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THE CONSTITUTION

CASTLE POINT BOROUGH COUNCIL

November 2022

CONSTITUTION OF THE COUNCIL

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Part 1

Summary and Explanation

The Council's Constitution

This Constitution sets out how the Council operates. The Constitution is divided into 14 Articles which set out the basic rules governing the Council's business subject to the law. More detailed procedures and codes of practice are provided in separate rules and protocols which form part of the Constitution.

Contents of the Constitution

Article 1 of the Constitution commits the Council to community leadership, to local democratic self-government, to improvement, quality and equality in service delivery.

Articles 2 to 14 explain the key parts of the Council. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- Full Council (Article 4).
- The Mayor (Article 5).
- The Leader & Cabinet (Article 6).
- Cabinet & Regulatory Committees (Article 6)
- Overview and Scrutiny Arrangements (Article 7).
- Audit Committee (Article 7).
- Review Committee (Article 8)
- Joint Arrangements (Article 9).
- Council Officers (Article 10).
- Decision Making (Article 11).
- Finance, Contracts and Legal Matters (Article 12).
- Review and Revision of the Constitution (Article 13).
- Suspension, Interpretation and Publication of the Constitution (Article 14).

How the Council operates

The Council is composed of Councillors, normally referred to as Members.

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.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties.

All Councillors meet together as the Council. Meetings of the Council are open to the public. The Council operates an Executive comprising of a Leader and Cabinet. The Leader of the Council is appointed by the Council. The Leader appoints the Cabinet. The Cabinet consists of up to 10 Members including the Leader of the Council, each accountable for service delivery in accordance with the Council's agreed priorities and collectively implementing the policy framework. Meetings of the Cabinet are open to the public. The Council also appoints a Scrutiny Committee, together with three Policy and Scrutiny Committees; an Audit Committee; a Review Committee and the usual regulatory Committees - Development Control and Licensing Committees.

The Council holds other meetings at appropriate times on key issues and aims to involve citizens through a public question time at full Council and Cabinet meetings; public participation at Development Management meetings and through other forums.

The Council's priorities will be found in the Corporate Plan.

How Decisions Are Made

Most decisions are made by the Council, Cabinet or by the Regulatory Committees dealing with planning applications and licensing applications. Decisions can also be delegated to Council Officers

A diagram of the various Council meetings is shown at the end of this section.

Further information on the Cabinet and Regulatory Committees is contained in Article 6 and Part 4.

Sub – Committees of the Review Committee and the Licensing Committee will be appointed as required.

Meetings of the Council, the Cabinet and the Committees are open to the public except where personal or confidential matters are being considered.

**Meetings of the Cabinet, Council and Development Management Committee are webcast and broadcast live on www.youtube.com/@CastlePoint-BC
Recordings can be viewed through the Council's website www.castlepoint.gov.uk**

Overview and Scrutiny

There is a Scrutiny Committee and three Policy and Scrutiny Committees which support the Cabinet and the Council generally. The Policy and Scrutiny Committees undertake development work, investigations and consultation that can lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The Scrutiny Committee also monitors the decisions of the Cabinet and can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables it to consider whether the decision is proportionate and necessary. It may recommend that the Cabinet or Council reconsiders the decision.

Audit Committee

There is an Audit Committee which deals with Risk Management and other financial aspects.

The Council's Staff

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 statutory duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationship between councillors and staff as contained in Part 5.

Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3.

Where members of the public use specific Council services, for example as a Council Tenant, they have additional rights. These are not covered in this Constitution.

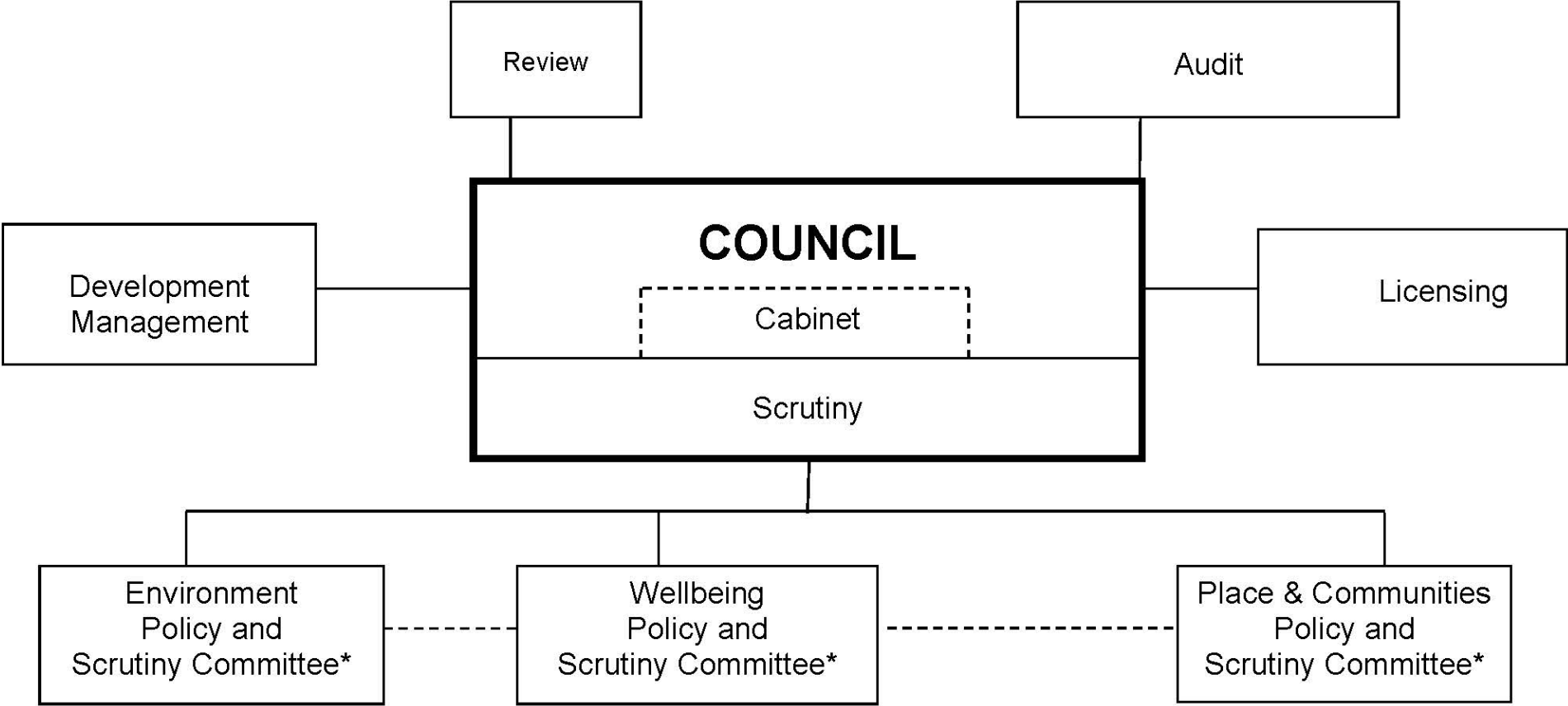
Citizens have the right to:-

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- inspect the Constitution;
- attend Full Council and Cabinet meetings except where, for example, personal or confidential matters are being considered and participate in question time;
- petition to request a referendum on a mayoral form of executive;
- complain to the Council if they think they have suffered poor service;
- request information which is available for public inspection;

- 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 Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes involvement by its citizens in local democracy. Citizens may inspect agendas and reports of meetings of the Council, the Cabinet, its regulatory Committees, and Sub – Committees except in relation to any item relating to a personal or confidential matter.

Decision Making Structure



* Each PSC Chairman to sit on Scrutiny

Part 2

Articles of the Constitution

Article 1 – The Constitution

1.1 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

1.2 Purpose of the Constitution

The purpose of the Constitution is to:-

- enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- support the active involvement of citizens in the process of local democracy;
- help councillors represent their constituents more effectively;
- enable decisions to be taken efficiently and effectively;
- create a powerful and effective means of holding decision-makers to public account;
- ensure that no-one will review or scrutinise or participate in a decision in which they were directly involved;
- ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
- provide a means of improving the quality and equality in the delivery of services to the community.

1.3 Interpretation and Review of the Constitution

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

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

The Monitoring Officer has the authority to make any small, incidental or ancillary changes to the Constitution as required from time to time.

1.4 Revocation

This Constitution will continue in force until such time as it is amended or revoked by the Council.

Article 2 – Members of the Council

2.1 Composition and eligibility

- (a) **Composition.** The Council comprises 41 Councillors. Councillors will be elected by the voters of each Ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the Borough or those living; owning land or property; or working in the Castle Point area will be eligible to hold the office of Councillor.

2.2 Election and terms of Councillors

Election and terms.

The ordinary election of a third (or as near as may be) of all Councillors normally will be held on the first Thursday in May in each year except that in every fourth year there will be no regular election. The term of office of Councillors is 4 years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

2.3 Roles and functions of all Councillors

- (a) **Key roles.** All Councillors will:-
 - (i) collectively be the ultimate policy makers and carry out a number of strategic and corporate functions;
 - (ii) represent their communities and bring their views into the Council's decision-making process, i.e. be the advocate of and for their communities;
 - (iii) deal with individual casework and act as an advocate for constituents in resolving particular issues;
 - (iv) balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
 - (v) be involved in decision-making;
 - (vi) be available to represent the Council on outside bodies;
 - (vii) abide by the Code of Conduct for Councillors and maintain the highest standards of probity 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 must not:-
 - (a) disclose information given to them in confidence by anyone, or information acquired by them which they believe, or ought reasonably to be aware, is of a confidential nature, except where:-
 - (1) they have the consent of a person authorised to give it;
 - (2) they are required by law to do so;
 - (3) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (4) the disclosure is –
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.4 Conduct

Councillors will at all times observe the Councillor Code of Conduct and the Protocol on Councillor/Officer Relations and other principles set out in Part 5 of this Constitution.

2.5 Allowances

Councillors will be entitled to receive allowances in accordance with the Scheme approved by Full Council.

Article 3 – Citizens and the Council

3.1 Citizens' rights

- (a) **Voting and petitions.** Citizens on the electoral register for the area have the right to vote and sign a petition to request a referendum for an elected Mayor.
- (b) **Information.** Citizens have the right to:-
 - (i) attend meetings of the Council, the Cabinet and its Committees or Sub-Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) see reports and background papers, and any records of decisions made by the Council, the Cabinet, Committees or Sub-Committees, except those dealing with confidential or exempt information; and
 - (iii) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate at Full Council, Cabinet Meetings, Development Management Committee, and other meetings as arranged by the Council in accordance with procedures published by the Council.
- (d) **Complaints.** Citizens have the right to complain to:-
 - (i) the Council about Council services in accordance with the Customer Care Procedure;
 - (ii) the Ombudsman after using the Customer Care Procedure, and
 - (iii) the Monitoring Officer about a breach of the Councillor Code of Conduct.

3.2 Citizens' responsibilities

Citizens must not be violent, abusive or threatening to Councillors or Council staff and must not willfully damage property owned by the Council, Councillors or staff, or cause a disturbance at or disrupt or interrupt proceedings during a Council meeting.

3.3 Customer Promise

The Council has published a policy statement setting out the standards it has set itself in providing services to customers.

3.4 Further information

In addition to the information which a citizen can obtain as detailed above, the Council has committed to putting as much information as possible for public inspection at www.castlepoint.gov.uk.

Article 4 – The Full Council

4.1 Functions of the full Council

Full Council will exercise the following functions:-

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) appointing the Leader of the Council
- (d) agreeing and/or amending the terms of reference for Committees and at the Annual Meeting deciding on their composition and making appointments to them;
- (e) appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- (f) approving the Members' Allowances Scheme;
- (g) agreeing the appointment of the Independent Person in accordance with the provisions of Section 28(6) and (7) of the Localism Act 2011;
- (h) changing the name of the area and conferring the title of honorary alderman or freedom of the Borough;
- (i) confirming the appointment of the Head of Paid Service;
- (j) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills; and
- (k) any other matter which by law must be reserved to Council.

4.2 Council meetings

There are three types of Council meeting:-

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

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

4.3 Meanings

(a) **Policy Framework.** The policy framework means the following plans and strategies:-

- Financial Planning Strategy;
- Capital Strategy;
- Safeguarding Vulnerable Adults Policy
- Safeguarding Children Policy
- Community Strategy;
- Corporate Plan;
- Local Plan
- Plans and strategies which together comprise the Local Plan
- Housing Strategy and Housing Revenue Account Business Plan;
- Such other strategies as from time to time need to be adopted.

(b) **Budget.** The budget framework means the approval of the Annual Budget Setting Report and Annual Statement of Accounts which includes:-

- revenue spending plans;
- capital spending plans;
- prudential indicators;
- robustness of the spending plans;
- adequacy of financial reserves;
- statutory calculations in respect of the budget requirement and Council Tax;
- Treasury Management Strategy;
- Investment Strategy;

- other financial issues from time-to-time requiring update or amendment including approval of a Pay Policy Statement ;
 - financial results;
 - Annual Treasury Report.
- (c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under section 32 or 43 of the Housing Act 1985.

Article 5 – The Mayor

5.1 Role and Responsibilities of the Mayor

Whilst the person presiding over Council meetings is referred to as the “chairman” in the appropriate legislation, as Castle Point has obtained Borough status, that person is titled “the Mayor”. The position is not that of a directly elected mayor.

The Mayor and the Deputy Mayor will be elected by the Council annually. The Mayor, and in their absence the Deputy Mayor, will have the following responsibilities:-

1. to be the first citizen of the Borough and attend such civic and ceremonial functions as the Council determines appropriate to promote the Council and act as a focal point for the community.
2. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary following advice from the Monitoring Officer;
3. to preside over meetings of the Full Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
4. to ensure that the Full Council is a forum for the debate of matters of concern to the local community and the place at which front-line Members (i.e. Councillors who do not sit on the Cabinet) hold the Cabinet to account;
5. to promote public involvement in the Council’s activities;

Article 6 – The Leader & Cabinet and Regulatory Committees

6.1 The Cabinet

Form and Composition

The Cabinet will consist of up to 10 Councillors, one of whom shall be the Leader of the Council. The Council will appoint the Leader of the Council (leader of the executive). The Leader of the Council will determine the designation of Cabinet Members with specific responsibilities. Appointment of members of the Cabinet, including the designation, appointment of the Deputy Leader of the Council (to act in the absence of the Leader) will be determined by the Leader of the Council.

Leader of the Council

The Leader of the Council will be a Councillor elected to the position by Council. The Leader of the Council will hold office until

- i) he/she resigns from the office; or
- ii) he/she is no longer a councillor or
- iii) he/she is removed from office by resolution of the Council.

(In accordance with custom and practice the Leader of the Majority or largest Group on the Council is elected Leader of the Council)

Cabinet Members

Only Councillors may be appointed to the Cabinet. No co-optees shall be permitted. Members of the Cabinet may not be members of the Scrutiny or Policy and Scrutiny Committees but may be on the Audit Committee and Development Management Committee (but not appointed as Chairman). Neither the Mayor nor the Deputy Mayor shall be appointed to the Cabinet.

The designation of specific responsibilities to Cabinet members will be dealt with by the Leader of the Council.

Cabinet decisions will be taken collectively in Cabinet, although each Cabinet member will take responsibility for

- Consulting with Policy and Scrutiny Committees in the formation and development of the policy framework to ensure that Cabinet decisions are informed by robust information.
- Ensuring that the Council contributes effectively to partnership working to achieve the development of the Community polices and the Council's medium and short-term priorities.

Meetings and Functions of the Cabinet

Meetings of the Cabinet will take place on a monthly basis, if required, normally on the third Wednesday of each month. Additional meetings shall take place as and when required. The Cabinet will take decisions collectively.

The functions of the Cabinet will be to

- Lead on the Council's budget, the management of the budget, capital, revenue borrowing and assets and its risk management.
- Lead the community planning process and the search for best performance with appropriate input and advice from scrutiny, policy and scrutiny committees and other persons as considered necessary.
- Lead on the preparation of the Council's policies.
- Take decisions on resources and priorities.
- Deliver and implement the Council's agreed budget and policies, under the guidance of the Leader of the Council, working in partnership with other stakeholders and partners in the local community.
- Address local needs by focusing on the formation of partnerships with other local public, private, voluntary and community sector organisations to deliver the agreed Community Strategy.
- Undertake those functions and responsibilities specified in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000(as amended) which are the responsibility of the Cabinet together with any functions which may but need not be the responsibility of the Cabinet.

6.2 Regulatory and Standing Committees

(a) Development Management Committee

The Council will appoint a Development Management Committee comprising of 10 councillors and 2 non-voting Town councillors. Cabinet Members not eligible to be Chairman of the Development Management Committee. The Committee will be responsible for development control functions.

(b) Licensing Committee

The Council will appoint a Licensing Committee comprising 15 councillors (of whom 3 will be drawn for the sitting of a Sub-Committee). Cabinet Members are not eligible to be Chairman of the Licensing Committee. The Committee will discharge the following functions –

- Regulating, determining and dealing with:-
- Hackney carriage and private hire vehicle licensing
- Liquor licensing
- Late Night Refreshments and Food Stalls
- Gambling and Lotteries
- Betting and Gaming
- Sex Establishments
- Boatman and associated licensing
- Street Trading
- House to house collections, lotteries and associated licensing
- Music and Dance (regulated entertainments)
- Special or outdoor events

(c) Licensing Sub-Committee

Sub-Committees of the Licensing Committee will be appointed to deal with quasi-judicial and similar hearings and appeals relating to such matters as:-

- Liquor licensing;
- Hackney carriage and private hire vehicle licensing;
- Special or outdoor events

No Member will be appointed to determine any application for a liquor licence for a premises within their own ward.

(d) Review Committee

The Council will appoint a Review Committee comprising 8 councillors.

(e) Review Sub Committee

Sub-Committees will comprise 3 Members drawn from the Review Committee on an as-required basis. A reserve Member will be appointed to ensure that the Sub-Committee is quorate.

(f) Staff Appointments Panel

The Council will appoint a Staff Appointments Panel comprising 5 Councillors.

The quorum for the Staff Appointments Panel will be 5 councillors as appointed at the Annual Meeting.

Article 7 – Policy and Scrutiny; and Audit Committee

7.1 Terms of Reference

The Council will appoint Committees to discharge the following overview and scrutiny functions:-

Democracy and governance. Local democracy and the achievement of effective, transparent and accountable decision-making.

Well-being. The physical, social and economic well-being of the local environment.

Services. The provision, planning, management and performance of any Council services, including public accountability, the corporate plan and any other Council function not otherwise addressed by any other Committee.

7.2 Membership

The overview and scrutiny function will be discharged by the Scrutiny Committee and the Policy and Scrutiny Committees.

All appointments to the Committee shall be made in accordance with the proportionality rules contained within the Local Government and Housing Act 1989.

The membership will not include members of the Cabinet.

There may also be invited non-voting co-opted members representing the community when pertinent other issues are being considered.

7.3 Inquiry Teams

The Committees may form from within its own membership Inquiry Teams/Sub Committees for short-term tasks and any Inquiry Team/Sub Committee will report back findings to the Committee for final consideration and recommendations.

7.4 Scrutiny Committee

(a) Review of decisions and performance. The Scrutiny Committee may:

- i) 'call-in' and scrutinise the decisions made by the Cabinet;
- ii) review the performance of the Council in relation to its priorities, policy objectives, performance targets and/or particular service areas;

- iii) inquire into decisions regarding performance whether generally or in comparison with service plans and targets or in relation to a particular decision, initiative or project;
- iv) make recommendations to the Cabinet and/or Council arising from the exercise of its functions;
- v) overview the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee about their activities and performance; and
- vi) question and gather evidence from any organisation or other person (with their agreement).
- vii) consider any matter affecting the area or its inhabitants.

7.5 Policy and Scrutiny Committees

The Council will appoint three Policy and Scrutiny Committees each comprising of up to 10 councillors or such other number as may be determined by the Council. The Policy and Scrutiny Committee will each focus on specific work areas which reflect the details of the responsibilities of the Cabinet and which support the delivery of Council priorities and objectives.

The Policy and Scrutiny Committees shall

- i) Assist the Council in the development of its policy and budget framework by conducting in-depth analysis of policy issues and make recommendations to the Cabinet or Council as appropriate.
- ii) Scrutinise areas of the Council's policy, service provision or performance within the Committee's remit and make recommendations to the Cabinet or Council as appropriate.
- iii) Consider any matters referred to the Committee by full Council or Cabinet.
- iv) Carry out research, community and other consultation to analyse policy issues and possible options;
- v) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- vi) Collaborate with Cabinet Members, Ward Councillors and others to agree policy objectives and proposals to improve the environment and living conditions in the local area (with the exception of regulatory issues); and
- vii) Liaise with external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;

7.6 Audit Committee

The Audit Committee will comprise of 5 Councillors.

The membership should include:

No more than one Cabinet Member, who should not be the Cabinet Member with responsibility for the budget framework; a Chairman who is not a Cabinet Member; and at least one member with financial expertise.

In view of the limited number of councillors appointed, substitute Members shall be appointed to assist in ensuring that meetings are quorate.

Proportionality will be applied.

The quorum for the Audit Committee, will be 3 councillors.

Terms of Reference

The purpose of an Audit Committee is to:

- provide independent assurance of the adequacy of the risk management framework and the associated control environment;
- provide independent scrutiny of the authority's financial and nonfinancial performance to the extent that it affects the authority's exposure to risk and weakens the control environment; and
- oversee the financial reporting process.
- To examine and consider the financial outturn results and approve the Council's audited Statement of Accounts

The Audit Committee will maintain a work programme that is reviewed at least annually, agreed by Council and provide the outline audit agenda for each meeting in the annual cycle. It should demonstrate that the Audit Committee is receiving sufficient and appropriate information to discharge its responsibilities and ultimately recommend adoption of the Annual Governance Statement.

The work programme will cover;

- the effectiveness of the Council's governance arrangements, including the approval of the Council's Local Code of Governance and annual Governance Statement;
- the adequacy of the Council's financial framework, including approval of the annual Statement of Account;
- the performance and effectiveness of external and internal audit, including consideration of the respective annual reports;
- consideration of any inspection reports produced and whether reliance will be placed on work of any other committee in specialist areas; and

- the functions and effectiveness of the Audit Committee, including the production of its annual report.

Meeting cycle

The Committee will meet four times per year, with dates included in the Council Calendar. Further meetings can be arranged on an ad hoc basis as the Audit Committee deems appropriate.

Members and officers in attendance

The Chief Finance Officer (S151 Officer), the Head of Internal Audit and the Council's External Auditors will be invited to attend every Audit Committee meeting.

As well as reviewing documentation, the Audit Committee will exercise the right to invite Chief Officers, Chairs of other Committees or Cabinet Members to attend before it, as and when required. This would be to provide assurance in relation to the adequacy of the governance arrangements pertaining to their area of activity / responsibility.

It is the duty of those persons to attend if so required.

Where any Member or Chief Officer is required to attend the Audit Committee under this provision, maximum notice will be given.

Where in exceptional circumstances the Member or Chief Officer is unable to attend on the required date, an alternative date will be agreed with the Chairman.

7.7 Proceedings of the Committees

Proceedings will be conducted in accordance with the Council Procedure Rules and Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

Article 8 – Review Committee

8.1 Review Committee

The Council will form a Review Committee.

8.2 Composition

The composition of the Committee will be approved by Council and comprise Elected Members appointed proportionally (of whom 1 member maybe a member of the Cabinet nominated by the Leader of the Council) (The Town Council may be invited to nominate a maximum of 3 Town Councillors to be co-opted as non-voting members).

8.3 Role and Function

The Review Committee will have the following roles and functions:

1. Promoting and maintaining high standards of conduct by Members and Co-Opted Members of the council;
2. Advising and assisting the Town Council(s) and Councillors to maintain high standards of conduct and to make recommendation to the Town Council on improving standards or actions following a finding of a failure by a Town Councillor to comply with the Code of Conduct;
3. To conduct hearings on behalf of the Town Council;
4. Advising the Council as appropriate on the adoption or revision of the Councillor Code of Conduct;
5. To receive referrals from the Monitoring Officer into allegations of misconduct in accordance with the arrangements made under the Localism Act 2011;
6. Receiving reports from the Monitoring Officer and assessing the operation and effectiveness of the Councillor Code of Conduct;
7. Advising, training or arranging to train Members and Co-Opted Members on matters relating to the Councillor Code of Conduct;
8. Assisting Councillors and co-opted Members to observe the Councillor Code of Conduct;
9. Hearing and determining complaints about Members and Co-Opted Members referred to it by the Monitoring Officer;
10. Advising the Council upon the contents of and requirements for codes/protocols/other procedures relating to the principles of local government conduct;
11. Maintaining oversight of the Council's arrangements for dealing with complaints in consultation with the Independent Person(s);

12. Informing Council and the Chief Executive of relevant issues arising from the determination of Code of Conduct complaints;
13. Appointment of Sub-Committee
14. To grant dispensations after consultation with the Independent Person pursuant to S33(2) (b), (c) and (e) of the Localism Act 2011
15. Hear and determine appeals against refusal to grant dispensations by the Monitoring Officer pursuant to S33(2)(a) and (d) of the Localism Act 2011

8.4 Review Sub-Committee

A Review Sub-Committee will be appointed to conduct a Hearing into an allegation that a Member or Co-opted Member has breached the Council's Code of Conduct.

Following a Hearing, make one of the following findings:

- (a) That the Member has not failed to comply with the Code of Conduct and no further action needs to be taken in respect of the matters considered at the Hearing
- (b) That the Member has failed to comply with the Code of Conduct but that no further action needs to be taken in respect of the matters considered at the Hearing
- (c) That the Member has failed to comply with the Code of Conduct and that a remedy and/or an informal resolution should be imposed

The Sub-Committee may impose any action or combination of actions available to it, or impose any informal resolution or combination of informal resolutions as are available to it by law or policy.

After making a finding the Sub-Committee shall, as soon as reasonably practicable provide written notice of its findings and the reasons for its decision to the Member and complainant.

8.5 Independent Person

The Council shall appoint at least one Independent Person in accordance with the provisions of Section 28(6) and (7) of the Localism Act 2011

The functions of the Independent Person are set out in s 28(7)(a) and b) of the Localism Act 2011 and are as follows:

- They must be consulted by the Council before it makes a finding as to whether a Member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that Member.
- They may be consulted by the authority in respect of a misconduct complaint at any other stage and

- They may be consulted by a Member or co-opted member of the Borough or Town Council against whom a complaint has been made.
- The Independent Person to be invited to attend the meetings of the Review Committee.
- The Independent Person will be invited to attend the meetings of the Review Committee dealing with hearings into allegations of misconduct.
- The Independent Person shall discharge the duties as required by the Local Authorities (Standing Orders) (England) (Amendment) regulations 2015.

Article 9 – Joint Arrangements

9.1 Arrangements to promote wellbeing

The Council, in order to promote the economic, social or environmental wellbeing 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.

9.2 Joint arrangements

The Council may establish joint arrangements with one or more local authorities and/or their Chief Executive 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.

9.3 Access to information

The Access to Information Rules in Part 4 of this Constitution apply.

9.4 Delegation to and from other local authorities

- (a) The Council may delegate functions to another local authority or, in certain circumstances, the Chief 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.

9.5 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 – Council Team

10.1 Management and Staff

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Council will engage persons for the following statutory officer posts, who will be designated Chief Officers:-
 - Chief Executive (and Head of Paid Service)
 - Monitoring Officer
 - Chief Finance/Section 151 Officer

(c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.**

The Statutory Officers perform the functions described in Article 10.2 – 10.4 below.

The duties of the Monitoring Officer and the Chief Finance Officer (apart from the administration of the general legal and financial affairs of the Council) must be carried out personally, but can be carried out by a nominated deputy in cases of absence or illness. The nominated deputy is to be appointed by the Monitoring Officer or the Chief Finance Officer respectively and not by the Council.

- (d) **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.

10.2 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service will arrange the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of staff required for the discharge of functions and the organisation of staff and is solely responsible for the management structure and engagement and deployment of council staff (other than the statutory functions exercised by the Monitoring Officer and the Chief Finance Officer).
- (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 a qualified accountant.
- (c) **Urgent Business.** The Head of Paid Service shall have the power to take any decision or to deal with any urgent business on behalf of the Council subject to the matter being reported to the Cabinet as necessary after the action has been taken.

- (d) **Disciplinary Action** – Any appeal against dismissal from employment will be heard by the Chief Executive (and Head of Paid Service) in accordance with the relevant procedure.

10.3 Functions of the Monitoring Officer

- (a) **Maintenance of the Constitution.** The Monitoring Officer will ensure the maintenance and revision of the Constitution to give effect to decisions of the Council including minor amendments as necessary and will ensure that it is available for inspection.
- (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 if he considers that any proposal, decision or omission would give rise to unlawfulness or if any proposal, 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 Review Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of ethical conduct through provision of support to the Review Committee.
- (d) **Grant Dispersations** to grant dispensations pursuant to S33 (2) (a)(b) and (d) of the Localism Act 2011.
- (e) **Receiving reports.** The Monitoring Officer will receive and act on reports made by the Local Government Ombudsman or other Government agencies.
- (f) **Conducting investigations.** The Monitoring Officer will arrange for investigations to be conducted into complaints about Member misconduct and ensure that any report or finding is published.
- (g) **Proper officer for access to information.** The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (h) **Providing advice.** The Monitoring Officer will provide advice on the constitution, governance, conduct, financial impropriety and probity to all councillors.
- (i) **Advising on Members' interests.** The Monitoring Officer will provide advice to members on interests and make the Register of Members' Interests available for public inspection.
- (j) **Corporate Adviser to the Council.** The Monitoring Officer will act as adviser with respect to any internal administrative or quasi-legal or corporate governance function related to Council business.

- (k) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

10.4 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 he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs.** The 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 budget framework, financial procedure rules and audit matters to all councillors and will support and advise councillors and officers in their respective roles.
- (e) **Provide financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

10.5 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 properly performed.

10.6 Conduct

All Chief Officers must comply with the Code of Conduct for staff and the Protocol on Councillor/Officer Relations.

10.7 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution and the provisions which are contained in the Local Authorities (Standing Orders) (England) (Amendment) regulations 2015.

10.8 Leadership Team

The Council's management structure is headed by the Chief Executive who is assisted by the Leadership Team comprising other senior officers. The Leadership Team is supported by all council staff.

Article 11 – Decision-Making

11.1 Responsibility for decision-making

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

11.2 Principles of decision-making

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

- (a) the rule of law;
- (b) proper regard for all relevant and material considerations;
- (c) proportionality (i.e. the action must be proportionate to the desired outcome) and fairness;
- (d) due consultation and the taking of professional advice from officers;
- (e) respect for human rights, and safeguarding of children and vulnerable adults;
- (f) a presumption in favour of openness;
- (g) clarity of aims and desired outcomes;
- (h) the Council's priorities;
- (i) Contract Procedure Rules and other procurement rules;
- (j) the best interests of Community Safety and Community Cohesion;
- (k) the protection of the environment; and
- (l) Health and Safety considerations.

11.3 Decision-making by the full Council

Subject to Article 11.8, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

11.4 Key Decisions

A key decision is defined as a decision which is likely to:-

(a) result in the local authority incurring expenditure which is, or the savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates subject to a threshold of £100,000; or

(b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority

The Cabinet will publish a Forward Plan updated each month on rolling basis, the scope of which is set out generally at Rule 14.2 of the Access to Information Procedure Rules set out in Part 4 of this Constitution. This Forward Plan will include those key decisions which will be taken during the relevant period.

11.5 Decision making by the Cabinet

Subject to the general principles contained in this Article, the Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter.

11.6 Decision-making by the Scrutiny Committee and Policy & Scrutiny Committees

The Committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

11.7 Decision-making by Regulatory Committees and Sub-Committees

Subject to Article 11.8, regulatory Committees and Sub-Committees will follow relevant law and those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

11.8 Decision-making by Council bodies acting as tribunals or hearing panels

The Council, a councillor or an officer acting 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 proportionate and 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 – Finance, Contracts and Legal Matters

12.1 Financial management

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

12.2 Contracts

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

12.3 Legal proceedings

The Chief Executive or Monitoring Officer (such title shall include the Solicitor to the Council) 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 they consider such action is necessary to protect the Council's interests or uphold the Law.

12.4 Authentication of documents

Where any document is necessary to any legal process or proceedings on behalf of the Council, it will be signed by the Chief Executive or Monitoring Officer (such title shall include the Solicitor to the Council), or other person authorised by them in writing, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

12.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Chief Executive or Monitoring Officer (such title shall include the Solicitor to the Council). A decision of the Council, or 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 Chief Executive or Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Chief Executive or Monitoring Officer, or some other person authorised by them in writing. An entry of every sealing of a document shall be made in the register kept for this purpose.

12.6 Title deeds and other legal documents

Title deeds and other legal documents shall be signed by the Chief Executive or Monitoring Officer (such title shall include the Solicitor to the Council), or some other person authorised by them in writing.

Article 13 – Review and Revision of the Constitution

13.1 Duty to monitor and review the constitution

The Chief Executive will uphold and revise the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

13.2 Changes to the Constitution

(a) Approval. Any changes to the Constitution other than to give effect to Council decisions or minor amendments made by the Monitoring Officer, changes in legislation or the issue of best practice will be approved by Full Council following a report by the Chief Executive.

(b) Change from Cabinet arrangements to a Mayoral form of Executive. The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals and must hold a binding referendum.

(c) Changing Governance Arrangements

- (i) A resolution of the Council is required to change the Council's governance arrangements.
- (ii) The Council may not pass a resolution to change the governance arrangements from a Leader and Cabinet Executive for a period of five years from the date of the Council resolution to operate this form of Executive unless the change is to give effect to a referendum to change to a Mayor and Cabinet Executive.

Article 14 – Suspension, Interpretation and Publication of the Constitution

14.1 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by Full Council to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A Motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors 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.
- (c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 14.1:-
 - (i) Council Procedure Rules, except Rules 20.6 and 17
 - (ii) Financial Procedure Rules
 - (iii) Contract Procedure Rules

14.2 Interpretation

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

The Mayor must consult the Monitoring Officer on interpretation and must have regard to advice from the Monitoring Officer and must give reasons for any decision which departs from advice which is received from the Monitoring Officer relating to the interpretation of the Constitution.

14.3 Publication

- (a) The Monitoring Officer shall ensure the Constitution is available to each Member of the Council.
- (b) The Monitoring Officer will ensure that copies are also available for public inspection on the Council's website and at the 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.

Part 3

Delegations

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Chief Executive

Specific Responsibility

1. Head of Paid Service with overall corporate management and operational control of the whole organisation including management responsibility for all staff
2. Returning Officer under the Representation of the People Act 1983
3. Day to day responsibility for the management and operation of the main Council Offices and its environs and the occasional letting and level of charging for use of the Civic Suite accommodation and other rooms and facilities at the main Council offices.
4. Overall responsibility for the corporate management and maintenance and repair of all Council owned assets and property.

Generic Role in conjunction with the other Statutory Officers

1. Professional advice to Members to enhance decision making
2. Representing the Council on partnerships and external bodies as required by statute or the Council
3. Promoting the Council's objectives, vision and values to ensure probity, lawfulness and transparency
4. Implementation of strategic policy and other specialist corporate actions
5. Introduction and implementation of initiatives to improve the Council organisation and Council services.
6. Responsibility for compliance with Council Procedure Rules and Access to Information Procedure Rules.
7. The processing and determination of complaints against the Council in accordance with the Council's Customer Care Procedure, and investigations by the Local Government Ombudsman.
8. Responsibility for Emergency Response with the full powers of the Council for the management of any civil emergency or disaster affecting the Borough.
9. In pursuance of the Emergency Response function, authority as part of the planning process, to enter into any necessary agreements, contracts or memoranda of understanding with other authorities and organisations elsewhere in the UK.
10. Any action required to be taken to fulfil obligations arising under the Civil

Contingencies Act to ensure the provision of council services during any period of disruption caused by any civil emergency or any form of disaster or terrorist act.

11. Authorisation of approved duties for Members, and approval of claims for payment.
12. Support to the Mayor and the organisation of civic events.

Solicitor to the Council / Monitoring Officer

Legal Proceedings, Compliance and Licensing Conditions

The Solicitor to the Council shall be authorised to:

1. In appropriate cases, and subject to the Chief Executive or Monitoring Officer or the Solicitor to the Council being satisfied as to the evidence, Institute legal proceedings in respect of any matters relating to the various functions undertaken by the Council to include planning enforcement and prosecutions, implementation of housing and health legislation and all such other laws relevant to the Council in particular where such legal action is necessary to protect the Council's interests or to further achieve the objectives of the Council
2. To defend or challenge any proceedings taken against the Council at Public Local Inquiries, Judicial Reviews and such other action
3. To settle any proceedings instituted by the Council or defended or challenged against the Council where the Chief Executive or Monitoring Officer considers it expedient so to do
4. To appoint Counsel or other specialist advisers, to enter into partnerships or joint working arrangements with neighbouring or other local authorities for the procurement of legal services
5. To arrange representation or represent the Council in proceedings instituted by the Council or defended or challenged by the Council in the Magistrates, County or High Court or any such other quasi or semi quasi judicial proceedings or procedures
6. Where any document is necessary to any legal procedure or proceedings on behalf of the Council it shall be signed by the Chief Executive or Monitoring Officer or Solicitor to the Council or such other person authorised by them, unless any enactment otherwise authorises or requires or the Council has given requisite authority to some other person
7. To enter into contracts, agreements and such other legal documents in respect of any of the functions undertaken by the Council
8. To grant, negotiate and agree terms and sign legal documents relating to the disposal of land, renewals of leases or licences of land owned by the Council upon such terms considered appropriate by the Chief Executive or Monitoring Officer or Solicitor to the Council.
9. To grant, negotiate and agree terms and sign legal documents relating to easements, rights of way, wayleaves, utility works consents and licences to provide access across, on, over, through, under or along Council owned land

10. To advertise in accordance with Section 123(2A) of the Local Government Act 1972 and its subsequent amendments or any other relevant legislation which may be in force now or at sometime in the future the disposal of land where necessary in accordance with the delegations given to the Chief Executive or Monitoring Officer or Solicitor to the Council or any decision made by the council.
11. To place statutory and legal notices in any publication as necessary to fulfil the Council's corporate obligations and priorities.
12. The Common Seal of the Council shall be kept in a safe place in the custody of the Solicitor to the Council. 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 shall be affixed to those documents which in the opinion of the Solicitor to the Council should be sealed. The affixation of the Common Seal shall be attested by the Chief Executive or Monitoring Officer or Solicitor to the Council or some other person authorised by them.

Licensing Conditions

The Head of Licensing and Safer Communities (and Solicitor to the Council as required) shall have the following authority:

1. Authority to approve in accordance with the Council's approved Licensing Policy and conditions the following:-

Application for a sex entertainments venue licence
 Application for a personal licence
 Application for premises licence/club premises certificate
 Application for provisional statement
 Application to vary premises licence/club premises certificate
 Application to vary designated premises supervisor
 Request to be removed as designated premises supervisor
 Application for transfer of premises licence
 Application for interim authorities (death, incapacity or insolvency)
 Decision on whether the application or request or representation is irrelevant, frivolous, vexatious etc. Application for a Temporary Event Notice

2. Authority to approve in accordance with the Council's approved conditions and regulations the grant, renewal or transfer of licences relating to hackney carriages and private hire vehicles, under the following provisions:-

Town Police Clauses Act 1847
 Local Government (Miscellaneous Provisions) Acts 1976 and 1982
 Transport Acts 1980, 1985 and 2000
 Public Passenger Vehicles Act 1981
 Disability Discrimination Act 1985

3. Authority to suspend licences for hackney carriage and private hire vehicles under the relevant statutory provision where vehicles are found to be used without valid insurance or are unroadworthy or fail other aspects of the test such as a

taximeter check.

4. Authority to approve in respect of hackney carriage and private hire vehicle licensing new and revised conditions and pre-licensing standards which have universal application, but do not deprive any licence holder of their livelihood, that are introduced in the interests of public safety and the raising of standards.
5. That where an objection or representation is made in response to formal notice to vary fees and charges in relation to hackney carriages and private hire vehicles under Town Police Clauses Act 1847; Local Government (Miscellaneous Provisions) Acts 1976 and 1982 the Head of Licensing has delegated powers to consider and determine the objection or representation or refer the representation /objection to the Licensing Committee for consideration.
6. Authority to grant permits for operation of amusement with prizes machines in establishments under the Gaming Act 1968.
7. Authority to determine applications for house to house and street collections under the following provisions:-
 - House to House Collections Act 1939
 - Police, Factories etc (Miscellaneous Provisions Act 1916)
8. Authority to determine applications for the registration of lotteries under the Lotteries and Amusement Act 1976.
9. Authority to approve in accordance with the Council's approved conditions to licence, control and regulate Street Trading under Schedule 4 Local Government Miscellaneous Provisions Act 1982
10. Authority to approve in accordance with the Council's approved conditions and regulations the grant, renewal or transfer of licences relating to pleasure boats and boatman's licences, under the Public Health Acts Amendment Act 1907.
11. Authority to prosecute in respect of any operations requiring but not having appropriate licences as referred to in 1 to 10 above, and any breach of licensing conditions.
12. The following functions under the Gambling Act 2005:-

Authority to process applications for premises licence where no representations have been received or representations have been withdrawn
Authority to process applications to vary a licence where no representations have been received or representations have been withdrawn
Authority to process applications for a transfer of a licence where no representations have been received from the commission
Authority to process applications for a provisional statement where no representations have been received or representations have been withdrawn
Authority to make representations to applications on behalf of the Licensing Authority

Authority to attach conditions, where relevant, to premises licences
 Authority to prosecute in respect of any operations requiring, but not having an appropriate licence
 Authority to refuse applications for premises licences
 Authority to process applications for Temporary Use Notices and Occasional Use Notices
 Authority to make representations to applications for Temporary Use Notices and Occasional Use Notices on behalf of the Licensing Authority
 Authority to process applications for club gaming and club machine permits where no objections have been made or objections have been withdrawn
 Authority to issue permits for more than 2 machines in licensed premises
 Authority to process application for other permits
 Authority to cancel licensed premises gaming machine permits
 Authority to make minor amendments to the Gambling Act policy statement in conjunction with the Chairman of the Licensing Committee.
 Authority to set fees for premises under the Gambling Act 2005.

13. Authority to agree to temporary road closures for events
 - to approve road closure under Section 21 Town Police Clauses Act 1847
14. Authority to approve or reject applications for Scrap Metal Business Licences

Community Safety & Safeguarding

1. The Head of L i c e n s i n g and safer communities is empowered to undertake duties and responsibilities under the following statutes and regulations and orders:-
 - Crime & Disorder Act 1998
 - Local Government and Housing Act 1989
 - Anti-Social Behaviour Act 2003
 - Police Reform & Social Responsibility Act 2011
 - Safeguarding Vulnerable Groups Act 2006
 - Any action necessary in the furtherance of the PREVENT duty to combat terrorism, extremism and hate.
 -
2. The Head of Licensing to act as the Designated Safeguarding Officer and carry out any relevant duties and responsibilities on behalf of the Authority.

Chief Finance /S151 Officer

Financial Services

The Chief Finance Officer is authorised to take all necessary action in connection with the following, including any necessary procurements (subject to Financial Procedure Rules and Contract Procedure Rules):

1. Deciding all arrangements for accounting policies, the accounting and financial systems, procedures and financial records of the Council and the disposal of same, including compliance with all statutory and professional requirements.
2. Deciding all banking arrangements and the authorisation, opening and operation, of bank accounts (including authorising changes to the mandate to The Council's bank in respect of all aspects of the operation of the Council's bank accounts, including authorised signatories for cheques and financial transactions, including electronic transactions).
3. Deciding all insurance and risk management arrangements.
4. Payment of employees and creditors and all associated administration and returns.
5. Controlling all money in the hands of the authority and making arrangements for the collection, receipting and recovery of all monies due to the Council.
6. Claiming Government grant and all associated administration and returns.
7. Approving the writing-off of any amounts owed to the Council that have become irrecoverable or uneconomical to collect and the writing-back of income that cannot be identified, allocated or paid out and has not been credited to a Revenue Account.
8. Administration of all aspects of mortgage loans to house purchasers, in accordance with legislation.
9. Agreement with precepting authorities of schedules of instalments for the payment of precepts.
10. Agreement with precepting authorities of schedules of instalments for the payment of Collection Fund balances.
11. Approving transfers of unspent budget provisions for specific non-recurring items to the following financial year in accordance with financial regulations.
12. All treasury management activity, including borrowing, and lending carried out in accordance with the Council's Treasury Management Policy Statement.
13. Evaluation and arrangement of all capital financing facilities and leases.

14. Changing internal audit plans when caused by resource difficulties (to be reported to the Audit Committee).
15. Agreement with external auditors of audit plans, days and charges.
16. Adjustment of stores records to write-off deficiencies or to bring surpluses into charge.
17. Approving supplementary estimates in accordance with the protocol provided in financial regulations.
18. Approving the Council Tax Base in consultation with the Leader or Deputy Leader or with the Cabinet Member with responsibility for Finance and Resources.
19. To sign and submit NNDR 1 in consultation with the Cabinet Member with responsibility for Finance and Resources.
20. To apply the Council Tax Reduction Scheme.

Human Resources and Terms of Employment

1. To determine the pay and conditions of employment of all staff employed by the Council in accordance with collective agreements negotiated from time to time by the National Joint Council for Local Government Services, National Agreement on Pay and Conditions of Service (commonly known as the Green Book) as amended and supplemented by local collective agreements reached with trade unions recognised by the Council and by the rules of the Council and local arrangements.
2. To approve the staff establishment of departments, their sections and business units so as to deliver the services of the Council in an efficient and effective manner to the residents of the Borough.
3. To handle any claims made against the Council by employees and to deal with any disputes arising under the contract of employment.
4. To sign contracts, agreements and other notices in respect of any powers and duties and quasi-statutory Codes of Practice relating to employment law and conditions of employment.

Information Technology

1. To ensure the provision of IT Services and support to all Members and Council departments.
2. To liaise with the council's IT provider to ensure all IT services are properly maintained and provided.

Head of Place & Policy

Administration and the Processing of Planning Applications

All aspects of processing applications and notifications under the Town and Country Planning Act 1990 as amended, the Planning (Conservation and Listed Buildings) Act 1990 as amended, the Hazardous Substances Act 1990 and all Regulations and Orders relating thereto including, inter alia:

1. Decisions relating to the necessity for planning permission and the validity of applications submitted; all decisions relating to the advertisements, publicity and consultation on planning applications including decisions as to whether applications are County Council matters.
2. All decisions as to whether additional details should be sought, particularly in respect of outline applications, and decisions as to whether an environmental impact assessment is required.
3. Decisions as to whether prior approval is required in respect of submissions related to permitted development relating to agriculture, demolition or telecommunications development.
4. That where an objection on planning grounds is received to an application that the Head of Place & Policy has delegated powers to determine, he be authorised to consider whether the application should be referred to the Development Management Committee for consideration.
5. Decisions to reject repeat applications for proposals that have previously been refused by the Local Planning Authority
6. Decisions as to whether to decline to determine planning applications all in accordance with statutory requirements and Council procedures and practices.
7. Decision as to whether to enter into a Planning Performance Agreement concerning an application.

Decisions on submitted applications

- A. With the exception of the applications falling within the categories listed in paragraphs B below, the following decisions on submitted applications be delegated to the Head of Place & Policy :-
 8. Approval of applications for the erection of new buildings and the extension of existing dwellings where the proposals comply with the Council's policies and Supplementary Planning Guidance (SPG);
or where the proposals do not comply with policy or SPG but other material planning considerations warrant approval of the application.

9. Refusal of applications for the erection of new dwellings and the extension of existing dwellings where the proposals do not comply with the Council's policies and Supplementary Planning Guidance (SPG); and there are no other material planning considerations to warrant approval of the application.
10. Approvals and refusals of applications for the erection or alteration of commercial and industrial buildings, shop fronts, the erection, alteration and retention of school classrooms and other minor works in school grounds where the proposals comply with the Council's policies and Supplementary Planning Guidance (SPG);
or where the proposals do not comply with policy or SPG but other material planning considerations warrant approval of the application.
11. Approvals and refusals of applications for the display of illuminated and non-illuminated advertisements in accordance with the Council's policies and Supplementary Planning Guidance (SPG) notwithstanding any objections from consultees.
12. Approvals and refusals of applications for the change of use of land and buildings in accordance with the Council's policies and Supplementary Planning Guidance (SPG).
13. Approvals and refusals of applications for walls, fences, garages and other outbuildings and landscaping proposals in accordance with the Council's policies and Supplementary Planning Guidance (SPG).
14. Approvals and refusals of applications for the formation of a new means of access to a principal or secondary road where those decisions are supported by County Highway Authority, notwithstanding any objections from consultees.
15. Approvals and refusals of applications for alterations to Listed Buildings in accordance with the Council's policies and Supplementary Planning Guidance (SPG) notwithstanding any objections from consultees.
16. Approvals and refusals of details submitted pursuant to a condition imposed on the grant of a permission notwithstanding any objections from consultees.
17. The renewal of permission pursuant to a grant of temporary planning permission in accordance with the Council's policies and Supplementary Planning Guidance (SPG) notwithstanding any objections from consultees.
18. Approvals and refusals of applications for works to trees or woodland protected by Preservation Orders in accordance with the Council's policies and Supplementary Planning Guidance (SPG) notwithstanding any objections from consultees.
19. Decisions on applications submitted for Certificates of Lawfulness of Existing and Proposed Development.

20. Approvals and refusals of applications submitted for prior approval details of the siting and design, or methods of reinstatement of land for agricultural, demolition or telecommunication development.
 21. Approvals and refusals for scoping and screening opinions under the environmental impact Assessment Regulations.
 22. Comments on applications submitted to other authorities on which observations are sought.
- B. That the applications falling within the categories referred to below be reported to the Development Management Committee for determination:-
23. Applications where the officer recommendation would be contrary to Council policy or which raise significant policy issues for the Council.
 24. Applications which are related to possible legal proceedings by the authority e.g. prosecution or enforcement action.
 25. Applications where a Section 106 obligation would be involved or where there are justifiable planning reasons for seeking contributions from developers.
 26. Applications relating to Council-owned land or applications by the Council on private land.
 27. Applications where the Head of Place & Policy is aware that a Member or officer or close relative has made the application.
 28. Where a Member requests an item be brought to Committee, the request from the Member to have an application referred to Committee must refer to the planning grounds on which the request is made, and has to be made within four weeks of the date of deposit of the application so as to allow the officer sufficient time to report the application to the first available meeting.

Action following decisions

29. Decisions to minor alterations to layouts and design of buildings on approved plans including decisions as to any further publicity or consultations required.
30. Decisions as to the siting, size and species of replacement trees.
31. Authority to sign decision notices, Requisitions for Information and Planning Contravention Notices.

Consultation

32. That the Head of Place & Policy in consultation with the Chairman of the Development Management Committee is authorised to respond to any planning application consultation from any government department, agency, local authority or third party.

Appeals

- 33. The Head of Place & Policy or his/her nominee shall represent the Council as expert witness for all planning and enforcement appeals.
- 34. Authority in consultation with the Chief Executive to instruct and appoint specialist consultants as necessary.

Enforcement

- 35. That the Head of Place & Policy, in consultation with the Chief Executive be authorised to serve Enforcement Notices, Breach of Condition Notices, Stop Notices and Untidy Site Notices.

Trees

- 36. To make and sign Tree Preservation Orders and the confirmation of those Orders where no objections are received.

Planning Policy

- 37. The Head of Place & Policy, in consultation with the Leader of the Council, may undertake any minor editorial changes to the Council's planning policy documents provided the objective of the policy is not undermined.
- 38. The Head of Place & Policy, in consultation with the Leader of the Council, may undertake any consultation on any planning policy document whether prepared by the Council or by others.
- 39. The Head of Place & Policy, in consultation with the Leader of the Council, may respond to any planning policy consultation from any government department, agency, local authority or third party.

Building Control

All powers and functions in respect of building control (as specified below), are delegated to the Head of Place & Policy

Building Act 1984

- S16 Power to pass or reject plans
- S19 Power to pass or reject plans when using short-lived materials
- S21 Power to require the satisfactory provision of drainage
- S23 Power to require the satisfactory provision of facilities for refuse
- S24 Power to require the satisfactory provision of ingress and egress to buildings
- S25 Power to require the satisfactory provision of water supply
- S35 Power to take action for contravening the Building Regulations

- S36 Power to take action for the removal or alteration of offending work
- S56 Duty to maintain a register of certain information regarding building work etc. not supervised by the Council
- S57 Power to prosecute if false or misleading information is given regarding building work etc. not supervised by the Council
- S73 Power to serve Notice requiring raising of chimney height
- S76 Power to take action with regard to defective premises
- S77 Power to take action with regard to dangerous buildings
- S78 Power to take emergency measures with regard to dangerous buildings
- S79 Power to take action with regard to ruinous and dilapidated buildings and neglected sites
- S81 Power to serve Notice re demolition works
- S91 Powers to enforce the Building Regulations
- S95 Power to enter premises
- S96 Powers to enter premises supplementary provisions

The Building (Local Authority Charges) Regulations 2010

- S3 Power to fix and recover charges

Regulatory Reform (Fire Safety) Order 2005

Article 45: Duty to consult enforcing authority before passing plans.

Essex Act 1987

- S7 Power to revoke applications which have no effect after certain intervals

Party Wall Act 1996

- S20 Power to act as an 'Appointing Officer'

Local Government (Miscellaneous Provisions) Act 1976

- S16 Power to obtain particulars of persons interested in land

Public Health Acts Amendment Act 1890

- S37 Power to take action on the safety of platforms erected and used on public occasions

Local Government (Miscellaneous Provisions) Act 1982

- S29 Power to serve Notice requiring the execution of works to prevent unauthorised entry to building and to recover expenses

Others

Responsibility in consultation with emergency services and statutory consultees to allocate street names and address numbers to developments.

Head of Environment

Environmental Health

The Head of Environment is empowered to authorise suitably qualified staff, as appropriate, to undertake duties and responsibilities, including Power of Entry, under the following statutes and regulations and orders made thereunder:

1. Abandonment of Animals Act 1960
2. Animal Boarding Establishments Act 1963
3. Animal Health Act 1971 & 1981
4. Animal Health & Welfare Act 1984
5. Animal Welfare Act 2006
6. Anti Social Behaviour Act 2003
7. Breeding of Dogs Act 1973 & 1991
8. Breeding & Sale of Dogs (Welfare) Act 1999
9. Building Act 1984
10. Caravan Sites Act 1968
11. Caravan Sites and Control of Development Act 1960 (As Amended)
12. Cinemas Act 1985
13. Clean Air Act 1993
14. Clean Neighbourhoods & Environment Act 2005
15. Control of Pollution (Amendment) Act 1989
16. Control of Pollution Act 1974
17. Criminal Justice & Public Order Act 1994
18. Dangerous Dogs Act 1991 (As Amended)
19. Dangerous Wild Animals Act 1976
20. Dog Act 1906
21. Environment Act 1995
22. Environmental Permitting (England and Wales) Regulations 2007
23. Environmental Protection Act 1990
24. Essex Act 1987
25. European Communities Act 1972
26. Food Safety Act 1990 (As Amended)
27. Health Act 2006
28. Housing Act 1985
29. Housing Act 2004
30. Housing Grants Construction & Regeneration Act 1996
31. Guard Dogs Act 1975
32. Health & Safety (Enforcing Authority) Regulations 1989
33. Health & Safety at Work etc. Act 1974
34. Local Government Act 1971 - 1974
35. Local Government (Miscellaneous Provisions) Act 1976
36. Local Government (Miscellaneous Provisions) Act 1982
37. National Assistance Act 1948
38. Noise Act 1996 (As Amended)
39. Noise & Statutory Nuisance Act 1993
40. Office Shops & Railway Premises Act 1963
41. Pet Animals Act 1951 & 1981

42. Pollution Prevention and Control Act 1999
43. Prevention of Damage by Pests Act 1949
44. Protection of Animals Act 1911-1964 (As Amended)
45. Public Health (Control of Diseases) Act 1984
46. Public Health (Infectious Diseases) Regulations 1988
47. Public Health Act 1936
48. Public Health Act 1961
49. Rag Flock & Other Filling Materials Act 1951
50. Refuse Disposal (Amenity) Act 1978
51. Riding Establishments Acts 1964 and 1970
52. Scrap Metal Dealers Act 1964
53. Smoke Free Regulation 2006
54. Statutory Nuisance (Appeals) Regulations 1995
55. Sunday Trading Act 1994
56. The Control of Pesticides Regulations 1986
57. The Housing Health & Safety Rating System (England) Regulations 2005
58. The Management of Houses in Multiple Occupation (England) Regulations 2006
59. The Noise & Statutory Nuisance Act 1993
60. The Regulatory Reform (Housing Assistance) (England & Wales) Order 2002
61. Water Industry Act 1991
62. Wildlife & Countryside Act 1981
63. Working Time Regulations 1998
64. Zoo Licensing Act 1981 (As Amended)

Associated Provisions

1. Authority to comment upon and to represent the Council on applications for Goods Vehicle Operators licences.
2. Provide information and advice on proposals including the need for permission and consent and informal views as to the likely success of schemes of development. Such advice to be without prejudice to any formal decision of the Council as local planning authority.
3. The collection of statistical data, the monitoring of policies and performance and the undertaking of surveys as necessary in respect of the planning service to meet government requirements and best value performance indicators.

Car Parks

To control and manage all aspects of the various car parking functions discharged by the Council, including the setting of parking charges and penalty notice fees in consultation with the Cabinet Member(s) with responsibility for Finance and oversight of car parks

Refuse, Recycling and Operational Services

- To control and manage the street cleaning and refuse and recycling service within the Borough

- Cleansing and upkeep of public toilets
- To control and manage the provision and maintenance of bus shelters
- Maintenance and provision of street nameplates
- Maintenance and provision of public seating
- Control of street naming and numbering
- Maintenance & provision of street lighting on council owned land

Open Spaces

1. The general management and control of Public Parks, Pleasure Grounds, Recreation Grounds, Playing Fields, Open Spaces, Cemeteries, Burial Grounds, Woodlands and all Rights of Way falling within the Council's ownership.
2. The maintenance and upkeep of War Memorials
3. Applications for the erection of monuments and inscriptions thereon in the cemeteries and other places in the Borough.
4. Permissions for the display of any public art on Council premises and the regular inspection, upkeep and repair of any items of public art which are maintained by the Council.
5. The management of the Foreshore and any beaches, seawater pools, boat clubs, slipways and moorings which are under the control of the Council.
6. The maintenance and clearing of any waterways, watercourses or wetlands owned or operated by the council to include any duties which fall on the Council as a riparian landowner.
7. Applications for casual lettings or use of sports pitches, recreation grounds, open spaces and ancillary buildings thereon under the control of the Council.
8. To review fees and charges for all activities and facilities and to respond to market forces where necessary.
9. To carry out all functions associated with the Council's burial service, e.g. Registration of burials, exhumation procedures etc.
10. To make modifications/improvements to parks and open spaces to maintain good horticultural practices and increase recreation use and general amenity
11. To carry out woodland management works, e.g. coppicing, to maintain optimum habitat conditions.
12. To carry out day-to-day management of allotments, e.g. administration of tenancy agreements/collection of rentals and also to liaise with private allotment societies.

13. To develop and manage new wildlife conservation initiatives/habitats and liaise with voluntary wildlife groups and organisations for the benefit of the community.
14. To seek and agree sponsorship deals with businesses to reduce maintenance costs.
15. To seek and apply for project funding from government/charitable trusts to improve parks and open spaces and other associated environmental/leisure facilities.
16. To make and sign Tree Preservation Orders and the confirmation of those Orders where no objections are received.

Leisure, Museums and Community Halls

1. The general management and control of all Museums, Community Halls, Swimming Pools and Sports Halls owned by the Council.
2. Applications for rebate in charges in accordance with normal terms and conditions of letting.
3. To review fees and charges for all leisure activities and facilities and to respond to market forces where necessary.
4. To negotiate free or reduced concessionary use of facilities for worthwhile organisations that support the Council's social objectives.
5. To book exercise classes and other recreation/sporting events.
6. To seek and agree sponsorship deals with businesses to reduce maintenance costs.
7. To seek and apply for project funding from government/charitable trusts to improve leisure facilities.

Head of Housing

Assessment of Housing Needs and Allocation of Council Housing

1. Periodic assessment of Borough housing needs and the requirement for affordable, social housing.
2. Assessment and determination of housing applications and the administration of the housing register, transfer list, mutual exchanges and H.O.M.E.S. scheme in accordance with relevant legislation, statutory guidance and the Council's allocation policy.
3. Allocation of vacant Council accommodation (including on a non-secure basis as temporary accommodation) in accordance with relevant legislation statutory guidance and the Council's allocation policy.
4. Administration of reviews and appeals in accordance with relevant legislation and statutory guidance.
5. Administration of tenancy changes, including succession and assignment, in accordance with relevant legislation and statutory guidance.
6. Approval of under-occupation, home loss and disturbance payments in accordance with relevant legislation and statutory guidance and/or Council policy.

Supporting People

1. Mapping the need for and supply of supported housing and housing related support services.
2. Mapping the supply of supported housing and housing related support services.
3. Management and administration of the Supporting People programme in accordance with relevant legislation, statutory guidance and guidance provided by Essex County Council.

Homelessness

The assessment and determination of homelessness applications in accordance with relevant legislation statutory guidance and the Council's homelessness policy.

General Housing Functions

1. Management, regulation and control of the Council's housing stock, garages and related assets.
2. Interpretation of Government legislation, policy and regulations relating to housing services for the purpose of recommendations to Members as appropriate.

3. Preparation of strategy and policy documents for the purposes of stakeholder consultation and Member adoption.

Council Housing Finance

1. Planning, control, monitoring and financial administration of the Housing Revenue Account, Housing General Fund and Housing Capital Plan having due regard to guidance from the Chief Finance Officer appropriate accounting practice and the budgets set by Members.
2. Instigation of recovery activity in respect of rent arrears and other housing debts in accordance with relevant legislation, statutory guidance and the Council's rent arrears recovery policy.
3. Administration of the "Right to Buy" scheme in accordance with relevant legislation and statutory guidance.
4. Calculation and collection of service charges in respect of leaseholder services, Careline accounts and accounts for rechargeable items.

Management & Maintenance of Council's Housing Stock

1. Management of empty properties in accordance with the Council's voids and re-lets policy.
2. Remedying of any breaches of the Council's Tenancy Agreement in accordance with relevant legislation and statutory guidance.
3. Administration, supervision and monitoring of responsive repair and maintenance in accordance with relevant legislation, statutory guidance and Council policy.
4. Periodic assessment of housing stock condition to identify the need for repair, maintenance, modernisation and improvement and for the purpose of resource accounting and stock valuation.
5. Preparation of planned repair, maintenance, modernisation and improvement programmes having regard to the needs and priorities identified in stock condition surveys and the budget set by Members.
6. Calculation and collection of service charges in respect of leaseholder services, Careline accounts and accounts for rechargeable items.
7. Preparation of approved select lists of contractors from the Constructionline register, invitations to tender, evaluation of tenders received and recommendations to the Chief Executive in respect of awards of contracts.
8. Provision of aids and adaptations for elderly and/or disabled tenants recommended by the Social Services Department.

9. Approval of requests by tenants and leaseholders for alterations and improvements to Council and leasehold properties in accordance with relevant legislation and statutory guidance.
10. Approval of ad-hoc compensation payments.

Head of Customer & Digital Services

Customer Services

1. To manage the First Contact Centre at the main Council offices and to be responsible for the handling of all customer enquiries.
2. To manage front reception and reception staff at the main Council offices and ensure the provision of advice and assistance to all personal callers and visitors to the Council Offices
3. To be responsible for the cashiers and all cash transactions arising from council business at the main Council offices and other cash offices.

Revenues and Benefits

The Head of Customer & Digital Services is authorised to take all necessary action in connection with the following, including any necessary procurements (subject to Financial Procedure Rules and Contract Procedure Rules):-

1. All action in connection with the administration of local taxes and other income including:
 - Establishing and determining liability, including entitlement to Council Tax discount and disabled persons relief;
 - Billing;
 - Collection;
 - Refunds;
 - Enforcement including taking legal proceedings, instructing bailiffs, taking committal action and taking appropriate action against debtors under statutory provisions in solvency;
 - Adjusting the scale of charges made to local tax defaulters for summons, liability orders and committal action in accordance with inflation;
 - Determining and awarding mandatory rate relief;
 - Determining and awarding discretionary rate relief (in consultation with Members);
 - Proposals to alter the valuation list and the local rating list;
 - Appeals to the Valuation Tribunal against the rating assessments of properties occupied by the Council;
 - Determining liability for fixed penalties for failing to provide information as required by statute;
 - The application of the Council Tax Reduction Scheme
2. Administration of all aspects of Council Tax Benefit and Housing Benefit including:-
 - Determining and notifying claims and reviews;
 - Determining applications for backdated benefit;
 - Decisions relating to benefit overpayments;
 - Determining applications for Discretionary Housing Payments;

3. Administration of all aspects of the Council's Scheme of Travel Concessions for Senior Citizens and Disabled People including:-
 - Determining eligibility and issuing concessions;
 - Day to day matters arising from relevant legislation and from the Council's participation in the Essex Countrywide Concessionary Travel Scheme
 - Determining charges to be made for the replacement of lost bus passes
4. Designation of Officers who are authorised to represent the Council in criminal and civil debt recovery proceedings.
5. Determining cases for fraud prosecutions in accordance with the Council's Fraud and Corruption Policy and Enforcement Policy and determining penalties in lieu of prosecution where appropriate.

Part 4

Rules of Procedure

1. Council Procedure Rules

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Section 1 – Meetings and Proceedings of Council

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 May.

The Annual Meeting will:-

- (a) elect a person to preside if the Mayor is not present;
- (b) elect the Mayor;
- (c) elect the Deputy Mayor;
- (d) receive any announcements from the Mayor and the Chief Executive;
- (e) appoint the Leader if required ;
- (f) appoint committees to discharge the Overview and Scrutiny functions of the Council and an Audit Committee.,
- (g) appoint a Review Committee
- (h) appoint a Development Management Committee and a Licensing Committee
- (i) consider any business set out in the notice convening the meeting; and
- (j) in a year of elections, receive the report of the Returning Officer.
- (k) receive presentations on any matters of significant local interest

1.2 Selection of Councillors on Committees and Outside Bodies

At the Annual Meeting, the Council will:-

- (a) decide the allocation of seats to political groups in accordance with the political balance rule;
- (b) receive nominations of Councillors to serve on each Committee and outside body.

2. ORDINARY MEETINGS

Ordinary meetings of the Council will take place in accordance with a programme agreed by the Council. Ordinary meetings will:-

- (a) elect a Member to preside if the Mayor or Deputy Mayor are not present;
- (b) deal with any business required bylaw to be done before any other business;
- (c) receive any apologies for absence;
- (d) receive any disclosures of interest from Members;
- (e) approve the Minutes of the last meeting;
- (f) receive any announcements from the Mayor, Leader, or Chief Executive
- (g) deal with questions from the public under Rule 8 and questions from Members under Rule 9;
- (h) deal with any business from the last Council meeting;
- (i) receive reports from the Cabinet regarding any decisions taken as urgent business;
- (j) receive and consider recommendations from the Cabinet;
- (k) receive reports from the Scrutiny Committee for debate;
- (l) receive and consider reports and recommendations from the Regulatory Committees; the Audit Committee and as necessary from the Review Committee;
- (m) receive reports from Cabinet Members;
- (n) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (o) consider Notices of Motions.

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:-

- (a) the Council by resolution;

- (b) any five Members or more giving notice in writing to the Chief Executive
- (c) the Mayor, and
- (d) the Monitoring Officer
- (e) the Chief Executive

3.2 Business

The business to be conducted at extraordinary meetings will be restricted to the specific matters for which they are called, and will not consider previous Minutes or reports from Committees and other matters which would normally be dealt with at ordinary meetings.

4. TIME AND PLACE OF MEETINGS

Whilst meetings of the Council will take place at 7 p.m. in the Council Chamber, the time and place of meetings will be determined by the Chief Executive in consultation with the Mayor, and notified in the summons. Some smaller meetings will take place in Committee Room 1.

5. NOTICE OF AND SUMMONS TO MEETINGS

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. At least five clear days before a meeting, the Chief Executive will send a summons to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

6. CHAIRMAN OF MEETING

The person presiding at any meeting may exercise any power or duty of the Mayor.

7. QUORUM

A quorum of any meeting will be one quarter of the whole number of Members. During any meeting, if the Mayor or 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 Mayor. If the Mayor does not fix a date, the remaining business will be considered at the next ordinary meeting.

8. QUESTIONS FROM THE PUBLIC

8.1 General

Members of the public may ask questions of the Leader of the Council, the Mayor, and any Member of the Cabinet or Chairman of a Committee or PSC at ordinary meetings of the Council.

If the Mayor considers the question has been directed at the wrong Member, or another Member or a Council Officer is better equipped to answer the question, then that other Member or Council Officer will be asked to answer the question.

8.2 Order of Questions

Questions will be asked in the order that notice of them was received, except that the Mayor may group together similar questions.

8.3 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 Chief Executive not later than seven clear working days before the day of the meeting. In the case of a meeting held on a Monday evening, for example, any notice must be received by the Chief Executive by 5.15 p.m. on the Wednesday of the week two weeks before the week of the meeting. Each question must give the name and address of the questioner.

8.4 Number of Questions

No person may submit more than two questions.

8.5 Scope of Questions

The Chief Executive, in consultation with the Mayor, may reject a question if it:-

- (a) is not about a matter for which the Council has a responsibility or which directly affects the Borough;
- (b) is defamatory, frivolous or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past two years; or
- (d) requires the disclosure of confidential or exempt information.
- (e) is subject to separate mediation or dispute resolution.

8.6 Record of Questions

The Chief Executive will enter each question in a book open to public inspection and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions accepted will be circulated to all Members and will be made available to the public attending the meeting.

8.7 Asking the Question at the Meeting

The Mayor may invite the questioner to put the question to whom the question is to be put. If the questioner prefers, the Chief Executive will ask the question on their behalf.

8.8 Answers

An answer may be:-

- (a) oral;
- (b) written and circulated at the meeting;
- (c) written and sent to the member of the public within seven working days of the meeting; or
- (d) by reference to a Council publication that contains the information requested.
- (e) No secondary or supplementary question will be permitted to be asked following any answer which is provided by the Council.

8.9 Reference of Question to the Cabinet

Any Member may move that a matter raised by a question be referred to the Cabinet. Once seconded, such a motion will be voted on without discussion.

9. QUESTIONS FROM MEMBERS

9.1 On Reports of the Cabinet

A Member of the Council may ask a member of the Cabinet any question without notice upon an item of the report of the Cabinet when that item is being received or under consideration by the Council.

With the approval of the Mayor, the Chairman may ask a Chief Officer to respond on any question where the Cabinet Member does not have the information, and it is considered the officer would be able to assist.

9.2 Questions on Notice at Council

Subject to Rule 9.3, a Member of the Council may ask:-

- the Mayor; or
- the Leader of the Cabinet (or the Deputy Leader in the case of absence); or
- any member of the Cabinet
- any chairman of Committee

a question on any matter in relation to which the Council has powers or a duty or which directly affects the Borough.

9.3 Notice of Questions

A Member may only ask a question under Rule 9.2 if it has been given in writing and delivered to the Chief Executive not later than seven clear working days before the day of the meeting. In the case of a meeting held on a Monday evening, for example, any notice must be received by the Chief Executive by 5.15 p.m. on the Wednesday of the week two weeks before the week of the meeting.

9.4 Response

An answer may be:-

- (a) oral;
- (b) written and circulated to Members at the meeting;
- (c) written and circulated to Members within seven days of the meeting; or
- (d) by reference to a Council publication that contains the information requested.

9.5 Reference of Question to the Cabinet

Any Member may move that a matter raised by the question be referred to the Cabinet. Once seconded, such a motion will be voted on without discussion.

9.6 Scope of Questions

The Mayor may reject a question if it:-

- (a) is not about a matter for which the Council has a responsibility or which directly affects the Borough;
- (b) is defamatory, frivolous or offensive; or

- (c) is substantially the same as a question which has been put at a meeting of the Council in the past two years.
- (d) requires the disclosure of confidential or exempt information
- (e) is subject to separate mediation or dispute resolution

10. PETITIONS

- 10.1 Petitions sent to the Council will be passed directly to the Chief Executive who will acknowledge receipt and refer to full Council or the Cabinet at the next appropriate meeting.
- 10.2 The Council will respond to all petitions which demonstrate sufficient local support and number of signatures that cause the Council to consider those petitions.
- 10.3 Petitions meeting the criteria in 10.2 will receive a substantive response reflecting the view of the council on the issue(s) and/or proposed actions as soon as reasonably practicable and within a Council cycle.

11. MOTIONS ON NOTICE

11.1 Notice

Except for Motions which can be moved without notice under Rule 12, written notice of every Motion, signed by the proposer and seconder must be delivered to the Chief Executive not later than seven clear working days before the day of the meeting. In the case of a meeting held on a Monday evening, for example, any notice must be received by the Chief Executive by 5.15 p.m. on the Wednesday of the week two weeks before the week of the meeting.

11.2 Motion set out in Agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it. No Notices of Motion shall be considered at the Annual meeting of the Council and, only in circumstances where time is of the essence, at Special Meetings of the Council.

11.3 Scope

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

12. MOTIONS NOT REQUIRING NOTICE

The following motions and amendments may be moved without formal notice:-

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) to question the accuracy of the Minutes;
- (c) to change the order of business in the agenda;
- (d) to refer a matter to the Cabinet, a Committee, , appropriate body or individual;
- (e) to refer a petition to the Cabinet, a Committee, , appropriate body or individual;
- (f) to appoint a Committee or Sub - Committee, and to appoint Members or other persons to outside bodies where relevant to item of business included in the summons for the meeting;
- (g) to receive reports or adoption of recommendations of the Cabinet, regulatory Committees or officers and any resolutions following from them;
- (h) to withdraw an item of business or withdraw a motion;
- (i) to extend a time limit for speeches;
- (j) to amend a motion;
- (k) to proceed to the next business;
- (l) to move that the question be now put;
- (m) to adjourn a debate;
- (n) to adjourn a meeting;
- (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 20.3 or to exclude them from the meeting under Rule 20.4;
- (r) to give the consent of the Council where its consent is required by this Constitution.

13. MOTIONS ON EXPENDITURE

Any notice of Motion which if carried will increase the expenditure of, or reduce the revenue from, a service, or will involve capital expenditure, must, when proposed and seconded, stand adjourned without discussion for consideration at the next ordinary meeting of the Council, to enable the Cabinet to consider whether it wishes to report on the matter.

This rule will not apply to any motion which arises from consideration of any recommendation of the Cabinet or a regulatory Committee.

14. MOTIONS TO RESCIND PREVIOUS DECISIONS

14.1 Motion to rescind a previous decision

A Motion or amendment to rescind any decision taken within the past six months cannot be moved unless notice of Motion has been given under Rule 11.1 and has been signed by ten Members of the Council.

14.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be proposed within a further period of six months.

14.3 Recommendations from the Cabinet

Rule 14 applies to notices of motion from Members. This rule does not prevent the Cabinet or a regulatory Committee, following consideration of a report, in resolving to change, or recommending to Council to change, a decision taken within the previous six months.

15. RULES OF DEBATE

15.1 No Speeches until Motion Seconded

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

15.2 Right to Require Motion in Writing

Unless notice of the motion has already been given, the Mayor may require it to be written down and handed to them before it is discussed.

15.3 Seconders' Speech

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

15.4 Content and Length of Speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Mayor.

15.5 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 they last spoke;
- (c) if their speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation or correction.

At Cabinet and Committee meetings the Chairman may permit Members to speak more than once, however such speeches shall each not exceed 3 minutes.

15.6 Amendments to Motions

- (a) An amendment cannot be discussed unless it has been proposed and seconded. The Mayor may require it to be written down and handed to them before it is discussed.
- (b) An amendment to a Motion must be relevant to the motion and will either be:-
 - (1) to refer the matter to the Cabinet or appropriate body or individual for consideration or reconsideration;
 - (2) to delete words;
 - (3) to insert or add words; or
 - (4) to delete words and add or insert others;as long as the effect is not to negate the motion.

- (c) 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 dealt with.

The Mayor may permit in certain circumstances two or more amendments to be discussed together, if this helps the business to be dealt with more efficiently. The Mayor shall decide the order for voting on such amendments, and can refuse to accept an amendment, if they believe it to be frivolous or the subject matter has already been substantially discussed earlier in the meeting.

- (d) If an amendment is lost, other amendments to the original Motion may be moved.
- (e) If an amendment is carried, the Motion as amended takes the place of the original Motion. This becomes the substantive motion upon which any further amendments may be moved and subsequent vote taken.

15.7 Alteration of Motion

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

15.8 Withdrawal of Motion

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

15.9 Right of Reply

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

15.10 Motions which may be moved during debate

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

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

15.11 Closure Motions

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

procedural Motion to the vote without giving the mover of the original Motion the right of reply.

15.12 Point of Order

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

15.13 Personal Explanation

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

16. VOTING

16.1 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.

For any decision to be made there needs to be a majority of Members voting in favour of the motion or recommendation.

If the majority of Members vote against the motion or recommendation, no decision has been made.

16.2 Mayor's second or casting vote

If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote except that the second or casting vote cannot be used where the Mayor has abstained from voting on the Motion.

16.3 Show of hands

Unless a ballot, or recorded vote is requested under Rule 16.4, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

(Except in the case of voting on elections and appointments at the Annual Meeting when it is the custom that voting shall be by affirmation.)

16.4 Recorded vote

If 5 Members present at the meeting request 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. Any request for a recorded vote must be made before the vote is taken.

16.5 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.

16.6 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.

17. MINUTES

17.1 Signing the minutes

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

17.2 No requirement to sign minutes of previous meetings at Extraordinary Meetings

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

17.3 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the Mayor put them. Where proceedings have been dealt with when the public was excluded from the meeting, a summary of the proceedings will be included in the public minutes.

18. RECORD OF ATTENDANCE

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

19. EXCLUSION OF PUBLIC

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 21 (Disturbance by Public).

20. MEMBERS' CONDUCT

20.1 Standing to speak

When a Member speaks at full Council they must stand (unless the Mayor exceptionally agrees that the Member may remain seated) and address the meeting through the Mayor.

If more than one Member stands, the Mayor will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

20.2 Mayor standing

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

20.3 Member not to be heard further

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

20.4 Member to leave the meeting

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

20.5 General disturbance

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as they think necessary.

20.6 Councillor Code of Conduct

At meetings Members will act in accordance with the requirements of the Councillor Code of Conduct as set out in Part 5 of the Constitution.

21. DISTURBANCE BY THE PUBLIC

21.1 Removal of member of the public

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

21.2 Clearance of part of meeting room

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

21.3 Adjournment of the meeting

If there is a general disturbance which in the opinion of the Mayor makes orderly business impossible, the Mayor has the power to adjourn the meeting for as long as they consider necessary.

22. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

22.1 Suspension

All these Council Procedure Rules except Rule 17.1 may be suspended by Motion on notice or without notice if at least one half of the whole numbers of Members of the Council are present. Suspension can only be for the duration of the meeting.

22.2 Amendment

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

Section 2 – Meetings and Proceedings of the Cabinet and Regulatory Committees

23. APPLICATION OF COUNCIL PROCEDURE RULES TO MEETINGS OF THE CABINET AND REGULATORY COMMITTEES AND SUB- COMMITTEES

23.1 Whilst all of the Council Rules of Procedure apply to meetings of the full Council, only Rules 4, 5, 6, 7, 12, 14, 15, 16, 17, 18, 19, 20, 21, and 22 apply to meetings of the Cabinet, Regulatory Committees and Sub-Committees, subject to the following:-

- Rule 15 may be extended to allow a Member to speak more than once with the approval of the Chairman;
- Rule 20 is relaxed to allow Members to remain seated whilst addressing the Chairman and meeting.

23.2 For the purposes of interpretation of the Council Procedure Rules as they apply to meetings of the Cabinet, Regulatory Committees and Sub-Committees, references to 'Mayor' shall be interpreted as references to 'Leader of the Cabinet or Chairman', and references to 'Deputy Mayor' shall be interpreted as references to 'Deputy Leader of the Council or Vice- Chairman'.

24. MEETINGS OF COMMITTEES AND SUB - COMMITTEES

24.1 Calendar of meetings

The Council will agree and publish its calendar of meetings for the civic year. The Calendar will include meetings of the Council, the Cabinet, Regulatory Committees and other Committees of the Council. Sub – Committee meetings will be convened as required.

The Leader or Chairman, or the Cabinet or Committee itself, may alter the date and/or time of a meeting, or cancel a meeting, if they consider there is good reason.

24.2 Ordinary meetings

Ordinary meetings of regulatory Committees will:-

- (a) elect a Member to chair the meeting if the Chairman or Vice-Chairman (if appropriate), are not present;
- (b) receive any apologies for absence;

- (c) receive any disclosures of interest from Members;
- (d) approve the Minutes of the last meeting;
- (e) receive any reports from the Scrutiny Committees for debate;
- (f) consider reports from officers.

24.3 Special meetings

The Chairman or the Chief Executive, or the regulatory Committee itself, may call a special meeting.

A special meeting will also be called on the requisition in writing to the Chief Executive of a quarter of the whole number of the regulatory Committee, subject to a minimum of three members.

The summons to the special meeting will set out the business to be considered, and no business other than that set out in the summons will be considered.

With the exception of the approval of the minutes of the last meeting, the agenda for special meetings will largely follow the procedure for ordinary meetings.

25. APPOINTMENT OF CHAIRMEN

Unless appointed by Council, every regulatory Committee at its first meeting will appoint its Chairman.

26. QUORUM OF COMMITTEES AND SUB-COMMITTEES

26.1 Development Management Committee

The quorum for the Development Management Committee will be one half of the number of Members on the Committee, provided that in no case will the quorum be less than three voting members.

If there is no quorum, the meeting will adjourn immediately and the remaining business postponed to a date and time fixed by the Chairman at the adjournment or, if no such arrangements are made, to the next ordinary meeting.

26.2 Review Committee

The quorum for the Committee will be half of the numbers of members of the committee. If there is no quorum, the meeting will adjourn immediately and the remaining business postponed to a date and time fixed by the Chairman at the adjournment or, if no such arrangements are made, to the next ordinary meeting.

26.3 Licensing Sub-Committees

The quorum for Licensing Sub-Committees will be 3 Members.

If there is no quorum, the meeting will adjourn immediately and the business postponed to a date and time fixed by the Chairman at the adjournment or, if no such arrangements are made, at the earliest opportunity.

26.4 Audit Committee

The quorum for the Audit Committee will be 3 Members.

If there is no quorum, the meeting will adjourn immediately and the business postponed to a date and time fixed by the Chairman at the adjournment or, if no such arrangements are made, at the earliest opportunity.

27. REFERENCE-UP OF DECISIONS

27.1 Cabinet & Committee Reference

Where the Cabinet or a regulatory Committee has delegated power to determine a matter by resolution, the Committee may by majority decision choose to refer the matter to Full Council for a decision.

27.2 Member reference

Where a regulatory Committee has delegated power to determine a matter, five or more members of the Committee may request that the matter to be referred to Full Council for a decision. This request must be given to the Chairman at the Committee meeting and before the Committee makes any decision.

The minute will record that in accordance with this Rule, five or more members requested the matter to be referred to Full Council. The names of the members will be recorded in the minutes.

A special meeting of Full Council may be called to consider the matter.

28. MEMBER AND PUBLIC PARTICIPATION AT CABINET MEETINGS

28.1 Member participation at Cabinet Meetings

Any Member of the Council may attend a formal meeting of the Cabinet and ask a question of the Cabinet Member or make a representation on any agenda item before the Cabinet for decision at the meeting.

A Member will be restricted to one question for each agenda item with the option of a supplementary question which must relate to the Cabinet report and any participation shall correspond with other parts of the Constitution that relate to

questions from Members.

(In order to assist the conduct of the meeting Members wishing to speak are asked to notify the Cabinet Officer prior to the meeting)

28.2 Public Participation at Cabinet Meetings

Any citizen can address the Cabinet on any matter which appears on the agenda for the Cabinet meeting. The citizen may be expressing a personal view or representing the community.

Participation may take the form of a question or a statement to the Cabinet.

A request for participation must be made to the Chief Executive by giving details in writing of the question or statement by 4.45pm on the Friday before the Cabinet meeting takes place.

Only one question or one statement may be put by a citizen in relation to each agenda item.

If questions or statements are of a similar or repeat nature the citizens must nominate a single spokesperson to put the question or make the statement.

The citizen must attend the Cabinet meeting and put the question or statement to the Cabinet.

No additional or supplementary questions or statements will be permitted.

Each question or statement will be delivered after the relevant Cabinet member (or nominated officer) has presented the Cabinet report but before the final recommendation is made to the Cabinet. The Chairman will invite the citizen to speak on the item before the Cabinet deliberates on the matter. No further debate or representations will be allowed after the Cabinet has reached its decision.

A response to a question will usually be given verbally at the Cabinet meeting but if there is insufficient information available to provide an answer a response will subsequently be published in writing by the Cabinet within 10 working days of the meeting.

The same or similar question or statement (by any citizen) cannot be put within 6 months of the first question or statement to the Cabinet.

Any disagreement arising from the application of this procedure will be decided by the Chief Executive acting in consultation with the Cabinet Member who is the Chairman for the relevant Cabinet meeting.

30 PUBLIC PARTICIPATION AT DEVELOPMENT MANAGEMENT COMMITTEE MEETINGS

The Council welcomes the general principle that the public should be able to participate in the decision making process by speaking on planning applications at Development Management Committee meetings. The Protocol for Public speaking on planning applications at the Development Management Committee is set out in Part 5 of the Constitution and that document outlines the procedure under which such spoken comments may be made, in order to ensure that the decision-making process remains fair and effective.

31. PROCEDURE FOR THE CONSIDERATION OF ANY CALL IN TO THE SCRUTINY COMMITTEE

- The Procedure for dealing with the Call In will conform with the following:-
- Apologies for Absence
- Declarations of Interest
- Chairman explains the procedure for dealing with the Call In as follows:-
- Cabinet Decision subject to Call In announced by the Head of Governance
- Names of Members requesting Call In announced by the Head of Governance
- Grounds for Call In announced by the Head of Governance
- The Member(s) supporting the Call In shall be invited to present the evidence to show that the Cabinet did not take the decision in accordance with principles of decision-making
- Response of the Cabinet (or the relevant Cabinet Members) to the Call In including
- Expert/Officer advice concerning the Cabinet decision
- Questions by Members of the Scrutiny Committee only (as allowed by the Chairman).
- Any Voting on the Call In
- Recommendation agreed by the Scrutiny Committee

The Recommendation must be to:-

1. Take No Action – the decision shall take effect immediately or

2. Refer back to Cabinet for reconsideration – reasons for referral must be set out in full in writing by the Scrutiny Committee or
3. Refer Call In to Full Council in exceptional circumstances only for decision - reasons for referral must be set out in full in writing together with the evidence established by the Scrutiny Committee to show the Cabinet had failed to act in accordance with the principles of decision making.

Note

1. Full Council may refer the decision back to the Cabinet for reconsideration with any views formed by Full Council on that decision
2. The Scrutiny Committee must agree 1 of the above 3 options on the date of the meeting and cannot defer the making of the recommendation to a later date or meeting.

31.2 **Proceedings before Scrutiny Committee**

Public Participation in the meeting is permitted otherwise than in accordance with the Overview and Scrutiny Procedure Rules.

2. Access to Information Procedure Rules

1. SCOPE

These rules apply to all meetings of the Council.

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect 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.

4. NOTICES OF MEETING

The Council will give at least five clear days notice of any meetings by posting details of the meeting on the public notice board at the Council Offices in Kiln Road (the designated office) and the Council's official notice boards situated throughout the Borough and providing details on the Council's website.

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and relevant reports available for inspection at the Council Offices, and on the Council's website, at least five clear 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.

6. SUPPLY OF COPIES

The Council will supply copies of:-

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and

- (c) if the proper officer thinks fit, copies of any other documents supplied to councillors in connection with an item to any person on payment of a charge for postage and any other costs.

7. ACCESS TO MINUTES AFTER THE MEETING

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

- (a) the minutes of the meeting, excluding any part of the minutes of proceedings when the meeting was 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

8. BACKGROUND PAPERS

8.1 List of background papers

Every report will list those documents (called background papers) relating to the subject matter of the report which:-

- (a) discloses any facts or matters on which the report or an important part of the report is based; and
- (b) 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 for public inspection for four years after the date of the meeting one 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 will be kept at and available to the public at the Council's main offices. These Rules constitute that summary.

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 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.

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

10.3 Meaning of confidential information

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

10.4 Meaning of exempt information

Subject to the conditions detailed in 10.5 below, exempt information is defined in the Local Government (Access to Information) (Variation) Order 2006 as information falling within any of the following categories:

	Category	Conditions/Definitions
1	Information relating to any individual	1. Conditions – see 10.5 below
2	Information which is likely to reveal the identity of an individual	1. Conditions – see 10.5 below
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	1. Conditions – see 10.5 below. 2. Definitions – “financial or business affairs” includes contemplated as well as past or current activities.

4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under, the authority	<p>1. Conditions – see 10.5 below</p> <p>2. Definitions –</p> <p>“employee” means a person employed under a contract of service.</p> <p>“officeholder” means the holder of any paid office appointments to which are or may be made or confirmed by the authority or any Joint Board on which the authority is represented or by any person who holds any such office or is an employee of the authority</p> <p>“labour relations matters” are as specified in paragraphs (a) to (g) of section 218 (1) of the Trade Union and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute.</p>
5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	1. Conditions – see 10.5 below.
6	<p>Information which reveals that the authority proposes –</p> <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>	1. Conditions – see 10.5 below.
7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	1. Conditions – see 10.5 below.

7A	Information which is subject to any obligation of confidentiality.	7A, 7B and 7C apply only to the <u>Standards Committee</u> or a Sub Committee of a standards Committee when convened to consider a matter under the specified provisions. <u>Note</u> A Legal advisor to the Standards Board has confirmed that the term “deliberations” in 7 (C) means retiring to consider a decision.
7B	Information which relates in any way to matters concerning national security	
7C	The deliberations of a standards Committee or a of a standards Committee, established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70 (4) or (5) or 71 (2) of that Act	

10.5 Exempt Information – Conditions

- (a) Information falling within Category 3 in 10.4 is not exempt information if it is required to be registered under the Companies Act 1985; the Friendly Societies Act 1974; the Friendly Societies Act 1992; the Industrial and Provident Societies Acts 1965 to 1978; the Building Societies Act 1986 (and in this context, “registered” means recorded in the public file of the Building Society); or the Charities Act 1993;
- (b) Information is not exempt information under any category in 10.4 if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.
- (c) Exempt information under any category in 10.4 (and which is not prevented from being exempt by virtue of (a) or (b) above) 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.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Monitoring Officer considers it appropriate, the Council may exclude access by the public to reports which in his or her opinion relate to items in accordance with Rule 10, and where the meeting is not open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

12. APPLICATION OF RULES TO THE CABINET

Rules 13-22 apply specifically to the Cabinet. If the Cabinet meets to take a key decision then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 11 of this Constitution.

13. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

- (a) A notice (called here a forward plan) has been published in connection with the matter in question.
- (b) At least 28 clear days have elapsed since the publication of the forward plan.
- (c) Where the decision is to be taken at a meeting of the Cabinet notice of the meeting has been given in accordance with Rule 4 (Notice of Meetings) i.e. five clear days.

14. THE FORWARD PLAN

(1) Period of forward plan

Forward plans will be published by the council to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

(2) Contents of forward plan

The forward plan will contain matters which the Leader of the Council has reason to believe will be the subject of a key decision to be taken by the Cabinet, Officers, or under joint arrangements in the course of the discharge of an Executive function during the period covered by the plan.

A key decision is defined as a decision which is likely:

- (a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates subject to a threshold of £100,000; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral division in the area of the local authority.

The forward plan will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) The matter in respect of which a decision is to be made.
- (b) Where the decision taker is an individual, his/her name and title and where the decision taker is a body, its name and details of membership.

- (c) The date on which, or the period within which, the decision will be taken.
- (d) The identity of the principal groups whom the decision taker proposes to consult before taking the decision.
- (e) The means by which any such consultation is proposed to be undertaken.
- (f) The steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken.
- (g) A list of the documents to be submitted to the decision taker for consideration in relation to the matter.

Exempt information need not be included in a forward plan and confidential information cannot be included.

15. GENERAL EXCEPTION

If a matter which is likely to be a key decision has not been included in the forward plan, then, subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) The decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates.
- (b) The Chief Executive has specifically informed the Chairman of the Scrutiny Committee, or if he/she is not available, each member of the Scrutiny Committee in writing, by notice, of the matter to which the decision is to be made.
- (c) The Chief Executive has made copies of that notice available to the public at the offices of the Council.
- (d) At least 5 clear days have elapsed since the Chief Executive complied with (b) and (c).

Where such a decision is taken collectively, it must be taken in public.

16. SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the Scrutiny Committee, or he or she is unable to act, then the agreement of the Mayor of the Council, or in his/her absence the Deputy Mayor will suffice.

17. REPORTS TO COUNCIL

(1) Scrutiny Committee requiring a report

If the Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) Included in the forward plan.
- (b) The subject of the general exception procedure.
- (c) The subject of an agreement with the Chairman of the Scrutiny Committee, or the Mayor/Deputy Mayor of the Council under Rule 16.

The Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman or any 5 Members.

Alternatively the requirement may be the subject of a resolution passed at a meeting of the Scrutiny Committee.

(2) Cabinet's report to Council

If required by the Scrutiny Committee under (1) above the Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Scrutiny Committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Cabinet is of the opinion that it was not a key decision the reasons for that opinion.

(3) Quarterly reports on special urgency decisions

In any event the proper officer will submit a quarterly report to the Council on the Cabinet decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. RECORD OF DECISIONS

After any meeting of the Cabinet, whether held in public or private, the Chief Executive or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable with regards to decisions taken by the Cabinet. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

19. NOTICE OF A MEETING OF THE CABINET

Members of the Cabinet will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency. All Members of the Council will be provided with a copy of the notice of a meeting. All meetings of the Cabinet will be open to the public with the exception of those circumstances as set out in Rule 10 of the Access to Information Procedure Rules in Part 4 of this Constitution.

20. OVERVIEW AND SCRUTINY ACCESS TO DOCUMENTS

(1) Rights to copies

Subject to Rule 21(2) below, the Scrutiny Committee will be entitled to copies of any document which is in the possession or control of the Cabinet and which contains material relating to any business transacted at a public or private meeting of the Cabinet or its Committees.

(2) Limit on rights

The Scrutiny 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 scrutinising or intend to scrutinise.

21. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

(1) Material relating to previous business

All Members will be entitled to inspect any document which is in the possession or under the control of the Cabinet and contains material relating to any business previously transacted unless it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information.

(2) Material relating to key decisions

All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet which relates to any key decision unless it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information.

(3) Nature of rights

These rights of a Member are additional to any other right he/she may have.

3. Budget and Policy Framework Procedure Rules

1. The framework for decision-making: -

The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget and policy framework is in place, it will be the responsibility of the Cabinet to implement it.

2. Process for developing the framework

The process by which the budget and policy framework shall be developed is:

- (a) The Cabinet will publish a programme for approving or adopting (1) any plan or strategy and (2) any budget that together form part of the budget and policy framework for the following year. The Cabinet will also recommend the most appropriate arrangements for consultation.
- (b) Within this programme, the Cabinet may identify strategic policy or resource issues on which it wishes to request studies by either the Policy and Scrutiny Committees or the Scrutiny Committee having regard to the Committees capacity to undertake such work.
- (c) Following the consultation process, the Cabinet will draw up firm proposals for recommendation to the Council.
- (d) Within the overall programme, the Cabinet may identify studies they wish to request from either the Policy and Scrutiny Committees or the Scrutiny Committee having regard to the Committees capacity to undertake such work. These studies should be related to policy issues on which the Cabinet wishes to make recommendations as part of the budget and policy framework.
- (e) Policy studies undertaken by the Policy and Scrutiny Committees or the Scrutiny Committee should engage as widely as possible with citizens and stakeholders in the community and use a variety of methods to gauge public views. Where such engagement take place at a meeting of the Committee the meeting shall be convened specifically for the purpose of engagement of the public. The results should be presented to the Cabinet, who will then draw on them in developing their proposals to the Full Council.
- (f) In approving the budget and policy framework, the Council will also specify the extent and degree of in-year changes which may be undertaken by the Cabinet, in accordance with paragraph 4 of these Rules (in-year adjustments). Any other changes to the budget and policy framework are reserved to the Council or must comply with the current rules for transfers of budgets (virement) and the protocol for supplementary estimates.

3. Virement and Supplementary Estimates

The procedures for transfers of budget (virements) and the protocol for supplementary estimates are contained in the Detailed Financial Regulations and Procedures that are proposed by the Chief Finance Officer and agreed by the Leadership Team from time to time. The Chief Finance Officer will review these rules from time to time and may introduce changes at any time should the need arise in order to ensure the prudent management of the Council's financial affairs.

4. In-year changes to budget and policy framework

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet or officers with delegated authority must be in line with it. No decision contrary to any policy and strategy or contrary to the budget which together make up the framework may be made by the Cabinet or officer with delegated authority except decisions: -

- (a) that will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- (b) that are necessary to ensure compliance with the law, ministerial direction or government guidance;
- (c) that may be required by urgent circumstances: -
 - where it is not practical to convene a quorate meeting of the Council and the Leader or the Deputy Leader agree that the decision is required urgently or
 - arising during summer recess when the powers of the Council have been delegated.

Any such decision to be reported to the first available meeting of the Full Council.

4. Cabinet Procedure Rules

1. Making Cabinet Decisions

The arrangements for the discharge of executive functions are set out in the Cabinet Arrangements adopted by the Council and contained in this Constitution. If they are not set out here, then the Leader and Cabinet may decide how they are to be exercised. In either case, the arrangements or the Leader and Cabinet may provide for Executive functions to be discharged by:

- (i) the Cabinet as a whole;
- (ii) a Committee of the Cabinet;
- (iii) an Officer;
- (iv) joint arrangements; or
- (v) another local authority.

2. Record of delegations

At the Annual Council meeting, the Leader will present to the Council where appropriate a written record of delegations for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- (i) the terms of reference and Constitution of such Cabinet Committees as the Leader of the Council appoints and the names of Cabinet Members appointed to them;
- (i) the nature and extent of any delegation of Executive functions to any other authority or any joint arrangements and the names of those Cabinet Members appointed to any joint Committee for the coming year; and
- (iii) the nature and extent of any delegation to the Chief Executive or other officer with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

3. Sub-Delegation Of Cabinet Functions

- (i) Where the Cabinet, a Committee of the Cabinet is responsible for a Cabinet function, they may delegate further to, joint arrangements or an officer.
- (ii) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate, further to a Committee of the Cabinet or to an officer.

- (iii) Unless otherwise stipulated, a Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.
- (iv) Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

4. Other Member Attendance At The Cabinet

There are no co-optees and no deputies or substitutes for Cabinet Members.

5. Conflicts Of Interest

- (a) Where the Leader of the Council has a conflict of interest this should be dealt with in accordance with the Council's Code of Conduct for Members as set out in Part 5 of this Constitution.
- (b) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an Executive function has been delegated to a Committee of the Cabinet, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Councillor Code of Conduct in Part 5 of this Constitution.

6. Cabinet Meetings - When And Where

The Cabinet will meet in accordance with a timetable agreed by the Leader of the Council. The Cabinet shall meet at the Council Offices or another location to be agreed by the Leader.

7. Access To Meetings Of The Cabinet

All meetings of the Cabinet will be open to the public with Agendas and Minutes available to the public in accordance with the Access to Information Procedure Rules in this Constitution, and subject to any restrictions in those Procedure Rules.

8. Quorum

The quorum for a meeting of the Cabinet, or a Committee of it, shall be one quarter of the total number of members of the Cabinet, or 3, whichever is the larger.

9. How Decisions Will Be Taken By The Cabinet

- (a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) In the event of Cabinet decisions being delegated to a Committee of the Cabinet, the rules applying to Cabinet decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

10. How Cabinet Meetings Will Be Conducted

- (a) Presiding over the Cabinet
If the Leader of the Council is present he/she will chair the meeting and in his/her absence, the Deputy Leader of the Council. In the event of the absence of both the Leader and Deputy Leader, a person appointed to do so by those present shall preside.
- (b) Attendance at meetings of the Cabinet
With the exception as set out in the Access to Information Procedure Rules in Part 4 of this Constitution all meetings of the Cabinet will be open to the public.
- (c) Business of the Cabinet

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

- (i) Consideration of the minutes of the last meeting.
 - (ii) Declarations of interest, if any.
 - (iii) Matters referred to the Cabinet (whether by the Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution.
 - (iv) Consideration of reports from the Policy and Scrutiny or Scrutiny Committee or Audit Committee.
 - (v) Matters set out in the agenda for the meeting, and which shall indicate which are key decisions, in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.
- (d) Consultation

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders, and the outcome of that consultation. Reports about other matters will set out the details and

outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

(e) Meetings of the Cabinet

- (i) In accordance with 6. above, the Leader of the Council will decide upon the schedule for the meetings of the Cabinet. The Leader may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a Committee of it or any Member or officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.
- (ii) Any member of the Cabinet may require the Chief Executive to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration, subject to the issue in question not having been considered in the last 6 months.
- (iii) The Chief Executive will ensure that an item is placed on the agenda of the next available meeting of the Cabinet where the Scrutiny Committee or Council have resolved that an item be considered by the Cabinet.
- (iv) Any Member of the Council may ask the Leader to put an item on the agenda of an Cabinet meeting for consideration, subject to the issue in question not having been considered in the last 6 months. If the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered who will also be invited to attend the meeting. There may only be up to 2 such items per Cabinet meeting.
- (v) The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Head of Paid Service to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.
- (vi) The Cabinet will comply with the Council Procedure Rules (Standing Orders) where so indicated and may waive or suspend non statutory Standing Orders, Financial Regulations and any other procedural requirements provided that full reasons for doing so are recorded.

5. Overview and Scrutiny Procedure Rules

1. Number and arrangements for Overview and Scrutiny

The arrangements for Overview & Scrutiny are set out in Article 6 of the Constitution and comprise of the Scrutiny Committee and 3 Policy & Scrutiny Committees.

The Policy & Scrutiny Committee and the Scrutiny Committee may appoint from within its membership Inquiry Teams for short-term inquiry tasks or Sub-Committees.

Meetings of the Committees will normally be held in public unless the Committee considers that the proceedings would be likely to disclose exemptor confidential information.

By their nature, the work of the Committees, any Sub-Committee and Inquiry Teams may not take place in a formal meeting situation accessible to the public. Such meetings will be investigative and will report back their findings to the main Committee in public session for consideration.

2. Membership of the Policy & Scrutiny and Scrutiny Committees.

The Policy & Scrutiny and Scrutiny Committees will comprise of up to 10 Members. However, no Member of the Scrutiny Committee may be involved in reviewing a decision in which they have been directly involved, and to avoid potential conflicts of interest, the Chairman and Vice-Chairman of the Cabinet or any Member of the Cabinet may not be appointed to serve on the Committee.

Members of the Cabinet are encouraged to attend and take part in meetings of the Policy & Scrutiny Committees where undertaking policy development work.

3. Co-optees

The Policy and Scrutiny and Scrutiny Committee may recommend to Council the appointment of a number of people to the membership of the Committee as formal non-voting co-optees.

4. Meetings

There shall be meetings of the Policy & Scrutiny and Scrutiny Committees as required in each year. Meetings will be called as and when appropriate. A meeting may be called by the Chairman of the Scrutiny Committee or by any 4 members of the Committees or by the Chief Executive, if they consider it necessary or appropriate.

5. Quorum

The quorum for the Committees is as set out in the Council Procedure Rules in Part 4 of this Constitution.

6. Chairman of the Policy and Scrutiny and Scrutiny Committee

The Chairman of the Committee will be drawn from among the Members on the Committee.

7. Policy Review and Development

- (a) The role of the Policy and Scrutiny Committee in relation to the development of the Council's policy and budget framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its budget and policy framework, the Policy and Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) The Policy and Scrutiny Committees may hold inquiries and investigate the available options for future direction in policy development and may seek advice from advisers and assessors to assist it. It may go on site visits, conduct public surveys, hold public meetings specifically convened for the purpose, commission research and do all other things that it reasonably considers necessary to inform its deliberations. It may ask witnesses to attend to address it on any matter under consideration.

8. Agenda items

The Policy & Scrutiny and Scrutiny Committees shall also respond to requests from the Full Council and references from the Cabinet to review particular areas of Council activity. Where it does so, the Committee shall report its findings and any recommendations back to the Council and/or to the Cabinet. The Council and/or the Cabinet shall consider the report of the Committees at its first available meeting following the meeting of the Committee referring the report.

Any member of the Scrutiny Committee may refer any matter to the Committee which is relevant to its functions.

Any Member of the Council having had regard to any guidance issued by the Secretary of State may give notice to the Chief Executive that they wish an item relevant to the functions of the Scrutiny Committee (other than excluded items (a local crime and disorder matter within the meaning of Section 19 Police and Justice Act 2006 or a regulatory matter)) to be included on the agenda for the next available meeting. On receipt of such a request, the

Chief Executive, subject to consultation with the Chairman, will ensure that it is included on the next available agenda.

9. Reports from the Policy and Scrutiny and Scrutiny Committees

- (a) Once it has formed recommendations on proposals for development, the Committees will prepare formal reports and submit them to the Chief Executive for consideration by the Cabinet (if the proposals are consistent with the existing policy and budget framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed policy and budget framework).
- (b) The Council or the Cabinet shall consider the report of the Committee at its first available meeting following the meeting of the Committee referring the report.

10. Consideration of Scrutiny reports by the Cabinet

Once the Scrutiny Committee has completed its deliberations on any matter, it will forward a copy of its final report to the Chief Executive who will allocate it to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's Budget and Policy Framework. If the Chief Executive refers the matter to Council, a copy will also be served on the Leader with notice that the matter is to be referred to Council. The Cabinet/Council will have 3 months in which to respond to the scrutiny report. When the Council does meet to consider any referral from the Scrutiny Committee on a matter which would impact on the Budget and Policy Framework, it shall also consider the response of the Cabinet to the scrutiny proposals.

11. Members and officers in attendance

- (a) The Scrutiny Committee may review decisions made or actions taken in connection with the discharge of any Council functions, other than regulatory matters. As well as reviewing a decision, in fulfilling this role, the Committee may request any Member of the Cabinet, the Chief Executive and/or any officer to attend before it to explain in relation to matters within their remit:-

- i) the reasoning for any particular decision or series of decisions;
- ii) the extent to which the actions taken implement Council policy; and/or
- iii) their performance.

and it is the duty of those persons to attend if so requested.

- (b) Where any Member or officer is requested to attend the Scrutiny Committee under this provision, maximum notice will be given.

- (c) Where, in exceptional circumstances, the Member or officer is unable to attend on the relevant date, an alternative date will be agreed with the Chairman.

12. Attendance by others

The Scrutiny Committee may invite people other than those people referred to in paragraph 11 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and representatives from other parts of the public sector and shall invite such people to attend.

13. Call-in

Call-in should only be used in exceptional circumstances. These are where Members of the Scrutiny Committee have evidence which suggests that the Cabinet did not take the decision in accordance with the principles set out in Article 12 (Decision-Making).

- (a) When a decision is made by the Cabinet or under joint arrangements, the decision shall be published, including by electronic means, and shall be available within a maximum of 4 working days of being made. The Chairman and Members of the Scrutiny Committee will be sent copies of the notice of all such decisions within the same timescale.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless subject to call-in.
- (c) During that period, the Chief Executive shall call-in a decision for scrutiny by the Committee if so requested by the Chairman or any four Members of the Scrutiny Committee (excluding the Chairman), and shall then notify the Cabinet of the call-in.
- (d) The Chief Executive shall call a meeting of the Scrutiny Committee after consultation with the Chairman within 10 working days of the request to call-in, subject to the agenda for the meeting being published 5 clear working days before the meeting in accordance with the Access to Information Procedure Rules.
- (e) If, having considered the decision, the Scrutiny Committee is still concerned about it, then it may refer it back to the Cabinet for reconsideration, setting out in writing the nature of its concerns. If referred to the Cabinet, it shall be reconsidered at a special meeting or the next scheduled meeting of the Cabinet to be agreed with its Chairman. It will be for the Cabinet to amend the decision or not, before adopting a final decision.

- (f) If following a call-in, the Scrutiny Committee does not meet in the period set out above, the decision shall take effect on the date of the expiry of the period allowed for the holding of the Scrutiny Committee meeting.
- (g) If following a call-in, the Scrutiny Committee does meet but does not refer the matter back to the Cabinet; the decision shall take effect on the date of the Scrutiny meeting.
- (h) If the matter is referred to Full Council for decision and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. The Council may refer any decision to which it objects back to the Cabinet, together with the Council's views on the decision. If referred to the Cabinet, it shall be reconsidered at a special meeting or the next scheduled meeting of the Cabinet to be agreed with its Chairman. It will be for the Cabinet to amend the decision or not, before adopting a final decision.
- (i) If the Council does not meet within the specified timescale, or if it does but does not refer the decision back to the Cabinet, the decision will become effective on the expiry of the period in which the Council meeting should have been held, or date of the Council meeting respectively.

14. Exceptions to call-in

- (a) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:-
 - i) that the Scrutiny Committee may only call-in a maximum of two decisions per cycle;
 - ii) the Chairman or 4 Members of the Scrutiny Committee are necessary for the call-in procedure to apply.
- (b) The call-in procedure will not apply to:-
 - i) regulatory decisions such as Development Control;
 - ii) quasi-judicial decisions such as those from hearings and appeals; or a decision which is subject to separate mediation or dispute resolution;
 - iii) decisions which have been implemented.
- (c) The call-in procedure shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in procedure would seriously prejudice the Council's or the public's interests. The record of the decision and notice by which

it is made public shall state whether in the opinion of the Cabinet the decision is an urgent one, and therefore not subject to call-in. The Chief Executive or another statutory officer must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

- (d) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted by the Chief Executive if there appears to be any abuse or malpractice.

15. Procedure at Policy and Scrutiny and Scrutiny Committees

- (a) The Committees shall consider the following business:-
 - i) declarations of interest;
 - ii) minutes of the last meeting;
 - iii) consideration of any call-in; (Scrutiny Committee only)
 - iv) responses of the Council or the Cabinet to reports of the Policy and Scrutiny Committee and Scrutiny Committees; and
 - v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Policy & Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are convened for that purpose and are to be conducted in accordance with the following principles:
 - i) that the investigation be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
 - iii) that the investigation be conducted so as to maximise the best effect for the Council.

16. Call In Procedure Rules at the Scrutiny Committee

In considering a call in of a Cabinet decision, the Committee will follow the Council's Procedure Rule 31.

6. Financial Procedure Rules

1 INTRODUCTION

- 1.1** These Financial Procedure Rules provide the framework for managing the Council's financial affairs. They apply to every Member and officer of the Council and anyone acting on its behalf.
- 1.2** The Financial Procedure Rules define the financial responsibilities of the full Council, the Cabinet, all Regulatory Committees of the Council, the Chief Executive, the Monitoring Officer, the Chief Finance Officer and other Officers.
- 1.3** The Chief Finance Officer is responsible for issuing advice and guidance (including detailed Financial Regulations and Procedures) to underpin Financial Procedure Rules and which Members, officers and others acting on behalf of the Council are required to follow.
- 1.4** All Members and staff have a general responsibility for taking reasonable action to provide for the security of the resources under their control and for ensuring that the use of these resources is lawful, is properly authorised, provides value for money and achieves best value.
- 1.5** The Chief Finance Officer is responsible for maintaining a continuous review of these Financial Procedure Rules and submitting proposals for any additions or changes she or he considers necessary to the Council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of Financial Procedure Rules and related regulations and procedures to the Council.
- 1.6** Managers are responsible for ensuring that all staff in their Departments are aware of the existence and content of Financial Procedure Rules and related regulations and procedures and that they comply with them. They must also ensure that an adequate number of copies are available for reference within their Departments.
- 1.7** In the following paragraphs the phrase "CIPFA Codes for Treasury Management" refers to the CIPFA Code of Practice for Treasury Management in Local Authorities, relevant parts of the Prudential Code for Capital Finance in Local Authorities and any successor codes, guidelines or regulations.
- 1.8** In the following paragraphs the phrase "SORP" refers to the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice (Chartered Institute of Public Finance and Accountancy) and any successor codes, guidelines or regulations.

2 FINANCIAL MANAGEMENT

2.1 The Council

The full Council is responsible for:

- adopting a framework of financial accountability and control and monitoring compliance;
- adopting an annual Budget and Policy Framework;
- agreeing Prudential Indicators set under the CIPFA Prudential Code for Capital Finance in Local Authorities and any successor codes, guidelines or regulations;
- approving the annual Statement of Accounts.

2.2 The Cabinet

The Cabinet is responsible for:

- overall financial management of the Council and making recommendations as appropriate;
- considering and making recommendations to Council on the matters listed in paragraph 2.1 above.
- regulating its financial activities within Financial Procedure Rules and approved budgets.

2.3 Audit Committee

The Audit Committee is responsible for: -

- regulating its financial activities within Financial Procedure Rules and approved budgets;
- monitoring compliance with Financial Regulations and Procedures.

2.4 Regulatory Committees

Each Regulatory Committee is responsible for regulating its financial activities within Financial Procedure Rules and approved budget

2.5 Chief Executive and Monitoring Officer

The roles and statutory duties of the Chief Executive and Monitoring Officer are set out in Article 10 of the Constitution and have effect on financial management as appropriate.

2.6 Chief Finance Officer

2.6.1 The Chief Finance Officer is the officer appointed under section 151 of the Local Government Act 1972, which states:

“...every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs.”

Paragraphs 2.6.2 to 2.6.8 set out the statutory responsibilities of the Section 151 officer.

2.6.2 Under section 113 of the Local Government Finance Act 1988, the officer appointed under section 151 of the 1972 Act must be a member of one of six designated accountancy bodies in the United Kingdom.

2.6.3 Under section 114 of the Local Government Finance Act 1988, the Chief Finance Officer must report to the full Council and to the Council's external auditors if the Council or one of its officers:

- has made or is about to make a decision which involves incurring unlawful expenditure;
- has taken or is about to take an unlawful action which has resulted or would result in a loss or deficiency to the authority;
- is about to make an unlawful entry in the Council's accounts.

In preparing any such report the Chief Finance Officer must, so far as practicable, consult with the Chief Executive and the Monitoring Officer.

2.6.4 Under section 114 of the Local Government Finance Act 1988, the Chief Finance Officer must nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally.

2.6.5 Under section 114 of the Local Government Finance Act 1988, the Council must provide the Chief Finance Officer with sufficient staff, accommodation and other resources, including legal advice where this is necessary, to carry out the duties under section 114.

- 2.6.6** Under the Accounts and Audit Regulations 1996, the Chief Finance Officer has a duty to determine the Council's accounting systems, the form of accounts and supporting accounting records, to ensure that these systems and procedures are observed and that accounts and supporting records are maintained in accordance with proper practices and kept up to date.
- 2.6.7** The statutory duties of the Chief Finance Officer as set out above cannot be overridden by the Council or any other officer.
- 2.6.8** The Chief Finance Officer therefore has these specific accountabilities relating to financial management under legislation and these Financial Procedure Rules:
- making arrangements for the proper administration of the Council's financial affairs;
 - setting and monitoring compliance with financial management standards;
 - advising on the Council's financial position and on the key financial controls necessary to secure sound financial management;
 - ensuring that proper professional practices are followed within the authority.
 - providing financial information;
 - advising on the format of and co-ordinating the preparation and monitoring of revenue and capital budgets;
 - determining the definition of capital and revenue expenditure respectively having regard to government regulations, relevant codes of practice and accounting requirements.
 - arranging borrowing, investment and any other treasury management activities in accordance with Council policies and the CIPFA Codes for Treasury Management;
 - reporting to the Cabinet on treasury management activities in accordance with Council policies and the CIPFA Codes for Treasury Management;
 - selecting appropriate accounting policies and procedures and ensuring they are applied consistently;
 - arranging for the compilation of all accounts and accounting records for the authority. Preparing and publishing the annual Statement of Accounts in accordance with the SORP

- advising on, or providing, the financial information that needs to be included in performance plans required by statute or relevant codes.

2.7 Leadership Team

Managers have these specific accountabilities in relation to financial management:

- accountability and control of their staff and responsibility for the security and safe custody of all assets relating to their Department;
- ensuring that their staff are aware of the content of these Financial Procedure Rules and that they comply with them and with relevant Detailed Financial Regulations and Procedures issued by the Chief Finance Officer;
- ensuring that any advice given to Members of the Cabinet, Regulatory Committees, the Policy & Scrutiny and Scrutiny Committees and the Council relating to the financial implications of new proposals is provided by or has been agreed with the Chief Finance Officer, and providing the Chief Finance Officer with any information that she/he may require to carry out this role;
- consulting with the Chief Finance Officer before commitments are incurred on any matter likely to have a material effect on the Council's finances.

3 FINANCIAL PLANNING AND CONTROL

3.1 The Council

The full Council is responsible for:

- adopting the annual Budget and Policy Framework as set out in the Constitution;
- approving all elements of the annual Budget and Policy Framework, including the Annual Revenue Budget, the Capital Programme, Council Tax levels and levels of reserves and contingencies;
- approving procedures for agreeing variations to approved budgets and to plans and strategies that form the Budget and Policy Framework;
- approving procedures for determining circumstances in which decisions will be deemed contrary to the Budget and Policy Framework;

3.2 The Cabinet

The Cabinet is responsible for:

- ensuring that there is at least a three year plan of the Council's overall financial position and that it is regularly updated by the Chief Finance Officer;
- ensuring that future spending is within resources and that adequate reserves and contingencies are maintained;
- co-ordinating the preparation of draft service plans and budgets for submission to the Council;
- having regard to the advice of the Chief Finance Officer, agreeing the format of the budget;
- having regard to the advice of the Chief Finance Officer, making proposals to the Council on budgets and Council Tax levels.
- submitting to Council for approval the financial strategies defined for this document as a Financial Planning Strategy, a Capital Strategy, a Treasury Strategy, an Investment Strategy and an Asset Management Plan or other documents of like effect.
- managing approved budgets in accordance with the Budget and Policy Framework, approved financial strategies, agreed service plans and these Financial Procedure Rules and related regulations and procedures.

3.3 Policy and Scrutiny and Scrutiny Committees

The Committees are responsible for:

- undertaking studies at the request of the Council or, the Cabinet to inform budget decisions;
- considering exception reports from the Managers on the monitoring of income and expenditure against budget and making appropriate recommendations thereon.

3.4 Chief Executive

The Chief Executive is responsible for:

- proposing a Corporate Plan to the full Council;
- ensuring that each part of the Budget and Policy Framework is prepared and submitted for approval, as required by the Constitution and Corporate Plan.

3.5 Chief Finance Officer

The Chief Finance Officer is responsible for:

- preparing and submitting regularly to the Cabinet, an updated financial forecast of capital and revenue expenditure covering a minimum of a three year period, to include her or his best estimates of the future cost of current policies and programmes and their impact on reserves;
- ensuring that the annual revenue budget is prepared in accordance with the financial strategies;
- determining the Council Tax Base in consultation with the Leader or Deputy Leader;
- advising on the prudent levels of reserves for the authority having regard to the advice of the external auditor.
- determining requests from departments for the carrying forward of unspent budget provisions from one year to another and reporting any decisions taken to the next available meeting of the Cabinet;
- administering the scheme for transfer of budgets (virements) set out in the Detailed Financial Regulations and Procedures approved from time to time.
- Determining requests for supplementary estimates in accordance with, and to the extent specified in, the protocol for supplementary estimates set out in the Detailed Financial Regulations and reporting any decisions taken to the next available meeting of the Cabinet;
- ensuring that an annual three year (or longer) rolling Capital Programme is prepared in accordance with the financial strategies. Giving advice on the appropriate methods of financing capital expenditure within or subsequently added to that Programme.
- providing financial information to budget holders to enable the budget to be monitored effectively;
- reporting to the Cabinet or Overview and Scrutiny Committee on income and expenditure against budget.

3.6 Leadership Team

Managers are responsible for:

- ensuring that budget and Capital Programme proposals for their services, reflecting agreed service plans and strategies, are prepared for consultation with Members of the Cabinet in accordance with the financial strategies and any guidance issued by the Chief Finance Officer;

- monitoring and controlling income and expenditure for their services, having regard to financial information provided by the Chief Finance Officer;
- ensuring that expenditure is in accordance with the Council's Corporate Plan and agreed service plans and strategies;
- ensure that their budget allocations are not exceeded;
- report promptly to the Chief Finance Officer on any problems or developments that may jeopardise the Council's approved budgets and overall financial position;
- approving virements in accordance with, and up to the limits specified in, the Detailed Financial Regulations subject to consultation with the Chief Finance Officer and the Cabinet where specified in those Financial Regulations.

3.7 Delegated Officers and Budget Holders within the Housing Revenue Account

- Delegated officers and Budget Holders within the Housing Revenue Account (HRA) have power to agree virements in accordance with, and up to the limit specified in, the Detailed Financial Regulations subject to consultation with the relevant managers where specified in those Financial Regulations. In addition, Budget Holders within the HRA have authority to approve the carry forward of unspent HRA budgets to the following financial year in accordance with the provisions of the Detailed Financial Regulations.

4 RISK MANAGEMENT AND CONTROL OF RESOURCES

4.1 The Council

The full Council is responsible:

- for approving a risk management policy statement and strategy and for reviewing the effectiveness of risk management;
- under The Accounts and Audit Regulations 1996, for maintaining an adequate and effective internal audit;
- for approving the policy reports required under the CIPFA Codes for Treasury Management.

4.2 The Cabinet

The Cabinet is responsible for:

- submitting to Council for approval a risk management policy statement and strategy;

- approving corporate plans and policies governing the employment, remuneration, training and development of staff;
- approving the annual treasury management strategy statement.
- abiding by the Council's Risk Management Policy Statement

4.3 Audit Committee

The Audit Committee is responsible for:

- monitoring the performance of internal audit against the annual audit plan;
- receiving risk management information on a quarterly basis
- monitoring the Council's revenue budget and the current year's Capital Programme for both General Fund and Housing Services.
- approving an annual audit plan, submitting to Council an annual report of internal audit activity and receiving reports from the Head of Audit Services on any major issues the Head of Audit Services considers appropriate;

4.4 Chief Executive

The Chief Executive is the officer designated by the Council as the Head of Paid Service and is responsible for providing overall management to staff and for ensuring that there is a proper use of evaluation or other agreed methods for determining remuneration;

4.5 Chief Finance Officer

The Chief Finance Officer is responsible for:

- developing and promoting an effective anti-fraud and anti-corruption policy statement;
- implementing agreed risk management policies and strategies and promoting them throughout her or his Department
- controlling all money in the hands of the authority;
- advising the Cabinet on appropriate policies, strategies and practices under the CIPFA Codes for Treasury Management;
- taking all decisions on borrowing, investment and financing, acting in accordance with the treasury management policy and with the CIPFA Codes for Treasury Management;
- providing internal audit and investigation services, in accordance with annual plans agreed by the Council.

- maintaining effective internal control procedures.
- ensuring that there is adequate separation of duties between (a) the provision of information about sums due to or from the authority including calculating, checking and recording these sums and (b) the duty of collecting or disbursing them.
- ensuring that employees charged with the duty of examining or checking the accounts of cash transactions must whenever possible not be engaged in making these transactions.
- proposing to the Cabinet appropriate risk management policy statements and strategies and promoting them throughout the authority;
- advising on effective systems of internal control to ensure compliance with applicable legislation and best practice, to safeguard public funds and to promote the safe, efficient and effective use of resources.

4.6 Leadership Team

Managers are responsible for:

- establishing sound arrangements for planning, controlling and monitoring their operations in order to achieve effective use of resources and best value;
- implementing agreed risk management policies and strategies and promoting them throughout their Department;
- maintaining risk registers in accordance with Council policies and guidance.
- complying with laid down systems of internal control to ensure compliance with applicable legislation and best practice, to safeguard public funds and to promote the safe, efficient and effective use of resources.
- establishing contingency plans for the security of assets and continuity of services in the event of system failure or disaster;
- advising the Cabinet through service plans annually on the staffing levels and related budgets necessary to implement the Council's programmes and policies;
- ensuring that as far as is practicable, risk of fraud is managed by appropriate separation of duties in respect of financial procedures in accordance with any guidance given by the Chief Finance Officer.

- Completing the Manager's Assurance Statement of Internal Control that is used to inform the content of the Audit Plan.

5 FINANCIAL SYSTEMS AND PROCEDURES

5.1 Chief Finance Officer

The Chief Finance Officer is responsible for:

- the selection, determination and operation of the Council's accounting systems, accounting policies, the form of accounts and supporting financial records;
- undertaking or making arrangements for the payment of salaries, allowances and all claims for expenses to staff and Members;
- undertaking or making arrangements for payments to suppliers and all other payments and for the form of official orders and other documentation required;
- establishing and maintaining procedures for the collection of all income due to the Council and for the receipting thereof;
- approving the writing-off of any amounts owed to the Council that have become irrecoverable or uneconomical to collect and the writing back of income that cannot be identified, allocated or paid out and has not been credited to a Revenue Account.
- advising on and administration of all taxation issues affecting the Council;
- ensuring that an Asset Register is maintained in accordance with good practice and that assets are valued in accordance with the SORP.
- arranging that any trust funds are held, wherever possible, in the name of the authority and are operated within any relevant legislation and the specific requirements of each trust.
- in consultation with the Head of Audit Services, authorising officers to act as signatories for Council cheques or the making of other forms of payment such as electronic transfer.

5.2 Leadership Team

Managers are responsible for:

- the proper operation of financial systems and procedures in their Departments;

- agreeing with the Chief Finance Officer any changes to procedures to meet their own specific service needs;
- ensuring that their staff receive relevant financial training that has been approved by the Chief Finance Officer;
- ensuring that, where appropriate, computer and other data are registered, used and protected in accordance with data protection legislation and that computer software is only used in accordance with relevant licence agreements;
- ensuring that there is a proper scheme of delegation in their Department that identifies staff authorised to act on their behalf in respect of orders, payments and income collection;

7. Contract Procedure Rules

1. INTRODUCTION

- 1.1** In these Contract Procedure Rules the expression “the Council” shall be deemed to include reference to Council, Cabinet or any Regulatory Committee with power to make decisions.
- 1.2** Contract Procedure Rules are formal Rules which exist to ensure that the Council lets Contracts in a fair, consistent, honest, open, transparent and legal manner.
- 1.3** Section 135 of The Local Government Act 1972 requires Local Authorities to introduce and implement Standing Orders for Contracts let “by them or on their behalf for the supply of goods or materials or for the execution of works”.
- 1.4** This document, therefore, constitutes the Council’s Contract Standing Orders pursuant to Section 135 of the Local Government Act 1972.
- 1.5** This edition of the Contract Procedure Rules will apply from May 2022 and supersedes all previous editions.
- 1.6** All Contracts let by the Council will comply with the Local Government Act 1988 (Part II) which lays down general rules as to contracting practice.
- 1.7** Full texts of the legislation referred to above are available on request from the Council’s Legal Team.
- 1.8** All Contracts let will take into consideration the Council’s Commissioning and Procurement Strategy as well as the Council’s Policies on Sustainability and Social Value.
- 1.9** In determining whether a financial threshold has been reached pursuant to Rule 4 below, it is a requirement of these Contract Procedure Rules to aggregate the value of separate Contracts for meeting a single requirement. Conversely, single requirements must not be broken down for the purpose of taking the value below the financial threshold.
- 1.10** Where under any Contract the Council is receiving rather than making payments, these Contract Procedure Rules will be observed as far as possible by the Council, and any breaches will be recorded in writing and reported to Cabinet, if in the opinion of the Proper Officer such a breach may result in an adverse impact on Council functions.

2. BEST VALUE

- 2.1.** In all areas of contract revision to which the Council is either a party or of which it is a beneficiary, regard shall be had to the requirements of economy, efficiency and effectiveness specified in Section 3 of the Local Government Act 1999 (“the Act”) and, in particular, to any performance indicators or performance standards specified by the Secretary of State under Section 4 of the Act.
- 2.2** Contractors, sub-contractors or agents appointed pursuant to a Contract with the Council shall be, throughout the duration of the Contract, under a continuing duty to the Council:

2.2.1 To make arrangements to secure continuous improvement in the performance of its obligations to the Council having regard to a combination of economy, efficiency and effectiveness and, in particular, to any performance indicators or performance standards specified by the Council and the need of the Council to achieve efficiencies and realise value for money;

2.2.2 To supply such information as the Council may from time to time reasonably request relating to the Contract and/or to the performance by that party of its obligations to the Council under that Contract;

2.2.3 To co-operate fully with the Council in discharging the Council's duty under Section 3 of the Act including as and where appropriate:

- setting benchmarks or performance indicators by which to measure performance under the Contract;
- incorporating into the Contract any applicable performance indicators or performance standards specified by the Council, whether prior to or during the course of the Contract;
- establishing performance plans for the Contract either alone or together with other similar or related Contracts;
- Undertaking regular periodic reviews of the performance of the Contract.

3. DEFINITIONS

3.1 "Proper Officer" shall mean the Chief Executive, a Strategic Director or any Head of Service or such other Officers who have specifically been given authority in writing by way of delegated authority.

3.2 Not used.

3.3 "Best price/quality ratio" means evaluation based on criteria such as qualitative, environmental and/or social aspects and may include for example: technical merits, aesthetic and functional characteristics, social and environmental characteristics as more particularly set out in Regulation 67 of the Regulations and provided it is appropriately linked to the subject matter of the contract.

3.4 "Contract" shall mean a Contract as defined in English Common Law.

3.5 "Contracts Finder" means the Governments web-based portal provided on behalf of the Cabinet office www.gov.uk/contracts-finder. All procurements that are advertised and exceed £25,000 net of VAT shall also be advertised on Contracts Finder.

3.6 "Cost effectiveness approach" means cost or price and may include (so long as it is appropriately linked to the subject matter of the contract) life cycle costing such as all consecutive and/or interlinked stages, including research and development, production, trading and its conditions, transport, use and maintenance, throughout the existence of the product, the works or the provision of the services from raw material acquisition or

generation of resources to disposal, clearance and end of services or utilisation. It may also include greenhouse gases and pollutant emissions.

- 3.7** “Emergency” shall mean a situation which has arisen where in the opinion of the Proper Officer it has been brought about by events unforeseeable by and not attributable to the Council and where there is a real and immediate danger to health and safety, a need to protect the public or Council operations or Council’s interests or reputation and procuring goods, works or services is immediately necessary in order to deal with the emergency.
- 3.8** “E-Tendering” shall mean electronic procurement pursuant to Regulation 22 of the Regulations and Rule 34 below
- 3.9** Not used.
- 3.10** “Open Tender” shall mean tendering in accordance with Rule 16.4 below.
- 3.11** “Project” shall mean a sequence of related activities which are designed to achieve a defined outcome/change in service.
- 3.12** “Partnership” shall be a joint working arrangement where the partners:
- Are otherwise independent bodies
 - Agree to co-operate to achieve a common goal
 - Create a new organisational structure or process to achieve a goal
 - Plan and implement a jointly agreed programme, often with joint staff or resources
 - Share relevant information and
 - Pool risks and reward
- 3.13** “The Most Economically Advantageous Tender” means that tenders will be evaluated on the basis of: price or cost or best quality ratio. Where quality evaluations are made, these are to be scored blind of price. Where cost or price is the basis of evaluation the “cost-effectiveness approach” must be used. Whichever evaluation basis is used the criteria must be linked to the subject matter of the contract pursuant to Regulations 67 and 68 of the Regulations.
- 3.14** “The Regulations” means the Public Contracts Regulations 2015.
- 3.15** “Schedule 3 Services” otherwise known as “light touch regime services” referred to in the Regulations are contracts for services for £213,477ⁱ or more which must be advertised in Find a Tender (FTS) containing information listed in Annex V Part H or Part I as set out in Schedule 5 of the Regulations and which must also be advertised on Contracts Finder.
- 3.16** “SME” means small or medium-sized enterprises.
- 3.17** “Tender” shall mean any written, binding offer to supply materials, goods, supplies, services or works in the manner laid down in these Contract Procedure Rules relating to Contracts and whose value exceeds £50,001 inclusive of VAT.
- 3.18** “Quotation” shall mean any offer, whether written or verbal, to supply materials, goods, supplies, services or works in the manner laid down in these Contract Procedure Rules relating to Contracts and whose value does not exceed £50,000 inclusive of VAT.

- 3.19** “Serial Programme” shall mean any goods, works or services of a similar nature which are provided over a twelve month period, the total value of which exceeds the limit for which Tenders would normally be obtained.

4. FINANCIAL THRESHOLDS

- 4.1** Where values appear in these Contract Procedure Rules, these include VAT unless otherwise stated. Contract values have been given financial thresholds as follows:-

Low Value	-	up to £10,000
Medium Value	-	£10,001 up to £50,000
High Value	-	£50,001 and over

- 4.2** The following values were published in The Public Procurement (Agreement on Government Procurement)(Thresholds)(Amendment) Regulations 2021 (“2021 Regulations”). These thresholds are now **inclusive** of VAT:

£5,336,937 ⁱⁱ	(Works Contracts)
£213,477 ⁱⁱⁱ	(Supplies and Services Contracts)

- 4.3** These Contract Procedure Rules will be reviewed annually by the Council, when new Regulations are published or when new thresholds are implemented and will be available on the Council’s Intranet.

5. COMPLIANCE WITH CONTRACT PROCEDURE RULES/FINANCIAL PROCEDURE RULES AND THE REGULATIONS

- 5.1** All Contracts made by the Council or on its behalf shall comply with these Contract Procedure Rules. The only exceptions to this will be as described in Rule 31 of these Contract Procedure Rules.

- 5.2** Every exception so made on behalf of the Council will be made in consultation with the Head of Law/ Solicitor to the Council or Strategic Director/ Director of Resources with the reasons that justified the exception being made. Procurements made that fail to follow these rules or for which an exception cannot or has not been applied should be reported to the Council at the earliest opportunity with the reasons why the procurement was made and these rules were not followed.

- 5.3** These Contract Procedure Rules set out minimum requirements: higher levels of diligence may be appropriate for specific Contracts.

- 5.4** Proper Officers are responsible for ensuring that relevant legal requirements are complied with, that proper procedures are observed under these Contract Procedure Rules, the Council’s Financial Procedure Rules and the Regulations and that all relevant records are kept and maintained.

- 5.5** The Proper Officer must ensure that a genuine pre-Tender estimate of anticipated costs is prepared and recorded in writing and where appropriate the value of a Contract is ascertained in accordance with the relevant Public Procurement Rules in force at the time.

6. AGENCY WORK

No agency work shall be carried out on behalf of any other organisation without the prior approval of the Council and without adequate Insurance arrangements being put in place.

7. CORPORATE REGISTER OF CONTRACTS and TENDERS

- 7.1** Proper Officers are responsible for ensuring that all contracts over the value of £5,000 relating to their services are entered on the Council's Contract Register. Lower value contracts should also be saved within the register for completeness, if possible. The information shall include the title of the Contract, description of the goods, works and/or services being provided, contract price, start, end and review dates, name of the contractor including company registration number, whether or not the contract was the result of an invitation to quote or invitation to tender and whether the contractor or supplier is an SME.
- 7.2** Proper Officers are also responsible for ensuring that details of all tenders relating to their services are entered on the Council's Register of Tenders. The information shall include title of the procurement, description of the goods and/or services, start, end and review dates and dept responsible for the procurement in order to meet the Council's obligations under the Local Government Transparency Code 2015.
- 7.3** Pursuant to the Local Government Transparency Code 2015 the Council publishes on its website details of its expenditure on goods, works or services in excess of £500. Sole traders or bodies acting in a business capacity with the Council in receipt of payments of at least £500 of public money should expect such payments to be transparent.
- 7.4** The Council's Contracts are open for inspection by the public on the Council's website pursuant to the Local Government Transparency Code 2015.

8. PRE-CONTRACT APPRAISAL

- 8.1** Before inviting Tenders or seeking quotations Proper Officers will ensure that:-

- (i) Any pre-procurement market consultation with a view to preparing for the procurement and informing providers of the Council's procurement plans and requirements which may include the current incumbent:
 - a. does not have the effect of distorting competition and
 - b. does not breach requirements for non-discrimination and transparency and
 - c. avoids any conflicts of interest
 - d. there are no equality issues or issues arising from the processing of personal information

A risk assessment may form part of the pre-contract appraisal to identify the above risks and incorporate steps taken to mitigate against such risks;

- (ii) The proposed Contract is provided for in the appropriate budget;
- (iii) The proposed Contract has been approved by the Council or is

authorised pursuant to the budget process and delegated powers;

- (iv) Proper consideration and compliance with the Council's Project Management Procedures where the proposed Contract forms part of a Project as defined in Rule 3.11;
- (v) Proper technical and financial appraisal of the scheme has been undertaken;
- (vi) In the case of high value Contracts, the Contract planning process allows sufficient time for the Council to decide which form of procurement route will be taken;
- (vii) Appropriate time is made available at each of the key stages, for example, to allow potential contractors to provide a considered response and answer any supplementary questions;
- (viii) Consideration has been given to any equality issues and an Equality Impact Assessment undertaken and that where appropriate consultation with service users has been undertaken;
- (ix) Consideration has been given to the Council's obligations in safeguarding children and vulnerable adults and whether contractors and suppliers should be subject to DBS checks.
- (x) Consideration has been given to any data protection issues in relation to the processing of personal information identified in a Data Privacy Impact Assessment in particular the security of personal information and compliance with the General Data Protection Regulations 2016 and the Council's Data Protection Policy 2018

9. PREPARATION OF TENDER DOCUMENTS

9.1 Tender documentation will normally consist of one or more of the following documents:-

- (i) Drawings
- (ii) Specification
- (iii) Bills of Quantity
- (iv) Standard Terms and Conditions of Contract together with special conditions (if appropriate)
- (v) Selection questionnaire (if appropriate)
- (vi) Invitation to Tender
- (vii) Instructions to Tenderers (may include suitability assessment questions but cannot include a PQQ stage)
- (viii) Evaluation criteria in descending order of importance together with any weightings
- (ix) Insurance requirements
- (x) Collusive Tendering Contract
- (xi) Canvassing Certificate
- (xii) Contract Performance Bond (where appropriate)
- (xiii) Form of Tender
- (xiv) Acceptance documents.

9.2 Other information that will need to be made available to ensure that Contractors' bids reflect service requirements and are competitively priced include the following:-

- (i) The Terms and Conditions under which assets will be made available
- (ii) Workforce information required for the purpose of assessing prospective liability in relation to the possible transfer of an undertaking. To ensure consistency of provision of information, this will be provided by the Proper Officer and not by an existing Contractor;
- (iii) The amount of work likely to be available under the Contract.

9.3 The Proper Officer will ensure that:-

- (a) Ambiguities and contradictions do not occur between documents and information provided;
- (b) Any locally prepared variations to standard documentation are clear and use generally accepted terms;
- (c) Contract terms and conditions and specifications are in the best interests of the Council in respect of quality, cost and performance.

9.4 To ensure consistency and to aid understanding by the Tenderer, Tender documentation will be collated by an experienced Officer who will obtain the advice and approval of the Head of Law/ Solicitor to the Council.

9.5 Tender documents shall be made available electronically for Tenderers at the time of publication on Find a Tender www.gov.uk/find-tender and pursuant to Regulation 22 the Council has switched to fully electronic communication in accordance with Rule 34 below unless Regulations 22(3) or (5) of the Public Contracts Regulations 2015 apply.

10. SELECTION QUESTIONNAIRE

10.1 The Public Contract Rules 2015 lays down the requirements for pre-qualification and selection questionnaires. The Invitation to Quote or Tender for procurements over the threshold of £10,000, suitability assessment questions may be asked of contractors or suppliers.

10.2 Suitability assessment questions must be:

- 11.2.1 relevant to the subject matter of the procurement;
- 11.2.2 proportionate;
- 11.2.3 used to assess whether minimum standards are met

10.3 Responses to suitability assessment questions may only be used to establish whether contractors or suppliers meet minimum standards of suitability, capability, legal status or financial standing and where processing personal data have the appropriate technical and organisational measures in place to comply with the General Data Protection Regulations 2016. All candidates that meet the minimum standards must be invited to bid.

10.4 Selection Criteria shall contain mandatory and discretionary grounds for exclusion pursuant to Regulation 57 of the Regulations.

10.5 Construction prequalification questionnaires should be used for all construction related procurement, specifically PAS91:2013+A1:2017, unless the procurement is being

undertaken within a framework that already has a PQQ process that meets this requirement, for example, Constructionline Silver membership or above.

11. ADVERTISING REQUIREMENTS

- 11.1** Pursuant to the Public Contracts Regulations 2015 the Council is required to advertise contracts and contract award notices with values as follows:
- (a) £25,000 to £50,000 (goods, works and services) on Contracts Finder if the procurement opportunity is published elsewhere such as the Council's website or on a portal
 - (b) £50,001 to £213,477 (goods and services) on Contracts Finder
 - (c) £50,001 to £5,336,937.00 (works) on Contracts Finder
 - (d) £213,477 and above (goods and services) on Contracts Finder and Find a Tender
 - (e) £5,336,937.00 and above (works) on Contracts Finder and Find a Tender
- 11.2** The Council does not specifically require that procurements are published below the threshold of £50,001 however if the procurement is published, it must also be published on Contracts Finder.
- 11.3** Award Notices for all procurements over the threshold of £25,000 must be published on Contracts Finder whether the procurement was advertised or not.

12. CATEGORIES AND FORM OF CONTRACT

- 12.1** All Contracts will be categorised by estimated value into low, medium or high value and this categorisation will determine which of the following sections of these Contract Procedure Rules are followed.
- 12.2** All Contracts including Contracts for Schedule 3 Services "light touch regime" shall comply with the legal obligations of transparency (Rules 8.3 and 8.4), equal treatment (Rule 27), safeguarding (Rule 28) and data protection (Rule 23)(where appropriate). The procurement procedure undertaken will be determined by the Proper Officer as part of the pre-procurement process but must at all times:
- 12.2.1** be documented using Castle Point Project management Toolkit;
 - 12.2.2** all time limits imposed on service providers are reasonable and proportionate.
- 12.3** Every high and some medium value Contracts will:-
- 12.3.1** be in writing and signed by the Chief Executive or Strategic Director or Solicitor to the Council/Head of Law or the Proper Officer or such person authorised by them in writing;
 - 12.3.2** Contain a Specification of the goods, materials and works or services to be delivered or undertaken;
 - 12.3.3** Contain details of the price to be paid to include details of any discounts or deductions;

12.3.4 Contain provisions whereby the Council shall discharge valid undisputed invoices within 30 days and a condition requiring suppliers and contractors to include similar provisions in their contracts where they sub-contract the goods, works or services;

12.3.5 Contain details of the timing of the Contract;

12.3.6 Provide for the following remedies in the event of late delivery, non-delivery or poor performance (default) by the Contractor of the contract goods, materials or services:-

- (a) termination of the contract by the Council either wholly or to the extent of such default;
- (b) the right for the Council to purchase alternative goods, materials or services of the same or similar description, to make good the default or, in the case of termination, the goods, materials or services remaining to be delivered or carried out;
- (c) state that the amount by which the cost of purchasing other goods, materials or services exceed the amount which would have been payable to the contractor shall be recoverable from the contractor.

12.3.7 Provide that the law governing the contract shall be the law of England;

12.3.8 Provide that in the event of dispute between the parties which is incapable of resolution by negotiation shall be referred to a single arbitrator to be agreed by the parties, or in default thereof, to be nominated by the President for the time being of The Law Society or such appropriate body;

12.3.9 Contain provisions enabling the Council to terminate a contract where:

- (a) A contract has been subject to substantial modification which would have required a new procurement process;
- (b) A contractor should have been excluded from the procurement procedure for pursuant to Regulation 57(1) (Mandatory Exclusions) of the Regulations;
- (c) A serious infringement of the obligations under the Regulations that has been declared by the Courts, the result of which the contract should not have been awarded to the contractor.

12.4 The Proper Officer shall ensure that the Contract letting process allows sufficient time for the legal documentation to be completed prior to the commencement of the Contract.

12.5 In exceptional circumstances where it is essential that work starts before formal Contract signing, it may be possible for a letter of intent to be submitted but this must only be done in consultation with the Solicitor to the Council/Head of Law. Any such letter of intent must be in the name of the Chief Executive or Strategic Director or Solicitor to the Council/Head of Law or Proper Officer or such person authorised by them in writing. A letter of intent may be construed as a formal Contract if not drafted appropriately. Letters of intent are only appropriate for works or services to the extent required to carry out emergency works or services where there are implications which may result in death, injury or damage to Council property or to the Council's reputation if the works or services are not executed accordingly.

- 12.6** The practice of split ordering to obviate the need to obtain quotations and Tenders is forbidden however the Council shall where appropriate divide contracts into lots as a means of attracting SME's to bid for the contracts.

13. CODE OF PRACTICE FOR LOW VALUE CONTRACTS NOT EXCEEDING £10,000 (Official Purchase Order).

- 13.1** Official Purchase Orders will only be placed in accordance with these Contract Procedure Rules.

- 13.2** Orders for works, goods or services shall be in accordance with the Council's current procedures issued by the Strategic Director, Resources.

- 13.3** Official orders will be issued for all works, goods or services to be supplied to the Council except:

- ☐ where a formal Contract is entered into by the Council;
- ☐ supplies of public utility services;
- ☐ periodical payments, such as rent or rates;
- ☐ petty cash purchases;
- ☐ where in the opinion of the Proper Officer a failure by the contractor could result in an adverse impact on Council functions in such case a formal written contract will be let;
- ☐ other exceptions approved specifically in advance by the Head of Resources or Solicitor to the Council/Head of Law.

- 13.4** Official Orders will be in a form designed or approved by the Strategic Director, Resources or Financial Services Manager and be approved only by employees authorised* by the Proper Officer who will be responsible for all official orders issued from their Unit.

(*Names and authorisations will be supplied to the Strategic Director, Resources or Financial Services Manager and Audit and updated as necessary).

- 13.5** Orders will be completed in sufficient detail to identify accurately the materials, works or services required including quantities wherever possible and will specify where applicable the quotation, Contract or other Agreement, the price agreed and the approved budget expenditure code against which costs will be charged.

- 13.6** Any Council directions relating to central purchasing, standardisation of supplies to materials, etc., will be complied with and in accordance with the Council's Strategic and Sustainable Procurement Strategy.

- 13.7** In respect of Contracts estimated in value to be £10,000 or less, then quotations from at least one supplier is required, (although it is advisable to obtain at least two written quotes).

- 13.8** Purchase Orders over the sum of £5,000 must be published on the Council's website pursuant to the Local Government Transparency Code 2015

14. MEDIUM VALUE CONTRACTS - £10,001-£50,000.

- 14.1** Contracts with an estimated value £10,001-£50,000 will be deemed medium value Contracts.
- 14.2** The Proper Officer will:
- 14.2.1** invite written quotations from at least three Contractors; or
 - 14.2.2** call off under a Framework Agreement available to the Council;
- 14.3** if no appropriate Approved List is available from which at least three Contractors whom the Proper Officer considers suitable to carry out the Contract where works, supplies or services are clearly identifiable; or
- 14.4** if there is no Framework Agreement available for the Council to call off under or;
- 14.5** where works, supplies or services are of a particularly specialist nature and are only available from one supplier;
- it is permissible to use a supplier identified by the Proper Officer provided that the Proper Officer is satisfied that the price payable is reasonable and offer Best Value to the Council and is pre-quoted in writing.
- 14.6** Not used.
- 14.7** Any quotations must be considered and accepted in accordance with Rule 2 as to Best Value above.
- 14.8** Sufficient time will be allowed for written quotations to be submitted.
- 14.9** A written record will be made of Contractors invited to quote but who failed to do so.
- 14.10** When it is not possible to procure goods, works or services pursuant to Rules 14.2.1 – 14.5 an open tendering process shall be undertaken and where the procurement is over the threshold of £25,000 must be published on Contracts Finder. At least 3 written quotes or tenders shall be sought.
- 14.11** Depending on the complexity of the contractual requirements a formal written contract may not be needed in every case of medium value contracts particularly if the contractual requirements are straightforward and the circumstances present limited risk to the Council. Discussion and agreement should first be obtained from the Solicitor to the Council/ Head of Law.

15. HIGH VALUE CONTRACTS – £50,001 AND OVER

15.1 General.

- 15.1.1** Contracts estimated to have a value of £50,001 and over will be deemed high value Contracts.
- 15.1.2** The Proper Officer will be responsible for exercising their judgement as to the sub-division of work into lots with a view to attracting SMEs and local businesses to bid

for the contract. If the procurement is not sub-divided into lots the Proper Officer is responsible for providing reasons for their decision not to sub-divide the contract which must be incorporated into the tender documents or be published in a report. If over the PCR Thresholds such report must be submitted to the Cabinet Office pursuant to Regulation 84 of the Regulations.

15.1.3 The Proper Officer will invite at least three written Tenders in accordance with one of the methods described in Rules 15.2, 15.3 and 15.4 below, in accordance with the decision of the Council to let the contract.

15.1.4 Proper Officers will ensure that sufficient time is allowed for the preparation of Tenders, having regard to the value and complexity of the subject of the Contract. This will normally be not less than twenty eight days. Invitations to Tender will be sent out by the Proper Officer Using the Council allocated e-tendering solution.

15.1.5 Tender documentation in accordance with Rules 15.1.3 and 15.1.4 above should be sent to all Contractors who express an interest in bidding for the contract.

15.2 Approved Lists

15.2.1 Where the Council maintains in any given area of its functions a List of Contractors it shall nominate an Officer to be responsible for its compilation, review and maintenance.

15.3 External Approved List (compiled with or by another Authority, Consortium of Authorities or Central Government)

15.3.1 These Contract Procedure Rules recognise that with a view to improving the efficiency and effectiveness of procurement and in order to obtain the maximum benefits from procurement, collaborative working arrangements are essential as provided for within the Council's Strategic Procurement Strategy;

15.3.2 Prior to selecting a Contractor from an External Approved List, Framework or Dynamic Purchasing Solution the Proper Officer must be satisfied that the Contractors' current financial standing and technical capacity to complete the Contract satisfactorily has been appraised by another Authority, Consortium of Authorities or Central Government before the Contractor has been placed on the External Approved List and such External Approved List is reviewed regularly (preferably at least every 3 years, or inline with the terms of the agreement).

15.4 Open Tendering

15.4.1 Open tendering is generally desirable only where the Council does not have access to a Framework Agreement or Dynamic Purchasing Solution or does not have an appropriate Approved List.

15.4.2 Pursuant to Regulation 22 the Council has switched to fully electronic communication in accordance with Rule 34 below unless Regulations 22(3) or (5) of the Public Contracts Regulations 2015 apply. Tender documents shall be made available electronically for Tenderers at the time of publication pursuant to Rule 15.4.3 below.

15.4.3 For below Threshold contracts the Proper Officer will invite Tenders by giving at least ten days public notice before the closing date for receipt of Tenders by publishing on Contracts finder.

15.4.4 The Proper Officer must be satisfied with the financial standing and technical capability of the successful Contractor in accordance with Rules 16.2.4, 16.2.5 and 15.2.6 above before any Contract is awarded subject to compliance with Regulations 107 to 111 of the Regulations.

15.5 Submission of Tenders

15.5.1 Above threshold tenders will be considered only if they are submitted electronically

15.5.2 Any Tenders received after the closing date and time for receipt of the Tender may not be considered.

15.5.3 The Council has switched to fully electronic communication in relation to Tenders pursuant to Rule 34. Rule 15.5.1 will be superseded by Rule 34 unless Regulation 22(3) or (5) of the Public Contracts Regulations 2015 apply.

15.6 Opening of Tenders

15.6.1 All Tenders will be opened following closure date/time of the tender opportunity by the Proper Officer.

15.6.2 The Council has switched to fully electronic communication pursuant to Rule 34 in relation to the Opening of Tenders as a result Rule 15.6.1 will be superseded by Rule 34 unless Regulation 22(3) or (5) of the Public Contracts Regulations 2015 applies.

15.7 Evaluation of Tenders and Correction of Errors

15.7.1 Tenderers must complete all parts of the Tender documentation required to be completed. Any omissions are likely to render a Tender null and void with no further consideration given.

15.7.2 Tender evaluation will be carried out by at least the Proper Officer and where possible supported by an evaluation panel. The Proper Officer will ensure that Tenders are compared impartially and on the same criteria, with a view to securing the most economically advantageous Tender.

15.7.3 The Council shall exclude Tenderers where the Council has been made aware that a Tenderer is subject to the mandatory exclusion grounds pursuant to Regulation 57(1)-(4) of the Regulations provided such exclusion is proportionate to the aims the contract is seeking to achieve and the Tenderer has not provided sufficient evidence that the Council is satisfied that it has taken steps to remedy the wrong “self clean”.

15.7.4 The Council may exclude Tenderers where the Council has been made aware that a Tenderer is subject to the discretionary exclusion grounds pursuant to Regulation 57(8) of the Regulations where the Council is satisfied that any of the situations in which the

Tenderer was involved as set out in Regulation 57(8) would affect the ability of the Tenderer to fulfil its obligations under the Contract if it were awarded to the Tenderer.

15.7.5 All Tenders containing figures, including Bills of Quantities, shall be checked for arithmetical accuracy.

15.7.6 All tender evaluation spreadsheets are to be checked for build (arithmetic and logic) by a person independent of the preparer or Proper Officer, and then to have the formulae cells locked down (password protected) prior to providing it to the evaluators.

15.7.7 The Tenders received will be evaluated to ascertain the most economically advantageous tender (or lowest tender depending on the basis of evaluation set out in the tender documentation) paying particular attention to rates and prices, percentage adjustments, balancing items, ambiguities, qualifications and alternative offers. The evaluation is recorded as an accurate record by the Proper Officer and all those on the evaluation panel.

15.7.8 If a Tender is found to contain ambiguities or arithmetical errors, the Tender total will be corrected and the Tenderer notified accordingly. If, in the Proper Officer's opinion, any tendered rate is considered unrealistic, the Tenderer may be given the opportunity of confirming the rate or withdrawing the Tender. In order to preserve parity of tendering, amendment to Tender rates after submission of Tenders will not be permitted. If the Tenderer withdraws or the corrected Tender is no longer the most economically advantageous, the next most economically advantageous Tender will be examined and dealt with in the same way.

15.7.9 There will be no changes in the Specification in any dealings with Tenderers after Tenders have been opened. Where post-Tender negotiations are necessarily undertaken, no Tenderer will be given an opportunity to reconsider a Tender on the original Specification unless similar opportunities are given to all Tenderers.

15.7.10 Not Used.

15.7.11 The Proper Officer will compile a report on the evaluation of the Tenders contrasting the tendered amounts with the original estimate containing the information contained in Rule 15.7.7. This report will form the basis for acceptance of the preferred Tender to be reported to the Council and first having had the written approval of the Strategic Director, Resources.

15.7.12 The report to Council referred to in Rule 15.7.11 should include at least the following:

- 15.7.12.1** the full financial implications expressed as relevant financial values, particularly where this information may influence the decision which Members are invited to make;
- 15.7.12.2** whether the financial implications are to be funded by the Council or a third party;
- 15.7.12.3** whether the financial implications are to be accommodated from within existing budgets (default position) or whether additional funding is required (exception basis only).

15.8 Late or Incomplete Tenders

Late Tenders cannot be considered or accepted whilst using the electronic tendering system. Incomplete submissions should not be accepted.

15.9 Acceptance of Tenders

15.9.1 The Proper Officer may accept the most economically advantageous tender received on behalf of the Council provided that:-

- (i) It is within the approved estimate;
- (ii) The appropriate authority has been given by members
- (ii) The acceptance is reported to the Council as soon as is practicable

In all cases, the Proper Officer will cause a written record to be made recording the preferred Tenderer as part of the evaluation process referred to 15.7.6, along with the names of all Officers and Members involved in the decision making process.

15.9.2 The successful Tenderer will be notified promptly following the decision to accept its offer.

15.9.3 Where the most economically advantageous tender is outside the approved estimate provision the Proper Officer will either:-

- (i) Write to all Tenderers explaining the situation and giving them the opportunity to lower their Tenders to within the approved estimate; or
- (ii) Report to the Council requesting an increase in the estimate provision; or
- (iii) Report to the Council requesting authority to revise the Specification and seek new Tenders. If it is decided to re-tender, all previous Tenderers shall be asked to tender again and no Tenderers shall be given any information about any of the first Tenders.

15.9.4 Once the Contract has been let, all unsuccessful Tenderers will be notified of the results. The letter of acceptance will not seek to qualify the terms and amounts previously tendered by the Contractor.

15.9.5 Whilst a letter of acceptance establishes a legally binding Contract a formal written Contract signed by the Chief Executive or Strategic Director or Solicitor to the Council/Head of Law and signed or sealed by the successful Tenderer is nonetheless required under these Contract Procedure Rules.

15.9.6 For Contractors who did not tender, a questionnaire may be sent to them inviting them to give reasons.

17. SUB-CONTRACTORS TO MAIN CONTRACTORS.

- 17.1** The Tender will require contractors or suppliers to indicate their proposed sub-contracting arrangements.
- 17.2** The contract to the contractor shall provide that contractors or suppliers are required to replace sub-contractors to whom the mandatory exclusion grounds pursuant to Regulation 57(1) apply.
- 17.3** The Tender will provide that the consent of the Council is required if the main Contractor intends to sub-contract.

18. LIQUIDATED DAMAGES.

- 18.1** Where the estimated amount of a Contract exceeds £50,000, provision may be made in the Contract for payment of liquidated damages or other compensation to be paid by the Contractor where the Contractor fails to complete the Contract within the time specified or fails to perform the contract in accordance with the Contract terms.
- 18.2** The methodology for calculating the amount of liquidated damages will be determined by the Proper Officer and set out in the tender documents.

19. PERFORMANCE BONDS.

- 19.1** Where the estimated amount of a Contract exceeds £50,000 in relation to Contracts for works and services the Proper Officer may require the Contractor to provide a Bond or other security. Any decision not to require a Bond will be recorded in writing.
- 19.2** If a Bond or other security, for example, retention, is deemed necessary, the amount will be at the discretion of the Proper Officer but will usually be at least 5% of the Contract sum

20. INSURANCE

- 20.1** Prior to letting a Contract, the Proper Officer will ensure that the Contractor holds adequate Insurance policies to include, Employers Liability Insurance and where appropriate, Professional Indemnity Insurance and Public Liability Insurance, which will protect the Council's interests and cover all potential losses that may arise. An adequate level of Insurance will be determined in consultation with the Head of Resources.
- 20.2** For Contracts of long duration, the Proper Officer will make and record such checks in consultation with the Strategic Director, Resources as are necessary to ensure that the Contractor's Insurance policies are still in force.

21. AVOIDANCE OF CORRUPT OR RESTRICTIVE PRACTICES

- 21.1** All Contractors submitting a Tender or request for inclusion will sign a Declaration that:-

- (i) They will not communicate the amount of the proposed Tender to anyone except the Council;
- (ii) They will not receive details of a proposed Tender from any other Contractor.
- (iii) They will not adjust the amount of a proposed Tender as a result of an arrangement with any person other than the Council;
- (iv) They will not agree with any other person:-
 - (a) The amount of the proposed Tender
 - (b) Not to tender.

21.2 If the Contractor breaches these conditions, the Proper Officer concerned will be informed so that relevant action can be taken to include reporting to the Council.

22. ASSIGNMENT

All Contracts will include provision preventing assignment of Contracts except with the written permission of the Council.

23. FREEDOM OF INFORMATION AND DATA PROTECTION

23.1 All Contracts will include a provision:

23.1.1 That the Contractor shall comply with the provisions of the Data Protection Act 2018 and General Data Protection Regulations 2016 (as amended from time to time) and shall indemnify the Council against any loss, damage or expenses which may be incurred as a result of any breach;

23.1.2. That the Contractor will follow all procedures and controls and safeguards as determined by the Council if processing personal information in accordance with the Contract that is subject to the provisions of the Data Protection Act 2018 and General Data Protection Regulations 2016 (as amended from time to time);

23.1.3 That the Contractor will consent to disclosure of any information contained in the Contract where such disclosure is required under the Freedom of Information Act 2000 (as amended) or such other statute having like effect or to the Council's Auditors, H M Inspector of Taxes, H M Custom and Excise and any other person or bodies having a right, duty or obligation to know the Council's business.

24. COUNCIL'S WHISTLE BLOWING POLICY

24.1 The Contractor's attention should be drawn to the Council's Whistle Blowing Policy which can be found on the Council's website which is intended to encourage and enable Council Staff as well as staff of suppliers and contractors or organisations providing goods and services to the Council to raise serious concerns with the Council.

24.2 The Whistle Blowing Policy provides a mechanism should the Supplier have concerns that the Council:

- (i) has acted unlawfully;
- (ii) is or has provided a service falling below established standards;

- (iii) committed an act of impropriety;
- (iv) put the health and safety of people at risk.

25. CANCELLATION AND DETERMINATION

- 25.1** All Contracts will include provision stating that the Council may cancel the Contract and recover from the Contractor any loss arising from the cancellation, if it is proved that the Contractor or any person employed by him has received or offered any consideration other than that properly due under the Contract.
- 25.2** In the event of the Proper Officer considering it necessary to determine a Contract, the Proper Officer will discuss the proposed course of action with the Solicitor to the Council/Head of Law and the Proper Officer will submit a report to the Council.

26. COMPLIANCE WITH BRITISH STANDARDS AND QUALITY OF WORK, GOODS, ETC

- 26.1** All Contracts will require that all works carried out or goods supplied conform to the current British Standard Specification or Code of Practice or equivalent, if such exists.
- 26.2** Reference will be made in Contract documentation to specific British Standards or Standards as appropriate to more clearly define the scope of the Contract.
- 26.3** Arrangements must be made to check work done and supplies received and Contractors must be notified of defects immediately in writing. Payment should not be made for defective works or supplies.
- 26.4** When preparing specifications care should be taken to ensure that such specification is not so prescriptive to lead any potential Tenderer to the view that the Council has a preference for a particular supplier.

27. EQUALITY

All contracts will require the Contractor to positively promote equality and to comply with the Council's equality policies including contributing to the Council fulfilling its legal obligations under equality legislation.

28. SAFEGUARDING CHILDREN AND VULNERABLE ADULTS

- 28.1** The Council has a statutory obligation to co-operate with Essex County Council in discharging its duties in relation to children's services and to promote the well-being of children and young people. Essex County Council is also the lead agency for the protection of vulnerable adults. The Council has adopted a Safeguarding Policy for Children, Young People and Vulnerable Adults and in procuring services the Council shall ensure that contractors and suppliers are aware of the Council's statutory obligations and where appropriate will be subject to CRB checks. When procuring services the Council shall:

- 28.1.1** ensure that all contractors and suppliers appointed by the Council are made aware of the Council's safeguarding policy and

- 28.1.2** that those contractors or suppliers providing “regulated activities” or have been identified as providing direct services to children or vulnerable adults where appropriate are CRB checked;
- 28.1.3** all procurement processes specifically identify whether services are providing “regulated activities” or services direct to children and/or vulnerable adults and if so DBS checks are undertaken in relation to staff employed by contractors or suppliers where appropriate.

29. ARBITRATION/ALTERATIVE DISPUTE RESOLUTION

- 29.1** The contract will provide that the law governing the contract shall be the law of England.
- 29.2** The contract will provide that any dispute between the Council and the Contractor which is incapable of resolution by negotiation shall be referred to a single arbitrator to be agreed by the Council and the Contractor, or in default thereof to be nominated by the President for the time being of The Law Society or such appropriate body.

30. APPOINTMENT OF CONSULTANTS.

- 30.1** Consultants will only be used if, in the opinion of the Proper Officer the work cannot be handled by Council Officers.
- 30.2** Appointment of Consultants shall be made having regard to Rule 2 as to Best Value and the financial thresholds contained in Rules 4.1 and 4.2 above and compliance with the relevant Rules in relation to those financial thresholds
- 30.3** The appropriate Professional Institution or Trade Association will be contacted to verify a Consultant’s qualifications prior to their engagement.
- 30.4** The Council must have resolved to support a Project in principle before Consultants are appointed. A note will be placed on each Project’s file stating:-
- (i) Why it was necessary to use an external Consultant;
 - (ii) The brief for the project;
 - (iii) The brief for selecting the Consultant and how this was met;
 - (iv) Those Officers involved in the selection process
- 30.5** Where Consultants are employed by the Council, the Proper Officer will ensure that the requirements of Rule 30.6 below are written into the terms of their engagement and will verify that this has occurred.
- 30.6** Any Consultant who is to be responsible for supervising any stage of the Contract process on behalf of the Council will:-
- (i) Comply in all respects with the Council’s Contract Procedure Rules and Financial Procedure Rules and Regulations, Council Project Management Handbook and Council’s Procurement Strategy;
 - (ii) Hold, where appropriate an adequate level of Professional Indemnity Insurance to cover any potential loss that may arise;

- (iii) Produce all records maintained by them relating to the Contract to the Proper Officer whenever requested during the currency of the Contract;
- (iv) Pass all relevant records to the Proper Officer on completion of the Contract;
- (v) Report to the Proper Officer when requested to do so during the currency of the Contract.

30.7 For all types of Consultants, the Proper Officer will:-

- (i) Ensure that consultancies can be properly funded, within an approved budget and expenditure code;
- (ii) Provide a written report to the Council's Head of Resources prior to appointment of the Consultant setting out:
 - a. Why it is necessary to use an external Consultant;
 - b. A summary of the project;
 - c. Brief for selecting the Consultant and how this was met;
 - d. Officers involved in the selection process
- (iii) Consider the kind of Contract and how payments will be made;
- (iv) Draw up a written Contract with any Consultants employed;
- (v) Appoint a project Officer to manage and monitor each consultancy project in accordance with the Council's Project Management Handbook;
- (vi) Ensure that all documentation relating to a proposed consultancy is drawn up in consultation with the Council's Solicitor to the Council/Head of Law;
- (vii) Comply with the Council's Project Management Handbook.

30.8 When grants are awarded to outside bodies for feasibility studies, the Organisation concerned will be responsible for appointing and monitoring the Consultants. Grant funded projects agreed by the Council should proceed without variation to the brief which would result in the Council incurring extra costs.

31. EXCEPTIONS.

31.1 In rare circumstances Contract Procedure Rules relating to Contracts will not apply if:-

- (i) The Proper Officer is satisfied that there is no genuine competition. For example, where:-
 - (a) The goods or materials are proprietary articles or are sold only at a fixed price and no satisfactory alternative is available;
 - (b) The price of goods, materials or services is wholly controlled by Trade organisations or Government order;
 - (c) The goods, materials or services are required for repairing, updating or servicing existing specialist plant or equipment;
 - (d) The work is to be carried out by public service providers, e.g. gas, water, electricity.
- (ii) The proposed Contract for the execution of work or service forms part of a serial programme, the terms having been negotiated with the Contractor on the basis of

the rates and prices contained in an initial Contract awarded competitively following an invitation to tender in accordance with the provisions of Rule 16 above.

- (iii) The goods, materials or services are required due to an emergency;
 - (a) The Proper Officer can take action pursuant to Rule 3.7 above;
 - (b) Emergency action must be taken only following consultation with the Strategic Director, Resources and the Solicitor to the Council/Head of Law whose views must be sought and obtained in writing;
 - (c) It is the responsibility of the Proper Officer to be satisfied that the circumstances are sufficient to be classified as an emergency pursuant to these Contract Procedure Rules.
- (iii) The Proper Officer considers that significant financial loss or damage to the image or reputation of the Council may be incurred if the letting of the Contract is delayed.
- (iv) The value of the contract is below the Low Threshold and it is highly likely that any financial savings and quality changes would be marginal but disruption to services through change of provider would be significant.

In all cases the Proper Officer should be satisfied that the Council is achieving Best Value even when procuring goods, materials or services using an exemption under these Contract Procedure Rules.

In all cases the Proper Officer shall determine when an exception applies in consultation with the Solicitor to the Council/Head of Law or Strategic Director, Resources providing details as follows:

- (i) Description of procurement
- (ii) Date of consideration
- (iii) Proper officers name and role
- (iv) Reason for applying the exception
- (v) A statement that the Proper Officer considers that the exception applies
- (vi) Approval/non-approval by the Solicitor to the Council/Head of Law or Strategic Director, Resources
- (vii) Date of Approval/non-approval by the Solicitor to the Council/Head of Law or Strategic Director, Resources

The Proper Officer shall be responsible for retaining a record of all exceptions.

- 31.2** Where the Council carries out work using a standard form of Contract (e.g. Institution of Civil Engineers Conditions of Contract) procedural requirements may differ slightly to those laid down in these Contract Procedure Rules. For Constructions works, the Council uses the standard form JCT Contracts.
- 31.3** The Council may directly award a contract to another public body provided the conditions referred to in Regulation 12 of the Regulations are met
- 31.4.** The Council may enter into a shared services arrangement or delegate functions and services pursuant to the Local Government Act 1972 with or to another public body

32. PROJECT CONTROL

The Proper Officer shall be responsible for ensuring that all Projects comply with the Council's Project Management Methodology and Toolkit, as contained within the Council's Project Management "Easy Read" Guide Handbook.

33. PREVENTION OF BRIBERY

33.1 Every Contract must include a clause allowing the Council to cancel the Contract and to recover from the Contractor the amount of any loss resulting from such cancellation if the contractor has:-

- (a) directly or indirectly offered, promised or given any person working for or engaged by the Council a financial or other advantage to:
 - i. induce that person to perform improperly a relevant function or activity; or
 - ii. reward that person for improper performance of a relevant function or activity;
- (b) directly or indirectly requests or agrees to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the contract
- (c) commits any offence:-
 - i. under the Bribery Act 2010;
 - ii. under legislation creating offences concerning fraudulent acts;
 - iii. at common law concerning fraudulent acts relating to the Contract or any other contract with the Council; or
 - iv. defrauding, attempting to defraud or conspiring to defraud the Council

34. ELECTRONIC PROCUREMENT

34.1 The Council has switched to fully electronic communication in relation to its procurement procedures unless Regulation 22 (3) or (5) of the Public Contracts Regulations 2015 applies in relation to an individual procurement

34.2 Electronic communication in relation to the procurement process requires:

- (a) all requests to participate, invitations to tender, all tender and contract documents are made available electronically through the BIP Portal at the time of the initial notice
- (b) all tenders submitted by those seeking to tender must be returned electronically through the BIP Portal
- (c) no access to any submission through the BIP Portal is permitted until the pre-determined opening date and time has lapsed
- (d) all correspondence between the Council and those seeking to bid must communicate via the BIP Portal and all correspondence relating to the tender process logged automatically on the BIP Portal
- (e) evaluation of tenders will be undertaken and uploaded electronically
- (f) access to the tenders following lapse of the pre-determined opening date and time will be to the Proper Officer nominated and their evaluation panel (if applicable) in relation to the specific tender process

35. PARTNERSHIPS

- 35.1** For the avoidance of doubt when the Council is involved in a partnership where there is consideration payable to the Council or on behalf of the Council then the Council Contract Procedure Rules will apply as for any other Contract. However the Council may waive these Contract Procedure Rules where compliance could jeopardise the Council's corporate objectives and priorities as identified in the Council's Corporate Plan.
- 35.2** Where the Council on its own is involved in a joint working arrangement with a Contractor (e.g. IT Contract) these Contract Procedure Rules apply but to facilitate partnership negotiations and openness the process prior to tender may provide for flexibility subject to Council's approval (2 stage approach) and in cross reference with the Council's Partnership Strategy.
- 35.3** No waiver of the Council's Contract Procedure Rules will be made in relation to Partnerships other than by resolution from Cabinet.
- 35.4** The Council is subject to increasing expectations of probity, transparency and scrutiny. The Council, its officers and elected members have to comply with a wide range of statutory provisions and non-statutory requirements (eg codes of practice etc). The Council expects the same of its partners whether they are from the voluntary or business sectors. Accordingly all partner organisations are expected to meet the same levels of governance standards as the Council itself such as employment of staff who work with the utmost integrity and do their best for the people they serve and Partners who ensure that public funds are used to the best effect and never misused and to understand and act in accordance with the Nolan Principles.

36. FRAUD & CORRUPTION

- 36.1** The Council is committed to an effective anti-fraud and corruption strategy which is designed to:
- (i) encourage prevention;
 - (ii) facilitate detection;
 - (iii) provide prompt investigation.
- 36.2** The Council's anti-fraud and corruption procedures are designed to frustrate any attempted fraudulent or corrupt act and cover:
- (i) values and commitment;
 - (ii) prevention;
 - (iii) detection and investigation;
 - (v) training.
- 36.3** As the Council's affairs are open to scrutiny by a variety of external bodies and people including:
- (i) An external Auditor;
 - (ii) The Public via the Council's Complaints procedure;
 - (iii) Local electors via the Annual Inspection of Accounts;
 - (iv) The Business Community via the Annual business Consultation;

- (v) Her Majesty's Revenues & Customs;
- (vi) Dept for Works and Pensions.

36.4 The Council through its Internal or External Auditors may request information relating to the Contract pursuant to the provisions of Rule 36.3 above and Contracts entered into by the Council shall provide that contractors, suppliers or consultants shall provide the Council's Internal or External Auditors with the information forthwith upon request.

8. Officer Employment Procedure Rules

1. Definition

These Rules apply to all employees of the Council, and all references to 'officers' should be interpreted as referring to those employees.

2. 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 of 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) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No councillor will seek support for any person for any appointment with the Council.

3. Recruitment of Head of Paid Service and Statutory Officers

Where the Council proposes to appoint a Statutory 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 (a) to be sent to any person on request.

4. Appointment of Head of Paid Service

The full Council will approve the appointment of the Head of Paid Service following a recommendation made by an appointment panel set up by the Council.

5. Appointment of Statutory Officers

An appointment panel set up by the Council will appoint statutory officers.

6. Other appointments

- (a) **Officers other than statutory officers.** Appointment of officers below statutory officer 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 the wishes of that political group.

7. Disciplinary action

- (a) **Head of Paid Service, Monitoring Officer, and Chief Finance Officer.**
 - (i) Any form of disciplinary action in relation to a statutory officer shall properly conform with the provisions which are contained in the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and will fully comply with the council's relevant HR policies and procedures.
 - (ii) **Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may only be suspended in accordance with the relevant regulations. Any suspension will be on full pay and last no longer than 3 months.
 - (iii) **Independent person.** No disciplinary action may be taken in respect of any of those officers except in accordance with relevant regulations and after proper consultation with the Independent Person.

- (b) **Other staff**

The Head of Paid Service and other members of the Leadership team have the authority to dismiss staff following disciplinary action.

Part 5

Codes and Protocols

1. 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.

2. Councillor Code of Conduct

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 subcommittee 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 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 s 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 your 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 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:

7.3 I undertake Code of Conduct training provided by my local authority.

7.4 I cooperate with any Code of Conduct investigation and/or determination.

7.5 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

7.6 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.

The Annex 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.

ANNEX – Registering and Disclosing 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 of **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 of **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, 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

3. Protocol and Code of Conduct for Planning Matters

Part 1

1. Introduction

- 1.1 The aim of this Code is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way.
- 1.2 The key purpose of planning is to regulate the development and use of land in the public interest.
- 1.3 Members and Officers have different, but complementary roles both serving the public, but members are responsible to the electorate, while officers are responsible to the Council as a whole.
- 1.4 The role of a Member of a Planning Authority is to make planning decisions openly, fairly, transparently, impartially, with sound judgement and for justifiable reasons.
- 1.5 This Code applies to Members at all times when involving themselves in the planning process. This includes both decision making meetings of the Council and less formal, such as meeting with officers or the public and consultative meetings.
- 1.6 Both Members and Officers are guided by codes of conduct.
- 1.7 Further guidance for members is found in the Development Management Committee (DMC) Handbook which sets out the duties and responsibilities of DMC members, skills and attributes, culture, and behaviors as well as the call-in procedure.

2. General principles

2.1 Members Shall: -

- At all times act within the law and in accordance with this Code and the Councillor Code of Conduct.
- Support and make decisions in accordance with the Council's planning policies/Central Government Guidance, Local Government Association Guidance Probity in Planning and material planning considerations.
- Declare any disclosable pecuniary interests, any other pecuniary interests or non-pecuniary interests.
- Not become involved with a planning matter where they have a disclosable pecuniary interest or an interest in which a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant that it would be likely to prejudice the judgement of the member.
- Not disclose to a third party or use to personal advantage any confidential information.
- Not accept gifts and hospitality offered from applicants, agents or objectors outside of the strict rules laid down in the Councillor Code of Conduct.

2.2 In Committee Members must:-

- Base their decisions on material planning considerations.
- Not participate in any discussion or vote if they have a disclosable pecuniary interest in a planning matter and withdraw from the meeting.
- Not participate in any discussion or vote if they have an interest that would reasonably be regarded by a member of the public as so significant that it would be likely to prejudice the judgement of the member and withdraw from the meeting.
- Through the Chairman give details of their planning reasons for departing from the Officer recommendation on an application which will be recorded in the Minutes.
- Give officers the opportunity to report verbally on any application.

2.3 Members should:-

- Not depart from their overriding duty to act in the interest of the community as a whole.
- Not become associated, in the public's mind, with those who have a vested interest in planning matters.
- Take care when being lobbied not to express an opinion on a planning application which could be construed as having made up their mind. (See Paragraph 13 and Part 4 "Lobbying").
- Not depart from this Code and/or the Local Government Association Guidance on procedures at site visits. (See Paragraph 9 of part 2 and Part 3 "Site Visits").
- Not put pressure on Officers to achieve a particular recommendation.
- Be circumspect in expressing support or opposing a Planning proposal until they have all the relevant planning information.
- Attend committee Site visits when so arranged.
- Attend training sessions on planning matters.

2.4 Officers must: -

- Give objective, professional and non-political advice on all planning matters.
- Put in writing to the Committee any changes to a printed recommendation appearing in the Agenda.

Note : Disclosable Pecuniary Interests

A Member has a disclosable pecuniary interest in a matter if the interest is one to which Table 1 of the Councillor Code of Conduct applies, or in the case of a non-pecuniary interest as contained in paragraphs 7 to 9 of Appendix B of the

Councillor Code of Conduct where a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice the Member's judgement of the public interest.

Part 2

1. Planning Code of Good Practice

1.1 Introduction

Members' conduct is governed by the Councillor Code of Conduct and Officers' conduct is covered by the Code of Conduct for Staff contained in the Council's Constitution.

1.2 The Council wants to ensure that all planning decisions are made according to clear procedures that are known to all users of the Planning system. In this Code references to the "Development Management Committee" means the Development Management Committee or Full Council when a planning matter has been referred to it pursuant to the Council's Constitution. The principles also apply to Public Consultation Meetings, Working Parties, Panels that may deal with planning matters and meetings between Members, Applicants and other interested parties and site visits.

1.3 Planning decisions must be made on an objective basis according to proper procedures. Members of the Development Management Committee are elected to represent the whole community in planning matters. In deciding on planning applications Members must take into account any relevant views expressed by neighbouring occupiers, local residents and other third parties, together with all other material planning considerations, including Central Government policy and guidance and the Council's own Local Plan.

1.4 Members of the Development Management Committee attend the Committee as Borough Councillors and not as Ward Councillors and their role is to act independently and take decisions in the best interest of the Borough as a whole, and to implement the Council's policies as set out in the development plan.

1.5 Planning decisions involve balancing a number of matters. This Code aims at fairness for all concerned in the planning process so that decisions are made according to proper planning principles and not in response to the undue influence of individuals or groups or the personal interests of Members or Officers.

1.6 Members who do not abide by this Code, The Development Management Committee Handbook and the Councillor Code of Conduct and who fail to follow the principals and guidance set out may put the Council at risk of proceedings on the legality or maladministration of the related decision and place themselves at risk of a breach of the Councillor Code of Conduct as well this Planning Code.

2. Acting within the Law

2.1 The Council's planning responsibilities are defined by the Planning Acts, Localism Act 2011 and associated Regulations and Orders. The

responsibilities of the Council's Development Management Committee derive from that legislation and Members and Officers must at all times act within the law. The Council's Legal and Planning Officers give advice and make recommendations designed to keep the Council within the law. Ultimately, however, Members must take responsibility for their actions and decisions.

- 2.2 In making decisions in respect of planning applications, it should be recognised that the emphasis of planning legislation is such that all planning applications should be determined in accordance with the Local Plan unless material considerations indicate otherwise.

3. Public Duty

- 3.1 The basis of the planning system is the consideration of private proposals against wide public interests. Much is often at stake in this process and opposing views are often strongly held by those involved. Whilst Members should take account of those views, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. Members who do not feel that they can act in this way should consider whether they are best suited to serving on the Development Management Committee.
- 3.2 The Council's planning policies are adopted in the interests of the whole community following public consultation and independent examination. They, therefore, reflect the overall public interest rather than that of individuals or organisations. Members have a duty to their constituents, including those who did not vote for them, but their overriding duty is to the local community as a whole. Members and Officers should, therefore, support the Council's planning policies and make decisions in accordance with them unless there are sound and valid planning reasons for not doing so.

4. Disclosable Pecuniary Interests and Non-Pecuniary Interests and other Pecuniary Interests

The Localism Act 2011 and the Councillor Code of Conduct place requirements on Members regarding the registration and declaration of their interests, and the consequences of having such interests.

- 4.1 Interests are described as being a disclosable pecuniary interest, a non-pecuniary interest or other pecuniary interest. These terms are explained in full in the Councillor Code of Conduct.
- 4.2 The main difference between the two levels of interest is that as a general rule, having declared a non-pecuniary or other pecuniary interest, a Member can continue to participate in the debate and vote upon the matter, whereas a disclosable pecuniary interest will affect the Members participation in the debate and ability to vote. Again, this is fully explained in the Councillor Code of Conduct.

- 4.3 If a Member has a disclosable pecuniary interest in any planning matter the Member must declare that interest preferably at the beginning of the meeting and:
- 4.3.1 withdraw from any meeting at which the matter is being considered
 - 4.3.2 not participate or give the appearance of trying to participate in the making of any decision on the matter by the Development Management Committee
 - 4.3.3 not get involved in the processing of the application
 - 4.3.4 not seek or accept any preferential treatment, or place themselves in a position that could lead to the public to think the Member is receiving preferential treatment because of their position as a Member
 - 4.3.5 be aware that whilst a Member is not prevented from seeking to explain and justify a proposal in which they have a Disclosable Pecuniary interest, the Code places greater limitation on a Member in representing that proposal than would apply to a normal member of the public. Therefore, the Member will have to withdraw from the room whilst the meeting considers it, whereas an ordinary member of the public would be able to address and attend during consideration of the proposal.
- 4.4 If a Member has a pecuniary and/or a non-pecuniary interest in any planning matter this must be declared preferably at the beginning of the meeting even if already included in the Register of Member Interests. Requirements relating to declaration of interests must be followed scrupulously.
- 4.5 Members should avoid becoming associated in the public mind with representatives of the development industry, such as landowners, builders, agents or planning consultants. A consistent record of supporting a particular applicant or agent, contrary to the Council's adopted policies, could be seen as evidence of a private interest or connection.
- 4.6 Members who are unsure whether an interest should be declared should seek the advice of the Monitoring Officer or the Legal Advisor to the Development Management Committee, preferably in advance of the committee meeting, although the ultimate responsibility for fulfilling the requirements rests individually with each Member
- 4.7 A Register of Members interests is maintained by the Monitoring Officer. Members should review their situation regularly, and ensure the Register is kept up to date. The Register is open to the public.
- 4.8 When considering planning applications, Members must base their decisions on the National Planning Policy Framework, adopted Local Plan, other adopted local policy and other material planning considerations. Decisions

reached for party political reasons are not consistent with a proper exercise of discretion and may be dismissed at appeal or overturned by the Courts or be the subject of a finding of maladministration by the Ombudsman with the potential to incur costs against the Council for this fact alone. It is not appropriate and will amount to maladministration to apply party whipping to decisions on planning applications.

- 4.9 Officers must declare any personal or financial interests in any planning matter application before the Development Management Committee and must not deal with such matters on behalf of the Council and must not give advice to Members or other Officers on them. An Officer with a personal or financial interest in a planning matter must withdraw from any relevant Committee meeting whilst that matters is discussed. Planning Officers must maintain their professional integrity and should avoid becoming associated in the public mind with representatives of the development industry or environmental pressure groups.

5. Officer/Member Relationships and Roles

- 5.1 Officer and Members both serve the public but they have different, although complementary, roles in dealing with planning matters. In general, the Officers' role is to advise Members of the relevant planning policies and other material considerations and the Members' role is to make planning decisions on the basis of that advice.
- 5.2 Officers must give objective, impartial planning advice based on their professional judgement and not be compromised or influenced by political considerations other than through the formal development of the Council's planning policies.
- 5.3 It is important that there is a good working relationship between Officers and Members based on mutual understanding of and respect for their respective roles. This avoids delays and assists consistency in the planning system. Regular training can help to achieve these objectives.

6. Assisting Applicants and Objectors by Members

- 6.1 Members may assist applicants for planning permission or objectors to such applications by explaining the planning process. Members may also describe the Council's adopted planning policies but should not offer an opinion whether a particular proposal is consistent with those policies without consulting an appropriate Planning Officer.
- 6.2 Members must not agree to speak or vote for or against a particular planning application without having heard all relevant details in respect of the application. Applicants and objectors are entitled to expect that planning decisions will be made on the basis of information and arguments available to the Committee. Late representations often have to be reported verbally to the Committee. If Members have given a prior commitment to vote in a

particular way, they may be acting against natural justice and their duty to the whole community.

- 6.3 Members should not fetter their discretion by making up their mind or appearing to have made up their mind on how they will vote on any planning matter prior to formal consideration of the matter or hearing all presentations on the matter.
- 6.4 If a Member has done so, they should not participate in the consideration of the matter because it could put the Council at risk in a number of ways, such as a perception of maladministration by the Local Government Ombudsman and could put the Council at risk of a legal challenge on grounds such as bias or pre-determination. This is particularly important if a Member is contacted by an external interest or lobby group. (Predetermination is explained more fully at paragraph 12).
- 6.5 A Member is likely to be considered to have fettered their discretion where the Council is the landowner, developer or applicant and has been involved to such an extent in the preparation, submission or advocacy of a planning proposal on behalf of the Council as to make their participation in the decision-making process inappropriate.
- 6.6 If a Member has received information that is relevant to a planning report, the Member must declare that information to the relevant Planning Officer preferably beforehand or at least to the Development Management Committee when that report is under consideration.
- 6.7 Members should act objectively when a planning matter is discussed at the Development Management Committee. It follows that a Member should not become personally involved in particular planning issues, organise support or opposition, lobby other Councillors or act as an Advocate which could give the impression that the Councillor has already made up his mind. Members must not put pressure on Officers for a particular recommendation. If a Member has, nevertheless, agreed to represent the views of any person or organisation at a meeting of the Development Management Committee the Member must declare it to the Development Management Committee and must consider whether this constitutes a disclosable pecuniary interest or whether they have fettered their discretion.

7. Development Management Committee Procedures and Conduct of Meetings

- 7.1 Members should be able to take part in any discussion on a proposal when acting as part of a consultee body (i.e., where they are also a member of the Borough Council as well as being a County Council, Town or Parish Council Member), provided that the proposal does not substantially affect the well-being or financial standing of the consultee body and it is made clear during the discussion at the consultee body that they:

- 7.1.1 express their view on the limited information before them only

- 7.1.2 reserve judgment and the independence to make up their own mind on each separate proposal when it comes before the Development Management Committee, based on their overriding duty to the whole community, not just to the people in their ward, and when they hear all of the relevant information do not in any way commit as to how they or others may vote when the proposal comes before the Development Management Committee.

As a member of the Development Management Committee Members should:

- 7.1.3 disclose the interest regarding their membership of the consultee body or role when the Development Management Committee comes to consider the proposal
- 7.1.4 decline to speak or vote on a proposal if they have fettered their discretion (but do not have a disclosable pecuniary interest). (They do not also have to withdraw but may prefer to do so for the sake of appearance).

However, if a Member decides to stay, they should explain that they do not intend to speak and vote because they have (or could reasonably be perceived as having) judged the matter elsewhere, so that this may be recorded in the minutes.

- 7.2 Where pre-Committee briefing meetings between Officers and Members of the Development Management Committee take place, these are not part of the formal Development Management Committee proceedings and, if held, must always be after the Agenda has been set and Officers' recommendations made. The purpose of such meetings is to inform the Chairman and spokespersons on planning issues, the reasons for Officer Recommendations and to give the Chairman an opportunity to give notice of potential questions or the need for more information.
- 7.3 Planning decisions should be made on the basis of an Officer's written report which should contain all the relevant information to enable the Development Management Committee to reach a reasonable decision. In the case of planning applications, the report will be based on any appropriate National Planning Policy Advice and Guidance, adopted Local Plan other adopted Local Policy and other material planning considerations. This report will normally include the Officer's recommendation as to how the application should be decided, together with valid planning reasons for that decision. Members must have good reasons based on material planning considerations if they decide to reject Officers' advice. Members must consider the professional advice given to them on planning matters and, if they reject that advice, give clear and concise reasons for their decision at the Development Management Committee meetings and both this and the decision itself should be recorded in the minutes.
- 7.4 Where possible, a decision on an application will be taken at the committee meeting to which the report has been presented. If, however it is not clear that all matters which have been debated can be summarised concisely, then the committee will be invited to delegate authority to the Planning Officer to issue its decision with reasons, in consultation with the Chairman. Where it is not

possible to clearly articulate the Committee's wish, or where further advice is necessary a further report on the application shall be presented to the next available meeting of the Committee.

7.5 A Development Management Committee decision on a planning application, contrary to the Council's planning policies, may result in an appeal. Officers shall have to be prepared to explain and defend the Council's decisions but may, in some circumstances, feel that to act as witness could compromise their professional integrity. If asked, an Officer appearing at a Hearing or Public inquiry will be obliged to give their bona fide professional opinions. In certain circumstances, it may be that an Officer whose professional advice was not consistent with the Development Management Committee's decision, may not in these circumstances be the best witness for the Council as the difference of opinion is likely to be revealed under cross-examination. In these circumstances the Development Management Committee may wish to nominate a Member of the Development Management Committee to be a witness or external planning consultant at any subsequent Hearing or Public Inquiry.

7.6 To facilitate debate at the Committee meeting it would be advisable for Members to ask for information and clarification on specific points prior to the Committee meeting, particularly where points of detail are concerned. However, members will have an opportunity to ask questions of officers during committee and prior to debate after the officer's presentation of their report.

7.7 At the Committee meeting the Chairman shall allow the Officers to provide oral updates on the representations received, present additional information on introducing the item and present the recommendation accordingly.

8. Development Proposals Submitted by Members and Officers, and Council Development

8.1 Proposals to their own authority by Members and Officers and their close friends and relatives can easily give rise to suspicions of impropriety. So indeed, can proposals for a Council's own development. Proposals can take the form of either planning applications or Development Plan proposals.

8.2 It is perfectly legitimate for such proposals to be submitted, and such proposals should be treated with the same transparency and impartiality as those of private developers.

8.3 It is vital to ensure that they are handled in a way which gives no grounds for accusations of favouritism. Accordingly:

8.3.1 Any Members or Officers who act as agents in respect of a planning matter with the Council should play no part in the decision-making process for that proposal. Similarly, if they submit their own proposals to the Council, they should take no part in its processing or decision making. Any such proposals will be considered and determined by the Development Management Committee.

- 8.3.2 Proposals for the Council's own development must be treated in accordance with Government advice.

9. Development Management Committee Site Visits

- 9.1 The purpose of site visits is to give Members, accompanied by Officers, firsthand knowledge of a site and its surroundings in relation to any development, proposal or other planning matters. They should be carefully organised to ensure that the purpose, format and conduct are clearly established at the outset and subsequently adhered to throughout the visit. A site visit is not part of the formal Committee proceedings and is not a forum for debate or making planning decisions. Site visits are not open to the public and should not be used to canvass local opinion or as an opportunity for lobbying or advocacy. Members should not express personal opinions during site visits.
- 9.2 The Council's approved Site Visit Procedure is reproduced in Section 3 and Section 4 below and forms part of this Code.

10. Confidentiality

There are valid reasons why some planning information should remain confidential. Members and Officers must not disclose confidential planning information which is prejudicial to the Council's interests or its role as the Local Planning Authority and they must not use such information for personal advantage.

11. Gifts and Hospitality

- 11.1 The Councillor Code of Conduct deals with gifts and hospitality offered to Members and the Code of Conduct for Staff includes rules and advice for Officers.
- 11.2 Officers and Members involved in the planning system must abide by their respective Codes in connection with gifts, rewards, favours or hospitality from applicants, agents or objectors as this may be interpreted as an improper inducement intended to secure a particular planning decision. The offer of gifts or invitations must always be reported to the Council's Monitoring Officer.

12. Pre-determination, bias and Section 25 Localism Act 2011

- 12.1 S.25 of the Localism Act 2011 came into effect on 15 January 2012.
- 12.2 The purpose of S.25, as stated in the explanatory notes accompanying the Act, is not to abolish the common law rule against pre-determination, but to clarify how it applies to Councillors. The explanatory notes go on to say:

"Pre-determination occurs where someone has a closed mind, with the effect that they are unable to apply their judgment fully and properly to an issue requiring a decision. Decisions made by Councillors later judged to have

pre-determined views have been quashed. The section makes it clear that if a Councillor has given a view on an issue, this does not show that the Councillor has a closed mind on that issue, so that if a Councillor has campaigned on an issue or made public statements about their approach to an item of Council business, he or she will be able to participate in discussion of an issue in the Council and to vote on it if it arises in an item of Council business requiring a decision.”

- 12.3 Pre-determination occurs when a decision maker has a closed mind, with the effect that they are unable to apply their judgement fully and properly to an issue requiring a decision.
- 12.4 Pre-determination can be inferred from an unequivocal written or oral statement made by a member of a Committee which is to take the decision on a matter. It can also be inferred in other ways e.g. a Member has campaigned on the matter e.g. a Member has been placed under an obligation as to how they should vote on the matter.
- 12.5 The effect of unlawful pre-determination by a Member is that the decision of the Committee will be open to legal challenge and to allegations of maladministration.
- 12.6 Unlawful pre-determination needs to be distinguished from legitimate predisposition. A Member is quite entitled to express a degree of general support for, or opposition to, a particular outcome provided the Member makes it clear that they do not have a closed mind. As there is always a grey area between what amounts to pre-determination rather than predisposition Members are advised to err on the side of caution.
- 12.7 It is important to note that the rule against pre-determination does not prevent a Member campaigning on an issue, or expressing outright support or opposition – but it does mean the Member cannot then participate in the decision making process.
- 12.8 The rule against bias / pre-determination is quite separate from the rules on interests under the Councillor Code of Conduct.

13. Lobbying of Councillors

- 13.1 It is important to recognise that lobbying is a normal and proper part of the political process: those who may be affected by a planning decision will often seek to influence it through an approach to their elected Ward member. As the Nolan Committee's third report states:

“It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the Councillors themselves.”

13.2 However, such lobbying can lead, unless care and common sense is exercised by all the parties involved, to the impartiality and integrity of a Member being called into question.

13.3 The Lobbying Procedure is reproduced in Section 5 below and forms part of this Protocol.

14. Pre-application Discussions

14.1 Discussions between a potential applicant and the Council prior to the submission of an application can be of considerable benefit to both parties and is encouraged. However, it would be easy for such discussions to become, or to be seen particularly by objectors, to become part of a lobbying process on the part of the applicant. Officers and Members will, therefore, need to adhere to the following:

14.1.1 It should always be made clear at the outset that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional and given without prejudice to any ensuing decision

14.1.2 Advice should be consistent and based upon the Local Plan and material considerations. There should be no significant difference of interpretation of planning policies amongst Planning Officers. In addition, all Officers taking part in such discussions should make clear whether or not they are the officer who will be the author of the report and making the recommendation to the Committee.

14.1.3 A written note should be made of all potential contentious meetings. A planning Officer should attend such meetings and a follow up letter is advised at least when documentary material has been left with the Council. A note should also be taken of similarly potentially contentious telephone discussions

14.1.4 Care must be taken to ensure that advice is not partial (or seen to be) otherwise a subsequent report could appear to be advocacy.

Part 3

1. Development Management/ Site visits /Committee

1.1 Introduction

Officers will advise members where it is considered that a site visit would be beneficial to the Committee's deliberations. This will be clearly marked as the second page of the agenda, together with the arrangements which have been put in place

Requests by Members for site visits made at the Committee meeting itself will not normally be entertained. This is because Site visits can cause delay and additional costs and should only be used where the expected benefit is substantial

A site visit is only likely to be necessary if:

- the impact of the proposed development is difficult to visualise from the plans and any supporting material
- there is a good reason why the comments of the applicant and objectors cannot be expressed adequately in writing or the proposal is particularly contentious.

The lack of any common approach on when and why to hold a site visit and how to conduct it can leave a Council open to the accusation that such visits are, at best, arbitrary and unfair and, at worst, a covert lobbying device.

2. Attendance at Site Visits

The following persons are entitled to attend a Development Management Committee site visit:-

- (a) Members as agreed by the Development Management Committee;
- (b) Planning Officer(s) as appropriate;
- (c) Other Councils and supporting County Council Officers, as appropriate – e.g. Highway Engineer, Archaeology Adviser

3. Procedure

3.1 Organisation and Notification of Site Visits

3.1.1 Members are notified in writing of the date and time of the visit by reference to the agenda for the forthcoming meeting.

3.1.2 Applications/agents are, where relevant informed of the site visit and purpose.

4. Procedure at the Site Visit

In order that visits are conducted in a consistent manner, the following procedure is as follows:-

- (1) Assemble at the agreed time and place for each site; Start time only at or after the time stated on the timetable;
- (2) In the absence of the Chairman of the Development Management Committee, Members elect a Chairman for the purpose of conducting the site visit in accordance with the adopted council procedures;
- (3) The Planning Officer gives brief details of the application, highlighting the main aspects which need to be considered on site. A copy of the plans will be available;
- (4) At the conclusion of the visit, Members and Officers present converse in private to see if there is any further information Members wish Officers or applications/agents to make available to the Development Management Committee prior to the Meeting. However, there should be no discussion as to the relative merits of the application.
- (5) The purpose of a site visit is to gather information and improve understanding of the planning application – it is neither the forum for debate nor the venue for the decision.
- (6) Applications and objectors are, understandably, often keen to lobby Members on site – Members should let Officers lead the visit, that way Members remain one step removed and able to concentrate on information gathering.
- (7) Members should feel free to ask questions but do not get involved in discussions about the merits/demerits of the application.
- (8) Members should avoid making comments or statements that could be misconstrued or misinterpreted.
- (9) On site, Members should try to keep together as a Committee – that way all parties can be sure that each Member has had an opportunity to see the same things from the same place.
- (10) Whenever possible Members should try to arrive on time and together – Members arriving early and on their own will always be prey to lobbying.
- (11) If Members cannot attend or are going to be late Members should try to let Officers or a fellow Member know.
- (12) Members should wear sensible clothing and footwear.

5. Report to Committee

An Officer report will include the fact that a site visit is recommended. Individual Members who attended the site visit can, of course, contribute their personal views during the subsequent discussion of the application by the Committee before a discussion is made.

Part 4

1. Lobby of or by Councillors

- 1.1 When being lobbied Members should take care about expressing an opinion that may be taken as indicating that they have already made up their minds or have a closed mind on the issue before they have been exposed to all the evidence and arguments. If Members do express an opinion, they should make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at Committee.
- 1.2 Members need to take account of the general public's (and Ombudsman's) expectations that a planning application will be processed and determined in an open and fair manner, in which Members making the decision will take account of all evidence presented before arriving at a decision, and that to commit themselves one way or another before hearing all the arguments makes them vulnerable to an accusation of partiality or bias. The determination of a planning application is a formal administrative process involving rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly.
- 1.3 A Member who represents a Ward affected by an application is in a difficult position if it is a controversial matter around which a lot of lobbying takes place. If the Member responds to lobbying by deciding to go public in support of a particular outcome or even campaigning actively for it – it may be very difficult for that Member to argue convincingly, when the Committee comes to take a decision on the application, that he or she has carefully weighed the arguments presented – perhaps in some respects for the first time – at the meeting. Whilst in most circumstances this would not amount to predetermination, the proper course of action for such a Member would be to make it clear that they will only be in a position to take a final decision after having heard all the relevant evidence and arguments at Committee.
- 1.4 It is difficult to find a form of words which conveys every nuance of these situations and which gets the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. It cannot be stressed too strongly, however, that the striking of this balance is ultimately the responsibility of the individual Member. The following points should be borne in mind:
 - 1.4.1 Given that the point at which a decision on a planning application is made cannot occur before the Development Management Committee meeting, when all available information is to hand and has been duly considered, any political group meeting prior to the Committee meeting should not be used to decide how Members should vote. The view of the Ombudsman in the past has been that the use of political Whips to seek to influence the outcome of a planning application could amount to maladministration.

1.4.2 Members should not put improper pressure on Officers for a particular recommendation and, as required by the Councillor Code of Conduct, should not do anything which compromises, or is likely to compromise, their impartiality.

1.5 Unless care is taken, lobbying can lead to the impartiality and integrity of a Member being called into question. Members need to take account of the public's expectation that a planning application will be processed in an open and fair manner. Accordingly, it is helpful to bear in mind the following:

- Take care when expressing an opinion on a planning application – it could be construed that a Member has already made up their mind
- Members should restrict themselves to giving procedural advice and refer those who are lobbying to the relevant Planning Officer.
- If a Member does express an opinion it should be made clear by the Member that the Member will only be in a position to take a final decision after having heard all the relevant evidence and arguments at Committee.
- Members should not put improper pressure on Officers for a particular recommendation.
- The point at which a decision on a planning application is made cannot occur before the Committee meeting – when all available information is to hand.
- Any Group meeting prior to the Committee meeting should not be used to decide how Members should vote – the Ombudsman may view this as maladministration.
- If a Member has been lobbied prior to a decision then the Member shall declare so at Committee – it does not prevent that Member from participating in the debate or the vote provided that the Member has not already signalled their intentions.
- If a Member does commit themselves one way or another before hearing all the arguments, declare so at the Development Management Committee and withdraw from the vote.
- A specimen letter to constituents is available from the Head of Service.

1.6 Members who are unsure as to whether an interest should be declared should seek the advice of the Council's Monitoring Officer although, as indicated above, the decision rests with the Member.

Part 5

1. Code of Conduct for Staff

1.1. Introduction

The public is entitled to expect the highest standards of conduct from all Officers who work for Castle Point Borough Council. This Code outlines existing Laws, Regulations and Conditions of Service and provides further guidance to assist the Council and its Officers in their day to day work. This Code is in addition to the Code of Conduct for Staff.

The aim of this Code is to provide additional guidance for all Officers, which help maintain and improve standards and protect Officers from misunderstanding or criticism.

This Code is intended to cover all Officers under a contract of employment with the Council. Activities carried out by Officers acting as members of Companies or voluntary Organisations will be subject to the standards within this Code.

1.2 Standards

Local Government Officers are expected to give the highest possible standard of service to the public and, where it is part of their duties, to provide appropriate advice to Members and fellow employees with impartiality. Officers will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate Manager, any deficiency in the provision or conduct in providing services. Officers must inform their Manager regarding any impropriety or breach of procedure.

1.3 Disclosure of Information

The Council supports open and transparent Government. The Law requires that certain types of information must be available to Members, Auditors, Government Departments, service users and the public. Officers must be aware of which information the Council is and is not open about and act accordingly.

Officers should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an Officer from a Member which is personal to that Member and does not belong to the Council should not be divulged by the Officer without the prior approval of that Member, except where such disclosure is required or sanctioned by the Law.

1.4 Political Neutrality

Officers serve the Council as a whole. It follows that they must serve all Members and not just those of the Controlling group and must ensure that the individual rights of all Members are respected.

Part 6

Protocol for Public Speaking On Planning Applications at Development Management Committee Meetings and Committee Procedure

1. The Council welcomes the general principle that the public should be able to participate in the decision-making process by speaking on planning applications at Development Management Committee meetings. This document will outline the procedure under which such spoken comments may be made, in order to ensure that the decision-making process remains fair and effective.
2. For the purposes of clarity public speaking applies only to those planning applications that come before the Development Management Committee for determination and not those applications dealt with under the delegated powers of the Head of Place and Policy.
3. A letter will be sent to all people who responded to a planning application consultation advising them that the application will be decided at a Development Management Committee meeting. This letter will indicate the date of the meeting and specify the procedures for public speaking at these meetings.
4. A list of planning applications to be decided at a Development Management Committee Meeting will also be published in paper and electronic format at least five clear working days before the meeting. The Agenda may be viewed at the Council Offices and on the Council's website.
5. One person will be allowed to speak at the Development Management Committee in objection to the application under consideration regardless of the officer recommendation. This person may speak for a maximum of three minutes and should restrict their statement to material planning considerations. A list of such considerations is set out for guidance purposes at the end of this protocol and is also included in the Development Management Committee Handbook. The person will not be able to question members or officers and neither will members or officers be able to question the person speaking.
6. One person will be allowed to speak at the Development Management Committee in support of the application under consideration regardless of the officer recommendation. This person may be the applicant or their agent or a member of the public. This person may speak for a maximum of three minutes and should restrict their statement to material planning considerations. The person will not be able to question members or officers and neither will Members or officers be able to question the person speaking.
7. Where both an objector to an application and a supporter of an application wish to speak the objector shall speak first and the supporter second.
8. Where a member of the public wishes to speak in objection or support of a planning application that person must contact the Council's Democratic Services Department by 5.15 p.m. on the Monday prior to the meeting and give their name

and contact details, the application concerned and whether it is in objection or support. Any person wishing to speak at the meeting is requested to be present at the Council offices by 7.00.p.m. on the day of the meeting and make themselves known to the Committee Officer so that arrangements can be finalised.

9. Where more than one person wishes to speak in objection to an application the persons who have expressed a wish to speak will be contacted by the Council's Democratic Services prior to the Development Management Committee meeting. They will be advised that they should work collectively to prepare one three minute objection statement to be delivered by a spokesperson. This will be known as a multiple objection.
10. The Committee Officer will seek the agreed name representing the multiple objections at 7.00 p.m. on the day of the meeting.
11. If those within the multiple objections are unable to agree on a spokesperson the Chairman will determine which of the persons who have expressed a wish to speak will be allowed to do so. Whilst it is at the Chairman's discretion who will be allowed to speak priority will be given to a local resident directly affected by the application. The person nominated to speak on behalf of the multiple objections by the Chairman shall be notified prior to commencement of the Development Management Committee meeting.
12. The Council will not accept documentary submissions by supporters/objectors to applications at this time.
13. At the Development Management Committee meeting the Chairman will read out the application proposal and the Planning Officer will introduce and present the item and make their recommendation. This will ensure that the members of the committee are aware of the nature of the issues related to the application in question and will ensure that the public speakers do not have to waste time in their three-minute period describing the application. Public speaking on a planning application shall take place immediately after the Planning Officer has delivered their report.
14. Where a multiple objection is to be delivered the Chairman will indicate that it is a "multiple objection representation". Thereafter the objector and supporter will be invited to speak by the Chairman. The objector's and supporter's three-minute period will be strictly timed, and the objector and supporter must stop speaking when the end of the time period is indicated by the Chairman. Where an objector or supporter does not respect this rule, they may be asked to leave the chamber and future opportunities to speak at the Development Management Committee may be restricted.
15. Whilst a member of the public is speaking, other members of the public, Councillors and Officers must respect the right of the speaker to express their opinion. The Chairman may ask anybody who interrupts or heckles the speaker to leave the chamber for the remainder of the meeting.

16. After a member of the public has spoken against the application, the applicant or their agent will be invited by the Chairman to speak in support of their application.
17. In certain circumstances, a Member of the Council for that particular Ward whether or not a member of the Development Management Committee may wish to address the Committee on a planning application. The Member may have personal views or be representing the community. In these circumstances, the Member should advise the Committee Officer by the Monday prior to the date of the meeting of his or her request to address the Committee. At the meeting, the Chairman of the Committee will then invite the Member to speak after any members of the public have addressed the Committee. No questions to or from the Member, or to or from Members of the Committee shall be allowed. The Members of the Development Management Committee will speak on the matter after members of the public and the applicant have spoken on the matter pursuant to this Protocol.
18. Once the objector, the supporter and any Ward Member or Town Council Member have addressed the meeting, the Chairman will invite Members of the Development Management Committee to ask questions of the Planning Office in order to clarify any issues and to inform the debate.
19. The Committee will then debate the application, taking into account the representations made by the members of the public and on behalf of the applicant. Members of the public must not interrupt or heckle during this debate and will be asked by the Chairman to leave the chamber should such activity occur. Members will speak on the proposal for a maximum of 4 minutes.
20. At the conclusion of the debate, the Chairman will read out the Planning Officer recommendation and the application will be voted upon. Voting will be by way of a show of hands and by simple majority with the Chairman having the casting (2nd) vote, where required.
21. Members may propose amendments to the recommendation and any proposal must be seconded before it can be discussed. The Chairman reads out the revised recommendation with amendment and Members vote on the revised recommendation.
22. In the event that Members vote against a Planning Officer recommendation as presented to them in the Committee item, members are required to put forward valid and material planning reasons for not supporting the recommendation in the report. An alternative Motion cannot be proposed until those reasons have been given. Members must state what the Motion is and the reasons for it. The reasons must be precise and relevant. If valid and material planning reasons are given, then the alternative Motion must be proposed and seconded.
23. The Planning Officer will advise the Committee if they can sufficiently conclude the requirements of the revised motion for the application to be determined at that meeting or if a deferral is required. For example, if the proposed amendment requires a number of conditions to be considered the officer would need to defer to allow adequate time to correctly construct all conditions and then prepare a report to present them to the following Committee. If no deferral is required, the

Chairman will read out the revised recommendation as per the motion and Members will vote on the revised recommendation.

24. Where a deferred application is returned to the Development Management Committee, the Chairman will read out the revised recommendation as presented to them in the second report and Members vote to agree the revised recommendation.
25. Where an application has been considered and deferred to a future meeting for determination the Democratic Services officer will ensure that only those who considered the application at the first meeting will take part at the second meeting (including substitutes).

Public Speakers: What can I speak about?

Your comments should relate to the application and to issues that the Committee can take into account when determining an application such as:

- Planning Policy (Government Guidance and Local Plans)
- Design, appearance, layout and effect on nearby property
- Impact on visual or residential amenity (including loss of light, noise, odor and other environmental impacts)
- Impact on trees, conservation areas or nature conservation
- Highway safety and traffic issues

Try to avoid issues that are not planning matters such as:

- Private property rights (boundary or access disputes, restrictive covenants)
- Effect on property values
- Personality or a developer's motives
- Loss of view over private land
- Please don't make personal remarks. (Committee proceedings are not exempt from the laws of slander).

If you have any queries about speaking at the Development Management Committee please telephone (01268) 882454.

4. The Code for Staff

1. Introduction

The public is entitled to expect the highest standards of conduct from all staff who work for Castle Point Borough Council. This Code outlines existing Laws, Regulations and Conditions of Service and provides further guidance to assist the council staff in their day to day work.

The aim of the Code is to provide guidance for all staff, which help maintain and improve standards and protect staff from misunderstanding or criticism.

The Code is intended to cover all staff under a contract of employment with the Council. Activities carried out by employees acting as members of Companies or voluntary Organisations will be subject to the standards within this Code.

2. Standards

Local Government staff are expected to give the highest possible standard of service to the public and, where it is part of their duties, to provide appropriate advice to Councillors and fellow staff members with impartiality. Council staff will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate Manager, any deficiency in the provision or conduct in providing services. Staff must inform their Manager regarding any impropriety or breach of procedure.

3. Disclosure of Information

The Council supports open and transparent Government. The Law requires that certain types of information must be available to Members, Auditors, Government Departments, service users and the public. Staff must be aware of which information the Council is and is not open about and act accordingly.

Staff should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by a member of staff from a Councillor which is personal to that Councillor and does not belong to the Council should not be divulged by the member of staff without the prior approval of that Councillor, except where such disclosures is required or sanctioned by the Law.

4. Political Neutrality

Staff serve the Council as a whole. It follows that 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.

Staff may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality.

Staff, whether or not politically restricted, must follow every lawful policy of the Council and must not allow their own personal or political opinions to interfere with their work.

5. Relationships

Councillors

Staff are responsible to the Council through the senior officers. For some their role is to give advice to Councillors and senior officers and all are there to carry out the Council's work. Mutual respect between staff and Councillors is essential to good local Government. Close personal familiarity between staff and individual Councillors can damage the relationship and prove embarrassing to other members of staff and Councillors and should, therefore, be avoided.

The Local Community and Service Users

Staff should always remember their responsibility is to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community.

Contractors

All relationships of a business or private nature with external Contractors or potential Contractors, should be made known to the Council. Orders and Contracts must be awarded on merit, by fair competition against other Tenders and no special favour should be shown to businesses run by, for example, friends partners or relatives. No part of the local community should be discriminated against.

Staff 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 HR Manager.

6. Appointment and Other Employment Matters

Staff involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, staff should not be involved in an appointment where they are related to an applicant or have a close personal relationship outside work with him or her.

Similarly, staff should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a close friend or relative.

7. Outside Commitments

Some staff have Conditions of Service which require them to obtain written consent to take any outside employment. All staff should be clear about their contractual obligations and should not take outside employment which conflicts with the Council's interests.

Staff should follow the Council's Rules on the ownership of intellectual property or copyright created during their employment.

8. Personal Interests

Staff must declare to the HR Manager any personal interests that they consider could bring about conflict with the Council's interests.

Staff must declare to the HR Manager any financial interests which could conflict with the Council's interests.

Staff should declare to the HR Manager membership of any Organisation not open to the public and which has secrecy about the Rules for membership or conduct.

9. Equality

All local Government staff should ensure that policies relating to equality issues, as agreed by the Council, are complied with in addition to the requirements of the Law. All members of the local community, customers and other staff have a right to be treated with fairness and equality.

10. Separation of Roles During Tendering

Staff involved in the tendering process and dealing with Contractors should be clear on the separation of client and Contractor roles within the Council. Senior Officers who have both a client and Contractor responsibility must be aware of the need for accountability and openness.

Staff in Contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other Contractors and sub-Contractors.

Staff who are privy to confidential information on Tenders or costs for either internal or external Contractors should not disclose that information to any unauthorised party or Organisation.

Staff contemplating a management buyout should, as soon as they have formed a definite intent, inform the HR Manager and withdraw from the Contract process.

Employees should ensure that no special favour is shown to current or recent former colleagues or their partner, close relatives or associates in awarding Contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

11. Corruption

Staff must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity.

12. Use of Financial Resources

Staff must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should ensure value for money to the local community and comply with the Council's Financial Regulations at all times.

13. Hospitality

Staff should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community or where the Council should be seen to be represented.

When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards operated by the Council.

Employees should not accept significant personal gifts from Contractors and outside suppliers, although the Council will allow employees to keep insignificant items of token value, such as pens, diaries, etc.

When receiving authorised hospitality, staff should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.

Acceptance by staff of hospitality through attendance at relevant conferences and courses is acceptable where it is clear hospitality is corporate rather than personal, where the Council gives consent in advance and where the Council is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment and materials are required staff should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

14. Sponsorship – Giving and Receiving

Where an outside Organisation wishes to sponsor, or is seeking to sponsor, a Council activity, whether by invitation, Tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply.

Particular care must be taken when dealing with Contractors or potential Contractors.

Where the Council wishes to sponsor an event or service neither a member of staff nor any partner, spouse or relative must benefit from such sponsorship.

Similarly where the Council, through sponsorship, grant aid, financial or other means gives support in the community, staff should ensure that impartial advice is given and that there is no conflict of interest involved.

5. Protocol on Member/Officer Relations

1. Introduction

- 1.1 In this protocol the term 'officers' means all employees of the Council.
- 1.2 The purpose of this protocol is to guide Castle Point Councillors and officers in their relations with one another. Whilst recognising the distinctive roles and responsibilities exercised by officers and Councillors it is important to recognise that both serve the one Council. It is essential therefore for there to be a positive and trusting working relationship to maximise the opportunities for achieving the Council's corporate aims in a constructive manner.
- 1.3 These relations are inevitably complex and, therefore, this protocol is intended to provide more clarity and certainty in dealings between Councillors and officers. All Councillors and officers should follow the protocol in their work together.
- 1.4 This protocol seeks to reflect the principles underlying the respective Codes of Conduct that apply to Councillors and officers, the object of which is to enhance and maintain the integrity (real and perceived) of Local Government. They, therefore, demand very high standards of personal conduct.
- 1.5 Dealings between Councillors and officers must observe reasonable standards of courtesy and neither party should seek to take advantage of their respective position. Similar rules apply to both Councillors and officers.

2. Councillors' Role

Councillors are effectively required to act in three capacities:-

- 2.1 As politicians expressing political values and support for the policies of the political group to which they belong.
- 2.2 As representatives – interpreting the wishes of the electorate and accounting for service priorities, resource allocation and performance.
- 2.3 As Councillors – having both personal and collective responsibility for the overall well being of the Council and its activities, including:
 - policy making and review
 - corporate decisions
 - overview and scrutiny

3. Officers' Role

Officers have the following main roles:

- 3.1 To manage the service for which the Council has given them responsibility and to be accountable for the efficiency and effectiveness of those services within the resources allocated. To ensure proper professional practice in discharging their responsibilities.
- 3.2 To act as professional advisors to the Council, the Cabinet and Councillors.
- 3.3 To initiate, develop and recommend policy options for consideration by Councillors as well as acting as implementers of agreed policy.
- 3.4 To advise Councillors to ensure that the Council always acts in a lawful manner.

4. Councillor/Officer Working Relations

- 4.1 Officers should not be asked to provide advice or assistance to Councillors on any issues other than those directly affecting the Council or its business.
- 4.2 Councillors should not themselves, nor ask any officer to breach Council policy or procedures including those in the Council constitution.
- 4.3 Officers serve the Council through the Cabinet and all Council Committees and work to the instructions of their supervisor or Manager. It follows, therefore, that officers should not be asked by any Councillor to exceed the bounds of authority they have been given by their manager nor should any Councillor give an officer an "instruction" whatever office the Councillor may hold.
- 4.4 Councillors should be mindful of the issues posed by the Data Protection Act 1998, and not generally enter working areas of the Council offices except where clearance is obtained by the Chief Executive or relevant Manager.
- 4.5 Councillors have the right to criticise reports or actions by officers but should observe the following guidelines:
 - (a) avoid personal attacks or abuse
 - (b) ensure that criticism is constructive and well founded
 - (c) take up specific concerns privately with the officer wherever possible with a view to resolving any differences of opinion
 - (d) submit any complaints about officers to the relevant Manager or the Chief Executive
 - (e) avoid undermining respect for officers at Committee or Council meetings which would damage working relationships and the image of the Council

5. Relationships between Leader of the Council, Cabinet Members and Officers

- 5.1 Whilst the Chief Executive and Leadership team are the employees of the Council they will be expected to work together with the ruling administration.

Close working relationships are essential to deliver the council's aims and objectives.

- 5.2 Cabinet members will routinely be consulted in respect of agenda reports. However, on some occasions a particular officer may have a duty to submit a report on a specific matter (e.g.S151/Planning/Monitoring Officer). In such circumstances, the Leader or Chairman should not seek to pressurise that officer to withhold the report or any relevant information in that connection.
- 5.3 Officers have a responsibility to make recommendations to Councillors in accordance with their own professional expertise. Councillors should not, therefore, seek to direct the content of such recommendations. Councillors equally are entitled to reject proposals and recommendations submitted to them.
- 5.4 All decisions taken on behalf of the Council must comply with legislative requirements and the Council's Constitution. The law requires that decisions taken between Cabinet or Council meetings must be made by an officer acting under delegated powers and not by an individual Cabinet Member.

6. Advice to Political Groups

- 6.1 It is common practice for party groups to give preliminary consideration to matters of Council business in advance of a formal Council decision, except where the Council is acting in a quasi-judicial capacity or considering a planning application. It is expected, therefore, that from time to time officers may properly be asked to provide advice on such issues to party groups.
- 6.2 Such support must be available to all political groups but must not extend beyond providing information and advice in relation to Council business.
- 6.3 Officers should, therefore, only attend party group meetings by invitation and should not be present when party business is under discussion.
- 6.4 Whilst officer support at group meetings on appropriate matters may be expected as part of good Councillor /officer working relations, officers cannot be required to attend such meetings.
- 6.5 In cases where officers are requested to attend party group meetings, the agreement of the Chief Executive should be sought first.
- 6.6 The attendance of officers at party group meetings does not confer any official standing to that meeting, nor can it act as a substitute for providing all necessary information and advice to the Council or the Cabinet when the matter is formally considered.
- 6.7 Officers must observe confidentiality of any party group they attend and must not divulge the content of the discussions to any other party group

7. Support to Councillors and Party Groups

- 7.1 The Council can only lawfully provide support services in the form of administration (such as printing, and stationery, photocopying and other clerical services), transport and professional advice to Councillors to assist them in discharging their role as a Councillor.
- 7.2. Such support must only, therefore, be used on Council business, and should never be used for party political or campaigning activity or for private purposes.
- 7.3. No Councillor should approach any officer of the Council to undertake any canvassing or other party political activity.

8. Councillors' Access to Information (As distinct from Members' Enquiries)

- 8.1 Councillors may approach any Council department to provide them with any information explanation, and advice as may reasonably be required to assist them in the discharge of their functions as Councillors. The request may either be in general terms on some aspect of a department's functions or a specific request on behalf of a constituent. Such approaches should normally be made to the Manager of the department in question.
- 8.2 Councillors have a right to inspect documents, which contain material relating to any business to be transacted by the Council the Cabinet or any of its regulatory Committees. This right does not extend, however, to documents that contain exempt information relating to employees, occupiers of Council property, applicants for grants, and other services, and negotiations regarding industrial relations and contract issues, advice from counsel and criminal investigations.
- 8.3 Councillors also have a right to inspect documents so far as his/her access to the document is reasonably necessary to enable the Councillor concerned to discharge his/her duty as a Councillor. This is commonly called the "need to know" principle.
- 8.4. The exercise of this right on a "need to know" basis is, therefore, dependent upon the Councillors' ability to demonstrate such a need. Councillors do not have a right to a "roving commission" to examine documents held by the Council. The question of the "need to know" should be in the first instance be determined by the Manager in whose department the document is held. In the event of a dispute the question falls to be determined by the Chief Executive.
- 8.5 Any Council information provided to a Councillor must only be used by the Councillor for the purpose for which it was provided, inter-alia:-

"As a Councillor you necessarily acquire much information that has not yet been made public and is still confidential. It is a betrayal of trust to breach such confidences. You should never disclose or use confidential information

for the personal advantage of yourself or anyone known to you, or to the disadvantage or discredit of the Council or anyone else.”

- 8.6 Officers will respond to Councillors’ requests for information which accords with the foregoing principles as quickly as possible. However Councillors should take account of the workload pressures and approved business of the Council that may require an officer to refer a request for information to the Chief Executive.

9. Correspondence

- 9.1 Correspondence between an individual Councillor and an officer on normal constituency business should not normally be copied by the officer to any other Councillor. However, situations may arise where the subject matter of the correspondence is to be reported to the Cabinet. In such circumstances it is expected that the correspondence would be copied to the Leader and Deputy Leader of the Council.
- 9.2 In other circumstances where the correspondence relates to the conduct of the Council’s business, its procedures or Councillors’ conduct issues the correspondence may be copied to other Councillors as appropriate to the subject matter. In the case of a complaint by one of another’s conduct the correspondence will be copied to the Councillor whose conduct is the subject of complaint. In all such cases the original Councillor shall be informed that the correspondence has been copied, and of the identity of the recipient.
- 9.3 Responses to Councillors enquiries and other correspondence will normally be circulated to either other ward Councillors or other Councillors, unless it concerns a personal or private matter.

10. Involvement of Local Councillors

- 10.1 Whenever a public meeting is organised by the Council to consider a local issue, or a meeting is arranged with individual constituents over a particular issue all Councillors representing the area affected will as a matter of courtesy be invited to attend the meeting.
- 10.2 In any case where the Council undertakes any form of consultative exercise on a local issue, the local Councillor should be notified at the outset of the exercise.

11. Non-Adherence to the Protocol

- 11.1 Breaches of this protocol by officers will be dealt with under the Council’s disciplinary procedures.
- 11.2 Breaches by Councillors must be reported to the Chief Executive and/or to the Monitoring Officer.

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ⁱ Public Contracts Regulations 2015

ⁱⁱ Threshold set as at January 2022

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