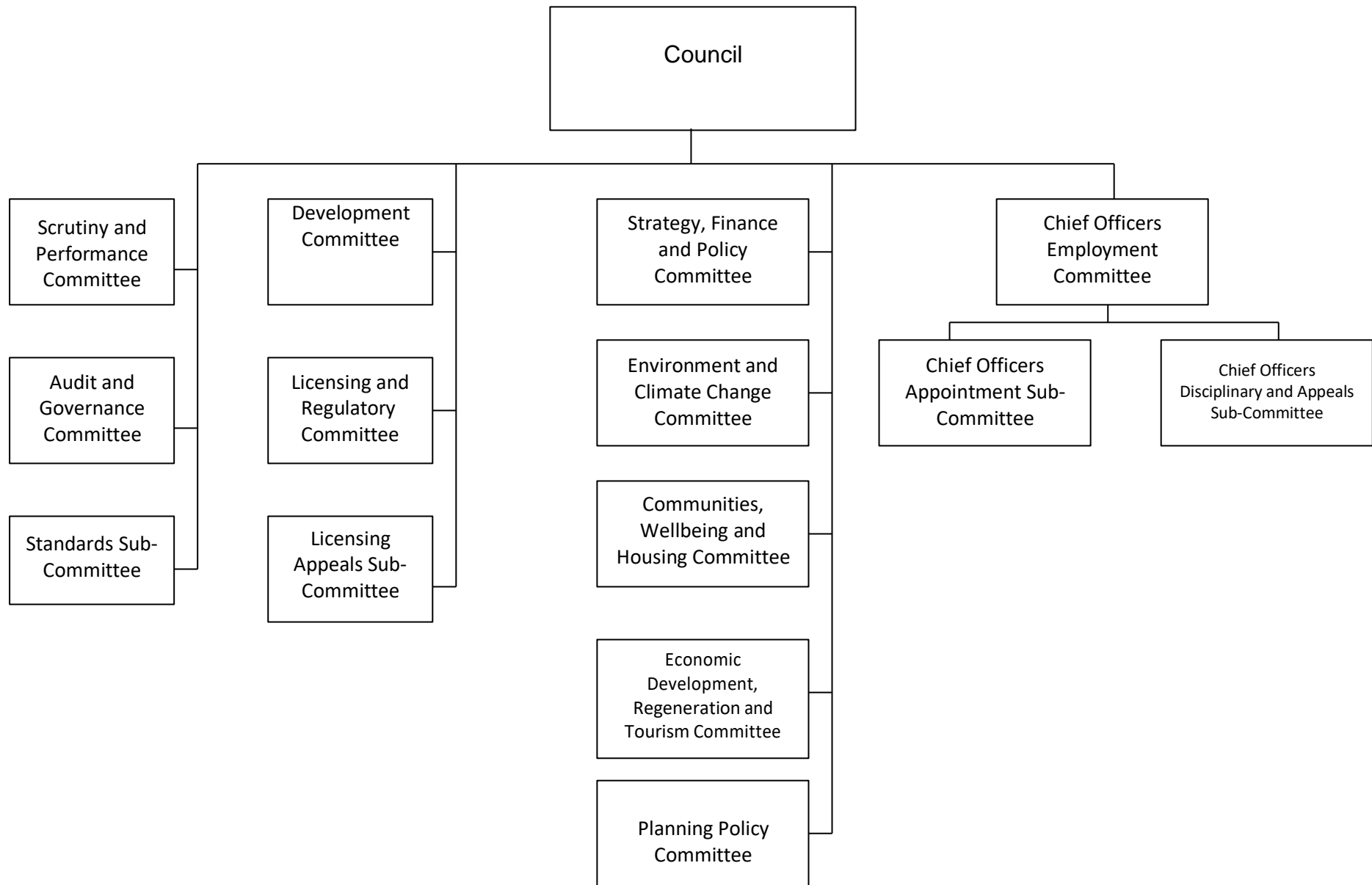
- 3.1 The Council will appoint a number of policy committees whose function is to take decisions in respect of the key priority areas of the Council, wherever those decisions are not reserved to the Full Council.

**4. REGULATORY COMMITTEES**

- 4.1 The Council will appoint regulatory committees to discharge its statutory functions in respect of planning and licensing and gambling regulations.

**5. SCRUTINY COMMITTEES**

- 5.1 The Council will appoint at least one committee to provide a scrutiny function in addition to the Audit Committee.





## **Terms of Reference**

### **AUDIT AND GOVERNANCE COMMITTEE**

**Number of Members:** 9

**Quorum:** 3

**Substitutes:** Any Member from the same political group

**Frequency of Meetings:** 4 meetings per municipal year

---

#### **Main Purpose**

To provide independent assurance of the adequacy of the risk management framework and the associated control environment.

To assess the Authority's financial and non-financial performance to the extent that it affects the Authority's exposure to risk and weakens the control environment.

To oversee the financial reporting process including scrutiny of the treasury management strategy and policies.

To ensure that Members maintain high standards of probity in their public life by forming a sub-committee to consider standards complaints referred by the Monitoring Officer.

To appoint representatives to any outside bodies which fall within the remit of this committee.

#### **Responsibility for Functions**

1. Advise on the adequacy and effectiveness of the Council's corporate governance arrangements and internal control environment.
2. Consider the method of appointment of the Council's External Auditor and make recommendations to Council.
3. Monitor the adequacy and effectiveness of the Council's External Audit service and respond to its findings. Specifically:
  - a. Consider the nature and scope of the External Audit of the Council's services and functions.
  - b. Receive and consider External Audit Reports including the Annual Audit Letter and Governance Report.
  - c. Monitor management's response to the External Auditor's findings and the implementation of External Audit recommendations.

4. Monitor the adequacy and effectiveness of the Internal Audit service. Specifically:
  - a. Approve the terms of reference for Internal Audit.
  - b. To approve the annual Internal Audit Plan and monitor progress against the Plan through receipt of periodic progress reports.
  - c. Receive and consider major Internal Audit findings and recommendations.
  - d. Monitor management's response to Internal Audit findings and the implementation of its recommendations.
  - e. Evaluate the extent to which Internal Audit complies with best practice, is sufficiently resourced and meets agreed performance targets.
5. Monitor the arrangements for the identification, monitoring and control of strategic and operational risk within the Council including approval of the Council's Risk Management Strategy and Risk Appetite Statement.
6. Monitor the adequacy and effectiveness of the arrangements in place for combating fraud and corruption, including scrutiny of the Council's Anti-Fraud Policy.
7. To review and approve the annual Statement of Accounts and the Annual Governance Statement.
8. To be responsible for the formation and recommendation of the Treasury Management Strategy to Full Council and to scrutinise the quarterly Treasury Management Reports.
9. To formulate and keep under review the Employee Code of Conduct to promote high ethical standards amongst officers and to do anything that is calculated to promote and maintain high standards of conduct by Officers.
10. To formulate and keep under review the Council's 'Whistle-blowing' Policy.
11. To consider amendments to the Council's constitution and make such recommendations to amend the constitution to the Full Council as necessary.
12. To develop and agree the annual programme of training and briefings for members.
13. To promote, maintain and assist the achievement of high standards of conduct by Councillors and co-opted members in accordance with the Council's Code of Conduct for Members. Including:
  - a. To monitor the operation of the Code of Conduct for Members and receive regular standards complaints monitoring reports from the Monitoring Officer.
  - b. To advise the Council on any amendment or revision of the Code.

- c. To secure adequate and appropriate training of Councillors and co-opted Members on the Code of Conduct for Members.
  - d. To monitor and review the Member and employee registers of interests and registers of gifts and hospitality.
14. To undertake an annual review of outside bodies to which representatives are appointed and to receive reports on the activity of outside bodies from the appointed Member representatives.

### **Standards Sub-committee**

The Standards Sub-committee will be convened as and when required by the Monitoring Officer to consider standards complaints in line with the Council's Code of Conduct complaints procedure.

The Sub-committee will comprise of 3 Members of the Audit & Governance Committee and must be cross-party.

The primary functions of the Standards Sub-committee are:

- 1. To receive reports referred from the Monitoring Officer following investigations into complaints against District and Parish Councillors.
- 2. To conduct standards hearings and all other steps associated with that function, including taking into account the advice of the Independent Person.
- 3. If the panel determines that a breach of the Council's Code of Conduct has occurred, the panel can impose one or more of the following sanctions, if appropriate:
  - a. Public Censure.
  - b. Report to Council.
  - c. Recommend actions to the Leader or Chairman of the Council.
  - d. Recommend actions to Group Leader.
  - e. Recommend removal from Outside Bodies.
  - f. Requesting the Member to undertake actions deemed appropriate e.g. training, issue of an apology.
- 4. The sub-committee will also act as an interview panel for the recruitment of Independent Persons before recommending appointments to the Full Council.

## **Terms of Reference**

### **CHIEF OFFICERS EMPLOYMENT COMMITTEE**

**Number of Members:** 9

**Quorum:** 3

**Substitutes:** No substitutes are permitted for this committee

**Frequency of Meetings:** As required.

---

#### **Main Purpose**

To be responsible for employment matters pertaining to the Chief Officers of the Council, as defined by this Constitution.

To establish a Chief Officers Appointment Sub-committee for the purposes of conducting interviews and making appointments of the Chief Officers of the Council, except for the Statutory Officers, Strategic Directors and the Chief Executive (if not Head of Paid Service) which will be reserved to the Full Council.

To establish a Chief Officers Disciplinary and Appeals Sub-committee for the purposes of conducting disciplinary hearings for Chief Officers of the Council and agreeing the dismissal of the Chief Officers of the Council, except for the Statutory Officers, Strategic Directors and the Chief Executive (if not Head of Paid Service) which will be reserved to the Full Council

To ensure the effective operation of the Officer Employment Procedure Rules contained in Part 4 of this constitution.

#### **Responsibility for Functions**

##### **Chief Officers Appointment Sub-committee**

The sub-committee will be formed of 3 Members of the Chief Officers Employment Committee on a case-by-case basis. The sub-committee will, in so far as is practicable, reflect the political balance of the Council.

It will be responsible for:

1. Considering applications and conducting interviews for the Chief Officer roles.
2. Making recommendations to the Full Council for the appointment of Statutory Officers and the Strategic Directors.
3. Agreeing the appointment of all other Chief Officers. Interim appointments of Directors, for 12 months or less are delegated to the Head of Paid Service.

### **Chief Officers Disciplinary and Appeals Sub-committee**

The Sub-committee will be formed of 3 Members of the Chief Officers Employment Committee on a case-by-case basis. The Sub-committee will, in so far as is practicable, reflect the political balance of the Council.

A Member will be prevented from sitting on the Disciplinary and Appeals Sub-Committee for any Officer if that Member was part of the Appointment Sub-Committee for that same Officer.

It will be responsible for:

1. Undertaking disciplinary procedures in relation Chief Officers, including having regard to the recommendations of the Independent Person in relation to disciplinary matters involving the Statutory Officers.
2. Agreeing the dismissal of Chief Officers, other than the Statutory Officers.
3. Reporting the outcome of disciplinary processes and making dismissal recommendations to the Full Council in respect of Statutory Officers.
4. To consider grievances, submitted by Chief Officers, at stage 2 of the Council's grievance policy in circumstances where, in the opinion of the Monitoring Officer, following consultation with the Service Manager – People and OD, it would be prejudicial to the fair consideration of the grievance for it to be considered by a Strategic Director or the Chief Executive.

## **Terms of Reference**

### **COMMUNITIES, WELLBEING AND HOUSING COMMITTEE**

**Number of Members:** 11

**Quorum:** 3

Substitutes: Any Member from the same political group

Frequency of Meetings: 4 meetings per municipal year

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#### **Main Purpose**

In respect of the areas listed below:

- Oversee the implementation of policies and strategies set by the Full Council.
- Develop, review and recommend policy to the Full Council.
- Formulate the budget for the committee's areas of responsibility for recommendation to the Full Council.
- Monitor the use of financial and other resources in the delivery of services.
- Monitor progress against delivery objectives and key performance indicators.
- Agree consultation responses to matters within the Committee's remit unless reserved to the Full Council.
- To appoint representatives to any outside bodies which fall within the remit of this committee.
- Responsibility for all decision-making in respect of matters within the Committee's remit unless restricted by other provisions contained within this constitution or by statute.

#### **Responsibility for Functions**

- Housing options and homelessness
- Leisure, Sports & Health Improvement
- Community Safety
- Assets of Community Value

- Environmental Health
- Public Health
- Safeguarding
- Community Grants
- Health and Well
- Tenant Engagement
- Disabled Adaptations Grants
- Youth provision

## **Terms of Reference**

### **DEVELOPMENT COMMITTEE**

**Number of Members:** 13

**Quorum:** 4

**Substitutes:** Any Member from the same political group who has undertaken the necessary training.

**Frequency of Meetings:** Monthly

---

#### **Main Purpose**

To discharge those functions in relation to town and country planning and development control as specified in these terms of reference and Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

To operate within the provisions of the Code of Good Practice for Planning Matters contained within Part 5 of this Constitution.

To appoint representatives to any outside bodies which fall within the remit of this committee.

#### **Responsibility for Functions**

1. To exercise the Council's powers as local planning authority in respect of:
  - a. All aspects of planning and development control referred to Committee for determination which fall outside of the delegated authority to the Chief Planning Officer.
  - b. All aspects of planning and development control where the decision would not be in accordance with the overall policies and procedures approved by the Council.
2. For the purpose of the above all aspects of planning and development control including:
  - a. the consideration, modification and amendment of all aspects of planning obligations under Section 106 of the Town & Country Planning Act 1990 (as amended).
  - b. all aspects of planning enforcement including the enforcement of matters under The Planning (Listed Buildings & Conservation Areas) Act 1990 as amended.



- c. in relation to Planning Policy the consideration of briefs for the development and/or redevelopment of land.
  - d. all aspects of the Planning (Hazardous Substances) Act 1990 including enforcement matters.
  - e. all aspects of Tree Preservation control under the Town & Country Planning Act 1990 (as amended).
  - f. all aspects of the control of advertisements under the Town & Country Planning Act 1990 (as amended).
  - g. the revocation or modification of a planning permission, listed building consent or conservation area consent.
- 3. To consider and determine matters concerning public rights of way.
  - 4. To consider and make Orders under Section 215 of the Town and Country Planning Act 1990 relating to the proper maintenance of land and resolutions to prosecute for non-compliance with an order.
  - 5. To organise site visits in accordance with the planning protocol to aid the thorough consideration of a planning application.
  - 6. To receive notice of the outcome of planning appeals.

## **Terms of Reference**

### **ECONOMIC DEVELOPMENT, REGENERATION AND TOURISM COMMITTEE**

**Number of Members:** 7

**Quorum:** 3

**Substitutes:** Any Member from the same political group

**Frequency of Meetings:** 4 meetings per municipal year

---

#### **Main Purpose**

In respect of the areas listed below:

- Oversee the implementation of policies and strategies set by the Full Council.
- Develop, review and recommend policy to the Full Council.
- Formulate the budget for the committee's areas of responsibility for recommendation to the Full Council.
- Monitor the use of financial and other resources in the delivery of services.
- Monitor progress against delivery objectives and key performance indicators.
- Agree consultation responses to matters within the Committee's remit unless reserved to the Full Council.
- To appoint representatives to any outside bodies which fall within the remit of this committee.
- Responsibility for all decision-making in respect of matters within the Committee's remit unless restricted by other provisions contained within this constitution or by statute.

#### **Responsibility for Functions**

- Tourism
- Public Relations
- Economic Development
- Relationships with Businesses
- Car Parking

- Business Improvement Districts
- Business Rates Relief
- Broadband Infrastructure
- Transport Infrastructure including matters related to Southend Airport
- The Rochford Environmental Business Alliance (REBA)

## **Terms of Reference**

### **ENVIRONMENT AND CLIMATE CHANGE COMMITTEE**

**Number of Members:** 11      **Quorum:** 3

**Substitutes:** Any Member from the same political group

**Frequency of Meetings:** 4 meetings per municipal year

---

#### **Main Purpose**

In respect of the areas listed below:

- Oversee the implementation of policies and strategies set by the Full Council.
- Develop, review and recommend policy to the Full Council.
- Formulate the budget for the committee's areas of responsibility for recommendation to the Full Council.
- Monitor the use of financial and other resources in the delivery of services.
- Monitor progress against delivery objectives and key performance indicators.
- Agree consultation responses to matters within the Committee's remit unless reserved to the Full Council.
- To appoint representatives to any outside bodies which fall within the remit of this committee.
- Responsibility for all decision-making in respect of matters within the Committee's remit unless restricted by other provisions contained within this constitution or by statute.

#### **Responsibility for Functions**

- Sustainability and Climate Change
- Parks and Open Spaces
- Woodlands
- Flood Working Group

- Air Pollution
- Cemeteries
- Waterways
- Waste Management

## **Terms of Reference**

### **LICENSING AND REGULATORY COMMITTEE**

**Number of Members:** 15

**Quorum:** 4

**Substitutes:** Any Member from the same political group who has undertaken the required training.

**Frequency of Meetings:** 2 meetings per municipal year

---

#### **Main Purpose**

To discharge those functions in relation to appeals, licensing and registration and those functions under the Town Police Clauses Act 1847, Local Government Act 1972, Local Government Misc Provisions Act 1977 & 1982, Licensing Act 2003, Gambling Act 2005, Policing and Crime Act 2009, Animal Welfare Act 2006, Zoo Licensing Act 1981, Business and Planning Act 2020, Dangerous Wild Animals Act 1976, Charities Act 2006, Scrap Metal Dealers Act 2013, Hypnotism Act 1952, House to House Collections Act 1939 and all associated or amending legislation as specified in these terms of reference and Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

To appoint representatives to any outside bodies which fall within the remit of this committee.

#### **Responsibility for Functions**

##### **Licensing Functions**

1. To review and make recommendations to Council upon policies in relation to licensing matters under the Licensing Act 2003 and the statement of licensing policy.
2. To discharge the Council's functions as a Licensing Authority under the Licensing Act 2003, with agreed policy.
3. To review and make recommendations to Council upon policies in relation to licensing matters under the Gambling Act 2005 and the statement principles.
4. To discharge the Council's functions as a Licensing Authority under the Gambling Act 2005, within agreed policy.
5. To discharge the Council's functions as a Licensing Authority under the Department of Transport Minimum Standards in relation to Private Hire and Hackney Carriage Policy.

6. To arrange for the discharge of any of the licensing functions exercisable by the Committee to an officer of the Licensing Authority subject to the limitations set out in Section 10(4) of the Licensing Act 2003 and Section 154 of the Gambling Act 2005.
7. To discharge any other Council function which relates to a matter which is a licensing function under the Licensing Act 2003 or the Gambling Act 2005, but which is not a licensing function (i.e. street trading) after consideration of a report from the Licensing Section.

### **Licensing Act 2003**

1. To carry out functions as the Licensing Committee pursuant to the Licensing Act 2003.
2. To advise the Council on its 'Statement of Licensing Policy', related Licensing policies and practices and make recommendations to the Council on their adoption and review.
3. To appoint Sub-committees of three members (to be known as Licensing Sub Committees) and to delegate any of its functions within its terms of reference to the Licensing Sub-committee or officers, subject to the restrictions set out in the Licensing Act 2003.

### **Regulatory Functions**

1. To establish and act through Committees made up of 3 members of the Regulatory Committee (to be known as Regulatory Sub-committees) to determine a range of regulatory and other functions (including Naming of Streets, Trees, Staffing etc).
2. Power to issue licences, certificates or consents including (where legally possible):
  - a. a power to attach conditions to any licence, certificate or consent.
  - b. a power to refuse to grant any licence, certificate or consent.
  - c. a power to set general conditions and regulations with respect to all licences of a certain kind.
  - d. the power to revoke or suspend licences, certificates or consent.
  - e. any function for which the Council may charge and issue any approval or consent that may be needed under the terms of any licence.
3. The Licensing & Regulatory Committee shall decide its own procedures for dealing with applications and disciplinary hearings and in carrying out these functions shall have due regard to any relevant regulations/national guidance. It shall have the power to set enforcement and other licensing or regulatory policies.

### **Hackney Carriage and Private Hire Vehicle Licensing**

1. To determine suspension or revocation (or else no action) of licences for Hackney Carriage vehicles, Hackney Carriage drivers, Private Hire Vehicles, Private Hire Drivers, Private Hire Operators.
2. To determine applications for licences for Hackney Carriage Vehicles; Hackney Carriage Drivers; Private Hire Vehicles; Private Hire Drivers and Private Hire Operators when the Principal Licensing Officer is disposed to recommend suspension or revocation of a licence or refusal to grant or refusal to renew and chooses not to exercise his/her delegated authority but refers the matter to the Licensing & Regulatory Committee for consideration in accordance with a protocol approved by the Licensing & Regulatory Committee.

### **General Matters**

1. Any other appeal arrangements as shall arise under any enactment or government regulation.
2. To determine licences, registrations and consents or to make, revoke or vary closing orders as necessary pursuant to licensing, regulatory, environmental, safety and other statutes (or any subsequent amendment thereto) if the appropriate officer is disposed to recommend revocation, variation, refusal or refusal to renew or does not wish to use his/her delegated authority.

### **Gambling Act Functions**

1. To carry out functions as the Licensing Committee pursuant to the Gambling Act 2005.
2. To advise the Council on its 'Statement of Licensing Principles', related Gambling Act 2005 policies and practices and make recommendations to the Council on their adoption and review.
3. To appoint Sub-committees of three members to be known as the Licensing Sub-committee.
4. To delegate any of its functions within its terms of reference to the Licensing Sub-committee or officers, subject to the restrictions set out in the Gambling Act 2005.



**LICENSINGACT2003:SCHEMEOFDELEGATIONS**

<b>Matter to be dealt with</b>	<b>Sub-committee</b>	<b>Officers</b>
	<i>Where there is an objection, representation or review</i>	<i>No objection or representation</i>
Application for personal licence	<input type="checkbox"/>	<input type="checkbox"/>
Application for personal licence with unspent convictions	<input type="checkbox"/>	
Application for premises licence/club premises certificate	<input type="checkbox"/>	<input type="checkbox"/>
Application for provisional statement	<input type="checkbox"/>	<input type="checkbox"/>
Application to vary premises licence/ club premises certificate	<input type="checkbox"/>	<input type="checkbox"/>
Application to vary a designated premises supervisor	<input type="checkbox"/>	<input type="checkbox"/>
Request to be removed as a designated premises supervisor	<input type="checkbox"/>	<input type="checkbox"/>
Application for transfer of premises licence	<input type="checkbox"/>	<input type="checkbox"/>

Applications for interim authorities	<input type="checkbox"/>	<input type="checkbox"/>
Application to review premises licence / club premises certificate	<input type="checkbox"/>	
Decision on whether a representation is irrelevant, frivolous, vexatious etc	<input type="checkbox"/>	<input type="checkbox"/>
Decision to object when local authority is a consultee and not the relevant authority considering the application	<input type="checkbox"/>	
Determination of a police representation to a temporary event notice	<input type="checkbox"/>	
Determination of minor variation applications for premises licences and club premises certificates	<input type="checkbox"/>	<input type="checkbox"/>
Determination of applications to disapply mandatory conditions at community premises	<input type="checkbox"/>	<input type="checkbox"/>
Licensing Authority role as a responsible authority	<input type="checkbox"/>	<input type="checkbox"/>

# **GAMBLINGACT2005:SCHEMEOFDELEGATIONS**

<b>Matter to be dealt with</b>	<b>Council</b>	<b>Committee</b>	<b>Sub-committee</b>	<b>Officers</b>
			<i>Where there is an objection, representation or review</i>	<i>No objection or representation</i>
Final approval of three-year licensing policy	<input type="checkbox"/>			
Policy not to permit casinos	<input type="checkbox"/>			
Fee setting (when appropriate)		<input type="checkbox"/>		
Application for premises licences			<input type="checkbox"/>	<input type="checkbox"/>
Application for a variation to a licence			<input type="checkbox"/>	<input type="checkbox"/>
Application for a transfer of a licence			<input type="checkbox"/>	<input type="checkbox"/>
Application for a provisional statement			<input type="checkbox"/>	<input type="checkbox"/>

Review of a premises licence			<input type="checkbox"/>	
Application for club gaming/club machine permits			<input type="checkbox"/>	<input type="checkbox"/>
Cancellation of club gaming/club machine permits			<input type="checkbox"/>	
Applications for other permits			<input type="checkbox"/>	<input type="checkbox"/>
Cancellation of licensed premises gaming machine permits			<input type="checkbox"/>	<input type="checkbox"/>
Consideration of temporary use notice			<input type="checkbox"/>	<input type="checkbox"/>
Decision to give a counter notice to a temporary use notice			<input type="checkbox"/>	

## **Terms of Reference**

### **PLANNING POLICY COMMITTEE**

**Number of Members:** 7                      **Quorum:** 3

**Substitutes:** Any Member from the same political group

**Frequency of Meetings:** 4 meetings per municipal year

---

#### **Main Purpose**

In respect of the areas listed below:

- Oversee the implementation of policies and strategies set by the Full Council.
- Develop, review and recommend policy to the Full Council.
- Formulate the budget for the committee's areas of responsibility for recommendation to the Full Council.
- Monitor the use of financial and other resources in the delivery of services.
- Monitor progress against delivery objectives and key performance indicators.
- Agree consultation responses to matters within the Committee's remit unless reserved to the Full Council.
- To appoint representatives to any outside bodies which fall within the remit of this committee.
- Responsibility for all decision-making in respect of matters within the Committee's remit unless restricted by other provisions contained within this constitution or by statute.

#### **Responsibility for Functions**

- Planning Policy
- Infrastructure
- Development and review of the Local Plan (for recommendation to Full Council)

## **Terms of Reference**

### **SCRUTINY AND PERFORMANCE COMMITTEE**

**Number of Members:** 9

**Quorum:** 3

**Substitutes:** Any Member from the same political group.

**Frequency of Meetings:** 6 meetings per municipal year

---

#### **Main Purpose**

To review and/or scrutinise decisions made, or actions taken in connection with the discharge of any of the Council's functions.

To make reports and/or recommendations to the Full Council and/or any Committee in connection with the discharge of any functions.

To consider any matter affecting the area or its inhabitants, including the ability to scrutinise the work of any other public sector body or partner of the Council.

To monitor the Council's performance against agreed indicators.

To appoint representatives to any outside bodies which fall within the remit of this committee.

#### **Responsibility for Functions**

1. Review and/or scrutinise decisions made, or actions taken in connection with the discharge of any of the Council's functions.
2. Make reports and/or evidence-based recommendations to the Council and any committee or joint committee in connection with the discharge of any functions.
3. Consider any matter affecting the area or its inhabitants.
4. Make reports and/or evidence-based recommendations to the Council and/or its committees and/or any joint committee on matters which affect the Council's area or the inhabitants of that area.

5. Policy development and review:

- a. Review existing policy and recommend changes to such policy or the creation of new policy.
- b. Assist the Council in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- c. Conduct research, involve the community and carry out other consultation in the analysis of policy issues and possible options;
- d. Consider and implement ways to encourage and enhance community participation in the development of policy options;
- e. question members of committees and senior officers about their views on issues and proposals affecting the area; and
- f. 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.

In so doing, the Scrutiny and Performance Committee will be able to:

- a. Select significant issues to investigate, which are both strategic and linked to the Council's Corporate Priorities.
- b. Undertake pre-investigation project planning: drawing up terms of reference, plan for research methods to be used, timescales, officer support and reporting mechanisms.
- c. Involve partners, the public and outside experts: this can take the form of presenting orally or in writing evidence around the topic under investigation.
- d. Report findings and make evidence-based recommendations to the appropriate committee.
- e. Follow up on action agreed to ensure that Scrutiny and Performance committee decisions have been implemented.

The focus of a policy development and review exercise could be on:

- a. Whether the intended policy outcomes have been achieved.
- b. Whether services have been taken up by the intended client group.
- c. Processes used in service delivery.

- d. Assessing whether service provision is addressing the needs of the community.
- e. How satisfied customers are with current service provision.
- f. Whether resources are allocated effectively for the service.

The policy development and review function could be discharged in a number of ways including:

- a. Meetings of the relevant whole Scrutiny and Performance Committee.
- b. Task and Finish Review Groups comprised of a selection of Scrutiny and Performance Committee Members, as well as potentially other co-opted Members (e.g. external experts) and members of the community

6. Scrutiny:

- a. review and scrutinise the performance of committees and Council officers and decisions made both in relation to individual decisions and over time.
- b. review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.
- c. question members of committees and senior 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 when necessary.
- d. exercises the right to call-in, for re-consideration, decisions made but not yet implemented by any committee, where appropriate.
- e. makes evidence-based recommendations to the appropriate committee and/or Council arising from the outcome of the scrutiny process;
- f. review and scrutinise, with or without others, the performance and activities of other public bodies in the area on any relevant, general or specific issue.
- g. question and gather evidence from any person (with their consent) when necessary; and
- h. exercise overall responsibility for the work programme of the officers employed to support their work.

7. Responsibility for monitoring the performance of any partnership arrangement.

8. Ability to undertake joint scrutiny activity with Brentwood Borough Council for any matters of common interest to the strategic partnership.



9. To formulate and keep under review the Council's arrangements for handling complaints and investigations by the Local Government Ombudsman.
10. The Scrutiny and Performance Committee shall report annually to Council on its workings and make evidence-based recommendations for future work programmes and amended working methods if appropriate.

## **Terms of Reference**

### **STRATEGY, FINANCE AND POLICY COMMITTEE**

**Number of Members:** 13

**Quorum:** 4

**Substitutes:** Any Member from the same political group

**Frequency of Meetings:** 4 meetings per municipal year

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#### **Main Purpose**

In respect of the areas listed below:

- Oversee the implementation of policies and strategies set by the Full Council.
- Develop, review and recommend policy to the Full Council.
- Formulate the budget for the committee's areas of responsibility for recommendation to the Full Council.
- Monitor the use of financial and other resources in the delivery of services.
- Monitor progress against delivery objectives and key performance indicators.
- Agree consultation responses to matters within the Committee's remit unless reserved to the Full Council.
- To appoint representatives to any outside bodies which fall within the remit of this committee.
- Responsibility for all decision-making in respect of matters within the Committee's remit unless restricted by other provisions contained within this constitution or by statute.

#### **Responsibility for Functions**

- Corporate Strategy / Business Plan (for recommendation to Full Council)
- Budget and Medium-Term Financial Strategy (for recommendation to Full Council)
- Council Assets
- Information Technology

- Customer Services
- HR
- Finance
- Democratic Services
- External Grant Funding
- Partnerships
- Transformation / Change
- Programme and Project Management

## **PART C - DELEGATIONS TO OFFICERS**

### **1. INTRODUCTION**

- 1.1 The Scheme of Delegation to Officers set out below has been approved and adopted by the Council for the purposes of Section 101 of the Local Government Act 1972.
- 1.2 The following powers and duties are delegated to the officers named in this Scheme of Delegation within the normal constraints of Council policy but in the event of those officers being unavailable or unable to exercise the functions referred to, the following officers are authorised to act in their stead:

For the Chief Executive, the designated Deputy Chief Executive

For a Strategic Director, the relevant Director

For the Section 151 Officer, the Deputy Section 151 Officer

For the Monitoring Officer, the Deputy Monitoring Officer.

Any officer referred to by their title/post throughout this Constitution will automatically succeed their predecessor in title/post.

### **2. GENERAL PROVISIONS**

- 2.1 Any delegation to an officer which authorises the incurring of any capital or revenue expenditure will be subject to there being sufficient budgetary provision to cover that expenditure.
- 2.2 Any delegation to an officer to take action under a statutory provision shall be deemed to authorise action under any amendment or statutory re-enactment of that provision.
- 2.3 Any delegation to an officer shall require that delegation to be exercised in compliance with the Council's Procedure Rules, Financial Regulations and Contract Standing Orders, Human Resources Policies and any other policies or conditions imposed either by the Council or as required by this Constitution or by statute and any Code of Practice relating to specific functions which may be adopted.
- 2.4 Prior to exercising any delegation that consultation shall be carried out where required by law or by any other part of the Constitution.
- 2.5 Where delegated powers or proper officer functions have been granted to a post on the Council's staff and the designation of such post is changed then such delegated powers or proper officer functions shall vest in the post holder of the new post designation.

2.6 In addition to the constraints referred to in the Scheme of Delegations there are exceptions to officers' delegated powers. There is no delegation to officers of:

(a) matters specifically reserved to Council or a Committee and;

(b) any matter which by law may not be delegated to an officer.

### **3. GENERAL DELEGATIONS**

3.1 To the Chief Executive, Strategic Directors and Directors (together referred to as the "Chief Officers").

3.2 Any officer referred to by their title/post throughout this Constitution will automatically succeed their predecessor in title/post.

3.3 Each Chief Officer is authorised to act on behalf of the Council in relation to any matters (including spending decisions) within the service areas for which they are responsible, subject to any limitations imposed by any provision in law or within this Constitution. The Head of Paid Service will publish a [structure chart](#) detailing the broad areas of responsibility for each of the Chief Officers.

### **4. CONFLICTS OF INTEREST**

4.1 Every officer is responsible for identifying whether they have any conflict of interest in any matter which is under consideration, actual or perceived, within the Authority, and for notifying the Authority (including under section 117 of the Local Government Act 1972).

4.2 Where an officer has a conflict of interest in any matter, they shall not participate in that matter in their capacity as an officer except with the prior approval of their line manager, the Monitoring Officer or the Chief Executive.

4.3 Where the Chief Executive is unable to act on a matter because of a conflict of interest, the matter shall be discharged by the designated Deputy Chief Executive. Where the Monitoring Officer is unable to act the matter shall be discharged by the Deputy Monitoring Officer.

4.4 Where a Strategic Director is unable to act on a matter because of a conflict of interest, the Chief Executive shall discharge the matter themselves or allocate the matter to another officer.

4.5 Where the Monitoring Officer is unable to act on a matter in their statutory capacity under section 5 of the Local Government and Housing Act 1989, the matter shall be discharged by the Deputy Monitoring Officer.

- 4.6 Where the Monitoring Officer is unable to act on a matter in relation to Councillor conduct, the matter shall be discharged by the person appointed by the Monitoring Officer for this purpose under section 82A of the Local Government Act 2000.
- 4.7 Where any other officer is unable to act on a matter, that matter shall be discharged by that officer's line manager, or another officer assigned by the Chief Executive.

## **5. RESPONSIBILITIES OF STATUTORY OFFICERS**

- 5.1 The functions and responsibilities of the Statutory Officers are given below.

The Section 151 Officer and the Monitoring Officer may appoint a deputy (or deputies) as they deem appropriate.

<b>Post</b>	<b>Function and areas of responsibility</b>
Chief Executive/Head of Paid Service	Overall corporate management and operational responsibility (including management responsibility for all officers and staffing matters).  Returning Officer for Local Elections and  Electoral Registration Officer
Section 151 Officer	Principal adviser to the Council on financial matters. Responsible for the overall management of the Council's financial affairs including Internal Audit.
Monitoring Officer	Responsible for ensuring that the Council acts in a lawful manner and that it does not do anything which might cause maladministration or injustice.

## **6. DELEGATION MATTERS SUBJECT TO CONSULTATION WITH CHAIRMAN (OR VICE-CHAIRMAN IN ABSENCE) OF APPROPRIATE COMMITTEE** **Power to act out of Council meeting – General Power**

- 6.1 Where, in their opinion, by reason of limitation of time, or urgency a decision is required on any matter, (other than those specifically excluded from delegation) the Chief Executive shall have power to make a decision on that matter subject to consultation with the Chairman of the appropriate Committee and the S.151 Officer on the action to be taken by the Chief Executive.

6.2 This power shall not apply to:-

- a) Matters reserved to the Council by statute or common law without power of delegation to a committee.
- b) The setting of Council taxes.
- c) Incurring of expenditure for which no allowance has been made in the annual budget unless the approval of the Chairman of the Council, and of the Leader has been given to such expenditure.
- d) Any proposal which involves the formulation of a major new policy or a major variation of an existing major policy.
- e) Any matter on which the Council or a committee has given a specific direction.

6.3 At the next ordinary meeting of the Council or appropriate committee a report is to be submitted setting out all relevant information in relation to the action taken and detailing the reasons why it was necessary to deal with the matter out of meeting.

## **7. RECORDING AND PUBLICATION OF OFFICER DECISIONS MADE UNDER EITHER EXPRESS AUTHORISATION OR THE SCHEME OF DELEGATIONS**

7.1 When any officer with delegated power takes a Non-Executive decision under a specific express authorisation, or under a general authorisation where the effect of the decision is to:

- grant permissions or licenses.
- affect the rights of individuals.
- award contracts or incur expenditure which, in either case, materially affects the Council's financial position (normally this will be a contract or expenditure above a total value of £10,000).

7.2 These decisions must be recorded in writing to comply with The Openness of Local Government Bodies Regulations 2014 no. 2095. The written record must be produced as soon as possible, (normally within 10 working days) after the decision has been made including:

- The date the decision was taken.
- A record of the decision taken along with reasons for the decision.
- Details of alternative options if any considered and rejected; and
- Where the decision is taken under a specific express authorisation to include the name of any member who has declared a conflict of interest in relation to the decision.

7.3 A copy of the record of the decision must be sent by the relevant officer to the Monitoring Officer for publication or inspection as soon as practicable after the decision has been made to enable publication within the timescales set out in 8.2.

## **8. AUTHORISATIONS TO OTHER OFFICERS**

8.1 Officers with delegated powers may, in writing, authorise another officer or officers to exercise those powers in any or particular circumstances. Such authorisations may be subject to limitations and conditions. The officer with the delegated powers shall keep a register of all authorisations granted.

8.2 Copies of any authorisations must also be sent:

- (a) to the Monitoring Officer: every authorisation.
- (b) to the S151 officer: authorisations relating to the management of employees and authorisations to sign orders/requisitions, cheques etc

## **9. RESERVE DELEGATIONS**

9.1 The delegated powers held by a post may be exercised by the line manager of that post (or by the line manager's line manager or by the Chief Executive) if:

- (a) that post is vacant.
- (b) the post-holder is not at work for any reason.
- (c) the person who has the delegated power has a conflict of interest in the decision or matter.

## **10. TRANSFER OF FUNCTIONS**

10.1 Where the name of a post is changed for any reason, the renamed post shall retain any delegated powers possessed by the post prior to the name change.



- 10.2 Where a service area is restructured, the Chief Executive has authority to re-allocate any officer delegated powers (whether Council or executive functions) to other posts and shall give notice of this to the Monitoring Officer and shall also notify all Councillors. The officer to whom any delegated power is transferred is responsible for reauthorising any subordinate officers to take any action under his or her delegations.
- 10.3 When a post is vacant and an employee takes on the duties of the post in an “acting” capacity, they have the same delegated powers that they would have if they held the substantive post.

## **SPECIFIC DELEGATIONS**

### **CHIEF EXECUTIVE**

1. To take any action, including the incurring of expenditure, in connection with an emergency or disaster in the district.
2. To exercise powers delegated to any officer when that officer is unable or unwilling to act.
3. To employ outside consultants and off payroll staff and firms in cases where they are satisfied that it is necessary to do so in order to carry out work which cannot be dealt with by in-house staff within budget.

### **MONITORING OFFICER**

1. To institute, defend, appear and be responsible for the conduct of legal proceedings before any court, tribunal or public inquiry on behalf of and in the name of the Council where it is in the Council's interests to do so and in particular:
2. To instruct and retain Counsel and obtain advice in relation to any matter whenever this is considered to be in the interests of the Council.
3. To settle proceedings of any description including the payment of damages, compensation and legal costs in consultation with Strategic Directors. Where the settlement figure exceeds £50,000, the decision will be referred to the Full Council.
4. To authorise officers to appear in any civil or criminal court or tribunal, and act as authorised officers for the purposes of all legislation under which the Council has duties and powers.
5. To authorise officers to enter land and premises where an authorised officer of the Council may do so under any enactment.
6. To authorise, issue and serve all Statutory Notices (including Requisitions for Information) under any enactment.

7. To sign and seal documents on behalf of the Council.
8. To issue enforcement notices and/or serve stop notices under the Town and Country Planning Act 1990.
9. To determine applications for Lawful Development Certificates pursuant to Sections 191-194 of the Town and Country Planning Act 1990.
10. To accept statutory declarations for the purpose contained in the Housing Acts 1980, 1985 and 1988.
11. To sign indemnities and provide solicitors' undertakings where they are required to enable the Council to exercise any of its functions subject to consultation with the Section 151 Officer where the indemnity or undertaking has considerable financial implications.
12. To ensure compliance with the requirements specified in the Data Protection Act 1998, the Human Rights Act 1998, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

## **PROPER OFFICER PROVISIONS**

Any officer referred to by their title/post throughout this Constitution will automatically succeed their successor in title/post.

"Proper Officer" appointments in accordance with the relevant provisions of the specified legislation are as set out hereunder: -

<b>Legislation</b>	<b>Description</b>	<b>Proper Officer</b>
<b>Local Government Act 1972</b>		
13(3)	Chairman of Parish Meeting and Proper Officer shall become a body corporate where there is no separate parish Council.	Chief Executive
83(1)	Receipt of Declaration of Acceptance of Office.	Chief Executive
84	The officer to whom a person elected to any office under the Council may give written notice of resignation.	Chief Executive

88(2)	The officer who may convene a meeting of the Council for the election to fill a vacancy.	Chief Executive
89(1)(b)	The officer who may receive notice in writing of a casual vacancy in the office of Councillor from two local government electors.	Chief Executive
96(1)	Receipt of notices of pecuniary interest.	Monitoring Officer
96(2)	The officer who shall keep the record of disclosures of interest under Section 94 and of notices under Section 96(1) and of Section 19 of the Local Government and Housing Act 1989.	Monitoring Officer
100A-100K	Access to Meetings and Documents of Certain Authorities Committees and Sub Committees	Monitoring Officer
115(2)	The officer who shall receive all money due from every officer employed by the Council.	Section 151 Officer
146(1)(a) and (b)	The officer who shall give statutory declarations and certificates with regard to securities on the change of name or status.	Section 151 Officer
151	The officer responsible for the proper administration of financial affairs.	Section 151 Officer
191	The officer to whom applications under Section 1 of the Ordnance Survey Act 1841 should be sent.	Strategic Director
225(1)	Deposit of Documents with the Proper Officer and making of notes or endorsements and receipts.	Monitoring Officer

229(5)	The officer who shall certify that a document is a photographic copy of a document in the custody of the Council.	Monitoring Officer
234	The officer who may authenticate documents.	Monitoring Officer
236(9) and (10)	The officer who is responsible for sending certified copies of byelaws to appropriate bodies.	Monitoring Officer
238	The officer who shall certify copies of Byelaws as true copies.	Monitoring Officer
Sch 12 Para 4(2)(b)	The officer who may sign a summons to Council meetings.	Chief Executive
Sch 12 Para 4(3)	The officer who may receive notice from a member of the address to which a summons to a meeting is to be sent.	Chief Executive
Sch 14 Para 25(7)	The officer who may certify copies of resolutions passed under the Public Health Acts 1875 to 1925 as true copies for production in legal proceedings.	Monitoring Officer
<b>Local Government Act 1974</b>		
30(5)	Publication in newspapers of reports of Local Commissioner.	Chief Executive

<b>Building Act 1984</b>		
S93	Authentication of documents	Section 151 Officer
<b>Public Health Act 1936</b>		
84	Cleansing of filthy and verminous articles.	Director of Communities & Health
85	Cleansing of filthy and verminous persons and their clothing.	Director of Communities & Health
<b>Public Health (Control of Disease Act) 1984 as amended, and any subordinate Regulations or Orders</b>		
61	Powers of entry	Director of Communities & Health
62	Supplementary powers of entry	Director of Communities & Health
<b>National Assistance Act 1948 (as amended) and Section 61 of the National Assistance Act 1951</b>		
47	Removal to suitable premises of persons in need of care and attention	Director of Communities & Health
<b>Representation of the People Act 1983</b>		
8	The Electoral Registration Officer for any constituency or part of a	Chief Executive

	constituency coterminous with the district	
35	The Returning Officer for the elections of Councillors of the District and of Councillors of Parishes within the District	Chief Executive
<b>Local Elections (Principal Areas) Rules 1986</b>		
	All references to the Proper Officer in these Rules relate to the: -	Chief Executive
<b>Housing Act 1985</b>		
606(1) and (2)	Reports on unfitness and clearance.	Director - Housing
<b>Local Government Finance Act 1988</b>		
114	Financial Report to the Authority	Section 151 Officer
<b>Local Government and Housing Act 1989</b>		
4	Head of Paid Service	Head of Paid Service
5	Monitoring Officer	Monitoring Officer
19	Receipt of information about Members' interests	Monitoring Officer

<b>Localism Act 2011</b>		
33	The officer to receive a written request for a dispensation to be granted.	Monitoring Officer
<b>Anti-Social Behaviour, Crime and Policing Act 2014</b>		
1	Power to seek an Injunction	Director of Communities & Health
43	Power to issue Community Protection Notices	Director of Communities & Health
52	Power to issue Fixed Penalty Notices	Director of Communities & Health
59	Power to make Public Spaces Protection Orders	Director of Communities & Health
76	Power to seek Closure Orders and/or Issue Closure Notices	Director of Communities & Health
<b>Data Protection Act 2018</b>		
69	Data Protection Officer	Director – People and Governance

## **DEPUTY PROPER OFFICER PROVISIONS**

In respect of the purposes for which the Head of Paid Service is the Proper Officer of the Council, the designated Deputy Chief Executive is authorised to act as such Proper Officer when the Chief Executive is unable to act.

In other cases where the designated Proper Officer is unable to act, the following are designated Deputy Proper Officers:-

For any Director, a Strategic Director, or the Chief Executive.

For a Strategic Director, another Strategic Director or the Chief Executive.

For the Section 151 Officer, the Deputy Section 151 Officer.

For the Monitoring Officer, a Deputy Monitoring Officer.

Any Proper Officer may appoint any other person in writing to act on their behalf.



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## **PART 4**

### **RULES OF PROCEDURE**

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# **Council Procedure Rules**

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## **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 order of business of the annual meeting will:-

- (i) elect the Chairman of Council for the municipal year (accepting that the Chief Executive or Monitoring Officer will preside over the election of the Chairman of the Council if the outgoing Chairman or Vice-Chairman of Council are not present).
- (ii) elect the Vice-Chairman of Council for the municipal year.
- (iii) receive apologies for absence.
- (iv) receive declarations of interests.
- (v) approve the Minutes of the last Council meeting.
- (vi) receive any announcements from the Chairman of the Council and/or Head of Paid Service.
- (vii) elect the Leader of the Council for the municipal year.
- (viii) elect the Deputy Leader of the Council for the municipal year.
- (ix) respond to questions on notice from members of the public in accordance with Council Procedure Rules.
- (x) consider any business set out in the notice convening the meeting.

### **1.2 Annual Meeting following an Ordinary Election**

In a year of ordinary elections of Members to the Council the Council shall, at its annual meeting, in addition to the requirements set out above:

- (i) receive a report of the Chief Executive on the return of members elected.
- (ii) receive notification of the memberships of political groups.
- (iii) receive notification of the names of Group Leaders and their Deputies.

These shall be dealt with after item (vii) above

### **1.3 Selection of Councillors on Committees**

At the annual meeting, Council will: -

- (i) establish Committees and Sub-committees as the Council considers appropriate to deal with matters that are not reserved to the Council..
- (ii) elect Chairmen and Vice-Chairmen of Committees and Sub-Committees.
- (iii) decide the allocation of seats to Committees and substitutes of political groups in accordance with the political balance rules made under the Local Government and Housing Act 1989;
- (iv) receive nomination and appoint Councillors to serve on each Committee by giving effect to the wishes expressed by political groups.

## **2. ORDINARY MEETINGS**

Ordinary meetings will: -

- (i) elect a person to preside if the Chairman and Vice-Chairman are not present.
- (ii) receive apologies for absence.
- (iii) receive declarations of interest.
- (iv) approve the Minutes of the last Council meeting for signing by the Chairman, subject to any agreed amendments.
- (v) receive any announcements from the Chairman, Leader of the Council, Chairman of Policy/Service Committee and Audit and Governance Committee or Head of Paid Service.
- (vi) receive petitions in accordance with the Council's Petitions Scheme contained in Part 5 of the constitution.
- (vii) receive a report back on action taken in response to motion(s) agreed at previous Council meetings, not to be subject to debate.
- (viii) respond to questions on notice from Councillors or Members of the Public in accordance with Council Procedure Rules 11 and 13.
- (viii) deal with any business deferred from the last Council meeting.
- (ix) receive and consider any reports from the Council's Committees, the Chief Executive, Monitoring Officer or Chief Financial Officer and receive questions and answers on any of those reports and on their work in accordance with Council Procedure Rule 13.

- (x) consider any other business specified in the summons to the meeting.
- (xi) consider motions on notice received in accordance with Council Procedure Rule 14.

At the Ordinary Council Meeting held each year for the purposes of setting the Council budget as set out in Article 4 and council tax levels, the order of business shall be as follows:-

- (i) Choose a person to preside if the Chairman or Vice-Chairman are not present
- (ii) Receive any apologies for absence
- (iii) Receive any declarations of interest from Members
- (iv) Approve the minutes of the last Ordinary Meeting of the Council and of any Extraordinary Meetings since the last Ordinary Meeting
- (v) Receive any announcements from the Chairman, Leader of the Council, Chairmen of Policy/Service Committee and Audit and Governance Committee, or Head of Paid Service
- (vi) Deal with any business remaining from the last Council meeting which in the opinion of the Chairman is urgent and should be dealt with at the meeting
- (vii) Receive a report back on action taken in response to motion(s) agreed at previous Council meetings, not to be subject to debate
- (viii) Receive and consider reports regarding the budget and council tax setting and Housing Revenue Account Budget
- (ix) Receive and consider any reports from the Council's Committees, the Chief Executive, Monitoring Officer or Chief Financial Officer and receive questions and answers on any of those reports in accordance with Council Procedure Rule 13.

### **3. EXTRAORDINARY MEETINGS**

#### **3.1 Calling Extraordinary Meetings**

Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings: -

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

seven days of the presentation of the requisition. The meeting is not required to be held within seven days however the Chairman shall not unreasonably delay the meeting being held and shall fix a date for the meeting to be held at the earliest convenient opportunity. A requisition for an Extraordinary Council Meeting received after 5.00pm on any working day will be acted upon, in terms of the timescales set out in the procedure rule, at 9.00am, on the next working day. An Extraordinary Meeting shall not be convened to consider a motion that does not comply with the requirements of the Council Procedure Rules.

### **3.2 Business**

The order of business at Extraordinary Meetings of the Council will be as set out below, except in instances where legislation dictates the format of the agenda, and in such circumstances the agenda shall be in accordance with that legislation:

- (i) Choose a person to preside if the Chairman or Vice-Chairman are absent
- (ii) Receive an apology for absence
- (iii) Receive any declarations of interest from Members
- (iv) Receive any announcements from the Chairman, Vice-Chairman, Leader of the Council, Chairman of Policy/Service Committees or Audit and Governance Committee or the Chief Executive
- (v) Deal with any business remaining from the last Council Meeting
- (vi) Deal with any items included in the requisition of the Meeting
- (vii) Deal with any other business specified in the summons

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

- 4.1 An annual calendar of meetings will be agreed by the Council. The Chief Executive will convene ordinary meetings of the Council in accordance with this calendar and determine the time and place of such meetings, which will be notified in the summons. Meetings will usually commence at 7:30pm.
- 4.2 The Chief Executive may, with the approval of the Chairman, give notice to all Members of the cancellation of a scheduled ordinary meeting of the Council if there is insufficient substantive business to be transacted or if some other special circumstance would render the convening of a meeting impossible or inappropriate. The Chief Executive will endeavour to consult with the Group Leaders before such a cancellation.



## **5. NOTICE OF AND SUMMONS TO MEETINGS**

- 5.1 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules.
- 5.2 At least 5 clear working days before a meeting, the Chief Executive will send a summons signed by him or her by first class post or electronic delivery 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. URGENT BUSINESS**

- 6.1 No business shall be transacted at a meeting of the Council other than that specified in the agenda except business brought before the meeting as a matter of urgency as certified by the Chairman for specific reasons which are to be included in the minutes.

## **7. APPOINTMENTS**

### **7.1 Appointment and Removal of the Chairman or Vice-Chairman**

- 7.1.1 The Council will appoint a Chairman and Vice-Chairman of the Council for the municipal year at the Annual Council meeting.
- 7.1.2 The Chairman shall remain in office until the election of a new Chairman at the following Annual Council Meeting, unless they resign or are disqualified from office of Councillor.
- 7.1.3 At any time, by motion with or without notice, the Council may take a vote of no confidence in the Chairman. If the vote succeeds, the Chairman will consider their position and provide their response to the next ordinary meeting of the Council.

### **7.2 Appointment and Removal of the Leader and Deputy Leader**

- 7.2.1 The Council will appoint a Leader of the Council and a Deputy Leader of the Council for the municipal year at the Annual Council meeting to carry out the role set out in Article 2 of this Constitution.
- 7.2.2 The Leader may be removed from the office of Leader of the Council by motion on notice to an ordinary meeting of the Council or an extraordinary meeting convened for that purpose. The vote will succeed by simple majority.
- 7.2.3 A successful vote to remove the Leader will take immediate effect and the Deputy Leader will assume the position of Leader until a new Leader is appointed at the next ordinary meeting of the Council or at an extraordinary meeting convened for that purpose.

- 7.2.4 A successful vote to remove the Deputy Leader will take immediate effect. A new Deputy Leader will be appointed at the next ordinary meeting of the Council or at an extraordinary meeting convened for that purpose.

### **7.3 Committees**

- 7.3.1 Group Leaders may amend their groups appointments to committees at any time by giving written notice to the Monitoring Officer. The Monitoring Officer shall give immediate effect to such notifications and shall report to the next Ordinary Meeting of the Council any changes since the last meeting.

## **8. QUORUM**

- 8.1 The quorum of a Council meeting will be one quarter of the whole number of Members rounded up. During any meeting if the Chairman 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 Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **9. DURATION OF MEETING**

- 9.1 Any meeting that has lasted for 2½ hours will adjourn immediately, unless the majority of Members present vote for the meeting to continue. The resolution to continue will specify the maximum amount of time for such an extension, usually in increments of 30 minutes.
- 9.2 If the meeting is not extended all remaining business will be deferred to a future meeting at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting of the Council. Any matters deferred by virtue of this procedure rule will be considered as the first item of substantive business at the next meeting.

## **10. ANNOUNCEMENTS**

- 10.1 Announcements shall be permitted at Council Meetings as provided for in procedure rules 1 and 2.
- 10.2 The maximum total time allowed for announcements shall be as follows:-
- (a) Leader of the Council – 5 minutes
  - (b) Chairmen of Committees – 3 minutes

The Chairman shall have discretion to permit additional time where they consider this to be reasonable and appropriate.

## **11. QUESTIONS BY THE PUBLIC**

### **11.1 General**

Members of the public will be entitled to ask questions on notice at any ordinary meeting of the Council and the Annual Council meeting. Questions may be put to the Chairman of the Council, the Leader of the Council or a Committee Chairman. Each member of the public will be entitled to submit a maximum of

1 question. The maximum total time allowed for questions at a meeting will be 15 minutes.

#### **11.2 Order of Questions**

Questions will be asked in the order notice of them was received.

#### **11.3 Notice of Questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Monitoring Officer no later than midday (12:00), six clear working days before the day of the meeting. E.g. if the meeting is on a Wednesday and there is no bank holiday applicable, by Monday of the preceding week. Each question must:

- i. give the name and address of the questioner, and
- ii. state name the Member of the Council to whom it is to be put.

#### **11.4 Scope of Questions**

The Monitoring Officer, in consultation with the Chairman, may reject a question if it: -

- is not about a matter for which the local authority has a responsibility, or which affects the district.
- is defamatory, frivolous, offensive or personal in nature.
- is substantially the same as a question which has been put at a meeting of the Council or a Committee the past six months; or
- requires the disclosure of confidential or exempt information. Any preamble to a question will not normally be allowed unless it is
- essential to understanding the nature of the question to be put.

#### **11.5 Record of Questions**

Copies of all questions will be included in the agenda for the meeting. All questions and answers will be recorded verbatim in the minutes of the meeting.

The Monitoring Officer will maintain a record of rejected questions and the reasons for rejection for a period of 6 months.

#### **11.6 Asking the Question at the Meeting**

The Chairman will invite the questioner, who may attend in person or remotely, to put the question. If a questioner who has submitted a written question is unable to be present, a written response will be provided following the meeting.

### **11.7 Supplementary Question**

A questioner will be entitled to ask one supplementary question. The supplementary question must relate directly to the original question or arise directly from the response given to the original question. The Chairman will have discretion to reject a supplementary question.

### **11.8 Form of Response**

An answer may take the form of:

- (i) A direct oral answer
- (ii) Where the desired information is in a publication of the Council or other published work, a reference to that publication
- (iii) Where the reply cannot conveniently be given orally, a written answer will be circulated to the questioner within 5 clear working days of the date of the meeting
- (iv) Where the question cannot be dealt with during question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, it will be dealt by either of the followings means, as deemed appropriate by the Member to whom the question is director:
  - (a) A written answer; or
  - (b) At the next meeting of the relevant service committee

Save for the Member replying to the question, no other Member shall be permitted to speak to the questioner.

A copy of a written response will also be sent to all Members.

### **11.9 Reference of Question to a Committee**

Unless the Chairman decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the appropriate Committee or Sub-committee. Once seconded, such a Motion will be voted on without discussion.

## **12. PETITIONS**

Petitions will be dealt with in accordance with the petitions policy contained in Part 5 of this Constitution.

## **13. QUESTIONS BY MEMBERS**

### **13.1 Questions on Agenda Items**

Members may ask during their speech, as many questions as is necessary to aid understanding of any item under consideration on the agenda. The Chairman will have the final ruling on the suitability of any such question.

The relevant Member shall response to any questions at the end of the Members speech, or alternatively may ask an officer to response. The Member who asked the question shall have no right of reply.

Where an answer cannot be provided at the meeting, the relevant Committee Chairman or Officer can undertake to provide a written response to the Member that has asked the question. Such responses will be reported back to the next Ordinary Council as appropriate. This will be in written form and will not be subject to debate at that meeting.

## **13.2 Questions on Notice by Members at Full Council**

### **13.2.1 General**

Members will be entitled to ask questions on notice at any ordinary meeting of the Council and the Annual Council meeting. Questions may be put to the Chairman of the Council, the Leader of the Council or a Committee Chairman. Each Member will be entitled to submit a maximum of 1 question. The maximum total time allowed for questions at a meeting will be 15 minutes.

### **13.2.2 Order of Questions**

Questions will be asked in the order notice of them was received.

### **13.2.3 Notice of Questions**

A Member may only ask a question on notice if either: -

- a) Notice has been given in writing or by electronic mail to the Monitoring Officer no later than midday (12:00), six clear working days before the day of the meeting e.g. if the meeting is on a Wednesday and there is no bank holiday applicable, by midday on the Monday of the preceding week.
- b) The question relates to urgent matters; they have the consent of the Chairman to whom the question is to be put and the content of the question is given to the Monitoring Officer by midday (12:00) on the day of the meeting.

## **13.3 Scope of Questions**

The Monitoring Officer, in consultation with the Chairman, may reject a question if it: -

- is not about a matter for which the local authority has a direct responsibility, or which has a direct effect on the district.
- is defamatory, frivolous, offensive or personal in nature.
- is substantially the same as a question which has been put at a meeting of the Council or a Committee the past six months; or
- requires the disclosure of confidential or exempt information. Any preamble to a question will not normally be allowed unless it is
- essential to understanding the nature of the question to be put.

#### **13.4 Record of Questions**

Copies of all questions will be circulated to all members and will be made available to the public attending the meeting. All questions and answers will be recorded verbatim in the minutes of the meeting.

The Monitoring Officer will maintain a record of rejected questions and the reasons for rejection for a period of 6 months.

#### **13.5 Asking the Question at the Meeting**

The Chairman will invite the Member to put the question. If a member who has submitted a written question is unable to be present, they may ask the Chairman or another member to put the question on their behalf.

#### **13.6 Supplementary Question**

A member will be entitled to ask one supplementary question. The supplementary question must relate directly to the original question or arise directly from the response given to the original question. The Chairman will have discretion to reject a supplementary question.

#### **13.7 Form of Response**

An answer may take the form of

- (i) A direct oral answer
- (ii) Where the desired information is in a publication of the Council or other published work, a reference to that publication
- (iii) Where the reply cannot conveniently be given orally, a written answer will be circulated to the questioner within 5 clear working days of the date of the meeting
- (iv) Where the question cannot be dealt with during question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, it will be dealt with by either of the following means, as deemed appropriate by the Member to whom the question is directed
  - (a) A written answer; or
  - (b) At the next meeting of the relevant service committee

Save for the Member replying to the question, no other Member shall be permitted to speak to the questioner.

A copy of a written response will also be sent to all Members.

### **13.9 Reference of Question to a Committee**

Unless the Chairman decides otherwise, no discussion will take place on any question, but any member may move that a matter raised by a question be referred to the appropriate Committee or Sub-committee. Once seconded, such a Motion will be voted on without discussion.

## **14. PRESENTATIONS TO REPORTS TO COUNCIL**

### **(a) Presentation of Reports**

- (i) Reports on specific issues from a council committee or sub-committee and the Chief Executive, Monitoring Officer or Chief Financial Officer may be presented to the Council from time to time as provided for by this Constitution
- (ii) Reports on specific issues from Committees shall be presented by the Chairman of the Committee or in their absence the Vice-Chairman of the Committee
- (iii) Recommendations contained within reports will be moved by the Member at the time they present the report. A seconder will not be required.

### **(b) Debate**

Any debate will be conducted in accordance with Council Procedure Rule 17.

### **(c) Close of Debate**

Consideration of the report shall be closed by the reply of the Member presenting the report and the motion will be put to the vote by the Chairman without further debate.

## **15. MOTIONS ON NOTICE**

### **15.1 Notice**

Except for Motions which can be moved without notice under Rule 15, written notice of every Motion, on the authority of at least 2 Members, must be delivered to the Monitoring Officer not later than midday (12:00) six clear working days before the date of the meeting. e.g. if the meeting is on a Wednesday and there is no bank holiday applicable, by midday on the Monday of the preceding week.

### **15.2 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.

### 15.3 **Scope**

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

The Monitoring Officer may, in consultation with the Chairman, reject a motion if it:

- is not about a matter for which the local authority has a responsibility, or which affects the district.
- is defamatory, frivolous, offensive or personal in nature.
- is substantially the same as a motion which has been put at a meeting of the Council in the past six months; or
- would be ultra vires or unconstitutional for the Council to consider such a motion.

15.4 At the meeting a valid motion on notice must be moved and seconded before any consideration or debate can take place. The Councillor proposing the motion must move and explain the purpose of it. No speeches or debate can take place until the motion has been seconded.

### 15.5 **Report Back**

Action taken on motions agreed at previous Council meetings will be reported back to future meetings as appropriate. This will be in written form and will not be subject to debate at that meeting.

## 16. **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 reduce the time allowed for speeches under rule 15.4.
- (e) to refer something to an appropriate body or individual.
- (f) to appoint a committee or Member arising from an item on the summons for the meeting;
- (g) to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them.
- (h) to withdraw a Motion.
- (i) to amend a Motion.
- (j) to proceed to the next business.
- (k) that the question be now put.



- (l) to adjourn a debate.
- (m) to adjourn a meeting.
- (n) that the meeting continues beyond 2½ hours in duration;
- (o) to suspend a particular Council procedure rule.
- (p) to exclude the public and press in accordance with the Access to Information Rules.
- (q) to not hear further a Member named under Rule 214 (Member not to be heard further) or to exclude them from the meeting under Rule 21.5 (Member to leave the meeting); and
- (r) to give the consent of the Council where its consent is required by this Constitution.

## **17. RULES OF DEBATE**

### **17.1 No Speeches Until Motion Seconded**

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

### **17.2 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 them before it is discussed.

### **17.3 Seconders' Speech**

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

### **17.4 Content and Length of Speeches**

Speeches must be directed to the question under discussion, to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chairman. Before commencement of the main business, a meeting may agree by a majority vote to a lesser time.

### **17.5 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/she last spoke.
- (c) if his/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/she spoke was carried);

- (d) in exercise of a right of reply (see paragraph 16.9);
- (e) on a point of order (see paragraph 16.12); and
- (f) by way of personal explanation or clarification (see paragraph 16.13).

## **17.6 Amendments to Motions**

17.6.1 An amendment to a Motion must be relevant to the Motion and will either be:-

1. to refer the matter to an appropriate body or individual for consideration or reconsideration.
2. to leave out words.
3. to leave out words and insert or add others; or
4. to insert or add words.as long as the effect of (1) to (4) is not to negate the Motion.

17.6.2 Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.

17.6.3 If an amendment is not carried, the debate will return to the motion previously under discussion, upon which other amendments to the original Motion may be moved.

17.6.4 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. The substantive Motion will proceed to be debated and voted upon in accordance with these procedure rules.

17.6.5 The Chairman may require an amendment to be written down and handed to them and a copy provided to all Members present before it is discussed where it is considered necessary to assist Council's effective and efficient consideration of the amendment.

## **17.7 Alteration of Motion**

17.7.1 A member may alter their Motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

17.7.2 A member may alter their Motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

17.7.3 Only alterations which could be made as an amendment may be made.

**17.8 Withdrawal of Motion**

A Member may withdraw their Motion which he/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 after the mover has asked permission to withdraw it unless permission is refused.

**17.9 Right of Reply**

17.9.1 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.

17.9.2 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.

17.9.3 The mover of the amendment has no right of reply to the debate on his or her amendment.

**17.10 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) that the meeting continues beyond 2½ hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a member named under Rule 21.4 or to exclude them from the meeting under Rule 21.5.

**17.11 Closure Motions**

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 – 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 without further debate.

- (ii) that the question be now put – if a Motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural Motion to the vote without debate. If it is passed, he/she will give the mover of the original Motion a right of reply before putting his/her Motion to the vote.
- (iii) to adjourn a debate – 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/she will put the procedural Motion to the vote without giving the mover of the original Motion the right of reply and without any debate.

#### **17.12 Point 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 any 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/she considers it has been broken. The ruling of the Chairman on the matter will be final.

#### **17.13 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 Chairman on the admissibility of a personal explanation will be final.

### **18. PREVIOUS DECISIONS AND MOTIONS**

#### **18.1 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 10 members.

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

A Motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of Motion or amendment is signed by at least 10 members. Once the Motion or amendment is dealt with, no one can propose a similar Motion or amendment for six months.

### **19. VOTING**

#### **19.1 Majority**

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

### **19.2 Chairman's Casting Vote**

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

### **19.3 Method of Voting**

Voting will be by show of hands or by electronic voting (if available). The Chairman may also take the consent of the meeting by an indication of consensus. In extenuating circumstances, the Chairman may use another appropriate form of voting after consultation with the Monitoring Officer.

### **19.4 Recorded Vote**

If one-fifth (rounded up) of the members present at the meeting and entitled to vote stand to demand 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.

### **19.5 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.

### **19.6 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.

## **20. MINUTES**

### **20.1 Signing the Minutes**

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 part of the minutes that can be discussed is their accuracy.

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

There is no requirement to sign the minutes of a previous meeting at Extraordinary Council. The minutes will be signed at the next suitable meeting for the purposes of paragraph 41(1) and (2), Schedule 12 of the Local Government Act 1972.

### **20.3 Form of Minutes**

Minutes will contain all Motions and amendments in the exact form and order the Chairman put them.

**21. RECORD OF ATTENDANCE**

All members present during the whole or part of a meeting will be recorded by the Committee Administrator.

**22. EXCLUSION OF PUBLIC AND PRESS**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 22 (Disturbance by Public).

**23. MEMBERS' CONDUCT**

**23.1 Standing to Speak**

When a member speaks at Full Council they must stand and address the meeting through the Chairman. 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.

**23.2 Chairman Standing**

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

**23.3 Withdrawal from Meetings**

If a member has a Disclosable Pecuniary Interest in an item of business, they must withdraw from the meeting room (including from the public gallery) during the whole of consideration of that item of business, except where they are permitted to remain as a result of the grant of a dispensation.

If a member has an Other Registrable Interest or Non-Registrable Interest in an item of business, they must consider withdrawing from the meeting room during the whole of consideration of that item of business, except where they are permitted to remain as a result of the grant of a dispensation. Members must have regard to the code of conduct guidance on these categories of interests and may take advice from the Monitoring Officer.

**23.4 Member not to be Heard Further**

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

**23.5 Member to Leave the Meeting**

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.

**23.6 General Disturbance**

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

## **24. DISTURBANCE BY PUBLIC**

### **24.1 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.

### **24.2 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.

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

### **25.1 Suspension**

All of these Council Rules of Procedure except this Rule and Rules 17.5 and 18.2 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 can only be for the duration of the meeting.

### **25.2 Amendment**

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

## **26. WEBCASTING**

All meetings of the Council held in the Civic Suite are webcast on the council's website. If on any occasion where the council has advised the public that the meeting will be webcast but is unable to do so due to a technical failure, voting members present at the meeting shall consider and determine, having regard to the business to be conducted, whether the meeting should continue or be postponed.

# **Committee and Sub-committee Procedure**

## **Rules**

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## **1. APPOINTMENT OF SUB-COMMITTEES AND WORKING GROUPS**

- 1.1 In addition to Sub-committees appointed by the Council, a committee may appoint Sub-committees or Working Groups as it deems appropriate.
- 1.2 The membership of a sub-committee will reflect the political balance of the Council where so far as is reasonably practicable. sub-committee meetings will be subject to the procedure rules contained within this section.
- 1.3 Working groups need not be politically balanced and will not generally be open to attendance by the public. The normal rules of procedure will not apply to working groups.

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

- 2.1 Substitute members may be nominated for committees or their sub- committees by each political group represented on the committee or sub- committee and shall comprise a number no greater than the number equal to the number of ordinary members nominated by a political group to that committee or sub-committee. Substitutes for Regulatory Committees must have completed the required training, as determined by the Monitoring Officer.
- 2.2 A Substitute Member attending a meeting of a committee or sub-committee has the same powers and responsibilities as a full member of the committee or sub-committee.
- 2.3 A substitute member attending a meeting is expected to have read all relevant papers and to be fully prepared to participate in the meeting.
- 2.4 A member or substitute member first in attendance at a meeting of a committee or sub-committee cannot be substituted or replaced during the course of that meeting.
- 2.5 Substitute members may attend meetings in that capacity only to take the place of the ordinary Member for whom they are the designated substitute.

In the event of the ordinary member of the committee or sub-committee being present at the start of the meeting, the substitution shall not take place.

- 2.6 Substitute members are not appropriate in the case of working groups.

## **3. ORDINARY MEETINGS**

Ordinary meetings will:-

- (i) elect a person to preside if the Chairman and Vice-Chairman are not present.

- (i) receive apologies for absence.
- (ii) receive declarations of interest.
- (iii) approve the Minutes of the last Committee meeting for signing by the Chairman, subject to any agreed amendments.
- (iv) respond to questions on notice from Councillors or members of the public in accordance with Committee Procedure Rules.
- (v) deal with any business deferred from the last committee meeting.
- (vi) consider any other business specified in the summons to the meeting.

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

- 4.1 An annual calendar of meetings will be agreed by the Council. Meetings of committees will be convened in accordance with this schedule. The time and place of the meeting will be notified in the summons. Meetings will usually commence at 7:30pm.
- 4.2 The committee or sub-committee Chairman may convene additional meetings of the Committee or Sub-committee as required. Members of the Committee or Sub-committee will be consulted before the date of any additional meeting is fixed.
- 4.3 The committee or sub-committee Chairman may cancel any meeting where there is insufficient business to be transacted. All members will be notified of the cancellation of a meeting.

#### **5. NOTICE OF AND SUMMONS TO MEETINGS**

- 5.1 The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules.
- 5.2 At least 5 clear working days before a meeting, the Monitoring Officer will send a summons signed by him or her by first class post or electronic delivery to every member of the committee or sub-committee and any appointed substitutes 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. URGENT BUSINESS**

- 6.1 No business shall be transacted at a meeting of the committee or sub-committee other than that specified in the agenda except business brought before the meeting as a matter of urgency as certified by the Chairman for specific reasons which are to be included in the minutes.

## **7. NO CONFIDENCE IN THE COMMITTEE CHAIRMAN**

- 7.1 At any time, a motion of no confidence in the Chairman of a committee may be moved without notice. If seconded, the motion will be immediately voted on without discussion.
- 7.2 If the motion succeeds, by simple majority, the Vice-Chairman of the committee will temporarily assume the Chair.
- 7.3 The matter will be referred to the next ordinary meeting of the Council at which the Council will consider the vote of no confidence and decide whether to remove the committee Chairman or reaffirm their appointment.
- 7.4 The mover of the vote of no confidence and the committee Chairman will be entitled to state their case to the Council.

## **8. QUORUM**

- 8.1 The quorum of a meeting will be one quarter of the whole number of members rounded up. During any meeting if the Chairman 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 Chairman. If he/she does not fix a date, the remaining business will be considered at the next meeting of the committee.

## **9. DURATION OF MEETING**

- 9.1 Any meeting that has lasted for 2½ hours will adjourn immediately, unless the majority of members present vote for the meeting to continue. The resolution to continue will specify the maximum amount of time for such an extension, usually in increments of 30 minutes.
- 9.2 If the meeting is not extended all remaining business will be deferred to a future meeting at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next meeting of the committee. Any matters deferred by virtue of this procedure rule will be considered as the first item of substantive business at the next meeting.

## **10. QUESTIONS BY THE PUBLIC**

- 10.1 General members of the public will be entitled to ask questions on notice at any committee meeting. Questions may be put to the Chairman of the committee. Each member of the public will be entitled to submit a maximum of 1 question. The maximum total time allowed for questions at a meeting will be 15 minutes.
- 10.2 Order of Questions

Questions will be asked in the order notice of them was received.

### 10.3 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Monitoring Officer no later than midday (12:00), 3 clear working days before the day of the meeting. Each question must give the name and address of the questioner.

### 10.4 Scope of Questions

The Monitoring Officer, in consultation with the Chairman, may reject a question if it: -

- 1 is not about a matter for which the local authority has a responsibility, or which affects the district.
- 2 is defamatory, frivolous, offensive or personal in nature.
- 3 is substantially the same as a question which has been put at a meeting of the Council or a committee the past six months; or
- 4 requires the disclosure of confidential or exempt information. Any preamble to a question will not normally be allowed unless it is essential to understanding the nature of the question to be put.

### 10.5 Record of Questions

Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting. All questions and answers will be recorded verbatim in the minutes of the meeting.

The Monitoring Officer will maintain a record of rejected questions and the reasons for rejection.

### 10.6 Asking the Question at the Meeting

The Chairman will invite the questioner to put the question. If a questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf.

The Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

### 10.7 Supplementary Question

A questioner will be entitled to ask one supplementary question. The supplementary question must relate directly to the original question or arise directly from the response given to the original question. The Chairman will have discretion to reject a supplementary question.

### 10.8 Form of Response

A response to a question on notice by a member of the public may take the form of a verbal or written response. The written response will normally be read

out at the meeting by the Chairman for the benefit of those watching the meeting online.

Responses to supplementary questions may be given immediately or may be provided in writing to the questioner within 5 clear working days of the date of the meeting. A copy of the response will be circulated to all Members.

#### 10.9 Written Answers

Any question which cannot be dealt with during public question time will be dealt with by a written answer within 5 clear working days of the date of the meeting. A copy of the response will be circulated to all members.

### 11. QUESTIONS BY MEMBERS

#### 11.1 Questions by Committee Members

Members may ask as many questions as is necessary to aid understanding of any item under consideration on the agenda. The Chairman will have the final ruling on the suitability of any such question.

#### 11.2 Questions by visiting members.

Any member of the Council may attend a meeting of a committee or sub-committee. Visiting members may ask questions of the committee members or officers at the discretion of the Chairman.

### 12. RULES OF DEBATE

NOTE: These rules of debate will not apply to the Development Committee, which will instead follow the procedures set out in the Planning Good Practice Guidelines set out in Part 5 of this constitution.

#### 12.1 No Speeches Until Motion Seconded

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

#### 12.2 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/her before it is discussed.

#### 12.3 Secunder's Speech

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

#### 12.4 Content and Length of Speeches

Speeches must be directed to the question under discussion, to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chairman. Before commencement of the main business, a meeting may agree by a majority vote to a lesser time.

#### 12.5 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/she last spoke.
- (c) if his/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/she spoke was carried).
- (d) in exercise of a right of reply (see paragraph 15.9);
- (e) on a point of order (see paragraph 15.12); and
- (f) by way of personal explanation or clarification (see paragraph 15.13).

#### 12.6 Amendments to Motions

##### 12.6.1 An amendment to a Motion must be relevant to the Motion and will either be: -

- 1. to refer the matter to an appropriate body or individual for consideration or reconsideration.
- 2. to leave out words.
- 3. to leave out words and insert or add others; or
- 4. to insert or add words. as long as the effect of (1) to (4) is not to negate the Motion.

##### 12.6.2 Only one amendment may be moved and discussed at any one time.

No further amendment may be moved until the amendment under discussion has been disposed of.

##### 12.6.3 If an amendment is not carried, other amendments to the original Motion may be moved.

##### 12.6.4 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. The substantive Motion will proceed to be debated and voted upon in accordance with these procedure rules.

## 12.7 Alteration of Motion

12.7.1 A Member may alter their Motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

12.7.2 A Member may alter their Motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

12.7.3 Only alterations which could be made as an amendment may be made.

## 12.8 Withdrawal of Motion

A Member may withdraw their Motion which he/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 after the mover has asked permission to withdraw it unless permission is refused.

## 12.9 Right of Reply

12.9.1 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.

12.9.2 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.

12.9.3 The mover of the amendment has no right of reply to the debate on his or her amendment.

## 12.10 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) that the meeting continues beyond 2½ hours in duration.
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a member named under Rule 21.4 or to exclude them from the meeting under Rule 21.5.

#### 12.11 Closure Motions

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 – 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.
- (ii) that the question be now put – if a Motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural Motion to the vote. If it is passed he/she will give the mover of the original Motion a right of reply before putting his/her Motion to the vote.
- (iii) to adjourn a debate – 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/she will put the procedural Motion to the vote without giving the mover of the original Motion the right of reply.

#### 12.12 Point 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 any 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/she considers it has been broken. The ruling of the Chairman on the matter will be final.

#### 12.13 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 Chairman on the admissibility of a personal explanation will be final.



### **13. PREVIOUS DECISIONS AND MOTIONS**

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

A Motion or amendment to rescind a decision made at a meeting of the committee within the past six months cannot be moved unless the Notice of Motion is signed by at least 10 members.

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

A motion or amendment in similar terms to one that has been rejected at a meeting of the Committee in the past six months cannot be moved unless the notice of Motion or amendment is signed by at least 10 members. Once the Motion or amendment is dealt with, no one can propose a similar Motion or amendment for six months.

### **14. VOTING**

#### **14.1 Majority**

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

#### **14.2 Chairman's Casting Vote**

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

#### **14.3 Method of Voting**

Voting will be by show of hands or by electronic voting (if available). The Chairman may also take the consent of the meeting by an indication of consensus.

In extenuating circumstances, the Chairman may use another appropriate form of voting after consultation with the Monitoring Officer.

#### **14.4 Recorded Vote**

If one-fifth (rounded up) of the members present at the meeting and entitled to vote stand to demand 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.

#### 14.5 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. MINUTES

#### 15.1 Signing the Minutes

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 part of the Minutes that can be discussed is their accuracy.

#### 15.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting

There is no requirement to sign the minutes of a previous meeting at Extraordinary Council. The minutes will be signed at the next suitable meeting for the purposes of paragraph 41(1) and (2), Schedule 12 of the Local Government Act 1972.

#### 15.3 Form of Minutes

Minutes will contain all Motions and amendments in the exact form and order the Chairman put them.

### 16. RECORD OF ATTENDANCE

All Members present during the whole or part of a meeting will be recorded by the Committee Administrator.

### 17. EXCLUSION OF PUBLIC AND PRESS

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 19 (Disturbance by Public).

### 18. MEMBERS' CONDUCT

#### 18.1 Chairman Standing

When the Chairman stands during a debate, any Member speaking at the time must stop. The meeting must be silent.

#### 18.2 Withdrawal from Meetings

If a member has a Disclosable Pecuniary Interest in an item of business, they must withdraw from the meeting room (including from the public gallery) during

the whole of consideration of that item of business, except where they are permitted to remain as a result of the grant of a dispensation.

If a member has an Other Registrable Interest or Non-Registrable Interest in an item of business, they must consider withdrawing from the meeting room during the whole of consideration of that item of business, except where they are permitted to remain as a result of the grant of a dispensation. Members must have regard to the code of conduct guidance on these categories of interests and may take advice from the Monitoring Officer.

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

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

### **18.4 Member to Leave the Meeting**

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.

### **18.5 General Disturbance**

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

## **19. DISTURBANCE BY PUBLIC**

### **19.1 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.

### **19.2 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.

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

### **20.1 Suspension**

All of these Rules of Procedure except this Rule and Rules 17.5 and 18.2 may be suspended by Motion on notice or without notice if at least one half of the whole number of members of the committee are present. Suspension can only be for the duration of the meeting.

## 20.2 Amendment

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

## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1. Scope**

Unless otherwise stated these rules apply to all meetings of the Full Council, its Committees and Sub-committees (together called meetings). They do not apply to working groups, which have no delegated authority.

### **2. Additional Rights to Information**

These rules do not overrule any more specific rights to information contained elsewhere in this Constitution or the law.

### **3. Rights to Attend Meetings**

Members of the public may attend all meetings, subject only to the exceptions in these rules (see rule 10).

### **4. Notice of Meetings**

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at the Council Offices and on the Council's website.

### **5. Access to Agenda and Reports Before the Meeting**

The Council will make copies of the agenda and reports open to the public available for inspection at the designated offices and the Council's website 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).

### **6. Supply of Copies**

The Council will supply copies of:-

- (a) any agenda and reports that are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) paper copies of the documents supplied to Councillors, save for any exempt papers, can be supplied to residents on payment of a charge for postage and any other costs as set out in the Council's Fees and Charges. There will be no costs if the papers are sent in an electronic format.

## **7. Access to Minutes etc After the Meeting**

The Council will make available copies of the following for six years after a meeting after which they will be available electronically: -

- (a) the minutes of the meetings of Council, Committees and Sub-Committees and the records of decisions taken, together with reasons, excluding any part of the minutes of proceedings that were not open to the public or which disclose exempt 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.

All agendas, reports and minutes that are open to the public are available on the Council's website at [www.rochford.gov.uk](http://www.rochford.gov.uk).

## **8. Background Papers**

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

The officer responsible 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/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 or confidential information (as defined in Rule 10).

### **8.2 Public Inspection of Background Papers**

The Council will make available, on request, for public inspection for six years after the date of a meeting a copy of each of the documents on the list of background papers.

## **9. Summary of Public's Rights**

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 at the Council Offices, and on the Council's website.

## **10. Exclusion of Access by the Public to Meetings**

### **10.1 Confidential Information – Requirement to Exclude Public**

The public must 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 confidential information would be disclosed.

### **10.2 Meaning of Confidential Information**

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information that cannot be publicly disclosed by Court Order.

### **10.3 Exempt Information – Discretion to Exclude 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 and the public interest in maintaining the exemption would outweigh the public interest in disclosing it.

Where a 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.

### **10.4 The Public Interest**

The public interest test is that used by the Freedom of Information Act which provides that 'in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.'

### **10.5 Meaning of Exempt Information**

Exempt information means information falling within the following 10 categories (subject to any condition).

Information falling within paragraphs 1 – 7 (which is not prevented from being exempt information by conditions) is exempt information if, and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information:-

CATEGORY	CONDITION
1. Information relating to an individual.	
2. Information which is likely to reveal the identity of an individual.	
3. Information relating to the financial or business affairs of any person (including the authority holding that information).	<p>“Financial or business affairs” includes contemplated as well as past or current activities.</p> <p>Information is not exempt information.</p> <p>under this paragraph if it is required to be registered under the Companies Acts (as defined in section 2 of the Companies Act 2006); the Friendly Societies Act(s) 1974 &amp; 1992; the Industrial and Provident Societies Acts</p> <p>1965 to 1978; the Co-Operative and Community Benefit Societies Act 2014; the Building Societies Act 1986; or the Charities Act 2011.</p>
4 Information relating to any consultations or negotiations, or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	<p>“Employee” means a person employed under a contract of service.</p> <p>“Labour relations matter” means matters which may be the subject of a trade dispute within the meaning of current legislation or any dispute about such matters.</p>
5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6 Information that reveals that the authority proposes:–	



<p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	
<p>7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of a crime.</p>	
<p>8 Information which is subject to any obligation of confidentiality.</p>	
<p>9 Information which relates in any way to matters concerning national security.</p>	
<p>10 The deliberations of the Standards Committee or a Sub-committee of the Standards Committee established under the provisions of Part III of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 64(2) or 71(2) of the Local Government Act 2000.</p>	

## **11. Exclusion of Access by the Public to Reports**

If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which, in their opinion, relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked 'Not for publication', together with the category of information likely to be disclosed.

All exempt reports will be listed on a central record with a review date to ensure that any information to which an exemption has been applied is able to be made public as soon as that exemption is no longer applicable. The Monitoring Officer

shall be responsible for undertaking such reviews and for determining whether or not the exemption still applies, after considering the public interest test.

An annual report shall be presented to the Full Council containing the details of reports and documents where the exemption has been lifted.

## **12. Scrutiny & Performance Committee's Access to Documents**

### **12.1 Rights to Copies**

Subject to Rule 12.2 below, a Member of the Scrutiny & Performance Committee is entitled to copies of any document which contains material relating to any business transacted at a meeting of a decision-making body of the Council.

### **12.2 Limit on Rights**

A member of an Scrutiny & Performance Committee will not be entitled to:-

- (a) any document that is in draft form.
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing, or any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (c) any document or part of a document containing the advice of a political adviser or assistant

## **13. Additional Rights of Access for Members**

### **13.1 Material Relating to Business**

All Members will be entitled to inspect any document that contains material relating to any business to be transacted or previously transacted at a public or private meeting unless: -

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 or 7 of the categories of exempt information; or
- (b) it contains exempt information falling within paragraph 3 of the categories of exempt information and that information relates to any terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract; or
- (c) it contains the advice of a political adviser.

### **13.2 Nature of Rights**

These rights of a Member are additional to any other right they may have.

#### **14. Freedom of Information Act 2000**

The Council will publish documents mentioned in its Publication Scheme approved by the Information Commissioner. Copies of the scheme are available on the Council's website.

## **BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

### **1. The Framework for Decisions**

In these Procedure Rules 'Budget' and 'Policy Framework' have the meanings given to them in Article 4 of the Constitution.

For the avoidance of doubt, any of the functions or responsibilities of the Chief Finance Officer in these Procedure Rules may be discharged by such officers who may be nominated by them from time to time to exercise those duties on their behalf.

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 (or any constituent part of this) is in place, it will be the responsibility of Committees of the Council to implement it to the extent that this involves the discharging of any functions delegated to a Committee in Part 3 of this Constitution.

The arrangements for the management of the Council's Budget are set out in the Financial Procedure Rules (The Financial Regulations) which appear later in this part of the Constitution.

In addition, the following provisions apply: -

### **2. Process for Preparing the Budget and Developing the Policy Framework Budget**

The process by which the budget shall be developed is: -

- (a) The Strategy, Finance and Policy Committee will publish a timetable for making proposals to the Council for the adoption of the Revenue Budget and Capital Programme and its arrangements for any consultation after publication of those proposals. The consultation period will be not less than 6 weeks. During this consultation period each Policy Committee will submit its budget proposals to the Strategy, Finance and Policy Committee.
- (b) At the end of the consultation period, the Strategy, Finance and Policy Committee will draw up firm proposals for submission to the Council, taking account of responses to the consultation.
- (c) The proposals drawn up by the Strategy, Finance and Policy Committee for the adoption of the Revenue Budget and Capital Programme must then be referred by the S.151 Officer, at the earliest opportunity, to the Council for decision.
- (d) In reaching a decision on the Strategy, Finance and Policy Committee's proposals, the Council may approve them, amend them, or substitute and approve its own proposals in their place.

- (e) In approving the Revenue Budget and Capital Programme, the Council will also specify the degree of in-year changes which may be made by a Committee of the Council under the rules relating to virement within the Revenue Budget and Capital Programme, as set out in the Financial Regulations (see Part 5 of the Constitution below).

Any other changes to the Revenue Budget or Capital Programme are reserved to the Council.

### **Policy Framework**

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

- (a) The Policy Committees will from time to time develop new policies which fall within their area of responsibility as set out in Part 3 of this Constitution. They will also periodically review the existing policies of the Council.
- (b) The Committees will undertake such consultation in respect of these policies as they deem necessary.
- (c) The Committee will then draw up, having regard to the results of any consultation, proposals for new policies or amendments to existing policies for referral to the Council as soon as possible.
- (d) In reaching a decision on the Committee's proposals, the Council may approve them, amend them, or substitute and approve its own proposals in their place

### **3. Decisions Outside the Budget or Policy Framework**

Subject to the rules relating to urgency (see 4 below) and virement (see 5 below), a decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget approved by the Full Council may only be taken by the Full Council.

If any Committee or any officers, or joint arrangements which discharge Council functions have any doubt whether a proposed decision is in accordance with the approved Budget, they shall take advice from the Monitoring Officer and the S.151 Officer.

If the advice of either of those officers is that a decision would be contrary to the Policy Framework, or contrary to or not wholly in

- (a) accordance with the Budget, then, again subject to the rules on virement, the decision may only be taken by the Council, unless it is a matter of urgency

(See 4 below).

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

A decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the approved Budget but which is a matter of urgency may be taken other than by the Council only if:

- (i) if it is not practical to convene a quorate meeting of the Full Council; and
- (ii) if the Chairman of the Scrutiny & Performance Committee 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 Scrutiny & Performance Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of the Scrutiny & Performance Committee the consent of the Chairman of the Council, and in the absence of both, the Vice-Chairman will be sufficient.

Following the decision, the decision taker 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.

#### **5. Virement**

The rules relating to virement within the Revenue Budget and Capital Programme are set out in the Financial Regulations.

#### **6. In-Year Changes to the Budget and Policy Framework**

The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by any Committee, Sub-committee or any officer or joint arrangements discharging Council functions must be in line with it. No changes to any policy and strategy which makes 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.
- (c) in relation to the policy framework in respect of a policy which would normally be agreed by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

# **FINANCIAL REGULATIONS**

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The Financial Regulations, as set out here, provide the overall key control framework to enable the organisation to exercise effective financial management and control of its resources and assets.

The Council is committed to the delivery of quality services and so needs to be responsive to the changing demands and expectations of its customers.

The Council is committed to improving the lives of our residents and creating opportunity and prosperity for local people and businesses.

In support of this commitment, the Council's financial management framework needs to be relevant and flexible enough to meet the challenges ahead. The change from the traditional role of local government to one of community leader and place-shaper involved with greater partnership working, have had a major influence on the delivery of local services. The significant reductions in Government grant experienced by the council in recent years have forced the Council, and indeed the whole of local government, to radically rethink and transform the delivery of services. The Financial Regulations provide the financial controls and procedures necessary to address the demands on local government and create the financial environment in which the Council's ambitions can be delivered.

The regulations also provide clarity about the financial accountabilities of individuals - Members, the Chief Executive (the Head of Paid Service), the Monitoring Officer, the Strategic Director Finance (Section 151 Officer), other Directors and staff in general. These Regulations are therefore formally approved by the Council as a key part of the Constitution.

Another key purpose of the regulations is to support and protect Members and staff in the performance of their duties where financial issues are involved. The Strategic Director Finance is authorised to provide a comprehensive set of Financial Procedure Notes (FPNs) to support the formal Regulations and to facilitate the operation and application of the Council's financial management arrangements. Like the Regulations themselves, the FPNs are regularly reviewed and updated to meet changing circumstances and the changing requirements of the Council. The FPNs are available on the intranet.

These Regulations need to be read in conjunction with the remainder of the Constitution and any other regulatory documents of the Council. Please address queries or comments regarding the Council's Financial Regulations and Financial Procedure Notes to the Strategic Director Finance (the Section 151 Officer).



## Interpretation

In the regulations	Interpretation
<b>People</b> Chief Executive Officer (CEO) CLT Corporate Leadership Team (CLT) Corporate Manager (Accounts and Assurance) Deputy 151 Officer Director Director of People and Governance Head of Paid Service MO Monitoring Officer (MO) Section 151 Officer Strategic Director Finance	Head of Paid Service Corporate Leadership Team CEO, Strategic Directors, Directors Deputy 151 Officer Corporate Manager (Accounts and Assurance) CEO, Strategic Directors, Directors Monitoring Officer (MO) Chief Executive Officer (CEO) Monitoring Officer Director of People and Governance Strategic Director Finance Section 151 Officer
<b>Meetings</b> Finance Committee Policy Committee Audit Committee	Strategy, Finance and Policy Committee As set out in the council's constitution Audit and Governance Committee

# 1. Financial Administration

## WHY ARE THESE REGULATIONS IMPORTANT?

It is important that the Council has a sound and effective financial management framework in place to safeguard the organisation's financial arrangements and activities, to support staff and to manage risk. The Local Government Act 1972 Section 151 requires the Council to nominate one of its Officers to be responsible for the proper administration of its financial affairs. The Officer so appointed is the Strategic Director Finance. Financial Regulations form part of the Council's corporate governance arrangements and provide a control framework through which the Strategic Director Finance carries out his statutory duty as the Section 151 Officer on behalf of the Council.

### 1.1. Application of Financial Regulations

- 1.1.1. Financial regulations provide the framework for managing the council's financial affairs. They apply to every Member and Officer of the council (including contract and temporary staff) and anyone acting on its behalf.
- 1.1.2. The regulations identify the financial responsibilities of Council, all the Council's Committees, the Chief Executive (who is also the Head of Paid Service), the Strategic Director Finance, Service and Budget Managers and all staff in general.
- 1.1.3. References in these Regulations to Service and Budget Managers also apply to the Chief Executive and all Directors and shall in every case be considered as referring to authorised persons acting on their behalf (whether authorised to do so or not). The Strategic Director Finance (who is also the Section 151 Officer) has a nominated Deputy who has authority to act on their behalf. In certain cases, as specified in these Regulations, Service and Budget Managers are required to maintain a written record where decision making has been delegated to members of their staff, including seconded and temporary staff.
- 1.1.4. These Regulations apply equally to any service conducted by the Council on behalf of any other authority, body or person, and to all external agencies and their employees incurring expenditure or receiving income on behalf of the Council. Accordingly, Members and Service and Budget Managers shall ensure that partnership and other arrangements with external parties are not set up to operate in conflict with these Regulations as far as this Council's involvement is concerned.
- 1.1.5. **All Members and staff have a general responsibility for taking reasonable action to provide for the security of any assets under their control, and for ensuring that the use of these resources is legal and properly authorised, and that economy, efficiency and effectiveness are always secured.**
- 1.1.6. Any action, which is an exception to these Regulations, may only be approved in **exceptional circumstances** by the Strategic Director Finance in consultation with the Chief Executive and a report setting out the reasons for such action shall be submitted to the next available meeting of the Finance Committee.

- 1.1.7. These Regulations shall apply until such time as they are rescinded, amended, or suspended by Council.
- 1.1.8. The Regulations are supported by a set of Financial Procedure Notes (FPNs) which provide more detailed directions on the arrangements to be complied with at an operational level.
- 1.1.9. **All Officers who have responsibility for a budget or financial decision making shall be required to demonstrate appropriate financial competencies. The methods by which such competence is demonstrated may involve internally delivered training, external certification or any other approach agreed by the Strategic Director Finance. Financial competencies shall be included in all relevant job descriptions and person specifications and demonstration of such shall form part of all recruitment activity and of the council's overall performance management framework.**

## 2. Internal Controls

### WHY ARE THESE REGULATIONS IMPORTANT?

The functions of the Council are diverse and therefore to ensure delivery of the Council's strategic objectives, a framework of internal controls is required.

The Council has statutory obligations and therefore requires internal controls to identify, meet and monitor compliance with these obligations.

Moreover, the Council is required to produce an Annual Governance Statement (AGS). The Council has adopted a Code of Corporate Governance, which is consistent with the principles of the CIPFA (Chartered Institute of Public Finance and Accounting) Delivering Good Governance in Local Government Framework (2016). The AGS is produced following a review of the Council's governance, risk management, counter fraud and internal control arrangements and explains how Basildon Borough Council delivers good governance against the seven key principles of good governance. It also reviews the effectiveness of these arrangements and includes an action plan to address any significant governance issues identified.

### 2.1. Financial Framework

2.1.1. Council and Members' have responsibility for the overall management of the Council's financial affairs which is exercised through:

2.1.2. Council Meetings – The Council is responsible for:

Agreeing and approving the budget for the Council; and  
Adopting and changing the constitution, of which these regulations form part; and  
Approving the Council's Capital and Investment Strategy

2.1.3. Finance Committee is responsible for:

Formulating budget proposals in accordance with the Budget and Policy Framework, including capital and revenue spending in accordance with the Council's priorities and make recommendations to Council for approval. Discharging its functions in accordance with the policy framework and budget.

2.1.4. Audit Committee has right of access to all information it considers necessary. It is responsible for:

Reviewing governance and internal control arrangements and bringing any matters requiring further review or action to Council or Finance Committee.

Monitoring compliance with these financial regulations.

Approving and monitoring the delivery of the internal audit activity of the Council and can consult directly with internal and external auditors; and

Undertaking the Council's responsibilities under the [Accounts and Audit Regulations 2015](#). This includes approving the statement of accounts. The committee ensures that the Council's assurance statements, including the Annual Governance Statement, properly reflect the risk environment and any actions required to improve it. The committee also monitors the effective development and operation of risk management within the Council.

## 2.2. Internal Control

2.2.1. Internal control is a set of rules, procedures, processes, and the use of segregation of duties implemented by the Council to ensure the integrity of financial and accounting information, promote accountability, and prevent errors or omissions. Internal controls provide assurance and aid compliance with laws and regulations, prevent fraud, and improve operational efficiency by ensuring that capital and revenue budgets are adhered to, policies are followed and that accurate financial reports are provided to Service and Budget Managers, and Members.

2.2.2. The Council is required to produce an Annual Governance Statement (AGS). The Council has adopted a Code of Corporate Governance, which is consistent with the principles of the CIPFA/SOLACE Framework Delivering Good Governance in Local Government. The AGS is produced following a review of the Council's governance, risk management, counter fraud and internal control arrangements and explains:

How the Council delivers good governance against the framework in the year being reported upon.

Details improvements made in the previous years against the action plan; and

Provides an action plan to enhance governance issues identified in the year ahead.

2.2.3. The Authority faces a wide range of financial, administrative, and commercial risks, from both internal and external factors, which need to be managed to enable the Council to achieve its objectives. Internal controls are necessary to manage these risks in line with the Council's risk appetite.

2.2.4. A system of internal controls is established to provide measurable achievement of:

- Efficient and effective operations,
- Reliable financial information and reporting,
- Compliance with laws and regulations, and
- Risk management.

2.2.5. Advice and guidance on an appropriate internal control environment can be obtained from Internal Audit.

2.2.6. A transparent framework of financial management accountability, responsibilities and decision making is essential to the effective management of the Council's financial

affairs. All Members and Officers have a common duty to abide by the highest standards of integrity and propriety when making decisions about the use of public money.

## 2.3. Accounting Arrangements

### 2.3.1. Strategic Director Finance (Section 151 Officer)

The Strategic Director Finance is the council's designated Section 151 Officer ([Section 151 of the Local Government Act 1972](#)) who has statutory duties in relation to the financial administration and stewardship of the Authority. This responsibility cannot be overridden. The statutory duties arise from:

[The Local Government Finance Act 1988.](#)  
[The Local Government and Housing Act 1989.](#)  
[The Local Government Finance Act 1992.](#)  
[The Local Government Act 2000.](#)  
[The Local Government Act 2003.](#)  
The [Accounts and Audit Regulations 2015.](#)  
[The Localism Act 2011.](#)  
[The Local Government Finance Act 2012.](#)  
[The Audit & Accountability Act 2014.](#)

2.3.2. Guidance on the role of the Section 151 Officer is also given by the Chartered Institute of Public Finance & Accountancy (CIPFA) in the paper entitled 'The Role of the Chief Financial Officer in Local Government'.

2.3.3. The Strategic Director Finance (Section 151 Officer) shall nominate a qualified member of staff to deputise for them in their absence.

2.3.4. The Strategic Director Finance is responsible for:

- The proper administration of the Authority's financial affairs.
- Setting financial management standards and monitoring compliance with them.
- Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
- Arranging Financial Management training for Members, budget holders and all staff as appropriate to their roles and responsibilities.
- Providing accurate and timely financial information.
- Preparing the Capital and Investment Strategy
- Preparing the revenue budget and Capital Programme.
- Reporting on the robustness of estimates made for the purposes of preparing budgets and the adequacy of the proposed financial reserves; and
- Preparing a budget outturn report to Members post the year end highlighting key variances and their root cause.
- The execution and administration of treasury management decisions in accordance with the Council's policy statement and CIPFA Treasury Management Practices (TMP's) policy and guidance.
- Authorising virements between budget heading above the delegated threshold and all virements between pay and no pay budgets or vice versa.

- Preparing and reporting to Council where expenditure obligations cannot be maintained within existing budgets and a supplementary estimate would be required.
- Preparing the Council's Annual Statement of Accounts in accordance with all applicable codes of practice on Local Authority accounting.
- Reviewing all Council and Committee reports where financial data is included of actions and decisions will have financial implications and obligations.
- Determining the council's council tax base<sup>1</sup>

2.3.5. The Strategic Director Finance may allocate their day-to-day responsibilities to an appropriate representative in accordance with the approved Scheme of Delegation Authority to Officers and the Schedule of Financial Authority to Officers (the Authorised Signatory List).

2.3.6. The Strategic Director Finance shall report to the Council, Finance Committee, Audit Committee and the external auditor in fulfilment of the statutory obligations under [Section 114 of the Local Government Finance Act 1988](#) or otherwise if the Authority or any of its Officers:

Has made, or is about to make, a decision which involves incurring unlawful or unauthorised expenditure.

Has taken, or is about to take, an unlawful or unauthorised action which has resulted or would result in a loss or deficiency to the Authority; or

Has made or is about to make an unlawful or unauthorised entry in the Authority's accounts.

2.3.7. The Strategic Director Finance shall assist the Council to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective operations, financial stewardship, effective risk management, probity and compliance with laws and regulations. Arrangements will include a review of all council and committee papers to ensure that any financial implications of the proposed decisions are appropriately set out.

2.3.8. The Strategic Director Finance shall ensure that there are effective and properly resourced internal audit and risk management functions, that key controls are operating effectively and that controls are recorded and managed within an effective risk management framework.

2.3.9. The Strategic Director Finance shall:

Make satisfactory accounting arrangements for all financial transactions of the Council, including for any joint ventures or Council controlled companies, in consultation, where necessary, with the Corporate Leadership Team and Members.

Make safe and efficient arrangements for the receipt and payment of the Council's money.

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<sup>1</sup> [Delegated by decision of Council 27 January 2016](#)

Address weaknesses in the financial control framework identified by External or Internal Audit in a timely manner; and

review such arrangements periodically.

## 2.4. Service and Budget Managers

2.4.1. **All** Service and Budget Managers, including those employed in joint ventures and Council controlled companies shall ensure that:

- Managerial control systems operate effectively throughout their service areas. These will include the defining of policies, the setting of objectives and plans, the monitoring of financial and other performance, and the taking of appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities and ensuring staff have a clear understanding of the consequences of any lack of control.
- Financial and operational control systems and procedures operate effectively throughout their service areas. These will include physical safeguards for assets, segregation of duties, checking and authorisation procedures and information systems.
- The approval of the Strategic Director Finance is sought on any matter liable to affect the Authority's finances materially before any commitments are incurred.
- Members of all Committees are advised of the financial implications of all proposals and that these have been previously agreed by the Strategic Director Finance.
- Purchase Orders are issued, and contracts are duly signed on behalf of the Authority;
- Key controls and control objectives for internal control systems are reviewed regularly to be confident as to the proper use of resources, achievement of objectives and management of risk.
- Processes are managed to check that established controls are being adhered to and are effective.
- Existing controls are reviewed in the light of changes affecting the Authority and new controls are established and implemented in line with guidance from the Strategic Director Finance.
- Controls which are no longer necessary or no longer cost or risk effective, are removed in consultation with the Strategic Director Finance; and
- Assurance over the control environment is provided as part of the governance assurance framework.



### 3. Financial Planning and Budgeting

#### WHY ARE THESE REGULATIONS IMPORTANT?

The Council is responsible for producing an overall policy framework. The purpose of the framework is to explain overall priorities and objectives, and ensure that resources follow the identified priorities, agreed service levels and proposals for improvement. The revenue budget is important in this context because, together with the capital programme and the levels of reserves, it expresses the approved policies and service levels of the Council in financial terms.

Once approved, the revenue budget confers authority to incur expenditure to achieve the aims and objectives of the Council. If expenditure plans cannot be met within the approved budget, then they can only proceed with an approval to divert funds.

The revenue budget and the capital programme together express the approved policies and service levels of the Council in financial terms. It is important to ensure that the Council achieves maximum economy, efficiency and effectiveness from the use of its capital resources and directs those resources into the agreed priority areas.

#### 3.1. Annual Budget and Medium-Term Financial Plan

- 3.1.1. The Strategic Director Finance shall prepare annually a Medium Term Financial Plan and Strategy covering, as a minimum, the following five financial years., for Council approval, to provide an estimate of resources available to the Council and identify budget pressures.
- 3.1.2. Proposed budgets over periods of one year or longer shall be prepared by Service and Budget Managers in consultation with the Strategic Director Finance to reflect the cost of delivery of the Council strategic and operational target along with service delivery in accordance with legislation and approved policy and procedures, including defined service standards and charters.
- 3.1.3. The Corporate Leadership Team shall recommend an annual budget to Finance Committee that includes the following:
  - Annual capital and revenue budget for both the General Fund and HRA
  - Proposed contingencies, general reserves and specific reserves.
  - Council Tax requirement.
  - Capital and investment strategy, and borrowing limits; and
  - The Strategic Director Finance statutory declaration on budget setting.
- 3.1.4. Budget management and monitoring will ensure that resources allocated by Members are used for their intended purposes and that these resources are properly accounted for. Budgetary control is a continual process enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism to call to account Managers responsible for defined elements of the budget. A quarterly update on the current year budget will also be provided and approved by Members if appropriate and required.

### 3.2. Capital Budget

#### 3.2.1. The Capital budget produced annually shall include:

A capital programme for each financial year for both the General Fund and Housing Revenue Account.

A future indication of a capital programme over at least a four-year period; and

The recommended funding methods for the programme (including the use of borrowing, capital receipts, revenue, or other financing methods).

#### 3.2.2. Following the approval of a capital programme, and subject to any conditions specified in that programme, or specified by the Strategic Director Finance, the relevant Service or Budget Managers shall take all appropriate action to carry into effect the approved schemes, within the budget and timescale agreed in the capital programme.

#### 3.2.3. Any material variation in cost or timescale shall be reported to the Strategic Director Finance, Corporate Leadership Team and Members (on a quarterly basis) who will all monitor capital expenditure once budgets are approved by Council. If a project has not started within the specified period, being one year behind the intended start date it will require resubmitting before proceeding.

#### 3.2.4. Any report for a project or policy of a capital nature shall include details of:

- The estimated cost of the proposal.
- Any phasing of the capital expenditure.
- The proposed method of financing, whether by loan, revenue or otherwise.
- The effect on the revenue estimates in the first and subsequent years.
- The additional staff and grades and full costs required both initially and ultimately.
- An assessment and measurement of the need for the scheme and the benefits it will produce.
- A technical and financial appraisal of the alternative approaches to meeting the need; and
- The key risk the capital scheme poses and their mitigation arrangements.

## 4. Financial implications in reports

### WHY ARE THESE REGULATIONS IMPORTANT?

Member decisions should be made on the basis of sufficient and accurate information ensuring that both the financial and risk management implications of a decision are properly considered. This section sets out the requirements for the provision of financial information in reports to Members.

- 4.1. All financial and risk management implications must be detailed within reports for Members and be validated by Strategic Director Finance prior to their progression through the approval process. Informal advice to Members shall also have regard to these arrangements.
- 4.2. All comments and observations made by the Strategic Director Finance (or delegate) must be considered by the report author. Where the author decides not to reflect such advice in the report this should only be done after consultation with the Strategic Director Finance (or delegate).**
- 4.3. Reports shall only be put before the Council or Committees if both the financial and risk management implications for the Council have been considered and presented fairly in the report.
- 4.4. Consultation shall take place as appropriate between the authors of reports, the Strategic Director Finance, and any other members of CLT affected, in good time for any financial and risk management implications to be properly identified.
- 4.5. Report authors shall follow the guidance set out in FPN 1 'Financial Implications Advice to Members' when drafting the financial implications section of their report.
- 4.6. Where there are no financial or risk management implications or they are negligible, the report shall say so.

## 5. Reserves Policy

### WHY ARE THESE REGULATIONS IMPORTANT?

It is important that the Council has a policy setting out its approach to reserves. It is also a requirement of Sections 32 and 43 of the [Local Government Finance Act 1992](#) that each local authority has regard to the level of resources needed to meet estimated future expenditure when calculating its annual Council Tax requirement.

This policy also has regard to [CIPFA Bulletin 13](#) 'Local Authority Reserves and Balances'.

All reserves form part of the General Fund. The Housing Revenue Account balance is specifically ring fenced for use in connection with that account.

The Strategic Director Finance has a fiduciary duty to local taxpayers and must be satisfied that the decisions taken on reserve balances represent proper stewardship of public funds.

- 5.1. It is a requirement of the CIPFA Financial Management Code that the Council has a policy setting out its approach to reserves and balances. It is also a requirement of Sections 32 and 43 of the [Local Government Finance Act 1992](#) that each local authority has regard to the level of resources needed to meet estimated future expenditure when calculating its annual Council Tax requirement. All reserves and balances form part of the General Fund apart from the Housing Revenue Account balance which is specifically 'ring fenced' for use in connection with that account.
- 5.2. As there is no specified minimum level of reserves / balances that an authority should hold, it is the responsibility of the Strategic Director Finance to advise the Council about the level of reserves.
- 5.3. The Council shall maintain the following types of reserves:
  - 5.3.1. General reserves/balances - to manage the impact of uneven cash flows and unexpected events or emergencies. The general reserves/balances do not have any restrictions as to their use; and
  - 5.3.2. Earmarked reserves - sums set aside from time to time to meet known or predicted specific requirements, exceptional risks and uncertainties.
- 5.4. The Council may maintain a number of other reserves that arise out of the interaction between legislation and proper accounting practices, including grant funding. These reserves, which may not be resource-backed and cannot be used for any other purpose, will be specified, including in year movements, by the Strategic Director Finance in the Annual Financial Report.
- 5.5. The Strategic Director Finance will advise the Council on the principles to assess the adequacy of reserves / balances. In considering the level of general reserves / balances, the Strategic Director Finance will have regard to:
  - The strategic financial context within which the Council will be operating through the medium-term.
  - The overall effectiveness of governance arrangements and the system of internal control.
  - The robustness of the financial planning and budget-setting process.

- The effectiveness of the budget monitoring and management process; and having had regard to these matters, the Strategic Director Finance will advise the Council on the monetary value of the required general reserve/balances.

5.6. In exceptional circumstances, the actual level of the Council's reserves / balances may happen to or may be allowed to fall below the level that was considered appropriate. This may be consistent with the need to meet short-term unforeseen expenditure. However, the actual level will be monitored against reserves / balances outlined in the Council's Medium Term Financial Plan and Strategy.

#### 5.7. General reserves – basis of transactions

5.7.1. If it is deemed necessary to utilise part of the General Reserves (or HRA balance) the following approvals shall apply on a cumulative basis annually:

Up to £99,999		By the Strategic Director Finance
£100,000	to	By the Finance Committee
£250,000		
£250,000 and over		By Council

5.7.2. All such approvals shall be accompanied by proposals to replenish the general reserves.

5.8. The Strategic Director Finance will report the use of the general reserves to the next available Council.

5.9. Carry forward of budgets from previous financial years (revenue and capital) shall be approved by the Strategic Director Finance.

#### 5.10. Establishing and Utilising Earmarked Reserves

5.10.1. When establishing earmarked reserves, compliance with the Code of Practice on Local Authority Accounting and the need to distinguish between reserves and provisions must be complied with.

5.10.2. The CIPFA Code of Practice states that for each reserve established, the purpose, usage and the basis of transactions should be clearly identified.

5.10.3. The Council may create new or add to earmarked reserves at any time. The following approvals apply in respect of the initial balance to be placed in the reserve:

Up to £500,000	Strategic Director Finance
	By the Finance
Over £500,000	Committee

5.10.4. The approval for establishing the earmarked reserve should include the following information:

- The reason for creating the reserve.
- The source of funds used to establish the reserve (e.g. budgeted amounts, from any budget surplus)
- The proposed further transfers to the reserve (if any)
- A clear statement of how and when the reserve can be used. Without a clearly defined purpose and clearly defined usage there will be ambiguity over the application of reserves.

5.10.5. The Strategic Director Finance will be responsible for managing the earmarked reserve (including altering the year-to-year profiling if required) and will have delegated authority, to be exercised in accordance with the requirements of the Financial Regulations, for approval of budget allocations in accordance with the purpose of the reserve, although day to day management of the reserve may be delegated to a specific officer.

5.10.6. Such use of earmarked reserves will be reported to the Finance Committee.

5.10.7. Use of an earmarked reserve for any purpose not in accordance with the purposes for which it was established must be approved in accordance with the requirements for use of general reserves

5.10.8. Once an earmarked reserve has fulfilled the purpose for which it was established the Strategic Director Finance shall advise the Finance Committee on whether the balance should be allocated to another similar purpose reserve or surrendered to the Council's overall reserves.

#### 5.11. Reporting of Reserves

5.11.1. The Strategic Director Finance will monitor the overall reserves position and report such to the Finance Committee through normal budget monitoring reports as and when required.

- As part of the budget setting report to Council the Strategic Director Finance will include:
- A statement of movements in reserves for the year ahead and the following 5 years (or more if necessary).
- A statement of the adequacy of general reserves and provisions in the forthcoming year.

## 6. Budget Monitoring and Control

### WHY ARE THESE REGULATIONS IMPORTANT?

Budgetary control ensures that once Council has approved a revenue budget or a capital programme, the resources allocated are used for their intended purposes, i.e. the agreed priority areas, and are properly accounted for. It is a continual process, enabling the Council to review and adjust its budget targets during the financial year to make the most effective use of resources in delivering the Council's policies and objectives. The budgetary control framework also sets out the accountabilities of managers for defined elements of the budget.

By continually identifying and explaining variances against budgets, the Council can identify changes in trends and resource requirements at the earliest opportunity.

Each service is required to manage its own expenditure within approved resources and to identify any surplus resources for diversion to other priorities or to support any savings requirements. The mechanisms described here provide for switching funds between budgets, including contingencies and reserves, where required to maintain service levels and achieve policy objectives.

Members of CLT are responsible for alerting the Strategic Director Finance to any issues with the potential to affect revenue or capital budgets or resources in the current year or future years, and where significant the Strategic Director Finance shall report such matters to the Finance Committee at the appropriate time.

Performance reports, including the outcomes of budget control activities, are submitted to the policy committees as appropriate as part of the Budget Monitoring process highlighting any significant budget variances.

- 6.1. Budget monitoring will operate on a hierarchical basis through Service and Budget Manager, Directors, the Strategic Director Finance, Corporate Leadership Team and Members. Reporting will be monthly to CLT and quarterly basis Finance Committee from Months 3 to 9 followed by an outturn report after the year end.
- 6.2. The Strategic Director Finance has overall responsibility for budgetary control arrangements, including providing training to Service and Budget Managers. Operational budgetary control is delegated to individual Service or Budget Managers. The responsibilities of any officers managing budgets are:
  - For the budgets and programmes allocated to them, for delivering the levels of service on which they were based, and for compliance with their financial obligations.
  - For monitoring levels of service and performance within services,
  - For proactively seeking savings to offset potential or actual overspends (or under recovery of income) within their allocated budgets and cost centres and/or to meet future budget gaps and/or to be redirected to agreed political priorities.
  - For working with Finance Business Partners to manage their budgets and notifying any actual or potential overspend where it cannot be contained within funding limits set for the financial year.
  - For providing any additional information the Strategic Director Finance may require.

6.3. In no circumstances shall Service or Budget Managers:

- Use staffing budgets to fund non pay costs without the express written approval of the Strategic Director Finance.
- Use non pay budgets to fund staff costs without the express written approval of the Strategic Director Finance.
- Make or commit the Council to any costs in future years, unless there is approval and funding available.

6.4. Virement

- 6.4.1. A 'virement' is: "planned transfer of a budget for use in a different purpose to that originally intended". This does not include budgetary overspends or under collection of income.
- 6.4.2. Subject to appropriate consultation, budget allocations may be moved (vired) between revenue budgets or between schemes within the Capital Programme for the purpose of maintaining approved service levels and / or responding to unforeseen budget pressures and / or meeting any efficiencies target, by Service or Budget Managers in consultation with and subject to the approval of the Strategic Director Finance or officer delegated by them.



## 7. Procuring and Paying for Works, Supplies and Services

### WHY ARE THESE REGULATIONS IMPORTANT?

The letting of council contracts should be done with demonstrable transparency and in accordance with Council policies, including the policy on counter fraud and corruption. It is essential for maintaining public confidence that the Council and its Officers are seen to act with complete fairness and impartiality in the letting of contracts.

The Council has a statutory duty to achieve value for money through economy, efficiency and effective use of resources. The Council's procedures should help to ensure that services obtain value for money from their purchasing arrangements.

These Regulations should be read in conjunction with the Council's Contract Procedure Rules, its Corporate Procurement Strategy, and the Council's Employee Code of Conduct.

#### 7.1. Purchase orders and contracts

7.1.1. All goods and services must be procured in accordance with the Contract Procedure Rules and Purchase Ordering Processes. **The Contract Procedure Rules provide for all contracts (including those made by purchase order) more than £249,999 to be approved by the appropriate policy Committee.**

7.1.2. Members of CLT may, therefore, commit expenditure in respect of goods and services up to a value of £249,999 if they do so in accordance with the requirements of these Regulations. They must establish that there is sufficient budget provision to cover the costs before the goods or services are procured. If there is no budget, or insufficient budget, then procurement cannot proceed until such time as there is, and funding is approved in accordance with these Regulations.

Further delegation is as per the council's scheme of delegation.

7.1.3. Temporary arrangements to cover the absence of any individual should be communicated in writing to the Chief Financial Officer with defined start and finish dates. Such arrangements should be authorised by the relevant Corporate Leadership Team member or Corporate Manager.

#### 7.2. Other Expenditure

7.2.1. The Council makes payments to other bodies and individuals that are not in respect of the receipt of goods or services. Where these payments are not more than £249,999 the scheme of delegation for goods and services set out above applies. Where they do exceed £249,999 authority to approve these payments is set out below. The authority is unlimited except where stated otherwise. Such authority can only be exercised where all relevant requirements of these Regulations and of the Council's constitution have been met.

#### 7.2.2. Deputy Section 151 Officer

- Precept payments to major and local precepting bodies including such additions and deductions as required by agreements between the bodies e.g. council tax sharing agreement
- Payments to the Government in respect of statutory schemes e.g. pooling of housing capital receipts
- Payments made to any other Authority under the provisions of an approved business rates pooling scheme
- Payments made to Essex County Council in respect of the pension deficit

#### 7.2.3. Director of People and Governance

- All salary and allowances
- All payments to third parties in respect of statutory and other deductions from pay
- All other payments related to employment or post-employment

#### 7.2.4. Strategic Director Finance/ Director of People and Governance

- All payments relating to matters settled as the result of legal activity

#### 7.2.5. Strategic Director Finance and Deputy Section 151 Officer

- All other payments of this nature (and those allocated to other officers above)

#### 7.2.6. The nominated officer may delegate the authority provided above to any other officer. Such delegation should be communicated in writing to the Strategic Director Finance and such delegation shall cover all such payments irrespective of value.

#### 7.2.7. All orders will be placed through the Council purchase order payments systems which is hard coded to ensure segregation of duties and ensure compliance with delegated financial limits. Segregation of duties in this area ensure that officers making an order request (requisition) are not also authorising the order. This will be the appropriate Service or Budget Manager and their line Manager where the Service or Budget Manager generates the order. No invoice will be paid by Finance unless an order has been raised by the relevant Service.

#### 7.3. Service Managers and budget holders shall:

- 7.3.1. Ensure works and services are not delivered, unless at the contractor's own risk before a Purchase Order or contract have been authorised and issued.
- 7.3.2. consult with the Strategic Director Finance and / or the Procurement Officer to ensure every contract has an appropriate clause to cover financial and insurance requirements, and to provide sufficient security for due performance.
- 7.3.3. Put in place adequate procedures for the effective cost control of all contracts; then
- 7.3.4. Ensure all contracts are entered onto the Council Contract Register (available on the Council website), which will be maintained by the Procurement Officer.

- 7.4. Minor items of expenditure, up to a limit set for each authorised card holder may be paid on procurement/credit cards by officers authorised to hold a card. All cardholders must comply with the Council's Procurement/Credit Card Policy, which is available on the Council's intranet, non-compliance will result in the card being cancelled.
- 7.5. Service and Budget Managers shall put in place adequate systems for verifying the performance of work or the receipt of supplies and services. Controls shall be established to ensure that:
- 7.5.1. Work completed or supplies and services received are as specified.
  - 7.5.2. Quality or workmanship was of the required standard; and
  - 7.5.3. Appropriate entries are made in inventory, stock or other records.
- 7.6. Service and Budget Managers shall make adequate and effective arrangements approved by the Strategic Director Finance for checking and certifying invoices and other requests for payment without undue delay. Unless there is a dispute with the supplier the Council will pay the supplier within 30 days, unless payment terms state otherwise. The formal and standard payment terms are 30 days from the date of the supplier's invoice.
- 7.7. Creditor payment runs will be checked and validated by officers within the Finance Team who are not involved in procurement and purchasing thereby giving a further segregation of duties. Payment and BACS transmissions will be authorised by approved signatories to the Council's bank account in accordance with arrangements established by the Strategic Director Finance.

## 8. Treasury Management

### WHY ARE THESE REGULATIONS IMPORTANT?

Treasury Management is in place to provide assurance that the Council's money and overall cash flow are properly managed, in a way that balances risk with return but with overriding consideration being given to the security of investments.

The signing of leases and other forms of credit can have a wider financial impact than just the rental payments. It is therefore necessary that the Strategic Director Finance be given the opportunity to evaluate the costs of any potential agreement before it is legally binding.

- 8.1. The Strategic Director Finance shall arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA Code of Practice on Treasury Management, any relevant statutory guidance and the Council's capital and investment strategy.
- 8.2. The Strategic Director Finance shall prepare an annual capital and investment strategy regarding investments, borrowing and the repayment of external debt. The capital and investment strategy will include the following:
  - Borrowing requirement and strategy.
  - Investment policy and strategy.
  - Minimum Revenue Provision (MRP) statement.
  - Capital programmes and proposed financing thereof
  - Prudential indicators for the next three years providing assurance that the Council's capital plans are affordable, prudent and sustainable; and
  - The Treasury Management Policy Statement.
- 8.3. Reporting on Treasury Management matters to the Corporate Leadership Team and Members will be on a quarterly basis in line with the CIPFA Code of Practice on Treasury Management.
- 8.4. The Strategic Director Finance shall maintain in writing a list of the names of any Officers in their department authorised to act on their behalf in relation to the specific responsibilities set out in this Section, together with specimen signatures and details of any limitation on the authority delegated to them (the Authorised Signatories List).

## 9. Staffing, Employment and Pay (including expenses)

### WHY ARE THESE REGULATIONS IMPORTANT?

Staffing costs are the largest single item of expenditure for most Council services. It is therefore important that payments are accurate, timely, made only where they are due 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 paid in accordance with the scheme adopted by Council.

Like all organisations, the Council is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax can be severe. It is therefore important for all Officers to be aware of their role.

9.1. The Chief Executive (as the Head of Paid Service) is responsible for the administration of all arrangements for the payment of existing and former employees including:

- Salaries and wages.
- Other emoluments (excluding pensions which are scheme obligations) including overtime.
- Car loans and leased vehicles.
- Travel and subsistence; and
- Any honorariums, ex-gratia or redundancy payments

9.2. All payroll documents shall be authorised by an approved officer and no employee shall certify their own documents. All payroll records or other pay documents shall be in a form approved by the Strategic Director Finance and shall be certified by the employees designated Line Manager and / or Budget Holder as appropriate.

9.3. It is also important that all payments are accurately and completely recorded and accounted for, and that Members' allowances are paid in accordance with the scheme adopted by the Full Council.

9.4. The Director of People and Governance will put in place controls to ensure that:

- 9.4.1. Staff are only recruited to authorised posts for which there is designated post number and budgetary approval;
- 9.4.2. Funding for the post recruited to is available at both Councils, bearing in mind the fact that the cost of the post is split between multiple Councils;
- 9.4.3. All employees have a signed contract of employment and a job description;
- 9.4.4. Only duly documented and authorised changes will be processed on the Personnel and Payroll Systems;
- 9.4.5. That before release the payroll is adequately checked and reviewed to ensure completeness and accuracy of the pay run, including the calculations of approved deductions from gross pay and employers on costs;
- 9.4.6. Member allowances and expenses are subject to the same control processes as applied to officer's payroll processing;
- 9.4.7. All payroll information and data will be restricted and adequately controlled from unauthorised access.

## 10. Income

### WHY ARE THESE REGULATIONS IMPORTANT?

It is essential that all income due to the Council is identified, collected, receipted and banked promptly. To achieve this, it is necessary to put effective systems in place. Whenever possible income must be received in advance or at point of delivery as this improves the Council's cash flow and avoids the time and cost involved in administering debts.

- 10.1. The annual review of fees and charges will form part of the budget setting process. Service and Budget Managers shall, in consultation with the Strategic Director Finance, review all fees and charges at least annually in accordance with the guidance included in the Annual Budget Setting guidance issued by the Strategic Director Finance. Service and Budget Managers shall also ensure adherence and notification to the Strategic Director Finance of any fees and charges which are set by statute or subject to regulatory guidance and limits on any increase.
- 10.2. Segregation of duties will be maintained within the income collection process such that officers providing information, calculating, checking and recording sums due to or from the Council shall be separated as far as is possible from the duty of collecting such sums due, including debt recovery and write off.
- 10.3. Accounts for sums due may only be raised on the Council's corporate Sundry Debtors system unless alternative arrangements have been approved by the Strategic Director Finance.
- 10.4. Service and Budget Managers shall:
  - 10.4.1. Make adequate and effective arrangements for the prompt identification of all sums due to the Council;
  - 10.4.2. Secure payment in advance where this is accepted practice and appropriate e.g. Licensing;
  - 10.4.3. Make adequate and effective arrangements for recording all sums due accurately and in a timely manner in the Council's accounts;
  - 10.4.4. Service and Budget Managers shall make adequate and effective arrangements for the sums collected and banked to be reconciled with the records of sums due;
  - 10.4.5. Ensure cheque and cash income is only received where absolutely essential, with appropriate security, storage and arrangements to bank the income, in accordance with guidance issued by the Strategic Director Finance;
  - 10.4.6. Ensure appropriate payment routes are available to all stakeholder groups to maximise income collection, whilst being mindful that debit card payments are preferable to Credit Card payments in areas such as Housing Rent and service charges.

## 10.5. Money Laundering

10.5.1. Any Service within the Council that receives cash from an external person or body is potentially vulnerable to a money laundering operation. The need for vigilance is vital and if there is any suspicion concerning the appropriateness of a cash transaction this must be reported to the Council's nominated Money Laundering Reporting Officer (the Strategic Director Finance), **without alerting the payer.**

10.5.2. Cash sums above £10,000 must not be accepted by any Council Officer.

10.5.3. Refer to the Council's Counter Fraud Policy and associated Guidance notes, for more information.

## 10.6. Debt management

10.6.1. Debt Management will be dealt with by the Housing Rents and Sundry Debtors staff and debts will be proactively managed to seek to recover income due to the Council whilst giving those in hardship payment plan options. Debt Management, including referral to outside Debt Collection Agencies will be documented in procedure notes approved by the Strategic Director Finance.

10.6.2. Debt write off will be considered in the following cases, only once all documented recovery actions have been carried out:

- The debt is uneconomic to pursue any longer (small amounts);
- The debtor has died and there are no available funds to settle the estates debts;
- The debtor cannot be traced (through a tracing company checking at least twice on two separate occasions – usually 6 months apart);
- The debtor has returned overseas or permanently left the United Kingdom;
- Collection is now time barred by statute; or
- The courts deem the debt unenforceable.

10.6.3. Debt write off will be reported annually to the Audit, Governance and Appointments Committee alongside historic data for comparison. Debt write off will be authorised as follows:

- Sundry Debtors Manager up to £1,000 per debtor;
- Senior Housing Manager up to £1,000 of current or former tenant arrears, including service charges;
- Any Council Debt up to £10,000 by the Strategic Director Finance in consultation with the relevant Service or Budget Manager; and
- Debtors over £10,000 by the Strategic Director Finance in consultation with the Chair of the Finance Committee

## 11. Banking Arrangements

### WHY ARE THESE REGULATIONS IMPORTANT?

The Council has a duty to ensure that all moneys are properly safeguarded and only utilised for authorised purposes. It is therefore necessary to have controls to ensure the proper authorisation and control of all bank accounts, all payments made from them and all income deposited.

- 11.1. The Council has a duty to ensure that all money is properly safeguarded and only utilised for authorised purposes. The Council must also comply with the statutory money laundering regulations. It is therefore necessary to have controls to ensure the proper authorisation and control of all bank accounts, all payments made from them, and all income deposited.
- 11.2. The Strategic Director Finance is responsible for:
- 11.2.1. Opening, closing and operating all bank accounts, including those used for Treasury purposes, and related facilities in the Council's name;
  - 11.2.2. The opening, closing and operating of bank accounts and related facilities operated by Council Companies and Joint Ventures, where the Council's interest exceeds 50%;
  - 11.2.3. Approving arrangements for all communications with the Council's bankers concerning its bank accounts and any changes in banking arrangements; and
  - 11.2.4. Ensuring there are always sufficient authorised signatories to the Council's accounts.
- 11.3. All payments from the Council's bank accounts shall be, as far as is practicable, automated bank transfer but the Strategic Director Finance may exclude from this regulation such payments as he may consider appropriate.
- 11.4. Payment by Direct Debit and Standing Orders must be under arrangements authorised by the Strategic Director Finance.
- 11.5. Bank reconciliation is a fundamental Internal Control. The Strategic Director Finance shall regularly, at least monthly, ensure the reconciliation of the Council's bank accounts with the accounting records and promptly investigate any discrepancies. Treasury balances and bank accounts are to be reviewed and checked on at least a weekly basis, and validated to transaction documentation and discrepancies, including the non-receipt of interest, should be promptly investigated.



## 12. Property, Assets, Leases and Inventories

### WHY ARE THESE REGULATIONS IMPORTANT?

The Council holds assets in the form of land and buildings, fixed plant, vehicles and machinery, furniture and equipment, software and data, cash and other items of value (e.g. stocks and stores, tickets and vouchers). It is important that assets are used efficiently in service delivery. Up to date records are a prerequisite for sound asset management.

- 12.1. All property owned or leased by the Council is held corporately or in the name of the appropriate Council company or joint venture. Resolution of disputes on property matters is overseen by the Chief Executive.
- 12.2. The Director of Assets and Investments is responsible, in consultation with other Service Managers, for the compilation and maintenance of an Asset Register covering land and property and other fixed assets. The function of the asset register is to provide the Authority with information about fixed assets so that they are safeguarded, used efficiently and effectively, and are adequately maintained.
- 12.3. The acquisition, improvement and sale of any property assets will be detailed within the Capital Programme, including the use of any capital receipts, where it is unencumbered by any obligation. Asset Management and usage will be fully documented in the appropriate service Assets Management plans and strategies.
- 12.4. The valuation, acquisition, development and sale of any property will be carried out in line with the requirements of the Constitution and under arrangements approved by the Strategic Director Finance, alongside appropriate measures to ensure Best Value is obtained from public funds.
- 12.5. **Inventories** are to be maintained of items that are below the Asset Register threshold but, above a de-minimis level set in procedural guidance, need to be logged, recorded and periodically verified that they are still under Council control.
- 12.6. The requirements related to inventories apply to all Officers and Members and are:
  - 12.6.1. Inventories will be documented and maintained in accordance with procedures approved by the Strategic Director Finance.
  - 12.6.2. The Head of IT will maintain the IT hardware and software inventories.
  - 12.6.3. Service and Budget Manager will maintain inventories in their areas, excluding IT hardware and software.
  - 12.6.4. Service and Budget Managers will also log assets which, although below the de-minimis level, are attractive and desirable and therefore more prone to theft; and
  - 12.6.5. Inventories are to be checked annually prior to the year end and any discrepancies are to be reported to the Strategic Director Finance.

- 12.7. Leases are long-term financial obligations and commitments, extending over several financial years. The taking of a lease or other similar arrangements, including new or extended leases of land and property, may only be entered into with the consent of the Strategic Director Finance. Such arrangements may be defined for this purpose as any lease, contract hire or other contract or series of contracts under which the use of an asset is obtained in exchange for a series of payments which extend beyond the end of the following financial year.
- 12.8. If the taking of the lease (or other similar arrangement) is in relation to real estate/property (i.e. land or buildings or rights associated) then the method of treatment of the costs may vary depending on the length of the agreement and whether a premium (lump sum) is paid and/or an annual rental/fee. No agreement relating to property or rights over property may be entered into (either taking or granting) without the consent of the Strategic Director Finance.
- 12.9. The Contract Procedure Rules shall apply to all finance lease or similar arrangements, including vehicle lease arrangements.

## 13. Security and Insurance

### WHY ARE THESE REGULATIONS IMPORTANT?

It is important that assets are adequately insured and that there are arrangements for the security of both physical assets and information required for service operations.

#### 13.1. Security

13.1.1. The security of Council staff, building, equipment and documents is everyone's responsibility, including Officers, Members and other Stakeholders accessing Council sites.

13.1.2. All staff and particularly Service and Budget Managers shall make proper arrangements and ensure:

- The security of all buildings and compliance with access controls and restrictions in place;
- The security and safe custody of equipment and other assets under their control;
- The safe custody of all hard copy documents, particularly those with personal data detailed; and
- The security of computers and portable devices for which they have responsibility or used to access corporate systems.

#### 13.2. Insurance

13.2.1. The provision of insurance cover is one of the major methods of responding to corporate and service risks identified under the Council's Risk Management arrangements (Section 5 of these Financial Regulations). Cover is arranged externally (with major insurance companies). Accurate record keeping and timely provision of information are essential if the Council's insurance cover is to be effective.

13.2.2. The Strategic Director Finance is responsible for the following arrangement based on guidance from the Council's Insurance Officer and the Council's Insurers:

- effecting all insurance cover on a corporate basis, through external insurance or through internal self-insurance arrangements as they consider appropriate and maintaining proper records of these arrangements; and
- handling, negotiating, processing and settlement of all claims, in consultation with any external insurers where necessary.

13.2.3. Service and Budget Managers and Members shall notify the Strategic Director Finance, through the Insurance Officer promptly:

- of all new risks, properties, vehicles or other assets that require insurance;
- of any alterations to such risks or assets affecting existing insurances;
- should any of the Authority's assets be damaged, lost or stolen;

- of any loss, liability, damage or personal injury that may lead to a claim against the Authority.

13.2.4. Failure of the Council to appropriately notify the insurer may invalidate cover under the policies and shall provide any related information or explanation required within time scales determined by the Strategic Director Finance and/or relevant legislation.

13.2.5. Service and Budget Managers shall

- Ensure that no employee or other person covered by the Authority's insurances admits liability (orally or in writing) or makes any offer to pay compensation, because this may prejudice a proper assessment of the Council's liability;
- Maintain proper records relating to assets which require insurances effected by the Authority, under arrangements approved by the Strategic Director Finance
- Consult with the Strategic Director Finance and Insurance Officer and also seek advice from the Legal team on the terms of any indemnity that the Authority is requested to give; and
- Consult with the Strategic Director Finance to determine the minimum level of insurance cover required of any person or body (including all Council contractors and those bodies using Council land or facilities) to indemnify the Council or to effect insurance cover in accordance with the Council's requirements and shall check that appropriate insurance cover is in place.

## 14. Value Added Tax

### WHY ARE THESE REGULATIONS IMPORTANT?

Value Added Tax (VAT) is a tax applied to many of the goods and services the Council either buys in or supplies to others. VAT therefore impacts on many of the Council's financial transactions. It is imperative that VAT is correctly charged on the supply of goods and services by the council. Whilst generally speaking the Council is able to reclaim the VAT it pays on buying in goods and services, this ability is limited in relation to certain types of services made by the Council. VAT is a very complex tax, particularly where it relates to land and property transactions and partnership arrangements. It is essential that the VAT implications of all major projects, partnership arrangements and land and property transactions be evaluated well in advance of commitments being made. If this is not done the Council could be faced with a substantial irrecoverable VAT bill that is both unplanned and unbudgeted. HM Revenues and Customs also have the power to impose penalties (fines) for late or non-compliance with VAT rules.

14.1. The Strategic Director Finance is responsible for the determination of all arrangements for the collection, recording, payment and recovery of VAT.

14.2. The Strategic Director Finance shall:

- 14.2.1. maintain complete and accurate accounting records of all the Council's VAT transactions.
- 14.2.2. submit the Council's VAT return to HM Revenues and Customs monthly in accordance with statutory deadlines.
- 14.2.3. prepare the Council's partial exemption calculation as at the end of each financial year and monitor the Council's partial exemption position quarterly.
- 14.2.4. submit the Construction Industry Scheme returns monthly in accordance with statutory deadlines.
- 14.2.5. prepare and submit Voluntary Disclosure Notices as necessary to HM Revenues and Customs and recover any revenues due.
- 14.2.6. conduct all negotiations with HM Revenues and Customs in respect of VAT matters affecting the Council and make appropriate decisions as a result of these negotiations.
- 14.2.7. exercise as appropriate the Council's option to tax in respect of land and buildings.
- 14.2.8. provide guidance, advice and training to Council staff on all aspects of VAT as they affect the Council.
- 14.2.9. publish and regularly update appropriate VAT guidance notes on the Council's intranet.

14.3. Members of CLT shall:

- 14.3.1. properly account for VAT on all transactions under arrangements determined by the Strategic Director Finance.

- 14.3.2. consult the Strategic Director Finance in all cases where the VAT treatment of any transaction is unclear so that the matter can be reviewed and appropriate treatment determined.
- 14.3.3. consult the Strategic Director Finance in all cases where new projects, schemes or services are proposed, well in advance of commitments being made, so that any impact on the Council's VAT position can be assessed, any necessary action taken to protect the Council's VAT recovery position and the financial implications of the proposal can be properly considered.
- 14.3.4. comply with any request from the Strategic Director Finance to cooperate with a VAT inspector and give access at all reasonable times to premises, personnel, documents and assets which they consider necessary for the purposes of their work.

## 2. Risk Management and Audit

### WHY ARE THESE REGULATIONS 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 Regulations 2015 more specifically require that a “relevant body shall maintain an adequate and effective system of internal audit”.

Accordingly, internal audit provides one aspect of an independent and objective assurance in the review of the system of governance, risk management and internal control as a contribution to the proper, economic, efficient and effective use of resources. In fulfilling this responsibility the internal audit service must comply with the mandatory Public Sector Internal Audit Standards and Code of Ethics and CIPFA’s Statement on the role of the Head of Internal Audit.

The basic duties of the external auditor are governed by statute.

In fulfilling their responsibilities the external auditor works to a code of audit practice issued by the National Audit Office.

The Council may from time to time also be subject to audit, inspection or investigation by various other external bodies. Government department inspectorates and bodies such as HM Revenues and Customs have statutory rights of access. Rights of access are also sometimes granted under contractual arrangements, including partnerships where the Council is not the lead body. It is important that all Officers of the Council respond to external scrutiny in a timely, professional and helpful manner.

The Council faces numerous risks: to people (including its employees), to property, to its reputation and to continuity of service delivery. Risk management is the planned and systematic process by which risks and opportunities are identified, evaluated and controlled. Risk management seeks to protect the Council and enable it to achieve its stated aims and objectives. It is the responsibility of the Audit and Risk Committee on behalf of the Council to approve the Council’s Risk Management Policy and Strategy and to promote a culture of risk management awareness throughout the organisation.

This Section should be read in conjunction with that relating to Insurance

### 14.4. Risk Management

- 14.4.1. The Council faces numerous risks: to people (including its employees), to property, to its reputation and to continuity of service delivery. Risk is the threat that an event or action will adversely affect the Council’s ability to achieve its objectives and to successfully execute its strategies. This will include both external and internal risks. An opportunity is an event or action that will enhance the organisations’ ability to achieve its objectives and deliver approved strategies.

14.4.2. Risk Management is the planned and systematic process by which risks and opportunities are identified, evaluated and controlled. Risk management seeks to protect the Council and enable it to achieve its stated aims and objectives. It also seeks to maximise the rewards that can be gained through effectively managing risk. It is the responsibility of the Audit, Governance and Appointments Committee to approve the Council's risk management Policy and Strategy and to promote a culture of risk management awareness throughout the organisation.

14.4.3. The Audit, Governance and Appointments Committee shall approve and promote the Authority's corporate risk management policy and strategy and receive periodic updates on Risk Management and the current Strategic Risk Register.

14.4.4. The Strategic Director Finance shall:

- develop risk management processes and procedures to assist in the identification, assessment, reduction and control of material risks and opportunities, in line with best practice and guidance including HM Treasury Orange Book on Risk Management;
- Undertake regular monitoring and review of the corporate, project, partnership and service arrangements for effective risk management; and
- Ensure that the Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage of its resources, including IT systems through a cyber or hacking attack.

14.4.5. Service and Budget Managers are responsible for:

- Risk management within all areas under their control, including service, projects and partnerships, having regard to appropriate advice from the Strategic Director Finance;
- For carrying out regular reviews of risk and opportunity, reduction and maximisation strategies and the operation of appropriate controls (including business continuity plans) within their departments;
- Ensure that their service, project and partnership risk registers are appropriately updated on a regular basis, within the Council's approved system; and
- All Officers and lead Members shall promptly notify the Strategic Director Finance of all new risks and opportunities that are material, as they are identified.

## 14.5. Internal Audit

14.5.1. 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 Regulations 2015 more specifically require that a "relevant body shall maintain an adequate and effective system of internal audit". Accordingly, internal audit provides one aspect of an independent and objective assurance in the review of the system of governance, risk management and



internal control as a contribution to the proper, economic, efficient and effective use of resources. In fulfilling this responsibility, the internal audit service must comply with the mandatory Public Sector Internal Audit Standards and Code of Ethics and CIPFA's Statement on the role of the Head of Internal Audit.

14.5.2. The Strategic Director Finance shall:

- Ensure that the Internal Audit Service is available and adequately resourced and independent in its planning and operation; and
- That Internal Audit staff as the Strategic Director Finance's authorised representatives shall have authority to enter at all reasonable times any offices, premises or land under the control of the Council and shall have unrestricted access to all records, documents and correspondence relating to any matter under consideration, without limitation.
- All staff shall provide such information and explanations to Internal Audit as considered necessary and shall produce upon demand cash, stores, documents or other property of the Council under their control.
- Members, the Corporate Leadership Team, Strategic Director Finance and all staff with financial responsibilities, including for Council assets shall give appropriate consideration of Internal Audit reports and identified control and governance concerns.
- All staff shall immediately notify the Internal Audit Service on behalf of the Strategic Director Finance upon discovery or suspicion of any financial irregularity, whether affecting cash, stores, property, financial records or otherwise. Internal Audit has delegated authority to investigate allegations of Fraud, Theft, Corruption, Bribery, Money Laundering and any other financial irregularity on behalf of the Strategic Director Finance. The Strategic Director Finance shall notify the Head of Paid Services in all significant cases.

14.5.3. The Council shall set out in policy documents its approach to countering fraud, theft, bribery, money laundering and corruption and to "whistle blowing".

14.5.4. The Internal Audit Service has direct and unfettered access to the Chief Executive, Strategic Director Finance, Monitoring Officer and to all levels of management and to elected Members.

14.5.5. As part of the adequate system of internal audit, the Council will maintain an Audit Committee in line with Codes of Practices. This function is performed by the Audit, Governance and Appointments Committee. The Council's Internal Audit Service will report its findings, assurances and performance to the Audit and Scrutiny Audit, Governance and Appointments Committee in line with the Internal Audit Charter.

14.5.6. Internal Audit will provide an annual opinion on the adequacy and effectiveness of the internal control, governance and risk management arrangements. This opinion will be fed into the Council's Annual Governance Statement.

14.6. External Audit

14.6.1. The duties of the external auditor are governed by statute and the appropriate professional International and National standards.

- 14.6.2. The Authority may from time to time also be subject to audit, inspection or investigation by various other external bodies. Government department inspectorates and bodies such as HM Revenues and Customs have statutory rights of access. Rights of access are also sometimes granted under contractual arrangements, including partnerships where the Council is not the lead body. It is important that all Officers of the Council respond to external scrutiny in a timely, professional and helpful manner.
- 14.6.3. The Strategic Director Finance shall facilitate the co-ordination of the work of internal and external audit together with ensuring appropriate consideration of External Audit reports by officers and Members.
- 14.6.4. The Strategic Director Finance shall ensure that the Council's accounts are scrutinised by the External Auditor, who must be satisfied that the statement of accounts 'gives a true and fair view of' the financial position of the Council and its expenditure and income for the year in question and complies with the legal requirements.
- 14.6.5. Co-ordination of all other inspection and independent review work shall be the responsibility of the Strategic Director Finance. All staff and relevant Members shall give external auditors and inspectors access at all reasonable times to premises, personnel, documents and assets which they consider necessary for the purposes of their work.
- 14.6.6. The External Auditor will report their findings, assurances and recommendations to the Council through the Audit, Governance and Appointments Committee.

## 15. External Arrangements

### WHY ARE THESE REGULATIONS IMPORTANT?

Partnerships play a key role in delivering Council Services and in helping to promote and improve the wellbeing of the Borough. Working with others the Council will mobilise investment, bid for funds, champion the needs and harness the energies of local people and community organisations.

Partnerships can provide ways to access new resources and share risk. In some instances however, tight specifications may not be flexible enough to link to the Council's Corporate Plan. Also, new ways of working can increase the Council's exposure to fraud and to irregularities in the operation of, for example, VAT, insurances and pay.

### 15.1. External Arrangements

- 15.1.1. Partnerships play a key role in delivering Council Services and in helping to promote and improve the wellbeing of our residents and stakeholders. The Council works in partnership with others including public agencies, private companies, community groups and voluntary organisations.
- 15.1.2. The Council, through its distinctive leadership role, will seek to bring together the contributions of the various stakeholders and act as an enabler of greater outcomes than the parties could achieve individually. The Council will mobilise investment, bid for funds, champion the needs and harness the energies of local people and community organisations. The Council will be accountable and measured by what it achieves in partnership with others.
- 15.1.3. Partnerships can provide ways to access new resources and share risk. They can also lead to innovative and improved ways of delivering services whilst forging new relationships. Whilst external funding is an especially important source of income, funding conditions need to be carefully considered to ensure they are compatible with the aims and objectives of the Council. In some instances, tight specifications may not be flexible enough to link to the Authority's corporate plan. Also, new ways of working can increase the Council's exposure to poor financial control, fraud and to irregularities in the operation of, for example, VAT, insurance and pay, including adherence to these Financial Regulations.

### 15.2. External funding

- 15.2.1. Service and Budget Managers shall seek external resources to further the priorities and aims of the Council's Corporate Plan. Before approaching any funders, a Service and Budget Manager must obtain an in principle "go / no go" decision from the Strategic Director Finance based on a short outline of the funding and what it is available for, including any matched funding requirements.
- 15.2.2. After in principal approval and before making a bid for resources which, if successful, would require any financial commitment from the Council, Service and Budget Managers shall ensure that appropriate budgets have been

approved or earmarked in accordance with these Regulations. In working up bids, Service Managers shall:

- Use appropriate project appraisal processes to assess the viability of the project in terms of resources, staffing and expertise;
- Review the capacity, capability and reputation of proposed funders and any joint applicants;
- Identify the specific improvements or outcome the funding will deliver and how this will be measured;
- Identify and assess all potential risks and to ensure achievement of the required outcomes, including any potential grant claw back risks; and
- Obtain approval of the Strategic Director Finance and Service Managers before the bid is submitted.

15.2.3. If successful all external funding will be allocated a cost centre and Budget Manager and be managed as to financial, budgetary, risk management and all other requirements as set out in these Financial Regulations.

### 15.3. Partnerships

15.3.1. All partnerships, with other public, private and third sector bodies require the approval of the Corporate Leadership Team, before any commitments and agreements are made.

15.3.2. All partnerships shall be entered on the council's partnership register.

15.3.3. Where the Council is to be the lead partner, or the accountable body where other public funds are involved, the responsibilities of the Council and the obligations of the various partners are to be clearly defined and understood.

15.3.4. Service and Budget Managers shall consult the Strategic Director Finance on:

- All financial control, insurance and audit requirements are to be incorporated in the partnership arrangements.
- The overall financial implications for the Council, including staffing costs in future years;
- The cost of terminating the partnership and how they will be attributed across the Partnership;
- The risks including reputational risk posed by the Partnership and the other partners, including risks associated with partnership conflict and termination; and
- Prior to entering into any commitment, the relevant Service Manager shall ensure that any matched funding or other financial obligations of the Council are provided for within the revenue budget or Capital Programmes and that arrangements are made for future years' financial provisions to reflect these obligations. This should include any audit and other consequential fees as appropriate.

**15.3.5. These Financial Regulations and the Council's Contracts Procedure Rules shall apply equally to any orders for works, goods or services**

**which are the responsibility of the Council under the partnership arrangements.**

15.3.6. The relevant Service and Budget Manager shall comply with any key conditions of funding and any statutory requirements. Compliance with the conditions of funding should be logged and assessed as a Partnership Risk, within the Council's Risk Register for the Partnership.

15.3.7. The relevant Service and Budget Manager shall:

- Ensure that any financial control, insurance and audit requirements of the partnership are met;
- Communicate regularly with the other partners throughout the project so that any problems are identified and shared on a timely basis to achieve their successful resolution; and
- notify the Strategic Director Finance in writing of the names of any Officers in their department authorised to act on their behalf in relation to the specific responsibilities set out in this Partnership Agreements.

15.3.8. All Partnership agreements must be reviewed by the Council Legal Services Officer prior to signing. Once signed the Partnership agreement is to be recorded on the council's partnership Register.

15.3.9. Any private or third sector partnerships must be procured in accordance with the Contract Procedure Rules.

#### 15.4. Commercial Arrangements and work carried out for others

15.4.1. All the requirements of these financial regulations are applicable to the Council's commercial activities.

15.4.2. The Strategic Director Finance shall:

- Conduct due diligence on the financial and governance status of the partner, appropriate to the quantum of the risk of entering the partnership, the nature of the partnership and the period of time the partner has been operating.
- Advise on and approve the financial implications of any proposed commercial arrangements between the Council and third parties.
- Advise on the establishment and operation of trading accounts to ensure that the accounting and control processes comply with Council and statutory requirements and that the results of trading operations are properly recorded and reported.

15.4.3. Members of CLT shall:

- Identify potential commercial opportunities and evaluate the respective risks and financial benefits using guidance issued by the Strategic Director Finance.
- Seek advice from other departments e.g. Legal and Procurement as necessary
- Obtain the approval of the Strategic Director Finance to proceed before seeking the required Member approval for implementation of the proposal
- Update the Corporate Contract Register with such contracts entered into.

- Comply with advice issued by the Strategic Director Finance in relation to the operation of trading accounts and the proper recording and reporting of trading results.

## 16. Financial Procedure Notes

Financial Procedure Notes (FPNs) form part of the governance framework for managing the Council's financial affairs. They are issued by the Strategic Director Finance to support the operation of the Council's Financial Regulations and provide greater detail on the arrangements to be complied with.

The Procedures apply to every Member and officer of the Council and to anyone acting on its behalf. Compliance is mandatory unless an exception has been agreed by the Strategic Director Finance.

A schedule of the Procedures issued by the Strategic Director Finance is outlined below.

They are available on the Intranet and their contents will be kept under review to ensure they remain current and relevant. Advice on their application in practice can be obtained by contacting the named procedure owner.

By their nature FPN's add detail to the principles set out in the Financial regulations and can be tailored closely to particular needs. Where an existing FPN is not considered appropriate in particular cases the relevant manager should contact the relevant 'owner' of that FPN.

Where accountability for ensuring the requirements of the Financial Regulations are met falls outside Finance it is the responsibility of the accountable service to issue and maintain appropriate procedure notes.

{Insert table of FPNs here}

## **17. Glossary**

### **Annual Financial Report**

The Council's annual report on its financial position for the year ending 31 March. The report is required to be in a prescribed format and is subject to independent review.

### **Asset Management Plan**

A document setting out the Council's plan for developing systems and internal controls to manage its land, buildings and capital expenditure in the most effective way to achieve its goals.

### **Asset register**

A detailed listing of land, buildings, vehicles and major items of plant and equipment (assets). Asset registers are important because they enable an effective assessment of the management of assets to be made through a comprehensive record of attributes. They are also a useful basis for arranging appropriate insurance cover and substantiating insurance claims in the event of fire, theft or other loss.

### **Budget**

A statement expressing the Council's policies and service levels in financial terms for a particular financial year. In its broadest sense it includes both the revenue budget and the capital programme and any authorised amendments to them, and the planned usage of reserves and balances. It does not however include the forward financial forecast, which is for financial planning purposes only.

### **Budgetary control**

The continual review of expenditure and income, both revenue and capital, against planned levels of expenditure and income to help ensure that service objectives are achieved, and the overall resources of the Council are not over or under spent. This process is aided by the use of budget profiles.

### **Budget profiles**

As an aid to budgetary control, managers are required to specify before the start of a budget year the rate at which each budget head for which they are responsible is expected to be consumed during the financial year, having regard to seasonal influences, past experience and other factors. This budget "profile" is then used to monitor the actual rate of consumption as the year progresses.

### **Budget provision**

The amount approved by the Council for a particular budget.

### **Capital contributions**

Sums contributed by external persons and bodies towards the cost of capital schemes to be carried out by the Council. These commonly derive from planning agreements with developers but also include government grants and sums recovered from third parties.

### **Capital expenditure**

This generally relates to expenditure on the acquisition or enhancement of fixed assets which will be of use or benefit to the Council in providing its services for more than one year. It also includes grants to other persons and bodies for spending by them on similar purposes.



**Capital & Investment Strategy**

The strategy for the capital and treasury management activities to be adopted for a particular financial year as approved by the Council within the parameters set by the Treasury Management Policy Statement. The strategy needs to be flexible enough to allow the Strategic Director Finance to respond appropriately to changing circumstances during the course of the year to the best advantage of the Council.

**Capital programme**

The Council's financial plan covering capital schemes and expenditure proposals for the current year and several future years. It also provides estimates of the capital resources available to finance the programme and a statement of any under- or over- programming.

**Capital receipts**

The proceeds from the disposal of land and other assets which are available to finance new capital expenditure after deducting any amount required by statute to be paid over to the Secretary of State. Statute prevents capital receipts being used to finance revenue expenditure.

**Capital resources**

The resources earmarked either by statute or by the Council to meet the cost of capital expenditure instead of charging the cost directly to revenue. The definition covers borrowing, capital receipts and grants and contributions from external persons and bodies given for capital purposes. The Council may also contribute revenue resources to the financing of capital expenditure, and for as long as these are included in the capital programme; they are regarded similarly as capital resources.

**Carry forwards**

Revenue budget provision for specific goods or services which had not been supplied to the Council by 31 March and for which there is inadequate budget provision in the subsequent year. When these budgets are carried forward and added to the budget for that subsequent year in accordance with these Regulations, they are referred to as "carry forwards". A similar principle applies to capital expenditure budgets.

**CIPFA**

The Chartered Institute of Public Finance and Accountancy (CIPFA) is the leading professional body for accountants employed in the public sector. It issues Codes of Practice and other guidance as appropriate on matters addressed by these Regulations.

**Codes of conduct**

The protocols within which Members and Officers will work as set out in Part 5 of the Constitution.

**Codes of practice**

Guidance issued normally by professional bodies in relation to standards which are not regulated by statute. For example, CIPFA have issued Codes of Practice giving detailed guidance on accounting standards, internal audit and treasury management.

**Collection Fund**

The fund into which Council Tax and Business Rates income is paid and out of which the precepts of Essex County Council, Essex Police Authority, Essex Fire Authority, Basildon Borough and Local Councils are met. DLUHC's central share of Business Rates income is

also paid out of the Collection Fund. Any surplus or deficit is shared between the various parties, other than Local Councils, based on precepted amounts and local shares.

### **Contingency provisions**

Money set aside in the budget to meet the cost of unforeseen items of expenditure or shortfalls in income and to provide for changes in inflation and interest rates compared with the assumptions on which the rest of the budget was set.

### **Contract Procedure Rules**

The Council's rules relating to the procurement of works, supplies and services as set out in Part 4 of the Constitution. These are supported by Section 9 of these Regulations.

### **Corporate Governance**

Corporate Governance is the system by which local authorities direct and control their functions and relate to their communities. The Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards and that public money is safeguarded, properly accounted for and used economically, efficiently and effectively. It also refers to its duty under the Local Government Act to plan to secure continuous improvement in the way in which its functions are exercised.

### **Corporate Plan**

A statement made by a Local Authority setting out its long-term aims for the community it serves, the organisational aims of the Council and the main values which underpin its work for the community.

### **Council Tax**

A local tax based on the capital value of residential properties as determined by the Valuation Office, a branch of HM Revenues and Customs. The level of Council Tax set by an Authority for a particular year will be broadly determined by its expenditure on General Fund services less other income, use of Council reserves and government grant.

### **Council Tax base**

A figure calculated annually to represent the number of dwellings over which the Council Tax for the following financial year may be collected. All dwellings within the Borough are valued by the Valuation Office Agency (an agency of HM Revenues and Customs) and classified into one of eight bands (A to H), each of which is expressed as a proportion above or below the value of Band D. The Council Tax base is the number of dwellings expressed in terms of a Band D average, after making allowance for the cost of Council Tax support, other discounts and losses on collection. When the Council sets the level of Council Tax for that year, it is expressed as an amount due per Band D, equivalent properties.

### **Creditor**

A person or body to whom the Council owes money.

### **Debtor**

A person or body who owes the Council money. The debt may derive from several sources such as Council Tax, Business Rates or rent arrears, rechargeable works or where an account has been rendered for a service provided by the Council.

### **Earmarked Reserves**

See "Reserves"

**Estimates**

The amounts which are expected to be spent, or received as income, during an accounting period. The term is also used to describe detailed budgets which are being prepared for the following financial year or have been approved for the current year. The “original estimate” for a financial year is that approved as part of the budget prior to the start of that year and the “revised estimate” is an updated revision for that year.

**External Audit**

An independent examination of the activities and accounts of local authorities to ensure the accounts have been prepared in accordance with legislative requirements and proper practices and to ensure the Council has made proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

**Fees and charges**

Charges made to the public for Council services and facilities.

**Financial Regulations**

That part of the Council’s Constitution which provides an approved framework for the proper financial management of the Council.

**Financial year**

The period of twelve months commencing on 1 April.

**Financial forecast**

The estimated value of a revenue budget head for the three financial years immediately following the budget year, or the totals of such estimates. The forecast conveys no authority to spend and is made for financial planning purposes only.

**General Fund**

The revenue fund of the Council covering day-to-day expenditure and income on services. The net cost on this account is met by Council Tax.

**Housing Business Plan**

A document setting out the Authority’s purpose or mission as a social housing landlord, its objectives and standards for the service, and a plan demonstrating over the short, medium and long-term how those objectives will be achieved. Of particular importance are the Council’s strategies in relation to investment, management and maintenance. The Business Plan is complemented by a Housing Strategy document.

**Housing Revenue Account**

The revenue account covering day-to-day expenditure and income arising from the provision of Council housing. Whilst technically part of the General Fund, the debits and credits are defined in statute and any balance on the account is only available for spending on the housing stock. Activities relating to the strategic housing function, as opposed to the landlord function for the Council’s own housing stock, are accounted for in the General Fund outside of the Housing Revenue Account.

**In Consultation With**

For the purposes of the Financial Regulations the meaning of 'In Consultation With' means that the officer and member will agree. Where there is disagreement, it will be referred to the Finance Committee

**Internal Audit**

Internal Audit is an independent, objective assurance and consultancy activity designed to add value and improve an organisation's operations. It helps the organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

**Inventory**

A detailed listing of all goods, materials, furniture and equipment in the ownership or use of a particular service, other than those held in stocks and stores records. Inventories are normally maintained in sufficient detail as to description, location, age, value etc. to enable any material loss arising from a fire, theft or other event to be identified and to support any insurance claim.

**Investment Strategy**

A statement of policies for determining the type, value and length of investments that the Council will use to place its surplus funds and also for determining appropriate third parties with whom these investments will be placed.

**Leasing**

A method of acquiring the use of capital assets (normally, but not exclusively) through the payment of a rental sum for a period of years. If the arrangement is for vehicles, plant and equipment, the ownership of the asset remains with the leasing company and the annual rental is charged directly to the Council's revenue accounts. If the lease (or other agreement) is in relation to real estate/property (i.e. land or buildings or rights associated) then the method of treatment of the costs may vary depending on the length of the agreement and whether a premium (lump sum) is paid and/or an annual rental/fee. No agreement relating to property or rights over property must be entered (either taking or granting) without the agreement of the Corporate Property Manager.

**Local Councils**

Term used in these regulations to refer to Parish Councils, Town Councils and Village Councils.

**Medium Term Financial Strategy (MTFS)**

The Medium-Term Financial Strategy (MTFS) identifies how the Council intends to structure and manage its available resources over the medium term (current plus 3 years), and to ensure that resource allocation is aligned with and supports Council priorities'. It is updated and approved annually as part of the budget process.

**Members' Allowances**

A scheme of payments to elected Members of the Council in recognition of the duties and responsibilities assumed by them.

**Precept**

The amount that Councils and certain other public authorities providing services within Basildon Borough require to be paid from the Collection Fund to meet the cost of their services.

**Reserves**

A Council's accumulated surplus income in excess of expenditure. Reserves are available at the discretion of the Council to meet items of expenditure in future years and may be earmarked or held for general purposes. An example of an earmarked reserve is the Insurance Pool.

**Revenue**

A term used to describe the day-to-day costs of running Council services and income deriving from those services. It also includes charges for the repayment of debt, including interest, and may include direct financing of capital expenditure.

**Risk**

Risks are significant uncertainties that may affect an organisation's ability to achieve its strategic and operational activities. A risk can be an opportunity or a threat.

**Risk management**

Risk management is the adoption of a planned and systematic approach to the identification, evaluation and management of threats and opportunities to maximise benefits and minimise potentially negative consequences for the Council and its partners.

**Risk Management Policy**

This is approved by the Audit and Risk Committee endorsing the commitment of the Council to effective risk management and sets out the responsibility of Members, Directors, and the Senior Leadership Team and all staff for the identification, control and reduction of threats, the containment of loss and maximisation of opportunities in all aspects of their activities.

**Supplementary estimate**

The approval of an increase in the level of a particular budget head, or the establishment of a new budget head, under the procedure laid down in Section 7 of these Regulations. Where an existing budget head is involved, a supplementary estimate would not normally be approved where an appropriate virement was available.

**Treasury Management**

The management of the Authority's cash flows, its borrowings and its investments, the management of the associated risks, and the pursuit of the optimum performance or return consistent with those risks. It includes the setting of Prudential Indicators and monitoring compliance with them.

**Treasury Management Policy Statement**

A statement approved by the Council from time to time setting out the parameters within which treasury activities are to be managed.

**Virement**

The transfer of budget provision from one budget head to another, under the procedure laid down in Section 7 of these Regulations. Virement decisions apply to both revenue and capital expenditure heads, and between expenditure and income, and may include transfers from contingency provisions. Virements may not however be approved between capital and revenue budget heads. Virements may be approved by Officers within the limits specified in Section 7 of the Financial Regulations.

**Write off**

The action taken to charge to the Council the amount due from some external party which has been found to be irrecoverable from that party. Whilst the sum remains due to the Council in law, it will no longer be shown as outstanding in the Council's accounts.

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# **Contract Procedure Rules**



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## Interpretation

In the regulations	Interpretation
<b>People</b> Chief Executive Officer (CEO) CLT Corporate Leadership Team (CLT) Corporate Manager (Accounts and Assurance) Deputy 151 Officer Director Director of People and Governance Head of Paid Service MO Monitoring Officer (MO) Section 151 Officer Strategic Director Resources	Head of Paid Service Corporate Leadership Team CEO, Strategic Directors, Directors  Deputy 151 Officer Corporate Manager (Accounts and Assurance) CEO, Strategic Directors, Directors Monitoring Officer (MO) Chief Executive Officer (CEO) Monitoring Officer Director of People and Governance Strategic Director Resources Section 151 Officer
<b>Meetings</b> Finance Committee Policy Committee Audit Committee	Strategy, Finance and Policy Committee As set out in the council's constitution Audit and Governance Committee

## **1. Introduction**

- 1.1. The Contract Procedure Rules are made under the provisions of Section 135 of the Local Government Act 1972 and govern the making of contracts for and on behalf of the Council. The rules also form part of the Council's constitution and should be read in conjunction with the council's Financial Regulations and Finance Procedure Notes
- 1.2. The main source of regulation for public procurement are the Public Contract Regulations 2015. These will be superseded by the Procurement Act 2023 on 24 February 2025.
- 1.3. Where there is conflict between these Contract Procedure Rules and any binding rules of law, the law must prevail.
- 1.4. Procurement decisions are among the most important decisions the Council will make because the money involved is public money, and the Council is responsible for ensuring that high quality goods, works and services are provided. Efficient use of resources to achieve best value is therefore imperative. The Council's reputation is equally important and should be safeguarded from any suggestion of dishonesty or corruption.
- 1.5. For these reasons, it is a disciplinary offence to fail to comply with these Contract Procedure Rules. Employees and third-party providers have a duty to report any breaches to the Corporate Leadership Team.
- 1.6. The Contract Procedure Rules lay down a minimum requirement. A more detailed procedure may be appropriate for a particular contract. If there is any doubt as to how to undertake any procurement the officer must contact the procurement team to seek guidance.
- 1.7. Where the Council is entering into a contract as an agent and/or in collaboration with another public body or organisation, these Contract Procedure Rules apply only so far as they are consistent with the requirements of the body concerned. Where the Council is acting as principal these Contract Procedure Rules will take precedence.

## **2. Scope**

### **2.1. These Contract Procedure Rules apply to:**

- 2.1.1. all contracts made and to all orders placed by, for or on behalf of the Council for the procurement, hire and commissioning of goods, services and works.
- 2.1.2. all Council staff
- 2.1.3. any person or organisation engaged to manage a contract or undertake work that involves procurement on behalf of the Council. In each case the requirement to comply with these rules is to be included in the terms of engagement
- 2.1.4. the selection of sub-contractors where these are nominated by the Council under the main contract

### **2.2. Contract Procedures exclude contracts of employment and land transactions.**

Contracts of employment for all staff are managed in accordance with Human Resources Policy and Procedures. Land transactions, both purchases and disposal, require Council approval as set out in the Council's constitution.

### **2.3. All procurement processes must**

- 2.3.1. support the Council's corporate objectives, policies and strategic direction
- 2.3.2. consider all necessary procurement, legal, financial and professional advice
- 2.3.3. ensure value for money and propriety in the spending of public money with the highest standards of integrity
- 2.3.4. comply with legal requirements and these Contract Procedure Rules
- 2.3.5. ensure that the Council is not exposed to unnecessary risk and likelihood of challenge from a non-compliant procurement activity
- 2.3.6. consider and incorporate necessary health and safety, inclusion and diversity, safeguarding children and vulnerable adults, modern slavery and social value requirements.
- 2.3.7. not to be influenced by non-commercial considerations other than those permitted by law
- 2.3.8. comply with the Council's corporate Procurement Strategy

### 3. Responsibility of Officers and Corporate Leadership Team

#### 3.1. Officers

- 3.1.1. All officers must comply with these Contract Procedure Rules, Financial Regulations, Officer's Code of Conduct and all procurement legislation.
- 3.1.2. Every Officer dealing with contracts must obtain all appropriate authorisations, check that an appropriate budget is available and agreed and that sufficient resources are available
- 3.1.3. All officers should undertake procurement in a manner which avoids any potential conflicts of interest
- 3.1.4. All officers must use any relevant corporate contract already in place
- 3.1.5. All officers must comply with the Council's policies on anti-bribery, fraud, corruption and whistleblowing
- 3.1.6. Officers must keep records to show a clearly documented audit trail and to provide the Procurement Team with all relevant contract documentation, this information will then be recorded on the contracts register. All officers must also provide all relevant documentation on changes/variations/extensions and terminations of contracts during the contract lifecycle.
- 3.1.7. Officers must ensure that agents and consultants acting on their behalf comply with the requirements within the Contract Procedure Rules. Such consultants must not make any decision as to whether to award a contract or who a contract should be awarded to.

#### 3.2. Corporate Leadership Team

- 3.2.1. Ensure they have the delegated powers (as set out in the constitution) for the contract and that the project has the appropriate policy approval
- 3.2.2. Ensure that there is full budgetary provision (including any maintenance and other charges) for the contract and that the sources of funding are fully detailed and agreed before starting the contract process
- 3.2.3. Ensure that expenditure is fully contained within the approved budget/cash limit
- 3.2.4. Ensure that no tender is accepted where it exceeds the approved budget/cash limit by more than **10%** unless prior written approval is obtained from the Council's Section 151 Officer.
- 3.2.5. **Ensure that where a contract value is more than £249,999 then the approval of the relevant Policy Committee is required to proceed.**
- 3.2.6. Ensure that they have issued appropriate staff with written delegation of the role that they may take in the contracting process on behalf of the Council
- 3.2.7. Ensure that their staff comply with the Contract Procedure Rules

## 4. Procurement Guidance

- 4.1. Procurement guidance shall be in electronic form on the Council's Intranet. The guidance will contain all Council documents which are relevant to and assist with the procurement process
- 4.2. The Procurement Team will review the guidance as required. No alteration will be made to the guidance unless agreed by the Section 151 Officer.

## 5. Procurement Principles

### 5.1. The Council will

- 5.1.1. Base the procurement of its requirements on the principles of maximising public benefit, sharing information, and act with integrity whilst ensuring that it achieves efficiency, effectiveness and value for money
- 5.1.2. Take the long-term strategic view of how it procures its requirements including the potential for alternative methods of service delivery, innovative funding methods and partnership working
- 5.1.3. Expect that externally sourced requirements will be procured because of a competitive process unless there are compelling or practical reasons to the contrary
- 5.1.4. Ensure that relevant corporate policies are given due weight, within the constraints of 5.1.1 above. These will include (but are not limited to) policies in respect of sustainability and social value

## 6. Code of Ethics

- 6.1. All employees of the Council are required to uphold the code of ethics and to seek commitment to it by all those with whom they engage in their professional practice. Officers are expected to adopt an ethical purchasing policy based on the principles of this code and to raise any matter of concern relating to business ethics at an appropriate level
- 6.2. All employees will comply with the Staff Code of Conduct which contains provisions in respect of relationships with contractors and other related matters
- 6.3. **Appropriate action will be taken against anyone who is found to have breached these rules** or the Staff Code of Conduct. Advice on any aspect of these rules is available from the Procurement Team.
- 6.4. All employees of the Council are expected to:
  - 6.4.1. Maintain the highest standard of integrity in all business relationships;
  - 6.4.2. Reject any business practice which might reasonably be deemed improper;
  - 6.4.3. Never use their authority or position for personal gain;
  - 6.4.4. Enhance the proficiency and stature of the Council by acquiring and applying knowledge in the most appropriate way;
  - 6.4.5. Foster the highest standards of professional competence amongst those for whom they are responsible;

- 6.4.6. Optimise the use of resources over which they have influence, for the benefit of the Council;
- 6.4.7. Comply with both the letter and the intent of agreed contractual obligations;
- 6.4.8. Declare any personal interest that might affect, or be seen by others to affect impartiality or decision making;
- 6.4.9. Ensure that all the information given out in the course of their work is accurate;
- 6.4.10. Respect the confidentiality of information received and never use it for personal gain;
- 6.4.11. Strive for genuine, fair and transparent competition;
- 6.4.12. Follow the guidance provided in the Staff Code of Conduct concerning the receipt and provision of gifts and hospitality
- 6.4.13. Remain impartial in all business dealings and not be influenced by those with vested interests

## 7. Relevant Contracts

7.1. All relevant contracts must comply with these Contract Procedure Rules. A relevant contract is an arrangement made by or on behalf of the Council for the carrying out of works or for the supply of goods, materials or services.

7.2. Relevant contracts do not include:

- 7.2.1. Contracts of employment which makes an individual a direct employee of the Council
- 7.2.2. Agreements regarding the acquisition, disposal or transfer of land
- 7.2.3. The engagement of barristers

## 8. Contract Value Calculation

- 8.1. Contract value means the estimated aggregate or recurring value payable in pounds sterling exclusive of Value Added Tax over the entire contract period including any extensions of the contract
- 8.2. Where the contract term is without fixed length the estimated value of the contract should be calculated by monthly value of spend multiplied by 48 in accordance with the [2015PublicContractRegulations](#) (which will be replaced on 24 February 2025 by regulations made under the Procurement Act 2023).
- 8.3. Contracts **must not** be artificially underestimated or disaggregated into two or more separate contracts where the effect is to avoid the application of these Contract Procedure Rules or law. **It is a disciplinary offence to disaggregate to avoid the requirements of the regulations.**

## 9. Extensions and Variations

9.1. Contracts may only be extended or varied based on the below conditions:

- 9.1.1. The extension or variation is in accordance with the terms and conditions of the existing contract or
- 9.1.2. The variation will not fundamentally alter the nature of the contract.

- 9.1.3. The extension/variation will not unfairly impact on competition.
- 9.1.4. The extension/variation is not used to bypass procurement rules or regulations.
- 9.1.5. The extension/variation has approved available budget.

9.2. Advice should always be obtained from the Procurement team when a contract extension is being considered.

## 10. Thresholds

10.1. The thresholds below are based on whole contract values. Please refer to section 8.3 relating to disaggregated spend.

Value	Award Procedure
Up to £10,000	Purchase order - No specific written quotation is required. However, officers should satisfy themselves that best value is being obtained.
£10,001 to £49,999	3 written quotations (at least one from a local provider if possible)
£50,000 to Find a Tender Service (FTS) threshold*	Contracts Finder via E-Procurement portal or use of a suitable framework
FTS Threshold and over*	FTS and Contracts Finder via E-Procurement portal or use of a suitable framework

\*The values are inclusive of VAT

10.2. Please speak with the Procurement Team for guidance.

## 11. Waiver of Contract Procedures

- 11.1. A waiver under this section allows for the procedure under Section 10 to be dispensed with and can be replaced with direct negotiation with one or more suppliers.
- 11.2. Before seeking a waiver the Officer must take any necessary procurement, legal, financial and professional advice prior to submitting a waiver form for authorisation to the Section 151 for approval.
- 11.3. The Council has the power to dispense with any provision within these Contract Procedure Rules. **Unless in exceptional circumstances, no waivers can be used if the contract value exceeds the Find a Tender Service Thresholds.**
- 11.4. Waivers from the procedure under Section 10 may be approved by the Section 151 Officer in consultation with the Head of Paid Service where:
  - 11.4.1. It is necessary to forgo Section 10 due to an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services. Any such waiver must only be used for the minimum required to make the emergency situation safe or ensure continued Council operations until a compliant procedure can be carried out.



- 11.4.2. The work to be carried out or goods to be supplied comprise repairs or parts for existing plant, equipment, vehicles or software.
  - 11.4.3. The contract is to extend an existing contract and is the most advantageous means of obtaining what is required by the Council.
  - 11.4.4. The subject matter can only be supplied by one specialist contractor/supplier (evidence of this will need to be provided before a waiver will be agreed)
  - 11.4.5. A supplier or contractor is proposed to be re-engaged to carry out further work on a project which they have worked on before and engaging new suppliers would cause technical difficulties, diseconomies of scale or significant disruption to Council services.
- 
- 11.5. The rationale of how the operation of a waiver still delivers best value for the council should be documented.
  - 11.6. Waivers will not be accepted for reasons outside those in section 11.4.
  - 11.7. All waivers and the reasons for these (which must be at least one of those in 11.4) must be recorded and held centrally by the Procurement Team. This information shall be reported monthly to CLT and annually to Members.

## **12. Social Value**

- 12.1. The Council is committed to supporting the local economy by ensuring that all tendering opportunities are accessible and tenderer friendly.
- 12.2. Where social value is a criterion selected within the procurement process it must be allocated a percentage of the overall evaluation score, not normally exceeding ten percent.
- 12.3. Where practical and relevant, tenders should address the following social benefits through the use of tender quality criteria and method statements:
  - 12.3.1. Employment
  - 12.3.2. Supply chains
  - 12.3.3. Apprenticeships
  - 12.3.4. Community benefit schemes
  - 12.3.5. Any other benefit that supports the local economy and well-being of the Council and its residents
- 12.4. Further guidance on social value can be obtained from the Procurement team

## **13. Sustainable Procurement Policy**

- 13.1. The Council declared a Climate Emergency in June 2023 and is committed to net zero carbon for its own estate by 2030. The Council's Sustainable Procurement Policy (available on the Council's website) sets out the framework for sustainable procurement in promoting environmental responsibility, social equity, and economic development.

- 13.2. Sustainable procurement considers the social, economic and environmental consequences of what is procured through all stages of its lifecycle. This includes considering design, resource extraction and sourcing, manufacturing and production, transportation, service delivery, operation and maintenance, reuse, recycling and disposal. It is also about questioning whether purchases are required to be made at all. Sustainable procurement also considers the capacity of suppliers to address these consequences throughout the entire supply chain.
- 13.3. Where sustainability is a criteria selected within the procurement process it must be allocated a percentage of the overall evaluation score, this could be on sustainability or it could be linked with social value. Advice from procurement and sustainability should be sought when developing the criteria to evaluate sustainability evaluation matrix and scoring.
- 13.4. The percentage of the evaluation weighting on sustainability would not normally exceed a weighting of five percent.

## **14. Procurement Processes to receipt of tenders**

### **14.1. Invitation to Tender/Quotations**

- 14.1.1. The relevant officer must ensure that Invitations to Tender (ITT) and Invitation to Quote (ITQ) include a specification. The specification must describe clearly the Council's requirements in sufficient detail to ensure submission of competitive bids may easily be compared.
- 14.1.2. The ITT/ITQ shall state that no Tender or Quotation will be considered unless it is received by date and time stipulated in documentation
- 14.1.3. The ITT/ITQ must state that the Council is not bound to accept any quotation or tender.
- 14.1.4. All candidates invited to quote or tender must be issued with the same information at the same time and subject to the same terms. Any additional information or amendments to the specification must be provided to all candidates on the same basis
- 14.1.5. The ITT/ITQ must specify the award criteria, any weighting to be used and procedure to be adopted
- 14.1.6. All ITT/ITQ's must be advertised on the Contract Finder

### **14.2. Award Criteria**

- 14.2.1. Officers must ensure that award criteria are appropriate to the contract
- 14.2.2. Officers must design award criteria to ensure value for money. Particular emphasis must be placed on cost, quality and timeliness of the service or goods
- 14.2.3. The pre-agreed award criteria for evaluating the bids must not be changed after tender proposals have been submitted
- 14.2.4. Award Criteria must not include:-
- Non-commercial considerations (except where such consideration will be integral to the contract)

- Matters which discriminate against suppliers

#### 14.3. Use of Frameworks

- 14.3.1. The term of any framework agreement may be for any period but in a majority of cases they must not exceed 4 years. There are certain exceptions to this rule and advice should be sought from the Procurement Team before proceeding down this route.
- 14.3.2. The rationale for selecting a framework and suppliers from that framework should be documented and that documentation retained. This is especially important when the framework used results in a direct award (where Section 11: Waiver of Contract Procedures requirements would apply) rather than a “mini tender” of several suppliers.

#### 14.4. Due Diligence

- 14.4.1. Due diligence process before any contracts are awarded is essential to provide confidence that the bidder has the ability to fulfill the requirements of the contract/partnership.
- 14.4.2. Due diligence will be carried out on but not limited to the ownership, governance and financial standing of each bidder during the tender process. The award criteria must include appropriate tests to permit confirmation of key diligence aspects.
- 14.4.3. Following award of the contract the due diligence process will required to take place annually throughout the lifetime of the contract/partnership as part of the contract management process
- 14.4.4. Change in control should trigger a due diligence review of ownerships structures, directors and financial standing on all material contracts.
- 14.4.5. Due diligence should also be conducted in accordance with Financial Regulations.

#### 14.5. Submission, Receipt and Opening Tenders/Quotations

- 14.5.1. Bidders must be given adequate time in which to prepare and submit a proper Quotation or Tender, consistent with the urgency and complexity of the requirement. All tender documents will be published on Contracts Finder for 35 calendar days. The Procurement Act 2023 sets out specific time frames.
- 14.5.2. All Tenders submitted to the Council should be undertaken using the E-Procurement system
- 14.5.3. All Tenders will be stored electronically centrally by Procurement

#### 14.6. Clarification Procedures and Post Tender Negotiations

- 14.6.1. Providing clarification of an ITT to potential or actual bidders or seeking a clarification of a Tender is permitted. This will be through the E-Procurement system. However, discussions with tenderers after submission of a Tender and before the award of contract with a view to obtaining adjustments in price, delivery or content must be the exception rather than the rule. In particular they must not be conducted in an FTS procedure where this might distort

competition, especially relating to price. Officers should consult with the Council's Procurement and Legal teams for confirmation of when and what may be permitted.

14.6.2. If post tender negotiations are necessary after a single-stage Tender or after the second stage of a two-stage Tender, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the best Tender and after all unsuccessful Bidders have been informed. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the tender documentation. Officers appointed to undertake the post tender negotiations should ensure that there recorded minutes of all negotiation meetings and that both parties agree actions in writing.

14.6.3. Where post tender negotiation results in a fundamental change to the specification (or Contract terms) the Contract must not be awarded but re-tendered. Advice on what constitutes a fundamental change should be sought from the Council's Procurement and Legal teams, but examples include a change which introduces terms or conditions which, if they had been part of the initial award procedure, would have allowed for the admission of bidders other than those initially admitted or allowed; a change which extends the scope of the specification (or Contract terms) to encompass services not initially covered; or change in the economic balance of a Contract in favour of the Contractor in a manner not provided for under the specification/Contract terms.

## **15. Procurement processes post tender**

### **15.1. Evaluation and Award of Tenders**

15.1.1. Confidentiality of Tenders/Quotations and the identity of tenderers must be always maintained. Information about one tenderer's response must not be given to another tenderer.

15.1.2. Officers must evaluate and award the contract in accordance with the agreed award criteria in the Invitation to Tender/Quotation. The officer responsible for evaluating the tenders should complete a tender evaluation sheet recording the details of the tenders and the process of selecting the preferred contractor.

15.1.3. The reasons for the selection of the successful candidate should be recorded on the evaluation report. The officer carrying out the evaluation must sign the report.

### **15.2. Award of Contracts**

15.2.1. Bidders are to be provided feedback in accordance with the Public Procurement Regulations. The feedback should be issued through the Procurement portal. No information, other than the following, should be given without taking the advice of the Council's Procurement and Legal teams.

- Pricing score/Total price
- Their individual quality score

- Good elements of the submission and areas of improvement
- Only compare themselves and the winner, not any other bidders

15.2.2. Where a full FTS Procurement compliant tender has been carried out, a statutory standstill period must apply between notification to the tenderers of the award decision and the successful candidate signing the contract.

15.2.3. A contract can only be awarded by those with delegated authority to do so

15.2.4. Before awarding a contract, the authorised person must confirm compliance with these procedures, budgetary approval and have obtained authority to enter into a contract in accordance with the following limits

- **Contract value up to £249,999** – A member of CLT (or delegate as per Financial Regulations)
- **Contract value £250,000 and over** – appropriate policy committee (such authority to have been obtained before the procurement process commences).

15.2.5. No tender may be accepted where the value exceeds the approved budget/cash limit by more than 10% unless prior written approval is obtained from the Council's Section 151 Officer.

15.2.6. Where it is identified that the necessary approvals have not been achieved, the process cannot continue until ALL approvals are in place.

### 15.3. Contract Documents

15.3.1. Every contract must be recorded in writing, and must state clearly what is to be supplied

15.3.2. Set out the payment provisions

15.3.3. All contracts with a value of over £50,000 must adhere to the Council's standard Terms and Conditions where possible. Approval of any other alternative terms and conditions should be sought from Section 151 following review by the Legal Team.

15.3.4. All contract documentation, from specification/approval through the procurement process to signing, should be stored in a suitable electronic location and be copied to the Procurement team.

### 15.4. Sealing

15.4.1. Where a contract has a bond or guarantee or is over the FTS value, it shall be sent to the Monitoring Officer to be sealed on behalf of the Council

15.4.2. Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal.

## **16. High Risk Contracts**

- 16.1. Any contract that meets one of the following criteria is high risk
- 16.1.1. has a value over £1,000,000;
  - 16.1.2. involves leasing arrangements;
  - 16.1.3. may require the supplier to hold money on behalf of the Council;
  - 16.1.4. may include an advance payment requirement;
  - 16.1.5. is for a duration of over 5 years;
  - 16.1.6. is considered commercially sensitive such as representing a significant change to income or costs to the council;
  - 16.1.7. Includes significant, additional Contractual requirements or risks such as TUPE, Intellectual Property Rights, collateral warranties for design considerations, etc.
  - 16.1.8. is of significant interest to residents due to, for example, investment, desirability, disruption
- 16.2. Where a leasing arrangement is being considered, Finance and Legal must be consulted before entering into any agreement. Leasing includes property, vehicles and equipment etc.
- 16.3. Where a contract is considered high risk, officers are required to carry out a risk assessment and to liaise with Procurement, Legal and Audit, regardless of value, to ensure all appropriate actions are taken to mitigate the Council's exposure to the identified risks.
- 16.4. Risk Assessments (Council Requirements) Officers are required to complete a risk assessment on all procurements that are deemed high risk or over the FTS threshold. Officers should use the Council's standard templates and liaise with the Risk Officer to complete and add these to the corporate risk register.

## **17. Bonds and Parent Company Guarantees**

- 17.1. A bond is an insurance policy. If the contractor does not do what is agreed under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (usually 10% of the contract value). A bond is intended to protect the Council against a level of cost arising from a contractor's failure. The Officer must consult the Section 151 Officer as to whether a bond is appropriate. Generally a bond will be required:
- 17.1.1. Where the contract total exceeds £500,000;
  - 17.1.2. Where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract.
- 17.2. A parent company guarantee is a contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Council, they can require the parent company to do so instead. The Section 151 must be consulted when:

- 17.2.1. The officer does not think a parent company guarantee is necessary
- 17.2.2. The total value exceeds £500,000
- 17.2.3. Award is based on the evaluation of the parent company
- 17.2.4. There is some concern about the financial stability of the subsidiary

## **18. Transparency**

- 18.1. The government is committed to greater transparency across its operations to enable the public to hold public bodies and politicians to account. This includes commitments relating to public procurement.
- 18.2. There are legal transparency requirements to be met which are covered within The Local Government Transparency Code 2015, these are in addition to the legal requirements to publish covered by the Procurement Act 2023, refer to these Regulations for details of the requirements.

## **19. Contract Management**

- 19.1. All contracts must have a named Contract Manager
- 19.2. During the life of the contract the officer must monitor in respect of:
  - 19.2.1. Contract performance in line with key performance indicators
  - 19.2.2. Compliance with specification and contract
  - 19.2.3. Cost
  - 19.2.4. Any value for money requirements
  - 19.2.5. User satisfaction and risk management
  - 19.2.6. Any changes in contract manager, ownership or person with significant control.

## **20. Partnerships**

- 20.1. A partnership can be defined as a joint working arrangement where the partners:
  - 20.1.1. are otherwise independent bodies
  - 20.1.2. agree to co-operate to achieve a common goal
  - 20.1.3. create a new organisational structure or process to achieve this goal, separate from their own organisation, or plan and implement a jointly agreed programme, often with joint staff or resources
  - 20.1.4. share relevant information, risks and rewards.
- 20.2. A memorandum of understanding must be developed with partners to ensure that resources, support and delivery will be available throughout the development and lifetime of the proposed contract. A single contract may be delivered by several providers.
- 20.3. Partnering involves an integrated team working together to deliver better services to citizens through agreeing mutual objectives, devising a way for resolving any

disputes and committing themselves to continuous improvement, measuring progress and sharing the gains.

20.4. All parties have a shared goal of delivering services in a cost-effective and timely way that is mutually beneficial. Partnering arrangements are likely to be contractually based and will need to comply with these Contracts Procedure Rules. Partnering Arrangements will be entered into ONLY after an appropriate competitive procurement process has identified potential partners and they have been evaluated from a competitive and best value perspective, including potentially via an appropriate framework. Provisions within Financial Regulations regarding partnerships must be followed.

20.5. Partnering Arrangements will need to identify the following:

- 20.5.1. responsibility for each function to be performed,
- 20.5.2. the element of risk undertaken by each party,
- 20.5.3. the mutual benefits derived from the partnership, including social value
- 20.5.4. the individual targets and objectives of the partnership,
- 20.5.5. the procedure for reviewing the performance of the partnership,
- 20.5.6. the agreement and approval process to change the partnership terms and conditions,
- 20.5.7. the procedure for remedying disputes and the settlement of grievances (including arbitration if required),
- 20.5.8. the period for maintaining the partnership,
- 20.5.9. the exit procedure at termination of the partnership, which must include the responsibility for staff, premises, service provision.



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# **Officer Employment Procedure Rules**

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## **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, officer of the Council or the partner of such persons.
- (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 them.

#### **(b) Seeking support for appointment**

- (i) Subject to paragraph (iii), 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) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
- (iii) Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

### **2. Recruitment of Head of Paid Service, Monitoring Officer, S.151 Officer and all other Chief Officers**

Where the Council proposes to appoint a Chief Officer 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 of the Head of Paid Service following the recommendation of such an appointment by the Chief Officer Appointments Sub-committee.

### **4. Appointment of Chief Officers**

The appointment of Chief Officers to tier 1 and tier 2 of the management structure will be reserved to the Full Council.

The Chief Officer Appointments Sub-committee will appoint to tier 3 of the management structure.

Designation of any officers as Monitoring Officer and the s.151 Officer will be made by Full Council on the recommendation of the Head of Paid Service.

Full Council will be required to approve the appointment of any Chief Officer to a salary which is outside of the agreed scale for the post.

### **5. Other Appointments**

- (a) **Officer below Chief Officer.** Appointment of Officers below Chief Officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or their nominee and may not be made by Councillors.
- (b) **Assistants to Political Groups.** Appointment of an assistant to a political group shall be made in accordance with s.9 of the Local Government and Housing Act 1989.

### **6. Disciplinary Action**

- (a) **Suspension.** The Head of Paid Service, Monitoring Officer and s.151 Officer may be suspended whilst an investigation takes place into any alleged misconduct by a resolution of the Council at an extraordinary or ordinary meeting. The suspension will be on full pay and last no longer than two months. The Monitoring Officer and s.151 Officer will not be suspended during the period during which they are undertaking a formal investigation under their statutory powers.
- (b) **Independent person.** No other disciplinary action may be taken in respect of any of those Officers except in accordance with a recommendation in a report made by a designated independent person. A designated independent person is a person so appointed by the Council in accordance with s.28 (7) of the Localism Act 2011.

- (c) **Councillors** will not be involved in the disciplinary action against any Officer below Director level except where such involvement is necessary for any investigation or inquiry into alleged misconduct though the Council's disciplinary capability and related procedures as adopted from time to time may allow a right of appeal to Councillors in respect of disciplinary action.

## **7. Procedure for Disciplinary Action Against s.151 Officer, Head of Paid Service and Monitoring Officer**

- 7.1 This procedure applies to the appointment of the Chief Officers Disciplinary and Appeals Sub-committee (the Panel) to advise the full Council in relation to the dismissal of the Head of Paid Service, the Monitoring Officer or the s.151 Officer ('relevant officers') and has been incorporated into these Rules as required by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 7.2 The Council must invite independent persons appointed under Section 28(7) of the Localism Act 2011 ("the 2011 Act") to be considered for appointment to the Panel, with a view to appointing at least two independent persons to the Panel.
- 7.3 In paragraph 2, independent person means any independent person who has been appointed by the Council or, where there are fewer than two independent persons, such independent persons as have been appointed by another authority or authorities as the Council considers appropriate.
- 7.4 The Independent Panel shall consist of the Council's independent persons appointed under section 28(7) of the 2011 Act provided that at least two such independent persons are willing to sit on the Panel. If they are not then, subject to paragraph 5, the Council must appoint to the Panel independent persons who have accepted an invitation issued under paragraph 2, in the following order of priority:
  - (a) an independent person who has been appointed by the Council and who is a local government elector in the Council's area.
  - (b) any other independent person who has been appointed by the Council.
  - (c) an independent person who has been appointed by another authority or authorities.
- 7.5 The Council may appoint more than two independent persons.
- 7.6 The Council must appoint the Panel at least 20 working days before the full Council meets to consider whether or not to approve a proposal to dismiss a relevant officer.

- 7.7 Any remuneration, allowances or fees paid by the Council to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as an independent person under the 2011 Act.

**The decision to dismiss the Head of Paid Service, the s.151 Officer or the Monitoring Officer is reserved to the Full Council.**

**Code of Conduct Complaints Process  
and Standards Sub- Committee  
Procedure Rules**



# Complaints Procedure

## 1. Context

- 1.1 These “arrangements” set out how you may make a complaint that an elected or co-opted Member of this Council (*or of a Parish/Town Council within its area*) has failed to comply with the Councillors’ Code of Conduct and sets out how the Council will deal with allegations of a failure to comply with the Councillors’ Code of Conduct.
- 1.2 Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Member or co-opted Member of the authority (*or of a Parish/Town Council within the authority’s area*), or of a Committee or Sub-committee of the authority, has failed to comply with the Code of Conduct can be investigated and decisions made on such allegations.
- 1.3 Such “arrangements” must provide for the Council to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision that the Code of Conduct has been breached, and whose views may be sought by the Council at any other stage in the process, or by a Member (*or a Member or co-opted Member of a Parish/Town Council*) against whom an allegation has been made.

## 2. The Code of Conduct

- 2.1 The Council has adopted a Code of Conduct for Councillors, which is available for inspection on the Council’s website and on request from Reception at the Council Offices. Each Parish/Town Council is also required to adopt a Code of Conduct, which is similarly available from that Council.

## 3. Making a Complaint

- 3.1 The Monitoring Officer is a senior officer of the Council who has statutory responsibility for maintaining the Register of Members’ Interests and who is responsible for administering the Code of Conduct complaints process.
- 3.2 In order to ensure that we have all the information that we need to be able to process your complaint, please complete and submit the complaint form, which is available on the Council’s website. Any person unable to use the electronic form may submit the complaint in writing by sending it to the Monitoring Officer by email or post or by requesting a hard-copy form.
- 3.3 Please provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. The Monitoring Officer does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

3.4 The Monitoring Officer will acknowledge receipt of your complaint within five working days of receiving it, and will keep you informed of the progress of your complaint.

3.5 The Complaints Procedure Flowchart is attached at Appendix 1 for your assistance.

#### **4. Will your complaint be investigated?**

4.1 The Monitoring Officer will review every complaint received and may consult with one of the Independent Persons before taking a decision as to whether it:-

4.1.1 Merits no further action

4.1.2 Merits early informal conciliation

4.1.3 Should be referred to the Standards Committee to consider whether the complaint needs further investigation.

In reaching a decision in respect of how to progress the complaint the Monitoring Officer will take into account the following factors where appropriate:

-

- Was the member acting in their official capacity?
- Was the member in office at the time of the alleged misconduct?
- Is the complaint of a very minor or trivial nature?
- Is the complaint vexatious or malicious?
- Are there historical matters?
- Is there a potential breach of the Code?
- Assessment of public interest?
- Is additional information required prior to making a decision?

4.2 This decision will normally be taken within 28 working days of receipt of your complaint. Your complaint will be considered in accordance with the assessment criteria attached at Appendix 2.

4.3 Where the Monitoring Officer has taken a decision, they will inform you of their decision and the reasons for that decision. Where the Monitoring Officer requires additional information in order to come to a decision, they may come back to you for such information, and may request information from the member against whom your complaint is directed. *(Where your complaint relates to a Parish/Town Councillor, the Monitoring Officer may also inform the Parish/Town Council of your complaint and seek the views of the Parish/Town Council before deciding whether the complaint merits formal investigation.)*

#### **4.4 Informal Resolution.**

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that their conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of informal resolution, but you are not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits further investigation.

#### **4.5 Criminal Offences.**

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police or other regulatory agencies.

### **5. How is the investigation conducted?**

5.1 The Council has adopted a procedure for the investigation of misconduct complaints, which is attached at Appendix 3 to these procedures.

5.2 If the Monitoring Officer decides that a complaint merits further investigation, they may appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer or Monitoring Officer will decide whether they need to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents need to be seen, and who needs to be interviewed.

5.3 The Investigating Officer or Monitoring Officer will normally write to the Member against whom you have complained, provide them with a copy of your complaint and ask the Member to provide their explanation of events. The Investigating Officer or Monitoring Officer will identify what documents they need to see and who they need to interview.

5.4 In exceptional cases, where it is appropriate to keep your identity confidential or where disclosure of details of the complaint to the Member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the Member, or delay notifying the Member until the investigation has progressed sufficiently.

5.5 At the end of their investigation, the Investigating Officer or Monitoring Officer will produce a draft report ("the Investigation Report") and will send copies of that draft report, in confidence, to you and to the Member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

- 5.6 Having received and taken account of any comments that you may make on the draft Investigation Report, where an Investigating Officer has been appointed the Investigating Officer will send their final report to the Monitoring Officer.
- 6. What happens if the Investigating Officer or Monitoring Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?**
- 6.1 If an Investigating Officer has been appointed the Monitoring Officer will review the Investigating Officer's report and, if they are satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Member concerned (*and to the Parish/Town Council, where your complaint relates to a Parish/Town Councillor*), notifying you that they are satisfied that no further action is required, and give you both a copy of the Investigation Final Report.
- 6.2 If an Investigating Officer has been appointed and if the Monitoring Officer is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report.
- 7. What happens if the Investigating Officer or Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct?**
- 7.1 If an Investigating Officer has been appointed, the Monitoring Officer will review the Investigating Officer's report and will then either send the matter for a hearing before the Standards Sub-committee or, in consultation with the Independent Person, seek an informal resolution.

### **Informal Resolution**

- 7.1.1 The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, they will consult with the Independent Person and with you as complainant and seek to agree what you may consider to be a fair resolution, which also helps to ensure higher standards of conduct for the future. Such resolution may include the Member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee (*and the Parish/Town Council*) for information but will take no further action.

## Hearing

7.1.2 If the Monitoring Officer considers that informal resolution is not appropriate, or the Member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigation Report to the Sub- committee, which may conduct a hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.

The Council has agreed a procedure for hearing complaints, which is attached at Appendix 4.

At the hearing, the Investigating Officer or the Monitoring Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer or

Monitoring Officer may ask you as the complainant to attend and give evidence to the sub-committee. The member will then have an opportunity to give their evidence, to call witnesses and to make representations to the sub-committee as to why they consider that they did not fail to comply with the Code of Conduct.

The sub-committee, with the benefit of any advice from the Independent Person, may conclude that the Member did not fail to comply with the Code of Conduct, and dismiss the complaint. If the Sub-committee concludes that the Member did fail to comply with the Code of Conduct, the Chairman will inform the

Member of this finding and the sub-committee will then consider what action, if any, the sub-committee should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the sub-committee will give the member an opportunity to make representations and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

## **8. What action can the Standards Sub-committee take where a member has failed to comply with the Code of Conduct?**

8.1 The Council has delegated to the sub-committee such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the sub-committee may: -

8.1.1 Publish its findings in respect of the member's conduct.

8.1.2 Report its findings to Council (*or to the Parish/Town Council*) for information.

- 8.1.3 Recommend to Council *(or to the Parish/Town Council)* that they be issued with a formal censure.
- 8.1.4 Recommend to the Member's Group Leader (or in the case of un-grouped Members, recommend to Council or to Committees) that they be removed from any or all Committees or Sub- Committees of the Council.
- 8.1.5 Instruct the Monitoring Officer *(or recommend that the Parish/Town Council)* to arrange training for the member.
- 8.1.6 Recommend to the relevant committee that the member be removed *(or recommend to the Parish/Town Council that the member be removed)* from all outside appointments to which they have been appointed or nominated by the authority *(or by the Parish/Town Council)*;
- 8.1.7 Withdraw *(or recommend to the Parish/Town Council that it withdraws)* facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
- 8.1.8 Exclude *(or recommend that the Parish/Town Council excludes)* the Member from the Council's Offices or other premises, with the exception of meeting rooms as necessary for attending Council, committee and sub-committee meetings.
- 8.2 The sub-committee has no power to suspend or disqualify the member or to withdraw members' basic or special responsibility allowances.

## **9. What happens at the end of the hearing?**

- 9.1 At the end of the hearing, the Chairman will state the decision of the Standards Sub-committee as to whether the Member failed to comply with the Code of Conduct and as to any actions which the sub- committee has resolved to take.
- 9.2 As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the sub-committee, and send a copy to you, to the Member, to the Parish/Town Council clerk if the complaint relates to a Parish/Town Council.

## **10. What is the Standards Sub-committee?**

- 10.1 It is a sub-committee comprising three Councillors who are members of the Audit and Governance Committee.

- 10.2 The Independent Person is invited to attend all sub-committee meetings and his/her views are sought and taken into consideration before the sub-committee takes any decision on whether a member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.
- 10.3 A member is not permitted to sit on Standards Sub-committee if the complaint relates to a Disclosable Pecuniary Interest or relevant Other Registerable Interest or Non-Registrable Interest held by that member.

## **11. Who is the Independent Person?**

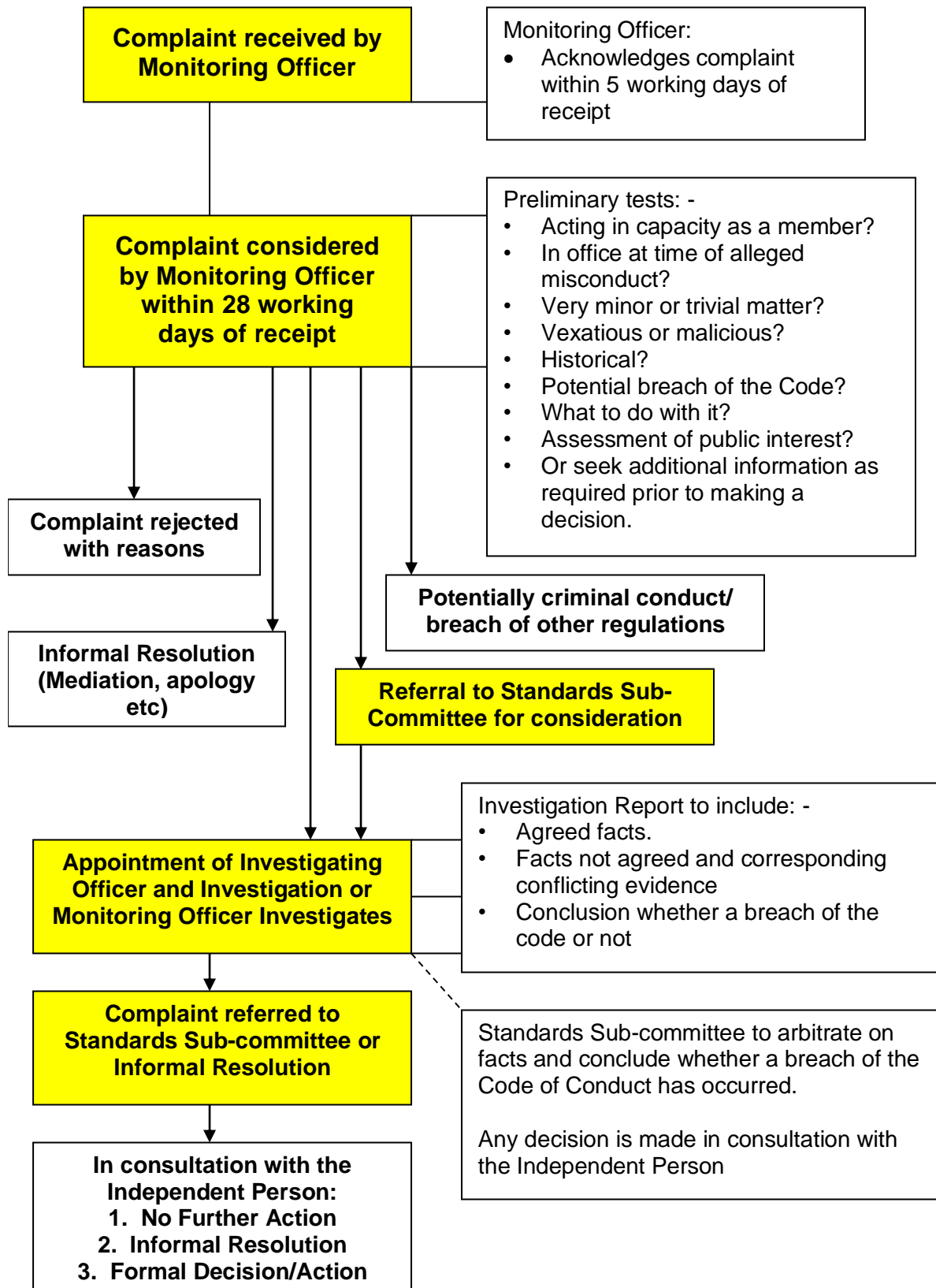
- 11.1 The Independent Person is a person who has applied for the post following advertisement of a vacancy and is appointed by a positive vote from a majority of all Members of the Council.
- 11.2 A person cannot be "independent" if they: -
  - 11.2.1 are, or have been within the past five years, a member, co-opted member or officer of the authority, subject to the transitional provisions applicable to existing independent members.
  - 11.2.2 are or have been within the past five years, a member, co-opted member or officer of a Parish/Town Council within the authority's area.

## **12. Appeals**

- 12.1 There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the sub-committee.

## Appendix 1

### Complaints Procedure Flowchart





## **Appendix 2**

### **Standards Complaints Assessment Criteria**

#### **Complaints that would not normally be referred for investigation: -**

- (1) The complaint is not considered sufficiently serious to warrant investigation; or
- (2) The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
- (3) The complaint appears to be politically motivated; or
- (4) It appears that there can be no breach of the Code of Conduct; for example, that it relates to the Councillor’s private life or is about dissatisfaction with a Council decision; or
- (5) It is about someone who is no longer a Councillor; or
- (6) There is insufficient information available for a referral; or
- (7) The complaint has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances; for example, an allegation of bullying, harassment etc; or
- (8) The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
- (9) The same, or similar, complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Standards Sub-committee; or
- (10) It is an anonymous complaint, unless it includes sufficient documentary evidence to show a significant breach of the Code of Conduct.
- (11) Where the Member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

#### **Complaints that may be referred to the Standards Committee:-**

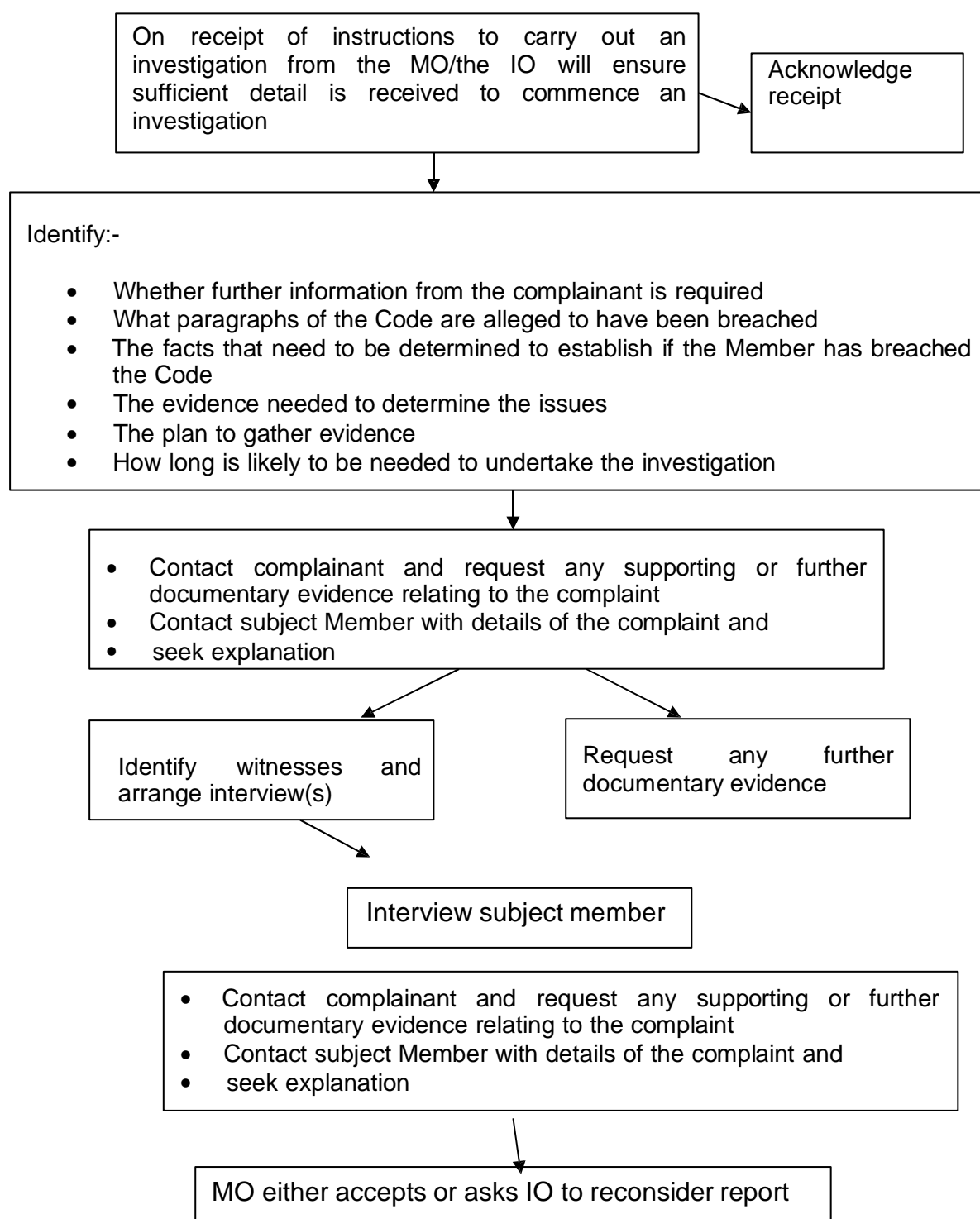
- (1) The complaint is serious enough, if proven, to justify the range of actions available to the Standards Sub-committee; or
- (2) There are individual acts of minor misconduct that appear to be part of a continuing pattern of behaviour that is unreasonably disrupting the business.

## Appendix 3

### Investigation Procedure

The investigating officer will maintain a written record of what was considered at the start of the investigation, the plan to carry out the investigation, the paragraphs of the Code that may have been breached, the facts needing to be determined and how long it will take to conclude the investigation.

A written investigation report will need to be prepared by the investigating officer (IO) for consideration by the Council's Monitoring Officer (MO).



## Appendix 4

### Standards Sub-committee Hearing Procedure Rules

Item No	Procedure
1	<p><u>Quorum</u></p> <p>1.1 Three members must be present throughout the hearing to form a quorum.</p> <p>1.2 The sub-committee shall nominate a member as Chairman for the meeting.</p>
2	<p><u>Opening</u></p> <p>2.1 The Chairman explains the procedure for the hearing.</p> <p>2.2 The Chairman asks all present to introduce themselves.</p> <p>2.3 The member against whom the complaint has been made (or their representative) will be asked whether they wish to briefly outline their position.</p>
3	<p><u>The Complaint</u></p> <p>3.1 The Monitoring Officer will be invited to present their report including any documentary evidence or other material (and to call witnesses as required). This report and documentary evidence must be based on the complaint made to the Council – no new points will be allowed.</p> <p>3.2 Members of the Sub-committee may question the Monitoring Officer upon the content of their report and/or any witnesses called by the Monitoring Officer.</p>
4	<p><u>The Member's Case</u></p> <p>4.1 The Member against whom the complaint has been made (or their representative) may present their case (and call any witnesses as required).</p> <p>4.2 Members of the Sub-committee may question the member and/or any witnesses.</p>

5	<p><u>SummingUp</u></p> <p>5.1 The Monitoring Officer may sum up the Complaint.</p> <p>5.2 The member (or their representative) may sum up their case.</p>
6	<p><u>Decision</u></p> <p>6.1 Members of the sub-committee will deliberate in private to consider the complaint, in consultation with the Independent Person, prior to reaching a decision.</p> <p>6.2 Upon the sub-committee's return the Chairman will announce the sub-committee's decision in the following terms: -</p> <ul style="list-style-type: none"> <li>(a) The sub-committee has decided that the Member has failed to follow the Code of Conduct or</li> <li>(b) The sub-committee has decided that the Member has not failed to follow the Code of Conduct.</li> <li>(c) The sub-committee will give reasons for its decision.</li> </ul> <p>6.3 If the sub-committee has decided that the member has failed to follow the Code of Conduct the sub-committee will consider any representations from the Monitoring Officer and/or the Member as to:-</p> <ul style="list-style-type: none"> <li>(a) Whether any action should be taken and</li> <li>(b) What form any action should take.</li> </ul> <p>6.4 The sub-committee will then deliberate in private to consider what action if any should be taken, in consultation with the Independent Person.</p> <p>6.5 On the sub-committee's return the Chairman will announce the Sub-committee's decision (or, in relation to a Parish/Town Councillor, its recommendation to the Parish/Town Council).</p> <p>6.6 The sub-committee will consider whether it should make any recommendations to the Council or, in relation to a Parish/Town Councillor, to the Parish/Town Council with a view to promoting high standards of conduct among Members.</p> <p>6.7 The Chairman will confirm that a full written decision will be issued within 7 working days following the hearing and that the sub-committee's findings will be published.</p>

**PART 5**

**CODES AND PROTOCOLS**





## **Local Government Association**

## **Model Councillor Code of Conduct 2020**

### **Joint statement**

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

## **Introduction**

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

## **Definitions**

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority; and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

## **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.



## **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty.
- I act lawfully.
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community.
- I do not improperly seek to confer an advantage, or disadvantage, on any person.
- I avoid conflicts of interest.
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- you misuse your position as a councillor.
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

## **Standards of councillor conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

## **General Conduct**

### **1. Respect**

#### **As a councillor:**

#### **1.1 I treat other councillors and members of the public with respect.**

#### **1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

## **2. Bullying, harassment and discrimination**

**As a councillor:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power.

through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

## **3. Impartiality of officers of the council**

**As a councillor:**

**3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

#### **4. Confidentiality and access to information**

##### **As a councillor:**

##### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless
  - i I have received the consent of a person authorised to give it.
  - ii. I am required by law to do so.
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
  - iv. the disclosure is:
    - 1. reasonable and in the public interest; and
    - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and
    - 3. I have consulted the Monitoring Officer prior to its release.

##### **4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.**

##### **4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

**As a councillor:**

### **5.1 I do not bring my role or local authority into disrepute.**

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a councillor:**

### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a councillor:**

### **7.1 I do not misuse council resources.**

### **7.2 I will, when using the resources of the local authority or authorising their use by others:**

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8. Complying with the Code of Conduct**

**As a Councillor:**

- 8.1 I undertake Code of Conduct training provided by my local authority.**
- 8.2 I cooperate with any Code of Conduct investigation and/or determination.**
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

## **Protecting your reputation and the reputation of the local authority**

### **9. Interests**

**As a councillor:**

- 9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding

whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

**Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case, you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

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

#### **Integrity**

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

#### **Objectivity**

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

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.



## Appendix B Registering Interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it ]

## Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which ***directly relates*** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

## Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which ***directly relates*** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which ***affects*** –

- a. your own financial interest or well-being.
- b. a financial interest or well-being of a relative or close associate;  
or
- c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above) ***affects*** the financial interest or well-being:
  - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision.
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it]

**Table 1: Disclosable Pecuniary Interests**

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	<p>Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
<b>Contracts</b>	<p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council</p> <p>(a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.</p>

<b>Land and Property</b>	<p>Any beneficial interest in land which is within the area of the council.</p> <p>‘Land’ excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
<b>Licenses</b>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
<b>Corporate tenancies</b>	<p>Any tenancy where (to the councillor’s knowledge)—</p> <ul style="list-style-type: none"> <li>(a) the landlord is the council; and</li> <li>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</li> </ul>

<p><b>Securities</b></p>	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/ her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>
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\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**Table 2: Other Registrable Interests**

You must register as an Other Registerable Interest:

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

## Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the:
- Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

**Best practice 3:** Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

**Best practice 4:** An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.



**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

***The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.***

## **PLANNING PROTOCOL**

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## **A. INTRODUCTION**

### **1. The Aim of this Protocol**

The aim of this protocol is to ensure that in the planning process all decisions are unbiased, impartial, and well founded. It should be read in conjunction with the Local Government Association's [Probity in Planning Guidance](#).

Failure to abide by this Protocol may put:-

- the Council at risk of proceedings in respect of the legality or maladministration of the related decision.
- you at risk of a complaint to the Monitoring Officer; and
- you at risk of being named in a report made to the Council, or if the failure is also likely to be a breach of the interest provisions of the Localism Act 2011(as amended), a complaint being made to the police to consider criminal proceedings.

### **2. Your Role as a Member of the Development Committee**

Members of the Development Committee play an integral role in the democratic determination of planning matters. The primary role of the Committee Members is to make planning decisions in respect of applications that are submitted to the Development Committee because they cannot be determined under delegation by Planning Officers.

In considering applications, members should ensure that they have read all applications and supplementary information thoroughly and must make balanced and non-biased decisions based on material planning considerations. This will include taking into account:

- the application of national and local planning policies
- reference to legislation, case law and rules of procedure
- rights of appeal; and
- an expectation that local planning authority will act transparently, reasonably and fairly.

Members will often be presented with complex and controversial applications that may attract a good deal of public attention. It is essential that members are equipped with the skills and knowledge to make decisions by balancing a range of competing interests and making an informed judgment against the local and national policy framework in the wider public interest.

Members must have regard to the professional advice and guidance provided by planning and legal officers during the consideration of any application. However, Members do not have to agree with the planning decision recommended by officers provided that justifiable material planning grounds can be identified to support a decision to the contrary.

### **3. The Role of Ward Members**

Ward members play an essential role in representing the views of residents in respect of planning matters. Ward Members should ensure that they represent the views of the whole community equally, not just those views which have been more overtly expressed or which align with the personal views of the ward member.

Ward members will receive notification of planning applications on a weekly basis. Members may seek referral of applications within their ward to the Development Committee, subject to conditions set out in part L of this protocol.

Ward members may also be involved in pre-application discussions or consultation regarding applications within their ward. Members must exercise caution when participating in these discussions, ensuring that they do not give any assurance to the application or their agent of a particular planning outcome and that they do not render themselves predetermined. It is always advisable to be accompanied by planning officers when meeting with applicants, agents or developers.

#### Speaking as Ward Member at Development Committee as a Non-Committee Member

Ward members may make speak to applications in their Ward at the Development Committee, ensuring that they represent the views of the whole community. Ward Members speaking in this capacity will have a maximum of 5 minutes to make representations to the Committee. Committee members may ask questions of clarity on points made by the Ward Member.

The Committee Chairman may, at their discretion, invite the ward member to respond to questions from committee members during the consideration of the application where it is deemed that the ward member's local knowledge may assist with understanding. The ward member must respond factually and impartially, and not use this as an opportunity to make further representations to the committee.

### Speaking as Ward Member at Development Committee as a Committee Member

If a committee member wishes to speak to the application as a ward Member, they must 'walk the floor' for the duration of the consideration of the application and move to the public speaker's area of the meeting room. They will then be able to exercise the speaking rights of a ward member as described above. In this circumstance the committee member will not be able to debate or vote on the application.

If a committee member does not wish to act as the ward member, for example if another ward member is representing the views of the community, they may participate in the meeting as a normal member of the committee. This is subject to the member being able to satisfy themselves that they are able to consider the application without bias and in the wider public interest, not just with regards to the views of the residents of their ward.

#### **4. When the Protocol Applies**

This protocol applies to members at all times when involving themselves in the planning process (this includes when taking part in the decision-making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public, and consultative meetings). It applies as equally to planning enforcement matters or site-specific policy issues as it does to planning applications.

#### **B. Relationship to the Code of Conduct**

The Code of Conduct for Councillors applies to members at all times when acting in their capacity as an elected Councillor, including participating in committee meetings. This protocol seeks to supplement the provisions of the Code of Conduct; however the Code of Conduct takes precedence over any of the provisions herein.

**Do** comply with all of the rules in the Code of Conduct for Councillors.

**Do** refer any concerns about breaches of the Code of Conduct to the Monitoring Officer.

**Do** behave courteously at all times during Committee meetings and treat other members, officers, applicants and their representatives and other public speakers with respect.

## C. Declarations of Interest

Members are legally required to ensure that relevant interests are recorded in their register of interests and declared at any meeting where a matter relating to that interest is under discussion.

Members should familiarise themselves with the three categories of interest outlined in the Code of Conduct:

- Disclosable Pecuniary Interests
- Other Registrable Interest
- Non-Registrable Interests and ensure that they are aware of the guidance and the circumstances in which these interests apply.

**Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter.

**Do** notify the Monitoring Officer of the details as soon as you become aware that you have a disclosable pecuniary interest or other registrable interest.

**Do** seek advice from the Monitoring Officer about any possible interests and whether you should participate in the consideration of an application.

**Don't** participate, or give the appearance of trying to participate, in the making of any decision on an application where you have a disclosable pecuniary interest or a relevant other registrable interest or non-registrable interest. You must leave the meeting room for the entirety of the debate.

**Don't** seek or accept any preferential treatment or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.

#### **D. Bias and Predetermination**

It is essential that members attend with an open mind, prepared to consider all evidence and arguments presented to them. A member who has a biased view or a predetermined position cannot vote or participate in the relevant matter.

The test is would a member of the public with the knowledge and relevant facts conclude that there is a possibility of bias that could prejudice your judgment? A perception of bias can be sufficient to render a planning decision vulnerable to legal challenge.

It is important to recognise that predetermination is different to predisposition. This means that a member may continue to participate in a planning application where they have a pre-existing opinion or attitude about the matter under discussion but remain open to listening to all the arguments and changing their mind in light of the information presented at the meeting. A Member may make a statement to that effect at the meeting.

**Do** be aware that in your role as an elected member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011 (as amended).

**Do** be aware that you are likely to be biased and predetermined where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal (this is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits).

**Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a Member of the Parish Council, for example, or both a District and County Councillor), provided that the proposal does not substantially affect the wellbeing or financial standing of the consultee body, and you make it clear to the consultee body that:

- your views are expressed on the limited information before you only.
- you must reserve judgment and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee, and you hear all of the relevant information.
- you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
- your membership or role is a Non-Pecuniary Interest.

**Do** explain to the consultee body that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.

**Do** take the opportunity to exercise your separate speaking rights as a ward/local member where you have represented your views or those of local electors and have a personal interest in the matter, but do not have a disclosable or other pecuniary interest. Where you do: -

- advise the proper officer or Chairman that you wish to speak in this capacity before commencement of the item.
- remove yourself from the member seating area for the duration of that item.



## **E. Contact with Applicants, Developers and Objectors**

There are occasions where you may be invited to meet with applicants and developers as Ward Member or as a local resident. This could be part of the pre- application process or a general meeting or public exhibition to explain the features of a future development. Members are able to participate in such meetings but should proceed with caution.

Equally you may be approached to meet with objectors so that they can explain their concerns, the same caution should be exercised in this situation.

**Do** refer those who approach you for planning, procedural or technical advice to officers.

**Do** contact the Director for Place where you think a formal meeting with applicants, developers or groups of objectors might be helpful. You should never seek to arrange that meeting yourself. If a meeting is organised, officers will ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the committee.

**Do** otherwise:-

- follow the rules on lobbying as set out in part F below.
- consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- report to the Director for Place any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

**Do** attend a public meeting or exhibition to gather information about planning proposals.

**Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.

**Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the Development Committee.

**Do** be aware that a presentation is a form of lobbying – you can express views, but must not give an indication of how you or other members might vote.

**Don't** attend a private planning presentation does not open to the general public unless an officer is present and the presentation is open to all Members.

## **F. Lobbying of Councillors**

Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward member or to a member of the planning committee.

Lobbying, however, can lead to the impartiality and integrity of a councillor being called into question, and so care and common sense must be exercised by all parties involved.

**Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality (and therefore your ability to participate in the Committee's decision making) if you express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.

**Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

**Do** promptly refer to the Director for Place any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.

**Do** copy or pass on any lobbying correspondence you receive to the relevant Planning Officer at the earliest opportunity.

**Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including offers of gifts or hospitality), who will in turn advise the appropriate officers to investigate.

**Do** note that, unless you have a Disclosable Pecuniary Interest or other relevant interest, you will not have fettered your discretion or breached this Protocol through:

- listening or receiving viewpoints from residents or other interested parties.
- making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind.
- attending a meeting with the developer or applicant organised by the Director for Place that is conducted in accordance with the rules set out in the Code of Conduct and this protocol.
- seeking information through appropriate channels; or

- being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

## **G. Lobbying by Councillors**

If any councillor, whether or not a committee member, actively lobbies in respect of an application or speaks on behalf of a lobby group at the decision-making committee, they should withdraw from the meeting once any public or ward member speaking opportunities have been completed. This is to counter any suggestion that members of the committee may have been influenced by their continuing presence.

**Do** feel free to join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, Ramblers Association or a local civic society, but where that organisation has made representations on a particular proposal make it clear to that organisation and the Committee that you have reserved judgment and the independence to make up your own mind on each separate proposal.

**Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter. You should have no involvement in the decision-taking process in the matter and you should remove yourself from the Committee for the duration of that item.

**Don't** lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

**Don't** decide or discuss how to vote on any application at any sort of political group meeting or lobby any other Member to do so. Political Group Meetings should never dictate how members should vote on a planning issue.

## H. Site Visits

Site visits are for observing the site and gaining a better understanding of the issues. Visits made by committee members, with officer assistance, are normally the most fair and equitable approach. They should not be used as a lobbying opportunity by objectors or supporters. This should be made clear to any members of the public who are there.

Once a councillor becomes aware of a proposal, they may be tempted to visit the site alone. In such a situation, a councillor is only entitled to view the site from public vantage points, and they have no individual rights to enter private property. Whilst a councillor might be invited to enter the site by the owner, it is not good practice to do so on their own, as this can lead to the perception that the councillor is no longer impartial.

Site visits will be conducted in accordance with the procedures adopted by the Council.

**Do** request an early site visit by contacting the relevant team leader if you think one is required.

**Do** try to attend site visits organised by the Council where possible.

**Don't** request a site visit unless you feel it is strictly necessary because: -

- particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
- there are significant policy or precedent implications, and specific site factors need to be carefully addressed.

**Do** ensure that you report back to the committee any information gained from the site visit that you feel would benefit all members of the committee.

**Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.

**Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.

**Don't** hear representations from any other party, with the exception of the ward member(s) whose address must focus only on-site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.

**Don't** express opinions or views to anyone.

**Don't** enter a site not open to the public which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias.

## **I. Public Speaking at Meetings**

It is likely that you will be asked by residents about how they can speak at a planning meeting. You may also be asked to provide support to someone who wishes to speak at a meeting. It is advisable to direct residents to the Planning Team or Member Services who can provide this assistance.

**Do** ensure that you comply with the Council's procedures in respect of public speaking.

**Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias

## **J. Officers**

Positive professional relationships between officers and members are integral to a strong and effective planning function. At all times members must abide by the Code of Conduct and the member and officer protocol.

**Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with an Assistant Director or those officers who are authorised by their Assistant Director to deal with the proposal at a member level.

**Do** 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, opinions and recommendations 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.

**Do** give officers the opportunity to report verbally on all applications reported to the Development Committee for determination.

**Don't** put pressure on officers to put forward a particular recommendation (this does not prevent you from asking questions or submitting views to the Assistant Director, Place & Environment, which may be incorporated into any Committee report).

#### **K. Member Referral of an Application to Committee**

On receipt of the weekly list, members may identify an application that they feel merits determination by the Development Committee rather than under officer delegation.

Members must email the Corporate Services Team and include the application number, address and the planning reasons for referral. If an application is referred close to the deadline it may be prudent for a member to telephone the Corporate Services Team to ensure that the referral has been received prior to the deadline.

#### **L. Training**

Members of the Development Committee must attend the required training before making planning decisions. This training will be provided at regular intervals for new and experienced members and kept up to date in accordance with the member training standards.

Additionally, specialist training on specific planning considerations will be provided from time to time and as required.

**Do** endeavour to attend any other specialised training sessions provided.

**Don't** participate in a vote at meetings dealing with planning matters if you have not attended the required planning training offered by the Council.

#### **M. Applications in which Members or Officers are directly concerned**

It is vital to ensure that development proposals or representations submitted by members or officers or by their close family are handled in a way that does not give any grounds for accusations of favouritism or suspicions of impropriety.

Where a member or officer (or a close family member or such persons) submits an application which shall include permitted development notifications and other planning related consents then, if objections are received from statutory consultees or other persons notified of the application, the application will be reported to the Development Committee for a decision.

If no objections are received then the application may, subject to the file being reviewed by the Director for Place, be determined in accordance with the Scheme of Delegation.

The relevant time for determining whether the application needs to be reported to the Development Committee is the date of registration of the application.

The same requirement for the application to be reported to the Development Committee applies to former members or officers for a period of one year from the date on which their term of office or employment ceases.

The fact that the application is from a member or officer (or their close family) or former member or officer will be highlighted in the committee report.

A member or officer who has an interest in an application either by reason of it being (i) their application (ii) an application by a close family member or (iii) an application on which they have made representations shall take no part in the processing or deciding of the application.

#### **N. Applications by the Council or applications affecting Council-owned land**

Planning legislation allows the Council to submit and determine proposals for development that it proposes to carry out itself. It is also entirely proper for development proposals to be put forward for land owned by the Council, whether or not the Council is the applicant.

Proposals submitted by the Council or involving Council owned land shall be considered in the same way as those by private developers.

Any such applications shall be reported to the Development Committee for determination. The Officer's report should clearly identify the Council's interest in the application.

Decisions on applications in which the Council is the applicant or landowner must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the Council. It is important that the Council is seen to be treating all such applications in the same way as any other application as well as actually doing so.

Officers who are involved in the preparation of development proposals shall not advise on, or take any part in the consideration of, planning applications in respect of such proposals.

## **PROTOCOL FOR OUTSIDE BODIES**

### **MEMBERS' AND OFFICERS' RESPONSIBILITIES & LIABILITIES**

Members and officers acting on outside bodies may attract personal liability depending on the legal nature of the body and the role fulfilled by the Member or officer. The Council may only delegate its functions to Committees or employees of the Council. This means that Members can only represent the Council on outside bodies as observers or facilitators assisting in the exchange of information. Members cannot make decisions binding the Council unless it is with the authority of the Council in order to implement a decision that the Council has made. Members may serve on outside bodies in their personal capacity, provided that there is no conflict of interest with their duties as a member.

The following is intended to provide some useful guidelines. It is a member/officer's responsibility to ensure that they are aware of their liabilities and any insurance arrangements where they participate on outside bodies. Where uncertainty exists, seek guidance from the Monitoring Officer or independent legal advice.

#### **1. The Council may only indemnify Members and Officers in Certain Circumstances as Prescribed by the Local Authorities (Indemnity for Members & Officers) Order 2004.**

The Council will provide an indemnity in relation to any action or failure to act by any Member or officer which: -

- (a) is authorised by the Council and/or:
- (b) forms part of, or arises from, any powers conferred, or duties placed upon that Member or officer at the request, or with the approval of, the Authority, including acting as the Council's representative on an outside body;
- (c) arises in respect of the cost of defending any claim for an allegation of defamation by a Member or officer acting in an official capacity (but not in respect of any punitive or exemplary damages or arising from malicious or injurious falsehood);
- (d) is in respect of any investigation, hearing or other proceedings for an alleged failure to comply with the Code of Conduct for members but, if the member is found to have breached the Code of Conduct, and where an appeal is unsuccessful, then that Member shall reimburse the authority or the Insurer for their costs incurred in relation to those proceedings.



The indemnity includes an act or omission subsequently found to be beyond the powers of the member or officer in question, but only to the extent that the member or officer reasonably and genuinely believed that the act or omission was within his/her powers at the time he/she acted.

The indemnity does not apply to the defence of any criminal proceedings brought against a member or officer unless specifically approved by the Council and then only on similar basis to that relating to proceedings for breaches of the code with regard to reimbursement.

**2. A Member's Role on an Outside Body may Occasionally Give Rise to a Conflict of Interest.**

If a member is a director or on the management committee of an outside body, it is likely that their prime duty is to the outside body. Where the Member has been appointed by the authority as its representative this will not necessarily exclude the member from participating in Council decision making, even when the outside body is directly affected. Members must have regard to the definitions of interests as set out in the Code of Conduct and must remove themselves from any decision-making in which they have a relevant interest.

In some instances, a member may also find that they are unable to properly carry out their functions as a member of council and a member of the outside body. In such a case the member may consider resigning from one or other body. Members are advised to seek advice from the Monitoring Officer before taking such action.

**3. There are General Duties that Apply to Members and Officers Whether They Act in the Role of Company Director or Trustee or Member of an Unincorporated Body.**

The member or officer is under a duty to exercise independent judgment in the interest of the organisation in which they are involved. If the member or officer is involved in the outside body in a representative capacity, this must be declared to the outside body. A mandate from the Council to vote in one way or another would put the member or officer in breach of the duty to the organisation.

Members and officers must also ensure that avoidable loss is not incurred in managing the organisation. They must make sure that they have regard to all appropriate reports and papers. They are expected to seek professional advice where appropriate.

The member/officer must act in accordance with the rules, constitution and framework set by the outside body.

At all times members and officers must behave ethically, taking an informed role in the outside body's affairs.

Members must represent the Council and not to any political party of which they are a member.

**4. Before Accepting a Role in a Decision-Making Capacity in Any Outside Organisation Consider the Following:-**

How onerous are the responsibilities likely to be? Do you have the time and capacity to take them on?

Is there likely to be any significant conflict of interest between your role in the outside organisation and your Council role? If so, consider refusing the appointment.

Assess the risk of things going wrong, which might give rise to personal liability. Things to consider include the nature and function of the body and the amount of money with which it deals. Always be aware of the added risks where an organisation employs staff.

In each case the issue of insurance should be considered. Find out if the external body has insurance and if so whether it would cover the key risks of the organisation as well as yourself. Find out if your liability is limited or unlimited.

If not, would the organisation consider taking out insurance. If no insurance exists, and indemnity does not apply, this must be weighed in the decision to accept the appointment. Make sure that you are aware of your major responsibilities and liabilities. A guideline on the respective duties and liabilities in relation to companies, trusts and unincorporated associations, is available from Member Services.

**5. Reporting on Outside Bodies**

Members appointed to Outside Bodies must make regular reports to the Audit and Standards Committee on the activities of the Outside Bodies to which they are appointed.

**6. Review of Appointments to Outside Bodies**

An annual review of the appointments to Outside Bodies will be undertaken by the Audit & Standards Committee.

## **OFFICERS' CODE OF CONDUCT**

### **1. Introduction**

- 1.1 This Code of Conduct applies to all employees of the Council. It explains in practical terms the standards of behaviour required under the law, under Conditions of Service, and under Council policy and Procedure Rules.

### **2. Status of the Code**

- 2.1 The Code sets out the minimum standards that apply and lays down guidelines that will help improve standards and protect employees from misunderstanding or criticism. The Code will be regularly reviewed and updated.
- 2.2 Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than others. The Code covers all employees under a contract of employment within local government.
- 2.3 This Code supplements, and does not replace, any code or recognised standards of conduct promulgated by any professional body of which an employee is a member.

### **3. Standards**

- 3.1 Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide advice to Councillors and fellow employees with impartiality.
- 3.2 Employees will be expected as part of the drive for a quality service to bring to the attention of the appropriate level of management any deficiency in the provision of service.
- 3.3 Employees must be aware of the Council's Whistleblowing Procedure and report any impropriety, breach of procedure, unlawfulness or maladministration through the appropriate channels and if necessary to one of the named officers in the Council's Whistleblowing Procedure including the Monitoring Officer. The Council's Whistleblowing Policy is kept up to date by Human Resources. Members should refer to the Monitoring Officer for advice on whistleblowing, if necessary.

### **4. Disclosure of Information**

- 4.1 The Council has adopted the principles of open government and seeks to involve the public in the decision-making process. The law requires that certain types of information must be available to Members, auditors, Government departments, service users and the public. In certain circumstances, employees may have a legal or professional duty to disclose information to a third party, (for example, in the course of legal proceedings).

- 4.2 The Council will inform employees of the type of information that must be made available, and to whom; the type of information that has voluntarily been made open, and to whom; and the type of information that the Authority does not wish to be disclosed without specific permission.
- 4.3 Employees should be aware of which information within the Council is open and which is not, and act accordingly. Any officer having custody of documents to which right of access applies commits an offence by obstructing that right.
- 4.4 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.
- 4.5 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 or sanctioned by the law.

## **5. Political Neutrality**

- 5.1 Employees serve the Council as a whole. It follows they must serve all Councillors and not just those of the controlling group and must ensure that the individual rights of all Councillors are respected.
- 5.2 Some employees are required to advise political groups. They must do so in ways that do not compromise their political neutrality.
- 5.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.
- 5.4 Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraph 5.1.
- 5.5 Where a Local Authority employee holds a politically restricted post such restrictions are deemed to be incorporated in their contract of employment.

## **6. Relationships**

### **Councillors**

- 6.1 All employees are there to carry out the Council's work. They are responsible to the Council through its senior managers.

- 6.2 The role of some employees is to give advice to Councillors and senior managers. 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.

#### TheLocalCommunity

- 6.3 Employees should always remember their responsibilities to the community they serve and ensure courteous, respectful, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council.

#### Contractors

- 6.4 All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate Assistant Director. Orders and contracts must be awarded on merit, by fair competition in accordance with Contract Procedure Rules and no special favour should be shown to any businesses and no part of the local community should be discriminated against.
- 6.5 An employee must not seek or receive any gift or personal inducement in connection with the procurement of works, goods or services.
- 6.6 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 Director.

### **7. Appointments and Other Employment Matters**

- 7.1 Employees involved in appointments should ensure that these are made on the basis of merit. It is unlawful for an employee to make an appointment that is based on anything other than the ability of the candidate to undertake the duties of the post.
- 7.2 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. Candidates for any appointment with the Council must disclose on their application whether they are related to any member of the Council or to a holder of any senior office.
- 7.3 Employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, close personal friend etc.

## **8. Outside Commitments**

- 8.1 Employees graded above Scale 6 have conditions of service that require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the Council's interests, or in any way weaken public confidence in the conduct of the Council's business.
- 8.2 Employees of all grades should not undertake outside work if their official duties overlap in some way with their proposed work, if it causes a conflict of interest, or if it makes use of material to which the employee has access by virtue of his or her position (for example, an architect or planner who draws up plans within the District for an applicant for planning consent.) It is irrelevant whether or not the work is paid.
- 8.3 Employees' off-duty hours are their personal concern, but they should not subordinate their duty to private interests to put themselves in a position where duty and private interests' conflict; this is not limited to other paid employment and may include issues relating to personal standards of conduct.
- 8.4 The Council will not preclude employees from undertaking additional employment, but any such employment must not, in the view of the Council, conflict with or react detrimentally to the Council's interests, or in any way weaken public confidence in the conduct of the Council's business. If in doubt seek the view of the Monitoring Officer.
- 8.5 No outside work of any sort should be undertaken in the office, and use of Council facilities for outside work is forbidden. All the resources of the Council including equipment, stationery, etc, are to be used to further the Council's business and are not for personal use.

## **9. Information Technology and Data Security**

- 9.1 Employees must ensure that they follow the Council's security procedures in relation to the use and storage of computers and the proper management of computer held information. Particular care should be taken to observe established procedures when using passwords and when logging on and off, especially when working with confidential records or sensitive material.

## **10. Personal Interests**

- 10.1 Employees must declare to their director any financial interests that could conflict with the Council's interests.

- 10.2 Employees must declare to their director (in writing), any non-financial interests that they consider could bring about conflict with the Council's interests. This may include membership of outside bodies in a personal capacity. In such cases employees should be mindful not to place themselves in a situation where their involvement or working contribution could compromise their continuing professional duty to the interests of the Council.
- 10.3 On a voluntary basis, employees are encouraged to make declarations of interests by pro forma, based on the same principles as those required of Members, in a register kept for the purpose by HR.
- 10.4 When serving on outside bodies as a Council appointee, employees will be expected to represent and promote the Council's interests and policies as the circumstances dictate.

## **11. Equality Issues**

- 11.1 Employees should ensure that all policies agreed by Council relating to equality issues are complied with in addition to the requirements of the law. All members of the local community, customers, job applicants and other employees have a right to be treated with fairness and equity.

## **12. Separation of Roles During Tendering**

- 12.1 The tendering process must be seen to be open and above board. Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Authority.
- 12.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors, and sub-contractors.
- 12.3 Employees who are privy to confidential information on tenders or costs relating to either internal or external contractors should not disclose that information to any unauthorised party or organisation.

## **13. Corruption**

- 13.1 Corruption may include receiving any payment, gift (other than a gift of a nominal value (£25)) hospitality, or any other benefit from any person or organisation who a member of staff deals with in their work, irrespective of what it is in respect of, including tips, and payment for additional 'private work'. It is also irrelevant whether any benefits are directly to an officer or to the officer's family or friends.

- 13.2 Any case of suspected corruption will be fully investigated, and any proven cases will be treated as gross misconduct and criminal prosecutions undertaken.

#### **14. Use of Financial Resources**

- 14.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner.
- 14.2 They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

#### **15. Hospitality, Gifts and Sponsorship**

- 15.1 Employees must decline gifts other than nominal items such as calendars, diaries, etc.
- 15.2 Employees should treat with caution all offers of hospitality wherever any suggestion can arise of improper influence. Particular care is required where a person or body having or seeking business with, or a decision from the Council, offers hospitality, particularly where the offer is to an individual employee. It should only be accepted where it is on a scale appropriate to the circumstances, reasonably incidental to the occasion and where it is apparent no cause could reasonably arise for adverse criticism about accepting it.
- 15.3 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.
- 15.4 Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an 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.

#### **16. Standard of Dress and Appearance**

- 16.1 There is a general expectation that dress will be appropriate to the nature of the duties and responsibilities undertaken by the individual.
- 16.2 The Council values and welcomes the ethnic diversity of its workforce and will take account of ethnic and religious dress requirements with sensitivity.



# **MEMBER AND OFFICER PROTOCOL**

## INTRODUCTION

The Council is responsible for providing a variety of services to the public. At the heart of this delivery is the relationship between Members and Officers. It is key that this relationship is strong and collaborative and both roles recognise and complement each other.

Effective relationships between Members and Officers help to create a pleasant working environment which increases efficiency and productivity. This in turn ensure that we have the best chance of delivering the Council's strategic priorities and delivering real benefits for our communities.

The purpose of this protocol is to assist Members and Officers to perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other.

The protocol must be read and operated in the context of any relevant legislation and national and local Codes of Conduct and any procedure for confidential reporting.

## PRINCIPLES OF THE MEMBER AND OFFICER PROTOCOL

The relationship between Members and Officers is an essential ingredient that goes into the successful working of the Council. This relationship is based upon the following principles:

RESPECT	<p>We will:</p> <ul style="list-style-type: none"><li>• Ensure that we understand each other's roles and respect necessary boundaries.</li><li>• Give feedback in a constructive and respectful way.</li><li>• Treat each other fairly and equally.</li><li>• Understand that sometimes things go wrong and work together to continually develop and improve.</li><li>• Respect that officers' professional opinions and political will may sometimes conflict and strive to find a mutually acceptable solution.</li></ul>
TRUST & HONESTY	<p>We will:</p> <ul style="list-style-type: none"><li>• Be open and honest about challenges and frustrations.</li><li>• Trust each other that we are always acting in the best interests of the Councils.</li><li>• Ensure that private and sensitive matters are treated confidentially.</li><li>• Create safe spaces to have challenging conversations.</li></ul>

COMMUNICATION	<p>We will:</p> <ul style="list-style-type: none"> <li>• Communicate regularly and openly.</li> <li>• Take a 'no surprises' approach – ensuring that as far as possible no Councillor or Officer is put on the spot.</li> </ul>
RECOGNITION	<p>We will:</p> <ul style="list-style-type: none"> <li>• Recognise and value each other's skills and experiences.</li> <li>• Have pride in our district, in the Council and what we are doing.</li> <li>• Celebrate successes, give each other feedback and show appreciation.</li> </ul>
CREATIVITY	<p>We will:</p> <ul style="list-style-type: none"> <li>• Have ambition for our places and our communities.</li> <li>• Continually seek opportunities to innovate and explore creative solutions to issues.</li> <li>• Maintain a sense of humour and an optimistic approach.</li> </ul>

## ROLES OF MEMBERS AND OFFICERS

The respective roles of Members and Officers can be summarised as follows:

Members and officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct.

Members are elected and during their term they are responsible to both the Council and the electorate.

Officers are responsible to the Council. Their job is to give advice to members and to the Council, and to carry out the Council's work within the delegated powers and under the direction and control of the Council and various committees.

**Members** have four main areas of responsibility:

- a) determining the policy of the Council and giving it political leadership.

- b) monitoring and reviewing the performance of the Council in implementing that policy and delivering services.
- c) representing the Council externally; and
- d) acting as advocates on behalf of their constituents. It is not the role of members to involve themselves in the day-to-day management of the Council's services. This includes the day-to-day operational decisions that are made from Officers.

The role of officers is to give advice and information to members upon which they may determine policy issues and to implement the policies determined by the Council, and to provide advice to Members as to how this might properly be done.

In giving such advice to members, and in preparing and presenting reports, it is the responsibility of the Officer to express their own professional views and recommendations. Whilst an Officer may report the views of individual members on an issue, if the member

wishes to express a contrary view they should not seek to pressure the officer to make a recommendation contrary to the officer's professional view.

Statutory Officers (Head of Paid Service, S.151 Officer and Monitoring Officer) have responsibilities in law over and above their obligations to the Council and to individual members. Members must respect these obligations and must not obstruct officers in the discharge of these responsibilities.

## WHAT DO MEMBERS AND OFFICERS NEED FROM EACH OTHER?

<p>In order for Members to carry out their roles, they need from Officers:</p> <ul style="list-style-type: none"><li>• Sufficient, detailed and accurate information on which to make informed decisions.</li><li>• Access to appropriate Officers to obtain timely information on matters they are involved in.</li><li>• To be kept informed on matters they are involved in or affect their Wards.</li><li>• To be consulted on matters that are relevant to their Wards.</li><li>• Key points of contacts within all service areas to facilitate Member and Officer relationships.</li><li>• Clarity on matters for which Members are responsible and matters for which Officers are responsible.</li></ul>	<p>In order for Officers to carry out their roles, they need from Members:</p> <ul style="list-style-type: none"><li>• Sufficient, detailed and accurate information on which to make enquiries or take action.</li><li>• Access to Members to obtain timely information on matters they are involved in.</li><li>• To be kept informed on Members' involvement in matters including those that affect their Wards.</li><li>• Timely responses to consultations on matters that are relevant to Members' wards.</li><li>• Clarity on matters for which Officers are responsible and matters for which Members are responsible</li></ul>
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Underpinning all of this is the principle of 'no surprises'. Neither officers nor members should be put in the position where information or questions are presented in a public forum without prior warning or where they are unprepared to respond to matters due to a lack of timely and comprehensive briefing.

This principle will operate within the context of the 'need to know' provisions.

## CONTACT ARRANGEMENTS

Effective contact methods are key to ensuring positive working between members and officers.

Members are able to contact officers in the following ways:

- The Councillor Portal
- Telephone
- Email
- In person or virtual meetings

Officers will provide an initial acknowledgement to written Councillor queries within 24 hours and a substantive response within 5 working days for non-urgent matters. Urgent matters will be dealt with as appropriate to the situation.

Officers will ensure that email out of office messages include forwarding details and that phone calls are diverted whenever they are away from work to ensure that Members have an alternative point of contact for their queries.

Members should avoid 'dropping in' to visit officers unannounced and refrain from sending persistent or unreasonable volumes of email correspondence. If a member has any concerns about a lack of response from an officer, this should be escalated to the Officer's Line Manager in the first instance.

Confidentiality will be observed when dealing with member correspondence, which will include refraining from copying other members or officers into emails without that members' permission. Officers will share correspondence with the relevant designated officers wherever that correspondence contains information, which is unlawful, presents a safeguarding issue or breaches the code of conduct.

## **CLOSE RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS**

Relationships between members and officers should be professional and courteous. It is essential to avoid over familiarity and to maintain appropriate levels of formality.

Where there is a close family or personal relationship between a member and officer, it should be declared by both parties to the Chief Executive who will treat such disclosures as confidential. The member should also advise their Group Leader.

It is not possible to define exactly the range of relationships that would be considered close or personal. Examples however would include a family or sexual relationship and regular social mixing such as holidays or evening meals together.

An officer must not seek to influence a member to do something that may be advantageous to the member or staff personally or professionally or injurious to another officer. Any approaches of this nature should be reported to the Chief Executive.

## **POLITICAL GROUPS**

Officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual member of the Councils.

Any political group may request the Chief Executive to attend a meeting of the group, consisting of members of the Councils only, to advise on any particular matter relating to the Council.

The Chief Executive may arrange for the attendance of a representative in their stead or may decline to attend or to provide a representative where they are of the opinion that the particular issue is of such a political nature that it would be inappropriate to attend.

Officer advice to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the authority. Advice will not deal with any political implications of the matter or any option, and officers will not make any recommendation to a political group.

Officers will respect the confidentiality of any matter which they hear in the course of attending a political group meeting.

## **WHAT TO DO IF THINGS GO WRONG**

Sometimes relationships between members and officers do break down, often as a result of misunderstanding or miscommunication. It is always preferable, in the first instance, to attempt to resolve any issues informally – with the support of the Officer's Line Manager and relevant Group Leader as necessary.

If the matter is very serious or cannot be resolved informally officers should report any concerns about Member behaviour to the Monitoring Officer who may decide that the formal code of conduct complaints process is appropriate.

Members should report any concerns about officer behaviour to that Officer's Line Manager or to the Chief Executive if a senior officer is involved or if the matter is very serious.

It is important that the resolution to any formal complaint between a member and officer seeks to preserve a positive working relationship for the future.

## **PETITIONS**

### **1. Introduction**

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement within 5 working days of receipt. This acknowledgement will inform and confirm what the Council intends to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition and the organiser agrees.

For practical purposes we will not class it as a petition unless it has reached at least 10 signatures from people who live, work or study in the Rochford District.

In the following paragraphs details are given on how you can go about submitting a petition, the different types of petitions and how, in certain cases, special rules apply.

Petitions will be considered by the Assistant Director, Legal & Democratic to ensure they are not vexatious, abusive or otherwise inappropriate.

### **2. Guidelines for Submitting a Petition**

- 2.1 Paper petitions should be sent to: The Assistant Director, Legal & Democratic, Rochford District Council, Council Offices, South Street, Rochford, Essex, SS4 1BW or, in the case of a consultation petition (see paragraph 3.5 below), to the address given in the consultation.
- 2.2 You may also use the Council's online e-petitions facility to create, sign and submit a petition by following the link below or going to the Council's petitions page and then accessing the e-petitions website.
- 2.3 It is advised that Councillors should not act as the petitioner for reasons of bias and predetermination. If a Councillor wishes to petition the Council then they will not be allowed to participate on the debate or vote on the matter.
- 2.4 [Petitions](#) can be presented to ordinary meetings of the Council. Dates and times can be found on the Council's website. If you would like to present your petition to the Council, or someone else to present it on your behalf, please contact the Member Services Team at the Council (contact details are given at the end of this document) at least 10 working days before the meeting and they will talk you through the process and help with any questions.
- 2.5 A petition must include:-  
  
a clear and concise statement covering the subject of the petition and a statement of what action the petitioners wish the Council to take the name and address and signature of any person supporting the petition.



- 2.6 Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be placed on the website.
- 2.7 In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case, we will explain the reasons and discuss the revised timescale which will apply.

### **3. Types of Petition**

- 3.1 There are different types of petitions as set out below. How your petition is dealt with depends on which type you submit.

#### Ordinary Petitions

- 3.1 These are any petitions not included in the types below. Please note that a petition which raises issues of possible Councillor misconduct will be dealt with under separate standards procedures, rather than under the petitions scheme.
- 3.2 Similarly, a petition that makes a complaint about the conduct of a Council officer may need to be dealt with under the Council's complaints procedure.
- 3.3 We would let you know how we intend to proceed.

#### Consultation Petitions

- 3.4 These are petitions in response to an invitation from the Council for comments as part of a consultation on a particular matter. For example, on a planning or licensing application or a proposed policy or strategy affecting a community. A petition on such a matter will be reported to the meeting, person or body with responsibility for taking the decision.

#### Governance Petitions

- 3.5 There are certain matters where an Act of Parliament requires the Council to consider a petition from local electors. For example, a petition calling for a referendum on having a directly elected mayor or asking for the creation of a parish or community council in part of the Council's area. This petitions scheme does not apply to such petitions.
- 3.6 Advice about these petitions should be sought from the Member Services Team (contact details are given at the end of this document).

## PetitionsforDebate

- 3.7 In addition to a right for a petition to be presented directly at a Council meeting (see paragraph 2.4), a petition will be debated at a Council meeting if it contains 1500 or more signatures.
- 3.8 If a petition contains at least 750 signatures but less than 1500 it will be debated, at a public meeting of the Council's Scrutiny & Performance Committee\*.
- 3.9 More information about petitions for debate at Council meetings is given in section 6 below.

(\*The Scrutiny & Performance Committee is a Committee of Councillors responsible for reviewing and scrutinising the work of the Council and holding decision making and decision makers to account.)

## **4. What will the Council do when it receives a petition?**

- 4.1 An acknowledgement will be sent to the petition organiser within 5 working days of receiving the petition. The acknowledgement will advise on what the Council plans to do with the petition and when the organiser can expect to hear from the Council again. It will also be published on the Council's website.
- 4.2 If the Council can do what the petition asks for, the acknowledgement will confirm that the action requested has been taken and the petition will be closed. If the petition has enough signatures to trigger a debate at a Council meeting, or a senior officer giving evidence, then the acknowledgment will confirm this and advise when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps the Council plan to take.
- 4.3 To ensure that people know what the Council is doing in response to petitions received, the details of all petitions submitted will be published on our website, except in cases where this would be inappropriate. When you sign an e-petition you can elect to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed, unless you choose to receive other emails from us.

## **5. How will the Council respond to a petition?**

- 5.1 The response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition.
- considering the petition at a meeting of the Council or other council body such as the Scrutiny & Performance Committee
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- calling a referendum
- writing to the petition organiser setting out the Council's views about the request in the petition.

5.2 In addition to these steps, the Council will consider what specific actions are available to address the issues highlighted in the petition.

5.3 If a petition is about something over which the Council has no direct control (for example the railway or a hospital) the Council will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and, where possible, will work with appropriate partners to respond to your petition. If we are not able to do this for any reason (such as if what the petition calls for conflicts with Council policy) we will set out the reasons for this to you.

5.4 If the petition is about something that a different council is responsible for, we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other council but could involve other steps. In any event we will always notify you of the action we have taken.

## 6. **Debates at Council or Overview & Scrutiny Committee Meetings**

6.1 A petition containing 1500 or more signatures will be debated at a Council meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible, and consideration will then take place at the following meeting. The petition organiser or their representative will be given five minutes to present the petition at the meeting and the petition will then be discussed by Councillors for a maximum of 15 minutes. The petition organiser or their representative will be given the opportunity to sum up at the end of the debate for a maximum of 1 minute if they so wish.

- 6.2 The Council will decide how to respond to the petition at the meeting. It may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter. For example, by a relevant committee.
- 6.3 Where the issue is one on which the Council's Executive (cabinet) is required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of the decision which will also be published on the Council's website.
- 6.4 If your petition contains at least 750 signatures but less than 1500 it will be debated at a public meeting of the Council's Scrutiny & Performance Committee. The committee may decide to call a relevant officer or Councillor to attend the meeting. Committee members will ask the questions at the meeting, but you will be able to suggest questions to the Chairman of the Committee by contacting the Member Services team up to three working days before the meeting.
- 6.5 The Scrutiny & Performance Committee will make recommendations to Council or the Council's Executive on how to respond to the petition.

## **7. E-petitions**

- 7.1 E-petitions can be created and submitted through the website. E-petitions must follow the same guidelines as other petitions set out above. The petition organiser will need to provide their name, postal address and email address. The organiser will also need to decide how long the petition should be open for signatures. Most petitions run for six months, but a shorter or longer timeframe can be chosen, up to a maximum of 12 months.
- 7.2 When you create an e-petition, it will take five working days before it is published online.
- 7.3 If we feel we cannot publish your petition for some reason, we will contact you within the five working days to explain. You will be able to consider changing and resubmitting the petition if you wish. If this is not done within 5 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the Council's website.
- 7.4 When an e-petition has closed for signature, it will automatically be submitted to the Member Services team. In the same way as a paper petition the organiser will receive an acknowledgement within 5 working days. If you would like to present your e-petition to a meeting of the Council, please contact the Member Services team within 5 working days of receipt of the acknowledgement.

7.5 A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on this website.

## **8. How do I 'sign' an e-petition?**

8.1 You can see all the e-petitions currently available for signature by going to our petitions page and then accessing the e-petitions website.

8.2 When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

## **9. What can I do if I feel my petition has not been dealt with properly?**

9.1 If it is felt that the petition has not been dealt with properly, the petition organiser has the right to request that the Council's Scrutiny & Performance Committee review the steps that the Council has taken in response to the petition. The petition organiser must give a short explanation of the reasons why the Council's response is not considered to be adequate.

9.2 The Scrutiny & Performance Committee will endeavour to consider the request at its next meeting, although on some occasions this may not be possible, and consideration will take place at the following meeting. Should the Committee determine the petition has not been dealt with adequately, it may use any of its powers to deal with the matter. These include commencing an investigation, making recommendations to the Council arranging for the matter to be considered at a meeting of the Full Council.

9.3 Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results will also be published on the Council's website.

Contact Details: -

Member Services Rochford District Council, Council Offices,

South Street, Rochford, Essex,

SS4 1BW

Email – [memberservices@rochford.gov.uk](mailto:memberservices@rochford.gov.uk)

Phone – 01702 318141

## **PART 6**

# **MEMBERS' ALLOWANCES SCHEME**

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## **MEMBERS' SCHEME OF ALLOWANCES**

This Scheme of Members' Allowances for Rochford District Council was agreed by the Full Council on 13 February 2024.

The scheme will be reviewed every four years and will be subject to an annual index-linked uplift in line with the NJC pay award for local government officers.

### **1. Basic and Special Responsibility Allowances**

- 1.1 A basic allowance is payable to all Councillors as set out in the table below. No claim is required.
- 1.2 In addition, special responsibility allowances are payable to those Councillors holding the offices set out in the Table below. These are paid in equal monthly instalments and no claims are required.
- 1.3 A Councillor who does not wish to receive all or part of their basic and/or special responsibility allowances may give notice in writing to the Chief Executive. The notice can be withdrawn (in writing) at any time and the allowances will be reinstated from the date of that second notice.
- 1.4 Basic and special responsibility allowances accrue on a daily basis and are payable from the date on which the Councillor takes office and will cease on the date on which the office ends.
- 1.5 These allowances count as earnings for Income Tax and National Insurance and the appropriate deductions will be made.
- 1.6 The link between increases in officers' pay and increases in Members' allowances is to be maintained so that any annual pay increases applied to officers' pay will be similarly applied to Members' allowances.
- 1.7 The number of special responsibilities allowances claimable by any one member will be restricted as follows:
  - (a) A maximum of 2 special responsibility allowances  
Plus
  - (b) A group leader's allowance (where applicable)



## Table of Member Allowances

Element	Multiplier	Value
Basic Allowance	1	£5,820.00
<b>Special Responsibility Allowances:</b>		
Chairman of the Council	1	£5,820.00
Vice-Chairman of the Council	0.5	£2,910.00
Leader of the Council	1	£5,820.00
Deputy Leader of the Council	0.5	£2,910.00
Development Committee Chairman	0.75	£4,365.00
Development Committee Vice-Chairman	0.15	£873.00
Committee Chairman (all other committees)	0.5	£2,910.00
Committee Vice-Chairman (all other committees)	0.1	£582.00
Independent Member of the Audit Committee	n/a	£1,250.00
Other Independent Persons	0.1	£582.00
Opposition Political Group Leader 2-5 Members	0.125	£727.50
Opposition Political Group Leader 6-10 Members	0.25	£1,455.00
Opposition Political Group Leader 11 + Members	0.5	£2,910.00

## **2. Travelling and Subsistence Allowances for Members and Independent Persons**

- 2.1 Travelling and subsistence allowances may be claimed by Councillors, Co-opted Members and Independent Persons to reimburse expenses that they have necessarily incurred in the performance of an approved duty.
- 2.2 Claims must be made via the online Itrent system accessible from the Council's Intranet. Guidance on using the system may be obtained from the Democratic Services Team. The claims must provide full and clear details of the duties to which they relate. Claims should be made regularly and not allowed to accrue for several months and will only be paid a maximum of 3 months following the date of the duty.
- 2.3 The current rates of these Allowances are shown below.
- 2.4 The definition of an approved duty for this purpose is shown below. An essential consideration is that the duty must be approved in advance of its performance. All formal meetings of the Council and Committees are so approved.
- 2.5 A profit element may occur; a P11D will be used if applicable in the following June. Subsistence allowances will be taxed where receipts are not produced.

### **Travelling Allowances**

- a) Public service transport — the actual costs incurred. Travel by rail should be by standard class. Payment will be made on production of a receipt.
- b) Taxi fares - in cases of urgency or where no public transport is reasonably available, the actual fare and any reasonable gratuity paid, on the production of a receipt. Otherwise, payment will be limited to the appropriate fare for travel by public transport.
- c) Members' own vehicles - a single payment irrespective of engine capacity of 45p per mile for cars (this rate does not attract tax up to a maximum of 10,000 miles); 24p per mile for motorcycles and 20.0p per mile for bicycles.
- d) The above rates are equal to those currently approved by the HMRC, and as of 6 April 2016 are exempted from tax and National Insurance contributions for all miles travelled in Members' own vehicles. Travel allowance rates will be varied in line with future revisions to HMRC statutory mileage rates.
- e) Carriage of passengers - the rates specified in (c) above may be increased in respect of the carriage of passengers, not exceeding four, to whom a travelling allowance would otherwise be payable under any enactment, by 5p per mile per passenger.

- f) Tolls, ferries and parking fees — the actual fees paid, and payment will be made on production of a receipt.
- g) Other modes of travel - prior approval from the Proper Officer is required for travel by air. Payment will be made on production of a receipt.

### **Subsistence Allowances**

- a) Subsistence allowances will be payable to Council members who are prevented by their official duties from taking a meal at their home, administrative centre or establishment where they normally take their meals, and thereby incur additional expenditure. The amount which can be claimed is the actual cost of the meal up to the limits set out in the subsistence policy for staff.
- b) The booking of Conferences, accommodation and travel arrangements for members which have been approved will continue to be coordinated by Council Officers, where possible, to maximise any discounts that can be achieved.

### **3. Dependent Carers' Allowances**

- 3.1 An allowance is claimable for costs the costs of the care of child or adult dependents whilst members are undertaking approved duties. Actual costs of the care may be claimed to a maximum of:
  - a) £15 per hour for child dependents
  - b) £21.60 for adult dependents.

- 3.3 Payment of the Dependant Carers Allowance is subject to the production of a receipt.

### **4. Co-Opted Members of the Council**

- 4.1 Co-opted members will be entitled to allowances as set out in this Scheme of Allowances or as set out in any decision notice by the Council or committee in confirming their appointment.

### **5. Additional notes**

- 5.1 Basic and Special Responsibility Allowances and Co-optee Allowances are subject to Income Tax under the PAYE system and to National Insurance deductions.
- 5.2 HMRC may consider claims for tax relief for expenses incurred as a Councillor or co-optee and may require reasonable proof of those expenses. For further information please visit the HMRC website.

- 5.3 National Insurance contributions will be deducted when the allowances payable in any month exceed the prescribed threshold. You will be exempt from paying National Insurance once you have reached the state pension age.
- 5.4 The receipt of these allowances can affect entitlements to benefits and they must be disclosed as income when claiming Housing Benefit and other means tested benefits.
- 5.5 A record of all claims and payments is maintained and is open to public inspection. A record of the payments made to each Councillor and co-opted member will be published quarterly on the Council's website.
- 5.6 Councillors and co-opted member must remain responsible for the accuracy of their own claims.

## **6. Approved duties**

- 6.1 The duties for which travelling, and subsistence allowances may be claimed are set out below. Effectively, the rules are designed to allow claims for travel and subsistence where appropriate for any formal duty carried out on behalf of the District Council:
  - a) Attendance at any meeting of the Council and its committees, joint committees, sub-committees, panels and working parties, where a Councillor is a member of that committee or acting as a substitute member, provided that the meeting is formally established and arranged in advance and is open to at least two Councillors. (The exception to this would be where the Chairman of the relevant committee, joint committee etc. has specifically extended an invitation to non-members of the committee to attend).
  - b) Attendance at meetings of any outside bodies, or committees and sub-committees of those bodies, provided the member has been appointed as the Council's representative, either ad hoc or on a continuing basis and no other arrangements exist for the payment of expenses to the Members of that body.
  - c) Meetings and engagements undertaken by the Leader of the Council, Deputy Leader through the course of their duties and as part of their specific roles and responsibilities.
  - d) Leader/Deputy Leader of the Opposition Groups where meetings have been called by the District Council/officers and where the Opposition Leader(s) have been invited to attend for specific meetings for consultation purposes.
  - e) Attendance at meetings of Town and Parish Councils within a member's ward, which the member attends as a representative of the District Council.

- f) Attendance at any meeting or event, including site visits, at the invitation of the Chief Executive or an Officer authorised by the Chief Executive to assist with the functions of the Council.
- g) Attendance at official and courtesy visits of a civic nature within the United Kingdom at the request of the Chief Executive or an Officer authorised by the Chief Executive.
- h) Attendance at conferences, seminars and meetings which relate to the interests of the district or any section of the local community and for which the Council has appointed the member as a delegate or where the conference fees are paid under a general authorisation.
- i) Attendance at any training courses/Member briefings at the invitation of the Chief Executive or an officer authorised by the Chief Executive or where such training is arranged by the Council, a committee or sub-committee.
- j) Attendance at consultative and/or informative meetings approved by the Council, a committee or sub-committee with groups or local taxpayers to discuss Council business.
- k) Attendance at Court, Inquiries or Tribunal hearings on behalf of the Council where attendance is requested by the Chief Executive, or an Officer authorised by the Chief Executive.
- l) Attendance at meetings, forums, panels and task groups of the Local Government Association. (Note: where a member has been appointed in a representative role on behalf of the LGA such claims will be reimbursed by the LGA).

NOTE: Party political meetings and election hustings are specifically excluded from this Scheme, and travel expenses will not be paid under the Rochford District Council Members' Allowances Scheme for these meetings.