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# **Summary and Explanation**

## **1. The Council's Constitution**

- 1.1 The Somerset West and Taunton Constitution sets out how the Council operates, how decisions are made, and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.
- 1.2 The Constitution is divided into a number of parts. The first parts are the Summary and a number of Articles, which set out the framework for the conduct of the Council's business. The later parts contain more detailed procedures and codes of practice.
- 1.3 The documents have been produced in a user-friendly manner to help people understand how Local Government works and seeks to involve public participation in its decision-making.

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

- 2.1 The next section sets out the Articles of the Constitution as follows:
  - The Council's commitment to carry out its responsibilities to give open and accountable leadership of the community (Article 1).
  - Members of the Council (Article 2).
  - Citizens and the Council (Article 3).
  - The Council meeting (Article 4).
  - Chairing the Council (Article 5).
  - Scrutiny (Article 6).
  - The Executive (Article 7).
  - Regulatory and other committees (Article 8).
  - The Audit, Governance and Standards Committee (Article 9).
  - Community Councils (area committees under s18 LGA 2000) and

Localities (Article 10).

- Joint Arrangements (Article 11).
- Officers (Article 12).
- Decision-making (Article 13).
- Finance, contracts and legal matters (Article 14).
- Review and revision of the Constitution (Article 15).
- Suspension, interpretation and publication of the Constitution (Article 16).

### **3. How the Council operates**

- 3.1 The Council is composed of 59 Councillors elected every four years. Councillors are democratically accountable to residents of their ward.
- 3.2 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.
- 3.3 Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Audit Governance and Standards Committee guides and advises them on the code of conduct.
- 3.4 All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Members of the public can attend Council meetings and ask questions. At Council meetings Councillors decide the Council's overall policies and set the budget each year.
- 3.5 One of the 59 Councillors is elected by the Council to be the Leader of the Council. The Leader in turn appoints up to 9 other Councillors as his/her Executive, and allocates particular responsibilities to each Executive Councillor.
- 3.6 The Leader and Executive Councillors together form the Executive. It is their responsibility to work together to achieve the Council's policies. The

Council holds the Executive to account for the performance of their duties.

#### **4. How decisions are made**

- 4.1 The Executive is the part of the Council which is responsible for most day-to-day decisions. The Executive comprises the Leader and between 2 and 9 Executive Councillors appointed by the Leader. When major decisions are to be discussed or made, these are published in the Forward Plan insofar as they can be anticipated. If these major decisions are to be discussed with Council Officers at a meeting of the Executive, this will generally be open for the public to attend except where personal or confidential matters are being discussed.
- 4.2 The Executive has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the Budget or Policy Framework, this must be referred to the Council as a whole to decide.

#### **5. The Scrutiny Committee**

- 5.1 The Council must have one or more Scrutiny Committees (Scrutiny). Scrutiny supports the work of the Executive and the Council as a whole. It allows Councillors and citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Executive and the Council as a whole on its policies, budget and service delivery. Scrutiny Committee also monitors the decisions of the executive.
- 5.2 Decisions made by the Executive but not yet implemented can be 'called-in' for review by a Scrutiny Committee to consider whether the decision is appropriate. The Scrutiny Committee may recommend that the Executive reconsider the decision. Scrutiny may also be consulted by the Executive or the Council on forthcoming decisions and the development of policy.

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

6.1 The Council has people working for it (called 'Officers') to give advice, implement decisions and manage the day-to-day delivery of services. Some Officers have a specific legal duty to ensure that the Council acts within the law and uses its resources wisely. A protocol governs the relationships between Officers and Councillors.

## **7. Citizens' Rights**

7.1 Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes.

7.2 Where members of the public use specific Council services, for example as a Council tenant or as an applicant for planning permission, they may have additional rights. These are not covered in this Constitution.

## **8. Citizens' Involvement**

8.1 Citizens have the right to:

- vote at local elections if they are registered and eligible;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- take part in public consultation on issues, for example on planning applications;
- petition to request a referendum on a mayoral form of executive;
- participate in the Public Participation arrangements at Council meetings;
- contribute to investigations by the Scrutiny Committee
- find out, from the Forward Plan, what major decisions are to be

discussed by the Executive or decided by the Executive or Officers, and when;

- attend meetings of the Executive where Key Decisions are being discussed or decided;
  - see reports and background papers (that are not exempt or confidential), and any record of decisions made by the Council and Executive;
  - complain to the Council about failings of the services provided by the Council or how Officers deliver such services;
  - complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
  - complain to the Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct;
  - inspect the Council's accounts and make their views known to the external auditors.
- 8.2 The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen and for all the Council's activities, please contact Governance, Democracy and Executive Support or visit the Council's website.



# **Articles of the Constitution**

## **Articles Index**

Article 1 - The Constitution

Article 2 - Members of the Council

Article 3 - Citizens and the Council

Article 4 - The Full Council

Article 5 - The Chair

Article 6 - Scrutiny

Article 7 - The Executive

Article 8 - Regulatory and other Committees

Article 9 - Ethical Standards Arrangements

Article 10 - Community Councils and Forums

Article 11 - Joint Arrangements

Article 12 - Officers

Article 13 - Decision-making

Article 14 - Finance, Contracts and Legal Matters

Article 15 - Review and Revision of the Constitution

Article 16 - Suspension, Interpretation and Publication of Constitution

# **1 Article 1 – The Constitution**

## **1.1 Powers of the Council**

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

## **1.2 The Constitution**

1.2.1 This Constitution, and all its appendices, is the Constitution of Somerset West and Taunton.

## **1.3 Purpose of the Constitution**

1.3.1 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 authority decision-making;
- 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 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;
- provide a means of improving the delivery of services to the community.

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

1.4.1 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 15.

## **2 Article 2 – Members of the Council**

### **2.1 Composition and Eligibility**

#### **(a) Composition**

2.1.1 The Council will comprise of 59 Councillors. One or more Councillors will be elected by the voters of each ward in accordance with a scheme approved by the Secretary of State.

#### **(b) Eligibility**

2.1.2 Any person over 18 who meets the eligibility requirements under Section 79 of the Local Government Act 1972 may stand for election as a Councillor.

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

2.2.1 Unless otherwise prescribed by Parliament, the regular election of Councillors will take place every 4 years on the first Thursday in May. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

### **2.3 Roles and functions of all Councillors**

#### **(a) Key Roles**

2.3.1 All Councillors will:

- a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- b) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;

- c) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- d) balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
- e) be involved in decision-making, including any scheme of individual decision-making established by the Council or Leader;
- f) be available to represent the Council on other bodies;
- g) maintain the highest standards of conduct and ethics, including compliance with the Councillor Code of Conduct.

#### **(b) Rights and Duties**

2.3.2 All Councillors will:

- a) 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;
- b) not disclose to anyone information which is confidential or exempt without the consent of the Council, or divulge information given in confidence to anyone other than a Councillor, Officer or third party entitled by law to know it.

2.3.3 For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules.

### **2.4 Election of the Chair**

2.4.1 The Chair will be elected by the Councillors at the Annual Council meeting. The term of office for the Chair will be one year. The Councillor will take office immediately upon her/his declaration of acceptance of office of Chair and will continue in office until her/his successor is elected, unless the Councillor ceases to be Chair.

### **2.5 Conduct and Disqualification**

2.5.1 Councillors will at all times observe the Councillors Code of Conduct and the

## Protocol on Councillor/Officer Relations.

2.5.2 Councillors are subject to section 85 of the Local Government Act 1972 and therefore any Councillors who fails to attend any meeting of the Council or of any committee, joint committee or sub-committee of which they are a member for more than six months, unless the failure to attend was due to some reason approved by the Council, shall cease to be a Councillor of the Somerset West and Taunton Council.

## 2.6 Allowances

2.6.1 Councillors are entitled to receive allowances in accordance with the Councillors' Allowances Scheme.

# 3 Article 3 – Citizens and the Council

## 3.1 Citizens' Rights

3.1.1 Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules.

### (a) Voting and Petitions

3.1.2 Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for a directly elected Mayor form of executive.

3.1.3 As well as residents those who work or study in the district may present petitions on other matters in accordance with the Council's Petitions Scheme.

### (b) Information

3.1.3 Citizens have the right to:

- a) attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting, or part of it, is therefore held in private;
- b) attend meetings of the Executive when key decisions are being considered;
- c) find out from the Forward Plan what key decisions will be taken by the

- Executive and when. The Forward Plan is available for inspection at the Council's reception and on its website; see reports and background papers, and any records of decisions made by the Council and the Executive;
- d) inspect the Council's accounts and make their views known to the external auditor;
  - e) take part in public consultation processes commenced by the Council.

#### **(c) Participation**

3.1.4 Citizens have the right to participate in Council, Executive and Committee meetings (in accordance with procedures set out in this Constitution) and may contribute to investigations by the Scrutiny Committee(s).

#### **(d) Complaints**

3.1.5 Citizens have the right to complain to:

- a) the Council itself under its complaints scheme;
- b) the Local Government Ombudsman after using the Council's own complaints scheme;
- c) the Council's Monitoring Officer about a breach of the Councillor Code of Conduct.

### **3.2 Citizens' Responsibilities**

3.2.1 When participating in meetings, or in dealings with the Council, citizens must not be disruptive, violent, abusive or threatening to Councillors or Officers and must not wilfully damage property owned by the Council, Councillors or Officers.

## **4 Article 4 – The Full Council**

### **4.1 Functions of the Full Council**

4.1.1 Only the Council will exercise the following functions:

- a) adopting and changing the Constitution;

- b) approving or adopting the Policy Framework, the Budget and any application to the Secretary of State in respect of any housing land transfer;
- c) subject to the urgency procedure contained in the Access to Information Procedure Rules, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
- d) appointing the Leader of the Council;
- e) exercising powers to remove the Leader from office before completion of his/her term of office;
- f) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- g) appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;
- h) adopting and varying a Councillors' Allowances Scheme;
- i) changing the name of the area/council,
- j) conferring the title of honorary alderman or honorary alderwoman, or awarding the Freedom of the Council Area under Sections 248 and 249 of the Local Government Act 1972;
- k) confirming the appointment of the Head of Paid Service;
- l) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- m) making a request under Section 14A(1) (requests for single-member electoral areas) of the Local Government Act 1992 for single-member electoral areas;
- n) the passing of resolutions to change a scheme for elections under the Local Government and Public Involvement in Health 2007 Act (Subsections 32(1), 37(1) or 39(1);

- o) the making of orders giving effect to recommendations made in a community governance review under the Local Government and Public Involvement in Health 2007 Ac (Section 86);
- p) the duty to make a change in governance arrangements under the Local Government and Public Involvement in Health 2007 Act (Schedule 4 paragraphs 3 and 8);
- q) a decision to accept an invitation to become an ‘opted in’ Authority, for the purposes of appointing external auditors under the provisions of the Local Audit (Appointing Person) Regulations 2015;
- r) making or revising Council Tax Reductions Scheme under Section 13(A)(2) of the Local Government Finance Act 1992 as amended by the Localism Act 2011;
- s) approving supplementary budget allocations (whether revenue or capital budgets) at or above £250,000.00.
- t) Electing the Chair of the Council and appointing the Vice-Chair.
- u) Confirming the appointment of the Section 151 Officer and Monitoring Officer.
- v) Designating an officer to be the Returning Officer and Electoral Registration Officer.
- w) consider recommendations from the Executive (which will come from Hinkley Point Planning Obligations Board) to allocate contributions for projects seeking funding of over £250,000.
- x) consider recommendations from the Executive (which have not come from Hinkley Point Planning Obligations Board) to allocate contributions for projects seeking funding of over £250,000.
- y) consider recommendations from the Executive (which have come from the internal Planning Obligations Group (to allocate contributions for projects seeking funding of over £250,000)
- z) appoint the Council’s representatives to the Hinkley Point Planning

## Obligations Board

- aa) appoint the Council's representative on the Somerset Community Foundation Panel who will consider bids to the EDF Energy Community Fund
- bb) all other matters which, by law, must be reserved to Full Council.

4.1.2 The Council will also exercise the following additional functions which may be discharged by Full Council itself or delegated to a committee or sub-committee of Councillors, an officer of the Council or another authority:

- a) all responsibilities of the Council (as provided by the Local Government Act 2000 and guidance published by the Secretary of State) which must be undertaken by the Council rather than the Executive (see Responsibility for Functions, Table 1); and,
- b) all local choice functions (as provided by the Local Government Act 2000 and guidance published by the Secretary of State) which the Council decides should be undertaken by itself rather than the Executive (see Responsibility for Functions, Table 2).

## 4.2 Meanings

### (a) Policy Framework

4.2.1 The Policy Framework means the following plans and strategies required by law:

- a) Crime and Disorder Reduction Strategy;
- b) Development Plan documents;
- c) Licensing Authority Policy Statement;
- d) Plans and alterations that together comprise the Development Plan.

4.2.2 The Council has also decided to include the following in the Policy Framework:

- a) Corporate Plan;

- b) Housing Investment Programme;
- c) Asset Management Strategy;
- d) Community Strategy.

4.2.3 The Council has the power to vary the Policy Framework from time to time, provided it does so in accordance with any statutory guidance.

**(b) Budget**

- i. The Budget includes the allocation of financial resources to different services and projects, proposed reserves and contingency funds, the council tax base, setting the council tax, setting housing rents, decisions' relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

**(c) Housing Land Transfer**

- ii. Housing land transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

### **4.3 Council Meetings**

- iii. There are four types of Council meeting:
  - 1. the Annual Meeting
  - 2. Ordinary Meetings
  - 3. Extraordinary Meetings
  - 4. Special Meetings

and they will be conducted in accordance with the Council Procedure Rules of this Constitution as may be adopted and amended from time to time.

## **4.4 Responsibility for Functions**

4.4.1 The Council will maintain and publish information on the responsibilities for the Council's functions, which are not the responsibility of the Executive as set out in the Constitution at 'Responsibility for Functions'.

## **5 Article 5 – The Chair**

### **5.1 Role and Functions of the Chair of the Council**

5.1.1 The Chair will be elected by the Council annually and will have the following responsibilities when chairing meetings of the Council to:

- a) uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary;
- b) preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- c) ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not part of the Executive are able to hold the Leader and other members of the Executive and committee chairs, including chairs of Scrutiny Committee(s), to account;
- d) promote public involvement in the Council's activities;
- e) be the conscience of the Council;
- f) oversee the implementation of any dispute resolution procedures established by the Council and included in the rules of procedure contained in this Constitution.

## **6 Article 6 – Scrutiny**

### **6.1 Terms of Reference**

6.1.1 Scrutiny refers to all the Scrutiny functions within the Council and is used in this Constitution as a collective term for all individual Scrutiny Committees, sub-committees and scrutiny panels and all references to Scrutiny are to be interpreted accordingly, except where otherwise expressly stated.

6.1.2 The Council will appoint at least one Scrutiny Committee to discharge the functions conferred by section 21 of the Local Government Act 2000. Details of the Committee(s), as amended from time to time, are included in the Scrutiny Procedure Rules. Specific terms of reference for the Scrutiny Committee(s) are found in this Constitution.

## **6.2 General role**

6.2.1 Within their terms of reference, Scrutiny Committee(s) will:

- a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- b) review and/or scrutinise the performance of external bodies subject to scrutiny by the Council;
- c) in accordance with their remit and terms of reference, make reports and/or recommendations to the full Council and/or the Executive and/or any committee or joint committee in connection with the discharge of any functions;
- d) consider any matter affecting the area or its inhabitants;
- e) exercise the right to Call-In, for reconsideration, decisions made but not yet implemented by the Executive and/or any committee (where exercising Executive functions), as well as pre- scrutinise any proposed decisions published in the Forward Plan. The procedure to be followed when the right to Call-In is exercised is included in the Procedure Rules of this Constitution;
- f) create time-limited panels to consider specific issues.

## **6.3 Specific Functions**

### **(a) Policy Development and Review**

6.3.1 Scrutiny Committee(s) may:

- a) assist the Council and the Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- d) question members of the Executive and/or committees and Chief Officers about their views on issues and proposals affecting the area;
- e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

### **(b) Scrutiny**

6.3.2 Scrutiny Committee(s) may:

- a) review and scrutinise the decisions made by and the performance of the Executive and/or committees and Council Officers both in relation to individual decisions and over time;
- b) review and scrutinise the Council's performance in relation to its policy objectives, performance targets and/or particular service areas;
- c) question members of the Executive, committees and Chief Officers and Officers with management responsibilities about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- d) make recommendations to the Executive, appropriate committee, officer and the Full Council arising from the outcome of the scrutiny process;
- e) review and scrutinise the performance of other public bodies in the area and call for reports from them and attendance of appropriate representatives to

address the Scrutiny Committee(s) and local people about their activities and performance;

- f) question and gather evidence from any person (with their consent).

**c) Finance.**

6.3.3 Scrutiny Committee(s) may:

- A) exercise overall responsibility for the finances made available to them.
- B) scrutinise the overall Council Budget as part of its preparation.

**(d) Annual Report**

6.3.4 The Scrutiny Committee(s) must report annually to Council on their work.

## **6.4 Proceedings of Scrutiny Committees**

6.4.1 The Scrutiny Committee(s) will conduct their proceedings in accordance with the Scrutiny Procedure Rules of this Constitution.

# **7 Article 7 – The Executive (Leader and Executive)**

## **7.1 Role**

7.1.1 The Executive will carry out all of the local authority's functions which are not expressly reserved as the responsibility of any other part of the local authority, whether by law or under this Constitution.

## **7.2 Form and Composition**

7.2.1 The Council has adopted the Leader and Executive (England) model of executive.

7.2.2 The Executive will consist of the Council Leader together with an Executive of at least 2 but not more than 9 other Councillors appointed by the Leader.

**(a) The Leader**

7.2.3 The Leader will be a Councillor elected by the Council at the Annual Council Meeting in the year of the Council elections. The Leader will hold office

for the term of four years until the next post-election Annual Council Meeting, or unless:

- a) the Councillor resigns from the office; or
- b) the Councillor is suspended from being a Councillor under Part III of the Local Government Act 2000 (although the Councillor may resume office at the end of the period of suspension); or
- c) the Councillor is removed from office by resolution of the Council.

7.2.4 In the event of the office of Leader becoming vacant before expiration of their Term of Office, the Council will elect a new Council Leader at its next meeting or at a meeting called for that purpose. The new Leader will serve for the period of office remaining (i.e. until the next post-election Annual Council Meeting).

#### **(b) The Deputy Leader**

7.2.5 The Leader shall appoint an Executive Councillor to serve as Deputy Leader.

7.2.6 The Deputy Leader of the Council will hold office until the end of the term of office of the Leader unless:

- a) the Councillor resigns from the office; or
- b) the Councillor is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- c) the Councillor is no longer a Councillor; or
- d) the Councillor is removed from that office by the Leader

7.2.7 Where a vacancy occurs in the office of Deputy Leader, the Leader of the Council must appoint another Executive Councillor to that role.

### **7.3 Other Executive Councillors**

7.3.1 The Leader must appoint between two and nine Executive Councillors including the Deputy Leader.

7.3.2 The Leader shall determine the terms of office of Executive Councillors, which shall be no longer than the end of the term of office of the Leader. An Executive Councillor shall cease to hold that office if:

- a) the Councillor resigns from office; or
- b) the Councillor is suspended from being a Councillor under Part III of the Local Government Act 2000 (although the Councillor may resume office at the end of the period of suspension); or
- c) the Councillor is no longer a Councillor; or
- d) the Councillor is removed from office by the Leader.

#### **7.4 Proceedings of the Executive**

7.4.1 Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules of this Constitution.

#### **7.5 Responsibility for Functions**

7.5.1 The Leader has responsibility for the exercise of all the functions of the executive (executive functions) under this Constitution and in law.

7.5.2 The Leader may discharge any executive function or delegate their exercise to:

- a) the executive as a whole (Leader and Executive),
- b) an individual Executive Councillor,
- c) a committee of the Executive,
- d) an officer,
- e) an area committee established under section 18 of the Local Government Act 2000,
- f) be exercised under joint arrangements
- g) Individual non-executive Councillors where a scheme under the Local Government and Public Involvement in Health Act 2007 has been established.

7.5.3 Those persons or bodies exercising executive functions may delegate those

powers so far as allowed by law.

7.5.4 A list of responsibilities for Executive functions will be maintained by the Monitoring Officer and published on the Council's website.

## **8 Article 8 – Regulatory and Other Committees**

### **8.1 Regulatory and Other Committees**

8.1.1 The Council will appoint certain committees to deal with statutory or regulatory functions. Some committees may be set up as consultation or advisory forums (i.e. without decision-making powers). A list of these committees as amended or added to from time to time will be maintained by the Monitoring Officer.

### **8.2 Audit, Governance and Standards**

8.2.1 The Council will appoint one or more committees that between them will undertake (a) the role of an Audit, Governance and Standards Committee and (b) ensure compliance in decision-making in respect of the Council's political management arrangements and constitutional procedures. The latter role includes all parts of the Council that are responsible for making decisions including full Council, Executive, Officers under delegated authority, the Planning and Licensing Committees and other Council bodies, including joint bodies with other agencies and partnerships.

## **9 Article 9 – Ethical Standards Arrangements**

### **9.1 Establishment**

9.1.1 The Council will appoint a committee to ensure the Council meets its duty to promote and maintain high standards of conduct by Councillors and co-opted Councillors of the authority under s.27 (1) of the Localism Act 2011, and to determine complaints and appeals under the Councillor Code of Conduct.

9.1.2 The Council has designated these functions to the Audit, Governance and Standards Committee.

### **a) Independent Person**

9.1.3 The Council has made provision under s.7 of the Localism Act 2011 to appoint at least one independent person:

- whose views are to be sought and taken into account before decisions are made on an allegation about a Councillor's conduct;
- whose views may be sought by a Councillor or co-opted member of the authority if that person's behaviour is the subject of an allegation; and
- who will be invited to attend any panel meetings to determine the outcome of an investigation into an allegation about a Councillor's conduct or to appeal the outcome of a previous determination and, if present, may advise the panel and the Councillor who is the subject of the hearing or appeal.

9.1.4 A vacancy for an independent person must be sought by advertisement in such manner as the authority considers is likely to bring it to the attention of the public (s.28(8)(c)(i) Localism Act 2011).

9.1.5 The Council may only consider and approve candidates who have submitted to the authority an application to fill the vacancy (s.28(8)(c)(ii) Localism Act 2011);

9.1.6 Independent person appointments must be approved by a majority of the members of the Council (i.e. 30 Councillors) (s.28(8)(c)(iii) Localism Act 2011 – Appointments will be for a term of office determined by Full Council).

9.1.7 An independent person does not cease to be independent as a result of being paid any amounts by way of allowances or expenses in connection with performing the duties of the appointment.

9.1.8 A person is not independent if the person is

- a) a Councillor, co-opted Councillor or officer of the authority, or was a Councillor, co-opted Councillor or officer of the authority at any time during the 5 years ending with the appointment; or
- b) a relative (as defined in s28(8) Localism Act 2011), or close friend, of a Councillor, co-opted Councillor or officer of the authority.

## **10 Article 10 – Community Councils and Forums (AREA COMMITTEES UNDER SECTION 18 OF THE LOCAL GOVERNMENT ACT 2000)**

10.1 The Council may establish Community Councils and Forums in accordance with such determinations as it may later make.

## **11 Article 11 – Joint Arrangements and Partnerships**

### **11.1 Joint Arrangements**

11.1.1 The Council may establish joint arrangements with one or more local authority to exercise functions that are not Executive functions in any of the participating authorities. Such arrangements may involve the appointment of a joint committee with these other local authorities.

11.1.2 The Executive may establish joint arrangements with one or more local authority to exercise functions that are Executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

11.1.3 Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations, as amended from time to time.

### **11.2 Access to Information**

11.2.1 The Access to Information Rules apply to joint arrangements.

11.2.2 If all the members of a joint committee are members of the Executive in each of the participating authorities, then the access to information regime for the joint committee is the same as that applied to the Executive.

11.2.3 If the joint committee contains members who are not on the Executive of any participating authority, then the Access to Information Rules in Part V of the Local Government Act 1972 will apply.

## **11.3 Delegation To and From Other Local Authorities**

11.3.1 The Council may delegate non-Executive functions to another local authority or, in certain circumstances where permitted by law, to the Executive of another local authority.

11.3.2 The Executive may delegate Executive functions to another local authority or the Executive of another local authority.

11.3.3 The decision whether or not to accept such a delegation from another local authority shall be reserved to Council.

## **12 Article 12 – Officers**

### **12.1 Management Structure**

#### **(a) General**

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

#### **(b) Chief Officers and Heads of Functions/Directors**

12.1.2 The Chief Executive shall have the responsibility and the power to amend the portfolios of Chief Officers as he/she considers necessary to deliver the Council's functions, vision and priorities. Such changes shall be carried out in accordance with the relevant HR policies applicable. The Chief Executive shall consult the Executive before such changes and report them to Full Council as soon as practicable thereafter

#### **(c) Head of Paid Service, Monitoring Officer and Section 151 Officer**

12.1.3 Council officers are required to be appointed to these posts by law undertaking specified functions. The Council has designated the following posts as set out below.

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Governance Manager	Monitoring Officer

Strategic Finance Advisor and S151 Officer	Section 151 Officer
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**(d) Structure**

12.1.4 The Head of Paid Service will maintain and publicise a description of the overall functional structure of the Council showing the management structure and deployment of Officers. This is set out as an appendix to this Constitution.

## **12.2 Functions of the Head of Paid Service/Returning Officer**

**(a) Discharge of Functions by the Council**

12.2.1 The Head of Paid Service will report to Council on the manner in which the discharge of the Council's functions is coordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.

12.2.2 The Head of Paid Service will be the Returning Officer and Electoral Registration Officer

**(b) Restrictions on Functions**

12.2.3 The Head of Paid Service may not be the Monitoring Officer but may hold the post of Section 151 Officer if a qualified accountant.

## **12.3 Functions of the Monitoring Officer**

**(a) Maintaining the Constitution**

12.3.1 The Monitoring Officer will maintain an up-to-date Constitution and will ensure that it is widely available for consultation by Councillors, staff and the public.

**(b) Ensuring Lawfulness and Fairness of Decision-Making**

12.3.2 After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report in writing to the Full Council (or to the Leader or Executive in relation to an Executive function) if s/he considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration.

12.3.3 Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

**(c) Conducting investigations**

12.3.4 The Monitoring Officer will conduct investigations into allegations of misconduct by Councillors and make reports or recommendations in respect of them to a panel of the Audit, Governance and Standards Committee.

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

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

**(e) Advising Whether Executive Decisions Are Within the Budget and Policy Framework**

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

**(f) Providing Advice**

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

**(g) Restrictions on Posts**

12.3.8 The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

## **12.4 Functions of the Section 151 Officer**

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

12.4.1 After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the Council, or to the Executive in relation to an Executive function, and the Council's external auditor if s/he 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**

12.4.2 The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.

**(c) Contributing to Corporate Management**

12.4.3 The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

**(d) Providing Advice**

12.4.4 The Section 151 Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.

**(e) Give Financial Information**

12.4.5 The Section 151 Officer will provide financial information to the media, members of the public and the community.

**12.5 Duty to Provide Sufficient Resources to the Monitoring Officer and Section 151 Officer**

12.5.1 The Council will provide the Monitoring Officer and Section 151 Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

**12.6 Conduct**

12.6.1 Officers will comply with the Officer Code of Conduct and the Protocol for Councillor-Officer Relations in this Constitution.

**12.7 Employment**

12.7.1 The recruitment, selection and dismissal of Officers will comply with the Employment Procedure Rules of this Constitution.

## **13 Article 13 – Decision-Making**

### **13.1 Responsibility for Decision-Making**

13.1.1 The Council will issue and keep an up-to-date record of which Council body or which individual Councillor or officer has responsibility for particular types of decisions or decisions relating to particular areas or functions.

13.1.2 It will establish the threshold levels for key decisions as defined in paragraph 13.3(b) below.

### **13.2 Principles of Decision-Making**

- a) All decisions of the Council will be made in accordance with the following principles:
- b) proportionality (i.e. reasonableness of action);
- c) due consultation and the taking of professional advice from officers;
- d) respect for human rights;
- e) a presumption in favour of openness;
- f) clarity of aims and desired outcomes;
- g) a statement of all options considered;
- h) a statement of the reasons for the decision.

### **13.3 Types of Decision**

- a) **Decisions reserved to full Council:** Decisions relating to the functions listed in Article 4.1 will be made by the Council and not delegated.
- b) **Key Decisions:** A key decision is an Executive decision, which is likely:
  - i. to be significant in terms of its effects on communities living or working in an area comprising one or more wards in the District; and / or
  - ii. to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or functions to which the decision relates.

Key decisions can generally be considered to be decisions which involve one or more of the following:

- Decisions involving significant expenditure as set out in the Financial Thresholds in the Executive Procedure Rules;
- Decisions having a “significant impact” on people in one or more wards; and/or
- Decisions which are politically sensitive and which the Executive wishes to take rather than delegate to officers.

A decision maker may only make a Key Decision in accordance with the requirements of the Executive Procedure Rules of this Constitution (and therefore should follow the Access to Information Rules).

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

13.4.1 Subject to the principles of natural justice and respecting Human Rights, the Council meeting will follow the Council Procedure Rules of this Constitution when considering any matter.

### **13.5 Decision-Making by the Executive**

13.5.1 Subject to the principles of natural justice and respecting Human Rights, the Executive will follow the Executive Procedures Rules of this Constitution when considering any matter.

### **13.6 Decision-Making by Scrutiny Committee(s)**

13.6.1 Subject to the principles of natural justice and respecting Human Rights, the Scrutiny Committee(s) will follow the Scrutiny Procedures Rules of this Constitution when considering any matter.

### **13.7 Decision-Making by Other Committees and Sub-Committees Established by the Council**

13.7.1 Subject to the principles of natural justice and respect for human rights, other Council committees and sub committees will follow those parts of the Council Procedures Rules, as apply to them.

## **13.8 Decision-Making by Council Bodies Acting as Tribunals**

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

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

## **14.1 Financial Management**

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

## **14.2 Contracts**

14.2.1 Every contract made by the Council will comply with the Contracts Procedure Rules of this Constitution.

## **14.3 Legal Proceedings**

14.3.1 The Monitoring Officer is authorised to institute, defend or participate in any legal proceedings (whether actual or contemplated) in any case where such action is necessary to give effect to decisions of the Council or in any case where s/he considers that such action is necessary to protect the Council's interests. The Monitoring Officer may further delegate these powers, in so far as is legally permissible.

## **14.4 Authentication of Documents**

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

14.4.2 Any contract with a value exceeding £500,000 entered into on behalf of the

Council in the course of the discharge of an Executive function shall be made in writing and under the Common Seal of the Council.

#### **14.5 Common Seal of the Council**

14.5.1 A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed also to those documents, which in the opinion of the Monitoring Officer or an officer authorised by him/her, should be sealed.

14.5.2 The Monitoring Officer (or such other person(s) authorised by him/her) will attest the affixing of the Common Seal. An entry of every sealing of a document shall be made and consecutively numbered in a book kept for the purpose and shall be signed by a person who has attested the seal.

14.5.3 The Monitoring Officer shall keep a list of those persons/posts authorised to attest the affixing of the Common Seal.

#### **14.6 Custody of the Seal**

14.6.1 The Common Seal of the Council shall be kept in a safe place in the custody of the Monitoring Officer or their deputy.

#### **14.7 Authentication of Documents for Legal Proceedings**

14.7.1 Where any document will be a necessary step in legal proceedings on behalf of the Council, it shall be signed by the Monitoring Officer or an officer authorised by him/her, unless any enactment otherwise requires or authorises, or the Council or a Committee acting under delegated powers gives the necessary authority to some other person for the purpose of such proceedings.

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

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

15.1.1 A key role of the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve

the purposes set out in Article 1. In undertaking this task, the Monitoring Officer may:

- i. attend and observe meetings of different parts of the Councillor and Officer structure;
- ii. undertake an audit trail of a sample of decisions;
- iii. record and analyse issues raised with her/him by Councillors, Officers, the public and other relevant stakeholders;
- iv. without any reduction or restriction on the lawful requirements of the role of the Monitoring Officer, s/he will work in co-ordination with the Section 151 Officer and the Chief Executive;
- v. compare practices in this Council with those in other comparable authorities, or national examples of best practice;
- vi. amend the Constitution to rectify any typographical or grammatical errors or to delete or update any obsolete terms or references or officer designations;
- vii. make minor detailed changes of a limited significance (as agreed by the Monitoring Officer and the appropriate Portfolio Holder ) subject to obtaining the written agreement of the Portfolio Holder and such agreed changes and the reasons for the change to be subsequently notified to all Councillors.

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

### **16.1 Suspension of the Constitution**

#### **(a) Limit to Suspension**

16.1.1 The Articles of this Constitution may not be suspended. The Rules specified in (c) below may be suspended by the Council to the extent permitted within those Rules and the law.

#### **(b) Procedure to Suspend**

16.1.2 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**

16.1.3 The Council may decide to suspend any rule, other than any rule which is prescribed by law and cannot be so suspended.

**16.2 Interpretation**

16.2.1 The ruling of the Chair 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.

**16.3 Publication**

16.3.1 The Monitoring Officer will offer to provide a printed copy of this Constitution to each Councillor of the authority upon delivery to her/him of that individual's Declaration of Acceptance of Office, on the Councillor first being elected to the Council.

16.3.2 The Monitoring Officer will ensure that the Constitution is available for inspection on the Council's website, at Council offices, all libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.



# Responsibility for Functions

Source: *This part is required under Article 4 and Article 7 of this Constitution; Section 13, Local Government Act 2000, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended); The Local Government Act 2000 (Constitutions) (England) Direction 2000 & takes into account the Secretary of State's Guidance, Chapter 5.*

## 1 Responsibility for Council Functions

1.1.1 **Regulations:** Functions which must not be the responsibility of an authority's executive from the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 SCHEDULE 1 Regulation 2(1)

1.1.2 **Explanation:** The law requires the following functions must be the responsibility of Full Council and not the Executive.

1.1.3 The Full Council can discharge these functions itself or may delegate one or more functions to a committee or sub-committee of Councillors, an officer of the Council or another authority. The Full Council may always exercise powers it has delegated to the other bodies or persons set out above. It may also discharge its functions jointly with one or more other Councils.

1.1.4 Delegations to Officers are listed in this Part, the Articles and the terms of reference of committees in this Constitution.

1.1.5 Delegation is a simple way of allocating matters to an appropriate level so that the Full Council's functions are dealt with in an efficient and effective way.

**TABLE 1 – Responsibility for Council Functions**

<b>Function</b>	<b>Decision making body</b>
Functions relating to elections as listed in Section D of Schedule 1 to the Regulations and as may be amended by law from time to time	The Council, which has made delegations to Officers within this Constitution and the Council's scheme of delegation.
Functions relating to name and status of areas or individuals as listed in Section E of Schedule 1 to the Regulations and as may be amended by law from time to	The Council

<b>Function</b>	<b>Decision making body</b>
time	
Functions relating to making, amending, revoking or re-enacting byelaws as listed in section F of Schedule 1 to the Regulations.	The Council
Functions relating to promoting or opposing local or personal Bills as listed in section G of Schedule 1 to the Regulations	The Council
Functions relating to local government pensions as listed in Section H. of Schedule 1 to the Regulations	The Council
Miscellaneous functions as listed in section I. of Schedule 1 to the Regulations and as may be amended by law from time to time (e.g. the power to make standing orders, the power to appoint staff, the power to appoint statutory officers 'proper officers')	The Council
All other non-executive functions (subject to the arrangements listed below and elsewhere in this Constitution)	The Council being made up of all elected Councillors and with the power to delegate to Committees, subcommittees or officers.
Functions relating to town and country planning and development control as listed in section A. of Schedule 1 to the Regulations and as may be amended by law from time to time	The Council has delegated powers to the Planning Committee. The Committee has made delegations to Officers, which are included within its terms of reference and the scheme of delegation.
Functions relating to licensing and registration as listed in section B. of Schedule 1 to the Regulations and as may be amended by law from time to time	The Council has delegated powers to the Licensing Act 2003 and Gambling Act and Licensing (General) Committees. The Committees have made delegations to officers, which are included within their terms of reference and the scheme of delegation.
Functions relating to Health and Safety at	The Council has delegated powers to the

<b>Function</b>	<b>Decision making body</b>
work as listed in Section C of Schedule 1 to the Regulations and as may be amended by law from time to time	Licensing Act 2003 and Gambling Act and Licensing (General) Committees. The Committees have made delegations to officers, which are included within their terms of reference and the scheme of delegation.
Functions relating to Community Governance as listed in Section EB of Schedule 1 to the Regulations and as may be amended by law from time to time	The Council
Functions relating to smoke free premises as listed in Section FA to Schedule 1 to the Regulations and as may be amended by law from time to time	The Council has delegated powers to the Licensing Act 2003 and Gambling Act and Licensing (General) Committees. The Committees have made delegations to officers, which are included within their terms of reference and the scheme of delegation.

## 2 Responsibility for Local Choice Functions

2.1.1 **Regulation:** These are functions which may be (but need not be) the responsibility of an authority's Executive (i.e. the Executive) identified in The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Schedule 2, Regulation 3(1).

2.1.2 **Explanation:** These functions are sometimes called Local Choice Functions because the Council can decide whether the Executive should or should not be the decision making body. The Council has allocated these functions as follows:

**TABLE 2 – Responsibility for Local Choice Functions**

<b>Functions from Schedules 2 Reg 3(1)</b>	<b>Decision making body</b>
1. Any function under a Local Act	The Executive
2. Determining an appeal against any decision made by or on behalf of the authority where there is a right of appeal to a Council Committee. (This	The Council

excludes matters where statutory arrangements exist).	
3. The appointment of housing benefit review boards.	Not applicable
4-6. Do not apply as these functions relate to education authorities.	Not applicable
7-8. Do not apply because these functions relate to Police Authorities	Not applicable
9. Conducting best value reviews (Repealed after 30 December 2007)	Not applicable
10. Any function relating to contaminated land	The Council
11. Any function relating to the control of pollution or the management of air quality	The Council
12. Any function relating to the abatement of statutory nuisances	The Council
13. Any function relating to noise nuisances	The Council
14. Powers of inspection to detect statutory nuisances	The Council
15. Investigation of complaints of statutory nuisances	The Council
16. Power to obtain information about interests in land under the Town & Country Planning Act 1990 (sec.330)	The Council
17. Power to obtain information about persons with interests in land under Local Government (Miscellaneous Provisions) Act 1976	The Council
18. Highways agreements	The Council
19. Appointments to external bodies and the revocation of such appointments.	The Council/The Executive
20. The making of agreements with other local authorities for the placing of staff at the disposal of those authorities	The Executive
21. Any function of a local authority in their capacity as a harbour authority and Coast Protection Authority	The Council
22. Powers in respect of the Council's Local Area Agreement under sections 106,110, 111 and	The Executive

### 3 Responsibility for Executive Functions

3.1.1 The Local Government Act 2000 (as amended) provides that all functions of a local authority, except (a) those specified by law or in this Constitution as non-executive functions shall be the discharged by the Executive.

3.1.2 The Executive shall consist of an Executive Leader (the Leader) appointed by Full Council and 2 to 9 elected members (the Executive) appointed by the Leader. The Executive will be known collectively as the Executive.

3.1.3 The Leader shall appoint one Executive member as Deputy Leader. The Deputy Leader will be able to exercise the powers of the Leader of the Council if:

- a) the Leader is unable to act or
- b) the office of Leader of the Council is vacant.

3.1.4 If both the Leader and Deputy Leader are both unable to act, the Executive as a whole must exercise the Leader's powers or arrange for a member of the Executive to act in his/her place.

3.1.5 The Leader shall determine how all executive powers shall be discharged. The Leader may:

- a) discharge any of those functions; or
- b) arrange for the discharge of any of those functions:
  - i. by the Executive collectively,
  - ii. by another member of the Executive,
  - iii. by a committee of the Executive, or
  - iv. by an officer of the Authority.

3.1.6 Executive functions may also be discharged by another arrangement allowed by law including by another authority, by an area committee or jointly with one or more other authorities.

3.1.7 The Monitoring Officer will maintain and publish a record of all arrangements made under this Part including but not limited to a list of Executive members, their

responsibilities and delegated powers. Where appropriate, the Council's scheme of delegation may set out these arrangements.

## **4 Delegations to Officers**

### **4.1 Introduction**

4.1.1 For the purposes of this section, the officers to whom delegations are made are as follows:

- Chief Executive and Statutory Officers
- Heads of Functions and Directors
- Other Staff
- Proper Officers for the purposes of specific legislation (as set out below) and as defined by section 270(3), Local Government Act 1972.

4.1.2 The delegations set out below apply to those functions which have not, by virtue of this Constitution or any other instrument, been reserved to Council or Executive and any committees or sub-committees thereof.

4.1.3 Delegations set out in this section are in addition to any delegations made in the Articles, and/or the Terms of Reference, of this Constitution.

### **4.2 Powers of the Chief Executive**

4.2.1 To exercise authority over the Heads of Functions and Directors, including allocating Heads of Functions' and Directors' portfolios.

4.2.2 To exercise the powers delegated to any Head of Function, Director or other members of staff so far as the law allows.

4.2.3 To carry out the functions of the Council for civic aid and emergency planning and to take any action, including incurring expenditure, in connection with an emergency or a disaster in the Council's area.

4.2.4 To undertake any other functions necessary for the carrying out of the role of Chief Executive, within any existing legislative and policy constraints.

### **4.3 Powers of the Heads of Functions and Directors**

4.3.1 The Heads of Functions and the Directors for the Council and their areas of

responsibility are referred to in Article 12 of this Constitution. In this Constitution, the term Heads of Function and Director includes any officer who reports directly to the Chief Executive.

4.3.2 All Heads of Functions and Directors are delegated all those powers necessary to act within the assigned portfolio of responsibilities, as set out in Article 12 and the appendix to this Constitution. Note that this delegation is subject to the general provisions and limitations set out in this Constitution.

4.3.3 A Head of Function or Director may further delegate or authorise any of the powers delegated to him or her under this Constitution or any other applicable scheme of delegation, in so far as is legally permissible and in so far as not already delegated by virtue of this Constitution. A formal scheme of delegation or authorisation will be maintained within each Function Area. Any such scheme of delegation or authorisation must be:

- Recorded in writing; and
- Lodged with the Monitoring Officer who will keep a record of all delegations

#### **4.4 Powers of Staff**

4.4.1 All staff shall be delegated all those powers necessary to carry out those functions specified in their respective job descriptions and other supporting information that defines roles and responsibilities, subject to the general provisions and limitations set out in this Constitution.

#### **4.5 General Provisions and Limitations**

4.5.1 Apart from those powers set out below which have been generally or specifically delegated to staff, any remaining functions which have not been, under this or any other current scheme of delegations, specifically reserved to Council, Cabinet or any committees or sub- committees thereof are delegated to officers.

4.5.2 Staff shall exercise powers under this scheme in compliance with:

- The rules of procedure set out in this Constitution;
- Corporate policies and strategies; and

- Any additional conditions imposed either by the Council or by statute or any statutory code of conduct.

4.5.3 The exercise of the powers delegated under this Constitution or any other scheme of delegation by staff involving the incurring of expenditure is subject to there being sufficient approved provision within their budget to cover that expenditure.

4.5.4 Each Head of Function and Director shall have all the powers and duties delegated to the officers who report directly to them or other staff within his/her portfolio, who are assigned to him or her, so far as is legally permissible.

## **4.6 Monitoring Officer and Section 151 Officer**

4.6.1 The functions of the Monitoring Officer and Section 151 Officer are set out in Articles 12 and 14. So far as not specified by legislation, the Monitoring Officer and Section 151 Officer are delegated all powers necessary to carry out their statutory functions.

# **5 Proper Officer Functions**

## **5.1 Meaning of Proper Officer Functions**

5.1.1 The Council has approved and adopted the appointment of the following officers as proper officers, as described in the following specified sections of the relevant Acts of Parliament or regulations.

5.1.2 Proper officer is defined for most legislation by s.270 (3) Local Government Act 1972 as an officer appointed for that purpose by that body or for that area, as the case may be.

5.1.3 The deputy proper officer is given in brackets after the proper officer. The deputy proper officer is appointed to act where the proper officer is absent and/or unable to act for any reason. Where neither the designated proper officer nor the designated deputy proper officer is able to act, or if there is no specified designated proper officer or deputy proper officer, the Chief Executive may designate an appropriate person to act as proper officer or deputy proper officer. If the Chief Executive is unable to act, this power shall be delegated to the Monitoring Officer or, if the Monitoring Officer is unavailable, to the Deputy Monitoring Officer.

## Local Government Act 1972

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
83(1) – (4)	Officer to whom persons elected to any of the following offices of the Council shall make declaration of acceptance of office: Chair, Vice-Chair, Councillor	Monitoring Officer (Chief Executive)
84	Officer to whom a person elected to any office under the Council may give written notice or resignation	Monitoring Officer (Chief Executive)
88(2)	Officer who may convene a meeting of the Council for the election to fill a vacancy	Chief Executive
89(1)(b)	Officer who may receive notice in writing of a casual vacancy in the office of Councillor from two local Government electors	Chief Executive (Monitoring Officer)
100B(2)	Officer who may think fit to exclude from reports open to inspection parts relating to items during which the meeting is likely not to be open to the public	Monitoring Officer
100B(7)(c)	Officer who may think fit to provide any extra item relating to items on the agenda for a meeting of Council to a newspaper where requested under 100B(7)	Monitoring Officer
100C(2)	Officer responsible for preparing a written summary of those parts of the committee proceedings which disclose exempt information	Monitoring Officer
100D(1)(a) and (5)(a)	Officer responsible for identifying background papers and compiling list of such documents	Monitoring Officer
100F(2)	Officer making decision as to documents disclosing exempt information which are not required to be open to inspection by council members	Monitoring Officer (Chief Executive)
115	Officer to whom all officers shall pay monies received by them and due to the local authority	Section 151 Officer
146(1)	Officer authorised to produce a statutory declaration specifying securities and verifying name change of authority	Section 151 Officer
204(3)	Officer to whom notice of application for a Justices License under schedule 1 of the Licensing Act 1964 should be given	Monitoring Officer
210(6) and (7)	Officer in whom power in respect of a charity will vest as at 1 April 1974	Monitoring Officer
225(1)	Officer with whom documents may be deposited pursuant to law to make notes or endorsements and give acknowledgements or receipts.	Monitoring Officer
229(4) and (5)	Officer who shall certify that a document is a photographic copy of a document in the custody	Monitoring Officer

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
	of the Council	
234(1)	Officer who may authenticate documents	Monitoring officer
Para 4(2)(b) of Part 1 of Schedule 12	Officer who may sign a summons to council meetings and who may receive notice from a Member of alternative address to which a summons to a meeting is to be sent	Chief Executive (Monitoring Officer)

### **Local Government Act 1974**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
30 (5)	Officer responsible for arranging publication in newspapers of notice of Local Commissioner's report on investigation of a complaint	Monitoring Officer

### **Local Government (Miscellaneous Provisions) Act 1976**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
41	Officer responsible for certifying copies of resolutions, minutes and other documents	Monitoring Officer

### **Buildings Act 1984**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
78 (8) BA 1984	Officer responsible for taking immediate action in relation to dangerous buildings	Relevant Head of Function/Director

### **Local Government Finance Act 1988**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
114	Officer responsible for making financial report to the authority	Section 151 Officer

### **Local Government (Committees and Political Groups) Regulations 1990**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
8 (1) and (5)	Officer to whom notice is delivered about the constitution of a political group, or the change of name of a political group	Chief Executive (Monitoring Officer)
9 and 10	Officer to whom notice is delivered about a Councillor's membership of, or cessation of membership of, a political group	Chief Executive (Monitoring Officer)
13	Officer to whom the wishes of a political group are expressed	Chief Executive (Monitoring

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
		Officer)
14	Officer responsible for notifying a political group about allocations and vacations of seats	Monitoring Officer (Deputy Monitoring Officer)

**The Local Authorities (Standing Orders) (England) Regulations 2001**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
Paras 5 and 6 of Part II of Schedule 1	Officer for receiving notification of proposed appointment of certain officers, notifying executive members of that proposed appointment and for receiving and notifying of objections to the proposed appointment. This officer is the proper officer referred to in rule 8 of the Officer Employment Procedure Rules set out in this Constitution	Chief Executive

**Proper Officer Functions Referred To In Guidelines Issued by the Secretary of State Under Section 38 of the Local Government Act 2000 (Part 8 of this Constitution)**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
17 Access to Information Procedure Rules	Officer who may, when requested to do so on behalf of an Scrutiny Committee, require Executive to submit a report to the Council within such reasonable time as the Scrutiny Committee specifies	Monitoring Officer
2.5 Executive Procedure Rules	Officer who may place an item on the agenda of the next available meeting of the Cabinet for consideration	The Monitoring Officer and/or the Section 151 Officer in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Section 151 Officer and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a

Section	Description	Proper Officer
		decision, they may jointly include an item on the agenda of an Executive meeting.

# COUNCIL

## Membership and Meetings

1. Membership: all elected Councillors
2. The Council will normally meet up to 5 times per year including the Annual Council meeting.

## TERMS OF REFERENCE

### Powers reserved to Full Council

3. The following functions must not be exercised by the Executive and, where not otherwise delegated, shall be reserved to the Full Council:
  - (a) adopting and changing the Constitution;
  - (b) approving or adopting the Policy Framework (as defined in Article 4), the Budget (as defined in Article 4) and any application to the Secretary of State in respect of any housing land transfer (as defined in Article 4);
  - (c) subject to the urgency procedure contained in the Access to Information Procedure Rules, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the Budget;
  - (d) appointing the Leader of the Council;
  - (e) exercising powers to remove the Leader from office before completion of his/her term of office;
  - (f) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
  - (g) appointing representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Council;

- (h) adopting and varying a Councillors' Allowances Scheme;
- (i) changing the name of the area/council;
- (j) electing the Chair of the Council and appointment of the Vice-chair;
- (k) confirming the appointment and dismissal of the Head of Paid Service;
- (l) confirming the appointment of the S151 Officer and Monitoring Officer;
- (m) to designate an officer to be the Returning Officer and Electoral Registration Officer;
- (n) conferring the title of honorary alderman or honorary alderwoman, or awarding the Freedom of the Council Area under Sections 248 and 249 of the Local Government Act 1972;
- (o) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (p) making a request under Section 14A(1) (requests for single-member electoral areas) of the Local Government Act 1992 for single-member electoral areas;
- (q) the passing resolutions to change a scheme for elections under the Local Government and Public Involvement in Health 2007 Act (Subsections 32(1), 37(1) or 39(1) ;
- (r) the making of orders giving effect to recommendations made in a community governance review under the Local Government and Public Involvement in Health 2007 Ac (Section 86);
- (s) the duty to make a change in governance arrangements under the Local Government and Public Involvement in Health 2007 Act (Schedule 4 paragraphs 3 and 8);
- (t) a decision to accept an invitation to become an 'opted in' Authority, for the purposes of appointing external auditors under the provisions of the Local Audit (Appointing Person) Regulations 2015
- (u) making or revising Council Tax Reductions Scheme under Section 13(A)(2) of the Local Government Finance Act 1992 as amended by the Localism

Act 2011

- (v) approving supplementary budget allocations (whether revenue or capital budget) at above £250,000.
  - (w) consider recommendations from the Executive (which will come from Hinkley Point Planning Obligations Board) to allocate contributions for projects seeking funding of over £250,000.
  - (x) consider recommendations from the Executive (which have not come from Hinkley Point Planning Obligations Board) to allocate contributions for projects seeking funding of over £250,000.
  - (y) consider recommendations from the Executive (which have come from the internal Planning Obligations Group (to allocate contributions for projects seeking funding of over £250,000)
  - (z) appoint the Council's representatives to the Hinkley Point Planning Obligations Board
    - (aa) appoint the Council's representative on the Somerset Community Foundation Panel who will consider bids to the EDF Energy Community Fund
    - (bb) all other matters which, by law, must be reserved to Full Council.
4. The Council will also exercise the following additional functions which may be discharged by Full Council itself or be delegated by agreement to a committee or sub-committee of Councillors, an officer of the Council or another authority:
- (a) all responsibilities of the Council (as provided by the Local Government Act 2000 and guidance published by the Secretary of State) which must be undertaken by the Council rather than the Executive (see Responsibility for Functions, Table 1); and,
  - (b) all local choice functions (as provided by the Local Government Act 2000 and guidance published by the Secretary of State) which the Council decides should be undertaken by itself rather than the Executive (see Responsibility for Functions, Table 2).



# **Executive**

## **1. Membership and Meetings**

1.1 Leader of the Council, together with at least 2 but no more than 9 other Councillors, appointed by him/her.

1.2 There will be no substitute for Executive Members although other Members may be invited to attend meetings and, in any case, can attend as observers.

1.3 The Executive will normally meet on a monthly basis.

## **2. Scope**

2.1 The Executive will carry out all of the Local Authority's functions which are not expressly reserved as the responsibility of any other part of the Local Authority, whether by law or under this Constitution.

2.2 The Executive will provide overall leadership and direction for the Council.

2.3 The Executive cannot amend Council Policy (as defined in Article 4 paragraph 4.2).

## **3. Terms of Reference**

3.1 The Executive will be responsible for the following functions:

- a) to propose the annual budget to Council for approval;
- b) to ensure full consultation with the public and other members of the Council on policies and strategies;
- c) to implement, within approved budgets, agreed plans and policies of the Council;
- d) to oversee expenditure within budget heads and limits approved by Council;
- e) to provide political leadership to enable Somerset West and Taunton Council to promote the economic, social and environmental wellbeing of the area;
- f) to exercise collective responsibility for the Council and its performance;

- g) to set strategies for partnership with external stakeholders;
- h) to receive recommendations from the Scrutiny Committee;
- i) to determine grant allocation priorities for external organisations;
- j) any functions which are deemed to be local choice functions as set out in the responsibilities for functions;
- k) to exercise the Council's powers in relation to emergencies and disasters;
- l) to consider recommendations from the Hinkley Point Planning Obligations Board and Internal Planning Obligations Group to allocate contributions for projects seeking funding for above £150,000 and less than £250,000;
- m) to consider referral to Council recommendations from the Hinkley Point Planning Obligations Board and Internal Planning Obligations Group to allocate contributions for projects seeking funding of over £250,000;
- n) to consider quarterly performance reports relating to the Hinkley Point project which have been previously reviewed by the Scrutiny Committee;
- o) to consider recommendations from the Internal Planning Obligations Group to allocate contributions for projects seeking funding of above £150,000 and less than £250,000;
- p) to approve Supplementary Budget Allocations (whether Revenue or Capital) between £150,000 and £250,000 and Budget Virements (whether Revenue or Capital greater than £150,000);
- q) To make Key Decisions as defined in the Executive Procedure Rules;
- r) to approve individual projects and schemes under the Council approved Growth Programme and Community Infrastructure Levy Investment Programme;

# **AUDIT, GOVERNANCE AND STANDARDS COMMITTEE**

## **Membership and Meetings**

The Audit, Governance and Standards Committee will be composed of:

- 11 elected Councillors, except any councillor who is a member of the Executive;
- 2 Independent co-opted persons who are not Councillors or officers of the Council (independent members);
- 2 co-opted members of any town/parish councils in the Council's area (town/parish members).

The Chair and Vice-Chair of the Committee shall be Councillors. Where a lead Councillor is appointed as a member of the Committee, they shall not be elected Chair or Vice-Chair.

The co-opted independent members and town/parish members will not be entitled to vote at meetings of the Audit, Governance and Standards Committee or any of its Sub-Committees.

The Quorum for the Audit, Governance and Standards Committee shall be 3 voting members of the Committee.

The Committee will normally meet on a quarterly basis.

## **Scope**

The Audit, Governance and Standards Committee will have overall responsibility for governance, standards and audit and for ensuring probity, propriety and ethics in the organisation.

## **Terms of Reference**

The Audit, Governance and Standards Committee will have the following roles and functions:

### **A. Corporate Governance**

1. Oversee the Council's use of risk management.
2. Approving the Local Code of Corporate Governance.
3. Approving the Annual Governance Statement.
4. Considering and approving the Council's Risk Management Statement and Strategy.

5. Monitor and review the Council's internal and external audit functions.
6. Monitor and review the Council's systems of internal control
7. To make recommendations to the Council regarding any suggested major changes to the Constitution.
8. Monitoring and reviewing the operation of the Council's Constitution, particularly in respect of financial procedures and protocols, procurement procedures and guidelines.
9. Reviewing any corporate governance issue referred to the Committee by the Chief Executive, the Section 151 Officer or the Monitoring Officer, the Leader/Executive or any other committee of the Council.
10. Considering the Council's arrangements for corporate governance and necessary actions to ensure compliance with best practice, together with any relevant issues referred by the Leadership Team or Statutory Officers.
11. Considering the Council's compliance with its own and other published standards and controls.
12. Considering the annual report regarding complaints about the Council referred to the Local Government Ombudsman.
13. Approving payments or other benefits of a value greater than £5,000 arising from complaints to the Local Government Ombudsman.
14. Monitoring the effectiveness of the Council's policies and procedures that ensure sound governance arrangements, including:
  - a) whistle-blowing procedure;
  - b) anti-fraud and corruption policy;
  - c) anti-bribery policy and procedure;
  - d) complaints procedure;and making appropriate recommendations to the Executive.
15. Monitoring and auditing of the Council's equalities and diversity policies.

## **B. Audit and Accounts**

1. Agreeing the internal and external audit plans and monitoring delivery of the plans.

2. Review and challenge any significant issues and the action plans arising in the annual audit report and management letter for the Council.
3. Monitoring the implementation of significant audit recommendations.
4. Raising the profile of internal control within the authority.
5. Reviewing and approving the annual Statement of Accounts and Narrative Statement.
6. To regularly review the effectiveness of overall governance arrangements for the Hinkley Point Project and receive both internal and external audit reports including those undertaken by EDF.
7. Considering reports dealing with the management and performance of the providers of the internal audit function.
8. Considering reports from internal audit on recommendations agreed with service leaders as a result of an internal audit review which have not been implemented within a reasonable timescale.
9. Considering specific reports submitted by the internal or external auditors.
10. Commenting on the scope and depth of external audit work and ensuring that it gives value for money.
11. Considering any other matter referred by the Section 151 Officer.

### C. Standards

1. Promoting and maintaining high standards of conduct by Councillors and co-opted members.
2. Assisting Councillors and co-opted members to observe the Councillors' Code of Conduct.
3. Advising the Council on the adoption or revision of the Councillors' Code of Conduct.
4. Monitoring the operation of the Councillors' Code of Conduct.
5. Advising, training or arranging to train district, town and parish Councillors and any co-opted members on matters relating to the Councillors' Code of Conduct and wider propriety issues, including issuing guidance where appropriate.
6. Granting dispensations to Councillors and any co-opted members from requirements relating to interests set out in the Councillors' Code of Conduct or

delegating such power to a sub-committee, who will be authorised to determine such dispensations based on principles agreed by the Committee.

7. Advise on the management of statutory and other registers of interest and gifts/hospitality received.
8. Advise the Council on possible changes to the Constitution in relation to the key documents and protocols dealing with members' conduct and ethical standards.
9. Determining, by delegating such power to a sub-committee or by way of a hearing, those allegations of misconduct by district, town or parish councillors within Somerset West and Taunton or co-opted members where a formal investigation has found evidence of failure to comply with the Code of Conduct and where a local resolution has not been agreed.
10. Determining, by delegating such power to a sub-committee or following a hearing, on action to be taken against any Councillor or co-opted member found to have failed to comply with the Code of Conduct.
11. Making recommendations, by delegating such power to a sub-committee or following a hearing, to any town or parish council in the Council's area on action to be taken against any Councillor or co-opted member of that town or parish council found to have failed to comply with that Council's Code of Conduct.
12. Implementing, monitoring and reviewing the operation of the Code of Conduct for staff.
13. Considering any other matter referred by the Monitoring Officer.

## Hearings Sub-Committee

The Hearings Sub-Committee shall conduct local hearings on misconduct allegations against Councillors and co-opted members of the district council or town or parish councils within Somerset West and Taunton. These hearings shall be conducted in accordance with the Arrangements for Dealing with Standards Allegations.

The Hearings Sub-Committee shall be politically balanced and comprise of 5 voting members of the Audit, Governance and Standards Committee. The composition of the Sub-Committee shall be determined by the Monitoring Officer after consultation with the Chair of the Audit, Governance and Standards Committee. A Chair shall be elected from among the voting members.

The Independent Person must be present when misconduct complaints against councillors and co-opted members are being considered by the Hearings Sub-Committee.

At least one co-opted town/parish member of the Committee and one independent member, together with the Independent Person, must be present when misconduct complaints against members or co-opted members of Town/Parish councils are being considered by the Hearings Sub-Committee.

Following on from a Hearing, the Hearings Sub-Committee may make a decision including the use of the following actions/penalties:

- Reporting its findings to Council (or to the Town/Parish Council) for information;
- Recommending to the Councillor's Group Leader that a Councillor be removed from any or all Committees or Sub-Committees of the Council;
- Recommending to the Leader of the Council that a Councillor be removed from the Executive, or removed from particular Portfolio responsibilities should the complaint refer to a Portfolio holder;
- Instructing the Monitoring Officer to (or recommend that the Town/Parish Council) arrange training for a Councillor;
- Removing (or recommend to the Town/Parish Council that a Councillor be removed) a Councillor from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Town/Parish Council);
- Withdrawing (or recommend to the Town/Parish Council that it withdraws) facilities provided to a Councillor by the Council, such as a computer, website and/or email and Internet access;
- Restricting contact to named officers or requiring contact be through named officers;
- Excluding (or recommend that the Town/Parish Council exclude) a Councillor from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings;
- Publish its findings in respect of the Councillor's conduct
- Issue a formal letter of advice as to future conduct to the Councillor;
- Request that the Councillor tender an apology to such persons as were aggrieved by his or her actions; or,
- Where the Monitoring Officer and the Independent Person are not satisfied that the Councillor has tendered the apology described above or completed such training as arranged above, then the Monitoring Officer shall report the matter to the Chair of the Audit, Governance and Standards Committee who shall cause a meeting of the Hearings Sub-Committee to take place with the purpose of resolving to apply an alternative sanction.

## **Annual Report**

The Audit, Governance and Standards Committee must report annually to the Full Council on its work undertaken during the year, its future work programme and amended working methods if appropriate.

# **Scrutiny Committee.**

## **1. Membership and Meeting Arrangements**

1.1 The Scrutiny Committee will comprise of 15 Councillors appointed by the Council and will normally meet on a monthly basis.

1.2 Members of the Executive will not be eligible to sit on the Scrutiny Committee(s).

1.3 The Committee may invite persons to be co-opted non-voting members.

## **2. Terms of Reference**

2.1 The Council will appoint a Scrutiny Committee to discharge the functions conferred by Section 21 and 21A of the Local Government Act 2000 or regulations made under Section 32 of the Local Government Act 2000.

2.2 This Committee is also the Council's designated Crime and Disorder Committee under Section 19 of the Police and Justice Act 2006.

2.3 The Council seeks to ensure a robust scrutiny process. The Scrutiny Committee is not a decision-making body, but it should:

- a) be the 'critical friend' of the Executive but not subservient to the Executive;
- b) enable the voice and concerns of the public;
- c) be carried out by independently minded Councillors;
- d) drive improvement.

2.4 The general terms of reference of the Scrutiny Committee are set out below:  
to perform all Scrutiny functions on behalf of the Council;

- a) to appoint such informal task and finish groups as it considers appropriate to fulfil those Scrutiny functions;
- b) to approve the overview and work scrutiny programme so as to ensure that the Committee's time is effectively and efficiently used;
- c) to undertake investigations into such matters relating to the Council's functions and powers as:
  - i. may be referred by the Leader/Executive; or,
  - ii. the Committee may consider appropriate; or,
  - iii. have been referred to the Committee pursuant to the "call-in" procedure set out in the Scrutiny Procedure Rules;

- d) to review and advise on existing policies of the Council, including making recommendations for future options to the Leader/Executive;
- e) to review arrangements to secure continuous improvement in the way in which the Council's functions are exercised, having regard to a combination of economy, efficiency and effectiveness;
- f) to monitor and review the Council's performance against relevant national and local performance indicators and adopted plans and strategies;
- g) to consider any matter affecting the Council area or its inhabitants;
- h) to discuss initiatives put forward for consideration by individual members of the Committee;
- i) to review or scrutinise decisions made or other actions taken in connection with the discharge of the Council's crime and disorder functions and to make such reports or recommendations as deemed appropriate.

### **3. Specific Functions**

#### **A. Policy Development and Review**

3.1 The Scrutiny Committee may:

- a) assist the Council and the Leader/Executive in the development of the budget and policy framework by in-depth analysis of policy issues, and the Scrutiny Committee may obtain evidence from members of the public or expert witnesses to inform its response;
- b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- c) question the Leader of the Council, Members of the Executive and Chief Officers about their views on issues and proposals affecting the area;
- d) liaise with other external organisations operating in the area, whether national or local, to ensure that the interests of the inhabitants of the area are enhanced by collaborative working; and,
- e) consider and implement mechanisms to encourage and enhance community participation in the development of policy options.

## **B. Scrutiny**

3.2 The Scrutiny Committee may:

- a) review and scrutinise and ask questions of the Leader, lead Councillors, the Executive and Council officers in relation to particular decisions, initiatives or projects, whether generally or in comparison with service plans and targets over a period of time, or in relation to the portfolios of the Leader or of Lead Councillors. As part of this process, the Committee may facilitate the asking of questions submitted in advance by members of the public;
- b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- c) make recommendations as appropriate to the Leader/Executive and/or the Council arising from the outcome of the scrutiny process;
- d) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Committee and local people about their activities and performance;
- e) question and gather evidence from any person (with their consent) and require information from partner organisations; and
- f) use innovative ways to scrutinise matters of concern such as select committees, public hearings, spotlight reviews, mystery shopping and workshops. The issue being investigated should be matched to the most appropriate process.

## **C. Finance**

3.3 The Scrutiny Committee may:

- a) scrutinise the overall Council Budget as part of its preparation;
- b) exercise overall responsibility for the finances made available to them;
- c) request that a budget be made available to it for the purposes of research, the costs of expert witnesses, site visits, non-meeting based activities and matters similar thereto.

## **D. Annual Report**

3.4 The Scrutiny Committee must report annually to the Full Council on its work undertaken during the year, its future work programme and amended working methods if appropriate.



# **Planning Committee**

## **1. Membership and Meetings**

- 1.1 Fifteen Members (politically balanced) to be appointed by Full Council. Meetings to normally be held at intervals of at least every 3 weeks.
- 1.2 Members of the Executive will not be eligible to sit on the Planning Committee.
- 1.3 The Quorum for the Planning Committee shall be 4 voting members of the Committee.

## **2. Scope**

- 2.1 Neither the Planning Committee nor the Principal Planner has delegated power to:
  - a) approve or adopt Development Plan Documents or the Plans and alterations that comprise the Development Plan; or,
  - b) approve or adopt Local Development Orders;

as these are Full Council functions as set out in Article 4 of this Constitution.

- 2.2 The Council has delegated its responsibility for the following functions:

- a) all functions relating to town and country planning and development control as specified in Section A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000; and,
  - b) functions relating to the stopping up or diversion of footpaths; the extinguishing of rights of way over land held for planning purposes; the preservation of trees; and complaints about high hedges as specified at items 31, 32, 47 and 47a of Section I Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;

to the Planning Committee and the Principal Planner as set out below.

### **3. Terms of Reference – Planning Committee**

3.1 Where a proposal meets any of the following criteria, it shall be reserved to the Planning Committee for determination:

Criterion 1: In the opinion of the Principal Planner or the Chair of the Planning Committee, the application is considered to be of a significant, controversial or sensitive nature.

Criterion 2: The application is from an elected Councillor (or partner thereof) or member of Council staff (or partner thereof) and is recommended for approval.

Criterion 3: The application is accompanied by an Environmental Impact Statement (EIA).

Criterion 4: The application is a significant departure from the Council's statutory Development Plan and is recommended for approval.

Criterion 5: Where there are conflicting views (giving clear planning reasons) from a Town/Parish Council or a Parish Meeting or a Ward Member as well as from not less than 4 individuals.

3.2 Any application which is not referred to Committee by virtue of the criteria listed above, but where conflicting representations have been received (including from statutory consultees), is referred to the Chair or Vice Chair of the Planning Committee before a decision is made. The Chair or Vice Chair may decide to refer any such application to the Planning Committee.

3.3 In addition, the Planning Committee shall authorise all prosecutions for breach of planning control, except in cases of expediency where authority is delegated to the Chair of Planning Committee and the Principal Planning Officer.

#### **4. Delegation to Officers**

4.1 The Head of Customer is authorised to undertake all other decisions in relation to the above matters and functions that are not reserved to Full Council or Planning Committee. This includes matters relating to Local Development Orders.

4.2 The Head of Customer is authorised to delegate any of the above functions delegated to her/him in this Constitution to other officers. However, the Head of Customer must keep a register of any such delegations.

#### **5. Delegation to Parish Council**

5.1 Where the Council has delegated its powers to determine planning matters to a Parish Council, those matters so delegated shall not be dealt with by the Planning Committee whilst such arrangements remain in place.



# Licensing Committee

## 1. Membership and Meeting Arrangements

1.1 The Licensing Committee will comprise of 15 Councillors appointed by the Council and will normally meet on a quarterly basis. The Quorum for the Licensing Committee shall be 4 voting members of the Committee.

1.2 The Licensing Committee has the power to appoint such sub-committees as may from time to time be necessary to discharge its duties including those under the Licensing Act 2003 and the Gambling Act 2005

## 2. Scope

2.1 Neither the Licensing Committee nor the Head of Customer has delegated power to approve or adopt the Council's Licensing or Gambling Policy. This is a Full Council function as set out in Article 4 of this Constitution.

2.2 The Committee will be responsible for the following functions:

- a) except as otherwise provided in the Licensing Act 2003 and the Gambling Act 2005, all functions of the licensing authority prescribed by those Acts;
- b) all functions relating to licensing and registration insofar as they are the responsibility of the Council as specified in Section B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;
- c) all functions relating to Health and Safety at Work as specified in Section C of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;
- d) all functions relating to smoke-free premises as specified in Section A of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000;
- e) any other associated matters and similar licensing and regulation matters.

### **3. Terms of Reference Licensing Committee**

3.1 Matters relating to the following statutory functions are reserved to the Licensing Committee to determine:

#### **A. Licensing Act 2003 Functions (As Listed at Section 10(4) of the Act)**

- a) Where representations or objections (within the meaning of the relevant section of the 2003 Act) have been made in respect of the following applications:
  - i) for premises licence (s18(3));
  - ii) for provisional statement (s31(3));
  - iii) for variation of premises licence (s35(3));
  - iv) to vary designated premises supervisor following police objection (s39(3));
  - v) to vary designated premises supervisor following police objection (s44(5));
  - vi) for club premises certificate (s72(3));
  - vii) to vary club premises certificate (s85(3));
  - viii) for grant of personal licence following objection (s120(7));
  - ix) for review of premises licence (s52(2) or (3));
  - x) review of club premises certificate (s88(7)).
- b) Where representations or objections (within the meaning of the relevant section of the 2003 Act) have been made in connection with the following:
  - i) review following review notice (s53C);
  - ii) review following closure order (s167(5)).
- c) Where the Licensing Committee is to determine the following matters:
  - i) consideration of objections made to interim authority notice (s48(3));
  - ii) determination of interim steps pending summary review (s53A(2)(a) or 53B);
  - iii) decision to give counter notice following police objection to temporary event notice (s105(2));
  - iv) revocation of licence where convictions come to light after grant etc(s124(4));
  - v) revocation or suspension of licence by local authority where it becomes aware of convictions or immigration penalties (s132A(8) and (12)).

## **B. Gambling Act 2005 Functions (As Listed in Section 154(4) of the Act)**

- a) Where representations have been made (within the meaning of the section) and where relevant objections have not been withdrawn:
- i) determination of an application for a premises licence (s161);
  - ii) determination of an application for the variation of a premises licence (s161 and s187);
  - iii) determination of an application for transfer following representations by the Commission;
  - iv) determination of an application for a provisional statement (s204);
  - v) review of a premises licence (s201).

## **C. Licensing and Registration Functions as Specified in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000**

- a) Determination of matters relating to:
- i) the revocation or suspension of taxi licences;
  - ii) the revocation or suspension of scrap metal/motor salvage licences;
  - iii) applications in respect of casino licences;
  - iv) applications in respect of sex shop licences.
- b) In the case of emergency, the above matters at (a)(i) – (iv) may be dealt with by the Head of Customer or Licensing Specialist.

## **5. Delegation to Officers**

5.1 The Head of Customer is authorised to undertake all other decisions in relation to the above matters and functions that are not reserved to the Full Council or Licensing Committee.

5.2 The Head of Customer is authorised to delegate any of the above functions delegated to her/him in this Constitution to other officers. However, the Head of Customer must keep a register of any such delegations.

5.3 The Head of Customer may refer a matter to be dealt with by the Licensing Committee where he/she deems appropriate.

# **EMPLOYMENT COMMITTEE**

## **Membership and Meetings**

- 7 Members (politically balanced) to be appointed by Full Council.
- The Committee will comprise of at least one member of the Executive.
- Meetings will be called on an ad hoc basis as required.

## **Scope**

- The Committee will only deal with matters in relation to Senior Officers as required by the legislation.
- All other matters in relation to employment and discipline of staff are delegated to the Chief Executive and Senior Officers.

## **Terms of Reference – Employment Committee**

- To deal with the appointment of Senior Officers.
- To recommend to Full Council the appointment of a Head of Paid Service.
- To deal with disciplinary matters in relation to Senior Officers.



# **Budget and Policy Procedure Rules**

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

1.1 References in these Procedure Rules to the Policy Framework are to the plans and strategies to be adopted by the Council as set out in Article 4.

1.2 The Council will be responsible for the adoption of its Budget and Policy Framework. Once a Budget and Policy Framework is in place, it will be the responsibility of the Executive to implement it.

## **2. Process for Developing the Framework**

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

- a) the proposals will be publicised by including in the forward plan a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework and the arrangements for consultation after publication of those initial proposals. The Scrutiny Committee will consider the consultation proposals before the arrangements are finalised.
- b) at the end of the consultation period, the Executive will draw up firm proposals having regard to the responses to that consultation.
- c) if the Scrutiny Committee wishes to respond to the Executive during that consultation process, then they may do so. As the Scrutiny Committee has responsibility for fixing its own work programmes, it is open to the Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period, having particular regard not to duplicate any consultation carried out by the Executive. The Scrutiny Committee shall report to the Executive on the outcome of its deliberations.
- d) the Executive will take any response from consultees (including the Scrutiny Committee) into account in drawing up firm proposals for submission to the Council.

The Executive's report to the Council will reflect the comments made by consultees and the Executive's response.

e) once the Executive has approved the firm proposals, the Monitoring Officer will refer them at the earliest opportunity to the Council for decision.

### **3. Procedure for Conflict Resolution**

#### **3.1 Disagreements as to the Policy Framework**

3.1.1 Where the Executive has submitted a draft plan or strategy to the Council for its consideration and, following consideration of that draft plan or strategy, the Council has any objections to it, the Council must take the action set out below.

3.1.2 It must inform the Leader of any objections which it has to the draft plan or strategy and must give to him or her instructions requiring the Executive to reconsider, in the light of those objections, the draft plan or strategy submitted to them/it.

3.1.3 No rejection, modification or substitution to the Executive's proposal may be validly moved by the Council until such time as the Executive has been given the opportunity to consider and react to that objection.

3.1.4 Where the Council gives instructions in accordance with paragraph 3.1.2 above, it must specify a period of at least eight working days, beginning on the day after the date on which the Leader received the instructions within which the Leader may:

- a) submit a revision of the draft plan or strategy, as amended by the Executive (the "revised draft plan or strategy"), with the Executive's reasons for any amendments to the Council for consideration; or
- b) inform the Council of any disagreement that the Leader/Executive has with any of the Council's objections, together with its reasons.

3.1.5 When the period specified by the Council, referred to in paragraph 3.1.4 above has expired, the Council shall again consider the Executive's recommendation and will take into account any amendments, reasoning and explanations which the Executive has now submitted.

3.1.6 In relation to the plan or strategy, Full Council may then:

- a) amend it;
- b) approve it; or
- c) adopt it with or without modification.

3.1.7 A decision by Full Council which complies with the above procedure shall require only a simple majority of votes cast at that meeting and shall take effect immediately

## **3.2 Disagreements as to the Budget**

3.2.1 For the purposes of this section, the Budget means the proposals which the Executive submits to Full Council in February/March of each year as to various estimates, amounts, calculations and precepts relating to the Council's financial plans and requirements for the following financial year. This excludes any plan or strategy for the control of the Council's borrowing and capital expenditure, any disagreements in respect of which will be dealt with under the procedure set out above at 3.1.

3.2.2 Where the Executive submits its Budget to Full Council before 8 February in any financial year, and the Council has any objections to the Budget, the procedure in Section 3.1 above shall apply. However, the prescribed time for response at paragraph 3.1.4 shall be not less than five working days.

3.2.3 Where the Executive submits its Budget to Full Council on or after the 8 February, the Council shall have the unrestricted right to approve, amend or reject the Executive's Budget.

3.2.4 A decision by Full Council which complies with the above procedure shall require only a simple majority of votes cast at that meeting and shall take effect immediately.

3.2.5 In approving the Budget and Policy Framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the Policy Framework which may be undertaken by the Leader/Executive, in accordance with paragraphs 6 and 7 of these Procedure Rules (virement and in-year adjustments). Any other changes to the Budget and Policy Framework are reserved to the Council.

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

4.1 Subject to the provisions of Procedure Rule 7 (Virement), the Leader/Executive, individual lead Councillors and any officers discharging executive functions may only take decisions which are in line with the Budget and Policy Framework.

4.2 If the Leader/Executive, individual lead Councillor or any officer wishes to make a decision which is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget approved by Full Council, then that decision may only be taken by the Council, subject to Procedure Rule 5 (Urgency) below.

4.3 If the Leader/Executive or any individual lead Councillor or officer discharging executive functions wants to make such a decision, they shall take advice from the Monitoring Officer and/or the Section 151 Officer as to whether the decision they want to make would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget. If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision unless the decision is a matter of urgency, in which case the provisions in Procedure Rule 5 shall apply.

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

5.1 Any body or individual discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by Full Council if the decision is a matter of urgency. However, the decision may only be taken:

- a) if it is not practical to convene a quorate meeting of the Full Council; and
- b) if the Chair of the Scrutiny Committee agrees that the decision is a matter of urgency.

5.2 The reasons why it is not practical to convene a quorate meeting of Full Council and the Chair of Scrutiny Committee's consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of

Scrutiny Committee, the consent of the Vice Chair of Scrutiny Committee, and in the absence of both, the consent of the Chair of Council, will be sufficient.

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

## **6. Virement**

6.1 The Council's Financial Regulations set out the permitted scope for virement within and across budget heads and identifies which body or person has been authorised to approve such virements.

## **7. In-Year Changes to Policy Framework**

7.1 The responsibility for agreeing the Budget and Policy Framework lies with the Council.

7.2 No changes to any policy and/or strategy which make up the Policy Framework may be made by the Leader/Executive, individual lead Councillors or officers except those changes:

- a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- c) in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration; or
- d) for which provision is made within the relevant budget or policy.

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

8.1 Where a decision is referred to the Council by Scrutiny Committee, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter.

8.2 The matter will be referred to the next ordinary meeting of the Council. At the meeting, the Council will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Section 151 Officer.

8.3 The Council may either:

- a) endorse a decision or proposal of the executive decision-taker as falling within the existing Budget and Policy Framework. In this case, no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- b) amend the Council's Financial Procedure Rules, Budget or Policy concerned to encompass the decision or proposal of the body or individual responsible for that executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- c) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget and does not amend the existing framework to accommodate it or require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer or Chief Section 151 Officer.

# **Executive Procedure Rules**

## **1. Who May Make Executive Decisions?**

1.1 The Leader has responsibility for the discharge of all executive functions, and may delegate any, or all, of these functions to:

- a) the Executive as a whole;
- b) a committee of the Executive;
- c) an individual member of the Executive;
- d) an officer;
- e) an area committee;
- f) joint arrangements;
- g) another local authority; or,
- h) any other arrangement allowed by law.

1.2 Where executive functions are delegated by the Leader, a written record of those delegations shall be presented to the Council at its Annual Council Meeting, for inclusion in the Council's Scheme of Delegation.

## **1.2 The Delegation of Executive Functions**

1.2.1 The Leader may amend the scheme of delegation relating to executive functions at any time. In doing so, the Leader will give written notice to the Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body or committee. The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

1.2.2 Where the Leader seeks to withdraw delegation from a committee of the Executive, notice will be deemed to be served on that committee when the Leader has served it on its Chair.

1.2.3 Unless the Leader/Executive directs otherwise, a committee of the Executive or lead Councillor may delegate further to an officer.

1.2.4 Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated them.

### **1.3 Conflicts of Interest**

1.3.1 Where the Leader has a conflict of interest, this should be dealt with as set out in the Councillors' Code of Conduct.

1.3.2 If any member of the Executive has a conflict of interest, this should be dealt with as set out in the Councillors' Code of Conduct.

1.3.3 If the exercise of an executive function has been delegated to a committee of the Executive, an individual lead Councillor 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 Councillors' Code of Conduct.

### **1.4 Meetings of the Executive**

1.4.1 The Executive will meet at such times as the Leader shall determine. The Executive shall normally meet at either of the Council's two main offices or another location to be agreed by the Monitoring Officer, in consultation with the Leader of the Council.

### **1.5 Quorum**

1.5.1 The quorum for a meeting of the executive shall be 3 members of the Executive.

## **2. How Are the Executive Meetings Conducted?**

### **2.1 Who Presides?**

2.1.1 The Leader, or in his or her absence, the Deputy Leader, will preside. In the absence of both the Leader and Deputy Leader, then a member of the Executive appointed to do so by those present shall preside.

### **2.2 Who May Attend?**

2.2.1 Meetings of the Executive will be held in accordance with the Access to Information Rules.

2.2.2 Agendas and reports for meetings of the Executive shall be circulated electronically to all Councillors who shall be free to attend those meetings.

### **2.3 What Business?**

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

- a) disclosure of interests (if any);
- b) consideration of the minutes of the previous meeting of the Executive;
- c) public participation to be notified;
- d) matters referred to the Executive by the Scrutiny Committee or by the Council for reconsideration by the Executive in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in this Constitution;
- e) consideration of reports and recommendations from the Scrutiny Committee;
- f) matters set out in the agenda for the meeting, which shall indicate which are key decisions.

### **2.4 Consultation**

2.4.1 All reports to the Leader/Executive on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation 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.

## **2.5 Who Can Put Items on the Executive Agenda?**

2.5.1 The Leader, or in his/her absence, the Deputy Leader, Monitoring Officer or Section 151 Officer may put on the agenda of any Executive meeting any Executive matter.

2.5.2 The Monitoring Officer will place an item on the agenda of the next available meeting of the Executive where Scrutiny Committee or Full Council have resolved that an item be considered by the Executive.

## **3. Key Decisions**

### **3.1 Notice of Key Decisions**

3.1.1 Twenty-eight clear days' public notice will be made of any matters which the Leader has reason to believe will be a Key Decision, unless:

- a) an exemption from this requirement is given under the General Exception Procedure found in the Access to Information Procedure Rules; or,
- b) the decision is taken under the Special Urgency Procedure found in the Access to Information Procedure Rules

### **3.2 What Constitutes a Key Decision?**

3.2.1 A Key Decision is a decision in respect of an executive function which is likely to:

- a) be significant in terms of its effect on communities living or working in an area comprising one or more wards in the Council Area; or,
- b) result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or functions which the decisions relate.

3.2.2 The financial thresholds that will determine whether a matter under 3.2.1(b) is significant are set out at 3.3 below.

### **3.3 Financial Thresholds**

3.3.1 Executive decisions with financial implications at or above the thresholds set out below will be Key Decisions. The Section 151 Officer and Monitoring Officer will keep the thresholds under review and advise the Leader on whether to recommend to Full Council any changes to the thresholds.

<b>Heading</b>	<b>Area</b>	<b>Threshold</b>
Revenue	Supplementary Revenue Budget	Allocations between £150,000 and £250,000.  (Allocations above £250,000 to be approved by Full Council).
	Revenue Virements	Above £150,000 (in consultation with the Section 151 Officer).
Capital	Supplementary Capital Budget	Allocations between £150,000 and £250,000.  Approval must also be given by the Section 151 Officer.  (Allocations above £250,000 to be approved by Full Council).

	Capital Virements	Above £150,000 (in consultation with the Section 151 Officer).
Carry Forward of Budgets	Individual Carry Forwards	Above £150,000.
Contracts/Revenue	Award, amendment or establishment of Contracts, Framework Agreements or Dynamic Purchasing Systems for goods, works and/or services.	Estimated total contract value of £1,000,000 or above AND the contract is deemed politically sensitive.
	Contracts decisions involving significant risk, significant externalisation of services and politically sensitive issues.	All such decisions regardless of value.
Assets	Acquisition and Sale/Disposal of Assets	Above £250,000.

# **Scrutiny Procedure Rules**

## **1. Arrangements for the Scrutiny Committee**

1.1 The Council will have one Scrutiny Committee to discharge the functions set out in its Terms of Reference of this Constitution.

1.2 The Scrutiny Committee will comprise 15 Councillors and be appointed by Council on an annual basis. The Scrutiny Committee may appoint Task and Finish Groups.

## **2. Who May Sit on the Scrutiny Committee?**

2.1 All Councillors, except members of the Executive, may be members of the Scrutiny Committee.

2.2 No Councillor may be involved in scrutinising a decision in which he or she was directly involved.

2.3 There is no limit on the number of substitute members.

## **3. Co-Optees**

3.1 The Scrutiny Committee, or any of its Task and Finish Groups, shall be entitled to appoint non-voting co-optees.

## **4. Meeting of the Scrutiny Committee**

4.1 The Scrutiny Committee shall normally meet on a monthly basis. Special meetings may be called if appropriate.

4.2 A Scrutiny Committee meeting may be called by the Chair of the Scrutiny Committee, by any 4 members of the Scrutiny Committee or by the Chief Executive if he or she considers it necessary or appropriate.

## **5. Quorum**

5.1 The quorum for the Scrutiny Committee shall be 4 voting members of the Committee.

## **6. Who Chairs the Scrutiny Committee Meetings?**

6.1 The Scrutiny Chair shall be drawn from among those Councillors serving on the Scrutiny Committee who are not from a majority political group and are not Chair of any other committee. The Vice-Chair shall not be from the same political group as the Chair.

6.2 The Chair and Vice-Chair shall be elected in accordance with the procedure set out at Council Procedure Rules.

## **7. Work Programme**

7.1 The Scrutiny Committee will be responsible for setting its own work programme and the work programme will be included as an item on every Scrutiny Committee meeting Agenda.

7.2 The Chair and Vice-Chair of the Scrutiny Committee and relevant officers shall hold a Scrutiny Agenda Setting Meeting in the week prior to the publication of the Agenda.

7.3 The Chair and Vice-Chair of the Scrutiny Committee, Chief Executive Officer (or his/her nominee) and relevant officers shall also hold, on a quarterly basis, a Co-ordinating Meeting to exchange, discuss and agree proposed rolling 6-month work programmes for submission periodically to the Scrutiny Committee for approval.

7.4 The Chair and Vice-Chair of the Scrutiny Committee will ensure that all Councillors are able to submit requests for alterations to the work programme via an agreed work programme process for consideration at each of these work programme meetings.

## **8. Task and Finish Groups**

8.1 The work programme meetings described in Procedure Rule 7 above will consider and propose the establishment, membership, terms of reference and reporting timescale of Task and Finish Groups to undertake specific areas of work. Such proposals shall be submitted to the Scrutiny Committee for approval. The number of Task and Finish Groups must be commensurate with available resources. The Chair of any Task and Finish Group shall be drawn from amongst those Councillors serving on that Group.

8.2 Any non-executive Councillor may be appointed to serve on Task and Finish Groups and membership will be open to non-councillors, including representatives of external bodies. Political balance requirements will not apply to Task and Finish Groups. The operation of such Groups to be in accordance with any protocol as may be agreed by the Scrutiny Committee.

## **9. Who May Place Items on the Agenda?**

9.1 Requests to include an item on the Scrutiny Committee agenda will normally be forwarded to the Chair or Vice-chair for consideration as part of the rolling work programme at Rule 7 above.

9.2 The Scrutiny Committee shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Leader/Executive, to review particular areas of Council activity. Where the Scrutiny Committee does so, it shall report its findings and any recommendations back to the Leader/Executive and/or the Council.

## **10. Reports from the Scrutiny Committee**

10.1 Where the Scrutiny Committee has formed proposals on a matter, it will submit a formal report to the Leader/Executive, Council, and/or other organisations as appropriate.

10.2 If the Scrutiny Committee cannot agree a single final report to the Council or Leader/Executive as appropriate, then one minority report may be prepared and submitted for consideration with the majority report.

10.3 The Scrutiny Committee may refer its formal recommendations and conclusions for consideration at Full Council. Where a response is required from the Leader/Executive it must be given within 2 months of the Full Council meeting.

## **11. Access to Documents**

11.1 In addition to their rights as Councillors, members of the Scrutiny Committee have the additional right to documents and to notice of meetings as set out in the Access to Information Procedure Rules of this Constitution.

## **12. Councillors and Officers Giving Account**

12.1 As per the Scrutiny Committee Terms of Reference, the Scrutiny Committee may require the Leader and any member of the Executive or Chief Officer to attend before them to answer questions. It is the duty of those persons to attend if so required. For the purposes of these Procedure Rules, 'Chief Officer' means any Statutory Officer, Head of Function or his/her nominee.

12.2 Where any Councillor or officer is required to attend a Scrutiny Committee meeting, the Scrutiny Officer shall inform the Councillor or Officer in writing, normally giving at least 10 working days' notice. The notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Councillor or Officer concerned will be given sufficient notice to allow for preparation of that documentation.

12.3 Where, in exceptional circumstances, the Councillor or officer is unable to attend on the required date, the Scrutiny Committee shall in consultation with the Councillor or officer arrange an alternative date for attendance.

## **13. The Party Whip**

13.1 A party whip shall not apply to the business of the Scrutiny Committee or any of its Task and Finish Groups.

## **14. Procedure at Scrutiny Committee Meetings**

14.1 The Scrutiny Committee shall consider the following business:

- a) disclosures of interest, including whipping declarations;
- b) considerations of the minutes of the last meeting;
- c) consideration of any matter referred to the committee through the 'call-in' procedure;
- d) responses of the Leader/Executive to reports of the Scrutiny Committee; and,
- e) the business otherwise set out in the agenda for the meeting.

14.2 Where the Scrutiny Committee conducts investigations, it may also ask people to attend to give evidence at meetings which are to be conducted in accordance with the following principles:

- a) the investigation be conducted fairly, and all members of the Scrutiny Committee be given the opportunity to ask questions of attendees and to contribute and speak;
- b) that those assisting the Scrutiny Committee by giving evidence be treated with respect and courtesy; and,
- c) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

14.3 Following any investigation or review, the Scrutiny Committee shall prepare a report, including recommendations for submission to the Leader/Executive and Council as appropriate and shall make these public.

## **15. Procedure for Call-in**

15.1 When an Executive decision is made by the Leader/Executive or an individual lead Councillor, or a Key Decision is made by an officer with delegated authority from the Leader/Executive, a record of the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally by 5pm on the next working day after the meeting. All Councillors will be sent a copy of the record of decision within the same timescale by the Monitoring Officer (or his/her nominee).

15.2 The record will bear the date on which it is published and, subject to the urgency provisions in at paragraph 15.8 below, will specify that the decision will come into force:

- a) on the expiry of five working days after the day of the meeting in the case of decisions taken by the Executive collectively; or
- b) on the expiry of five working days after the day of publication of the decision in the case of decisions taken by the Leader, individual lead Councillors or Key Decisions taken by an officer with delegated authority from the Leader/ Executive; or
- c) unless it is called-in.

15.3 During the call-in period referred to in 15.2 above, the Chair of the Scrutiny Committee or any 4 non-executive Councillors may request in writing to the Monitoring Officer (or his/her nominee) that a decision is called-in for consideration by the Scrutiny Committee. The reasons for calling-in a decision shall accompany any such request and must relate to the merits of the decision only AND meet at least one of the following criteria:

- a) that there was insufficient, misleading or inaccurate information available to the decision-maker;
- b) that all the relevant facts had not been taken into account and/or properly assessed;
- c) that the decision is contrary to the Budget and Policy Framework and is not covered by urgency provisions; or
- d) that the decision is not in accordance with the decision-making principles set out in the Constitution.

15.4 On receipt of a call-in request, the Monitoring Officer will decide whether it is valid, and within 5 days of that decision, will give notice of the call-in and its consequences to the following:

- a) the decision-taker;
- b) all Councillors;
- c) the Head of Function/Director primarily affected;
- d) the Leader of the Executive and the Head of Paid Service; and,
- e) the next weekly bulletin.

15.5 In the case of a valid call-in, the decision shall be considered at the next scheduled meeting of the Scrutiny Committee or by a special Call-in Meeting of the Scrutiny Committee, but in any case, within 21 days of the decision on validity referred to in paragraph 15.4 above.

15.6 The Scrutiny Committee shall either:

- a) endorse the decision, in which case it will come into force immediately; or,

- b) refer it back to the Executive or individual decision taker and ask it/them to alter or revoke the decision, taking into account the other factors brought to its attention by the Scrutiny Committee; or,
- c) where a decision has been called-in on the basis that it is contrary to the Budget and Policy Framework, it shall refer the matter to Full Council to determine.

15.7 Once a decision has been referred back to the Leader/Executive or individual decision-taker by the Scrutiny Committee or the Council on the basis described above, it shall not be subject to further call-in. The decision shall then be final unless it is contrary to the Policy Framework or contrary to or not wholly consistent with the Budget.

15.8 Any matter designated by the Chief Executive to be urgent shall not, if the Leader/Executive or individual decision-taker and the Chair of the Scrutiny Committee agree, be subject to the call-in procedure, but shall be determined by the Leader/Executive, lead Councillor or officer immediately. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision-making person or body the decision is an urgent one and therefore not subject to call-in.

15.9 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to the Council with proposals for review if necessary.

15.10 Regulatory decisions shall not be subject to Call-in.



## **Part 8 Financial Procedure Rules**

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- Partnership Working Operational Framework

## **Introduction**

- 1.0 The Financial Procedure Rules provide the framework for managing the financial affairs of the Council. They apply to every Councillor and Officer of the Council and anyone acting on its behalf.
- 1.1 The Financial Procedure Rules govern the way the Council undertakes financial planning, budget setting, budget monitoring and closing of the accounts. They should also clearly identify the way day to day financial administration is conducted and financial controls are exercised.
- 1.2 The Financial Procedure Rules are part of a wider set of operational and managerial arrangements. They help protect the Council and the public from poor decision making, theft, fraud and material error. They also offer significant protection to Officers and Councillors from undue criticism and accusations of impropriety.
- 1.3 All Councillors and staff have a general responsibility for taking reasonable action to provide for the security of assets, funds and resources under their control, and for ensuring that the use of these resources are legal, properly authorised and provides value for money.
- 1.4 The Section 151 Officer is responsible for issuing advice and guidance to underpin the Financial Procedure Rules that Councillors, Officers, and others acting on behalf of the Council are required to follow.
- 1.5 The Financial Procedure Rules will be reviewed regularly by the Section 151 Officer, at least every two years, and approved by Full Council.
- 1.6 The Section 151 Officer may choose to delegate responsibility to a nominated officer of the Council where appropriate.

## **2.0 FINANCIAL GOVERNANCE**

- 2.1 The Councillors (individually, and contained within Full Council, Executive and Committees) and Statutory Officers (Head of Paid Service, Monitoring Officer and Section 151 Officer) have key roles and responsibilities in relation to the financial administration and stewardship of the Council, as referenced in the Constitution.

## **3.0 Financial Planning and Management**

### **3.1 Financial Strategy and Medium-Term Financial Plan**

- 3.1.1 The Section 151 Officer, in consultation with the Leadership Team and Executive Councillors, will maintain a Financial Strategy and Medium Term Financial Plan (MTFP) that covers a period of at least three years, including the current financial year.
- 3.1.2 The Council's Financial Strategy will purposely look strategically beyond the current financial period to consider the funding options available for the proposed delivery of future corporate priorities, as well as the continuity of service delivery, to ensure these are affordable and result in a balanced budget, and support the organisation's resilience and long-term financial sustainability.
- 3.1.3 The Medium Term Financial Plan will provide a high level strategic allocation of capital and revenue financial resources (for both the General Fund and the Housing Revenue Account) that align with the corporate priorities and plans contained within the Financial Strategy, including the forecasting of costs and future funding requirements and availability.
- 3.1.4 The Financial Strategy and Medium Term Financial Plan will be produced as part of the overall budget process each year and reported to Executive for approval during the autumn committee cycle. This will then be reported, in conjunction with the annual budget, council tax and rent proposals, to Full Council before 11 March of the proceeding financial year.

### **Budget Strategy**

- 3.1.5 The Section 151 Officer, in consultation with the Leadership Team and Executive Councillors, will provide a Budget Strategy for the proceeding financial year, which will form the foundations for the Annual Budget Setting process.
- 3.1.6 The Budget Strategy will provide a more detailed requirement of the strategic allocation of financial resources (both capital and revenue) that align with corporate priorities and plans for the proceeding financial year, including the level of council tax, balances and reserves, and the management of financial risks.
- 3.1.7 This will normally be reported alongside the Financial Strategy and Medium Term Financial Plan presented to Executive before seeking approval of Full Council before 11 March of the proceeding financial year.

### **Capital Strategy**

- 3.1.8 The Section 151 Officer, in consultation with the Leadership Team and Executive Councillors, will each year prepare a Capital Strategy for the proceeding financial year, as required by the Prudential Code.
- 3.1.9 The Capital Strategy is intended to give a high level overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of services along with an overview of how associated risk is managed and the implications for future financial sustainability.
- 3.1.10 The Capital Strategy will be produced and reported in accordance with the annual budget setting timetable and presented to the Executive before seeking the approval of Full Council before the 31 March of the proceeding financial year.

### **Commercial Investment Strategy**

- 3.1.11 The Head of Commercial, Investment and Change, in conjunction with the Section 151 Officer, will prepare and review on an annual basis, a Commercial Investment Strategy (CIS).
- 3.1.12 The CIS will set out the governance arrangements and framework for Commercial Investments ensuring a consistent appraisal method, clarity on corporate risk and management, and provide the Council with an agile response to investment opportunities.
- 3.1.13 Full Council will be responsible for approving the CIS. The Strategy will be reviewed and updated at least every three years. The implementation of this strategy, including individual investment decisions, is delegated to the Executive. The Executive may choose to delegate some or all individual investment decision to an Investment Panel or nominated Officer.

### **Budget Setting**

- 3.1.14 The Council has a statutory duty to set a balanced budget.
- 3.1.15 The Section 151 Officer is responsible for making the arrangements and issuing the guidelines for producing the Council's Revenue Budget and Capital Programme.
- 3.1.16 Senior Officers are responsible for ensuring that staff adhere to the timetable and requirements set out by the Section 151 Officer for the Budget Setting process, and provide any information and evidence required in relation to this.
- 3.1.17 In accordance with the agreed budget timetable, the detailed Budget Setting report, setting out the proposed revenue and capital spending proposals, will be presented to the Executive before seeking the approval of Full Council for the proceeding financial year.

- 3.1.18 In accordance with Section 25 of the Local Government Act 2003 a statement from the Section 151 Officer is required to confirm the robustness of the budget process and the adequacy of reserves.

Unless in exceptional circumstances or through further approval, expenditure shall not be incurred on behalf of the Council unless it is approved in the Capital or Revenue budget estimates.

### **Council Tax Setting**

- 3.1.19 Full Council is responsible for setting the Council Tax Base. This responsibility shall be delegated to the Section 151 Officer, who will set the Council Tax Base for tax-setting purposes before 31 January of the proceeding financial year, and notify precepting and levying bodies of this figure by this date. The Section 151 Officer will notify all Councillors as part of the Budget Setting report presented to Full Council at the Council Tax Setting meeting.
- 3.1.20 Full Council shall set the level of Council Tax by 11 March in any year - as required by the Local Government Finance Act 1992.

- 3.1.21 In the event of any late changes such as budget amendments or preceptor demand notifications, Full Council have the provision to be able to delegate the final approval of the Council Tax Setting report including the tax determination to the Leader, which must incorporate the tax rate set by Full Council. Any decision taken by the Leader will be published to ensure transparency of governance.

### **Housing Revenue Account (HRA)**

- 3.1.22 The Section 151 Officer is responsible for providing the HRA Revenue Budget and Capital Programme report, to include the Housing Rent proposals, for the proceeding financial year in line with the timetable and requirements out by the Section 151 Officer for the Budget Setting process.
- 3.1.23 The Housing Revenue Account Budget report and Housing Rent proposals will be shared with Tenant Services Management Board (TSMB) and Tenants Forum for consultation.
- 3.1.24 An updated overview of the HRA 30-Year Business Plan will be provided to the Executive prior to or with the Draft Budget for the proceeding financial year.

### **Fees and Charges**

- 3.1.25 The Fees and Charges Strategy shall be agreed as part of the Financial Strategy during the autumn committee cycle.

3.1.26 Full Council shall give delegated authority to the Section 151 Officer to approve, and agree any amendments to, the fees and charges for the Council in line with the approved Fees and Charges Strategy, with the exception of:

- (a) Car Parking Charges
- (b) Any others as determined by Council

3.1.27 All fees and charges shall be reviewed annually by Section 151 Officer in consultation with Heads of Functions as per the budget setting timetable.

3.1.28 As part of the overall budget process, the revenue budget will include the latest projection of income from fees and charges.

3.1.29 The Section 151 Officer will be responsible for publishing a Fees and Charges Register on the Council's website.

#### Earmarked Reserves Review

3.1.30 The Section 151 Officer shall determine adequate earmarked reserves to provide future financial commitment and mitigate financial risks. Earmarked Reserves shall be set aside for specific purposes, and may include general contingencies.

3.1.31 The Section 151 Officer is responsible for undertaking an annual review of all Earmarked Reserves. Recommendations arising from the review will be presented to the Executive for approval before the 31 January of the proceeding financial year, to inform the final budget and financial plan. The report will provide information on the review and highlight any proposals to return any funds to general balances.

#### Capital Programme

3.1.32 A five-year rolling Capital Programme will be prepared and reviewed annually to confirm the capital expenditure and financing requirement estimates for each financial year, based on the following principles:

- To maintain an affordable five-year rolling capital programme.
- To ensure capital resources are strategically aligned with the Council's corporate priorities and statutory responsibilities.
- To undertake prudential borrowing only where there are sufficient monies to meet, in full, the implications of capital expenditure, borrowing and running costs.
- To maximise available resources by actively seeking appropriate external funding and disposal of surplus assets.

3.1.33 The Section 151 Officer will be responsible for compiling the five-year Capital Programme including the associated capital financing, in consultation with Senior Officers, for consideration by the Executive before seeking the approval of Full Council. The programme will include:

- committed schemes that are in the process of completion;
- schemes for replacement / maintenance of existing assets;
- new starts for the following years;
- planned financing arrangements including through receipts from expected sales of assets and external grants and contributions expected.

3.1.34 The Capital Programme will be approved through the Budget Setting report.

3.1.35 Approval by the Council of the Capital Programme shall not automatically authorise expenditure but will:

- indicate that the necessary funds for the ensuing financial years shall be available for the scheme; and
- that the scheme can be prepared in detail.

## **3.2 Alternative Budget Motions**

3.2.1 Any Councillor proposing to put forward to Council any amendment to the draft Budget or any alternative Budget should provide a copy thereof to the Section 151 Officer as soon as possible and at least 5 working days before the Council meeting so that they may advise Council whether the resulting amended or alternative budget would provide robust estimates and adequate reserves for the purpose of section 25 of the Local Government Act 2003.

## **3.3 Budget Management and Monitoring**

3.3.1 The system of budget management and monitoring is used to ensure that all budgets and financial resources for which the Council is accountable, are allocated correctly and managed effectively.

3.3.2 The Section 151 Officer shall ensure that the Budget Holder has access to financial information to enable them to control expenditure and income for which they are responsible.

3.3.3 The Heads of Function will be the accountable ‘budget holder’ for all budgets within their functional areas. They will be responsible for establishing and maintaining a scheme of delegations for budgets, which must be provided to the Section 151 Officer.

3.3.4 The Budget Holder will be responsible for managing budgets and other financial resources effectively and within approved limits.

3.3.5 The Section 151 Officer is responsible for providing further procedural advice on budget management and monitoring.

#### **3.4 Making Changes to the Approved Budget**

3.4.1 A virement is the transfer of budget from one specific area to another. This can either be a transfer within revenue budgets or capital budgets, but not between revenue and capital.

3.4.2 The Virement Scheme is intended to enable the Budget Holder to manage budgets with a degree of flexibility within the overall framework determined by the Council, and therefore optimise the use of resources.

3.4.3 **Revenue Virements:** Amendments to the revenue budget can only be made with approval as long as funds are available and as per the Virement Scheme table below:

<b>Threshold</b>	<b>Decision</b>
Over £150,000	Executive Decision (in consultation with the Section 151 Officer)
Above £50,000 and below £150,000	Head of Function / Director / CEO and Section 151 (in consultation with Executive Councillors / Portfolio Holders)
Up to £50,000	Head of Function / Director / CEO (in consultation with the Finance Business Partner)

3.4.4 The Section 151 Officer shall ensure that where any revenue Virements have been approved, these will be included within the performance report presented to the Executive.

3.4.5 **Supplementary Budgets:** Authority to approve Supplementary Budgets shall be delegated as per the table below, provided that in each case general reserves remain at least 10% above the recommended minimum level.

#### Supplementary Revenue Budget Scheme Table

<b>Threshold</b>	<b>Decision</b>
Over £250,000	Full Council
Above £150,000 and below £250,000	Executive
Up to £150,000	Head of Function / Director / CEO and Section 151 Officer

- 3.4.6 The Section 151 Officer shall ensure that where any supplementary budgets have been approved, these will be included within the performance report presented to the Executive.
- 3.4.7 No revenue virement shall be allowed between the following budgets without approval of the Section 151 Officer;
- Financing charges e.g. capital
  - Rates and other taxes
  - Support Service Recharges
  - Insurances
- 3.4.8 No revenue virement shall be allowed to or from the ‘salaries’ budget unless approved by the Head of Performance and Governance in consultation with a Finance Specialist.
- 3.4.9 Where there is a corresponding and matching increase in income and expenditure, the following approval limits will apply:

<b>Threshold</b>	<b>Decision</b>
Over £50,000	Executive Councillor and Section 151 Officer
Above £20,000 and below £50,000	Head of Function / Director / CEO and Section 151 Officer
Up to £20,000	Budget Holder

- 3.4.10 The Heads of Functions shall manage staff resources within the agreed budgeted establishment. Any changes to the permanent establishment must be within the approved budget and agreed by the Section 151 Officer.
- 3.4.11 Any increase over and above the agreed budgeted establishment (in costs and full time equivalents) must be supported with proposals to cover the additional costs and submitted to the Head of Performance and Governance for consideration and approval. Any changes must be notified to the Section 151 Officer.
- 3.4.12 **Capital Virements:** Amendments to the capital budget can only be made with approval as long as funds are available and as per the Virement Scheme table below:

Capital Virement Scheme Table

<b>Threshold</b>	<b>Decision</b>
Over £150,000	Executive Decision (in consultation with the Section 151 Officer)
Above £50,000 and below £150,000	Head of Function / Director / CEO and Section 151 (in consultation with Executive Councillors / Portfolio Holders)
Up to £50,000	Head of Function (in consultation with the Finance Business Partner)

- 3.4.13 **Capital Additions:** Authority to approve Supplementary Capital Budgets shall be delegated as per the table below, provided that in each case the Section 151 Officer agrees the source of the additional funding, and any revenue implications are affordable within approved budget limits.

Supplementary Capital Budget Scheme Table

<b>Threshold</b>	<b>Decision</b>
Over £250,000	Full Council
Above £150,000 and below £250,000	Executive
Up to £150,000	Head of Function / Director / CEO and Section 151 Officer

- 3.4.14 The Section 151 Officer shall ensure that where any capital additions have been approved, these will be included within the performance report presented to the Executive.
- 3.4.15 **Funding Substitutions:** The Section 151 Officer is responsible for approving funding changes.
- 3.4.16 **Growth Programme and Community Infrastructure Levy (CIL):** Full Council is responsible for approving any total budget allocations to the Growth and CIL Programmes. The Executive is responsible for delivering the programmes within the total approved budgets. Allocations to individual projects may be approved in line with the following table.

<b>Threshold</b>	<b>Decision</b>
Over £250,000	Portfolio Holder
Up to £250,000	Head of Strategy

### **3.5      Budget Monitoring**

- 3.5.1     Head of Functions have no authority to overspend revenue or capital budgets, or under-recover income budgets under their control, and are responsible for monitoring their budgets to ensure this situation does not arise.
- 3.5.2     In preparing any estimates of expenditure and income, Head of Functions must give proper consideration to the implications in current and future years.
- 3.5.3     Head of Functions shall notify the Section 151 Officer of all significant budget variations including underspends, over-recovery of income or windfall benefits arising within their revenue and capital budgets, regardless of whether offsetting savings or additional income have been identified.
- 3.5.4     Head of Functions shall ensure that their managers do not enter into commitments / contracts before satisfying themselves there is sufficient approved budget provision.
- 3.5.5     All unauthorised expenditure shall be reported immediately by the Head of Functions to the Section 151 Officer who will advise on the appropriate action.

### **3.6      Carry Forwards**

- 3.6.1     The Section 151 Officer is responsible for approving the carry forward of all budgets and spending plans that span financial years i.e. timing difference and profiling.
- 3.6.2     The Section 151 Officer shall approve other individual carry forwards up to £150,000, with any above this amount being approved by the Executive.

### **3.7      Budget Monitoring – Capital**

- 3.7.1     Once the Capital Scheme has been prepared in detail and the tenders have been obtained, the Head of Functions shall compare the allocation of funds approved within the Capital Programme to the tendered bids and determine if further approval is required.
- 3.7.2     Further approval will be required in line with supplementary budget approval thresholds, subject to affordability being confirmed by the Section 151 Officer.
- 3.7.3     Approval to award a Capital Scheme contract will be as per Contract Standing Orders.

3.7.4 A Capital Scheme must not commence until the relevant funding is in place to meet the approved budget for the Scheme. For example, capital receipts and / or capital grants have been received.

### **3.8 Leases**

3.8.1 Head of Functions shall ensure that credit arrangements, such as leasing arrangements, are not entered into without the prior approval of the Section 151 Officer and, if applicable, approval of the scheme through the capital programme.

3.8.2 The Section 151 Officer shall ensure that there is sufficient budget and calculate whether a lease or alternative financing arrangement provides best value and best fit with Capital and Treasury strategies.

### **3.9 Balances and Reserves**

3.9.1 The Section 151 Officer shall advise the Executive and Full Council on prudent levels of general balances, revenue reserves and contingencies for the Council.

3.9.2 Applying transfers to and from the general balances and earmarked reserves will be the responsibility of the Section 151 Officer in line with the approved budget and any approved changes during the year.

### **3.10 Budget Monitoring – Reporting**

3.10.1 The Section 151 Officer will report to the Executive, at agreed intervals, on the revenue and capital budgets and wider financial standing and will make recommendations for varying the approved budget where necessary.

3.10.2 Where overspending occurs on delegated budgets that cannot be covered by income savings or underspending elsewhere they shall be reported to the Executive and underwritten by balances for financial planning purposes. The Leadership Team shall determine and report mitigating actions and any related recommendations to the Executive.

3.10.3 All service underspend and overspend over £20,000 shall be fully explained by the Budget Holder within the budget monitoring process to the Section 151 Officer with a mitigation plan where appropriate. All those over £50,000 will be reported to the Executive.

3.10.4 As soon as practicable after the end of the financial year the Section 151 Officer shall submit the financial outturn position to the Executive. This will include a comparison of budget against actual spending and an analysis of major variances.

### **3.11 Finance Comments in Reports**

- 3.11.1 The responsible Councillor and/or Officer report authors must ensure relevant financial implications are included in any key decision reports, in consultation with the Section 151 Officer, Finance Business Partner or Finance Specialist.
- 3.11.2 Authors should provide draft reports to the Section 151 Officer, Finance Business Partner or Finance Specialist prior to any submission of reports so that they may produce any financial reports and / or comments on the financial or budgetary implications of this action. For draft reports this will be 5 working days before any interim review and for final reports this will be 5 working days prior to agendas being published.
- 3.11.3 Budget Holders shall consult with the Section 151 Officer on any unplanned policy matters or other matters affecting the finances of the Council.

### **3.12 Closing of Accounts and Statement of Accounts**

- 3.12.1 The Council has a statutory responsibility to produce a Statement of Accounts by the 31 May of the succeeding financial year and to be audited, approved and published online by the 31 July of the succeeding financial year.
- 3.12.2 The Section 151 Officer is responsible for selecting and consistently applying suitable accounting policies, determining accounting procedures and records, and ensuring compliance with relevant Accounting Codes of Practice.
- 3.12.3 The Section 151 Officer is responsible for making the arrangements for closing the Council's accounts, for ensuring that the Annual Statement of Accounts is prepared in accordance with the relevant Code's, as well as all matters relating for their audit and public inspection.
- 3.12.4 Senior Officers are responsible for ensuring that staff adhere to the timetable and requirements set out by the Section 151 Officer for the closing of the accounts, and provide any information and evidence required in relation to this.
- 3.12.5 The Section 151 Officer shall sign and date the Statements of Accounts, stating that they present a true and fair view of the financial position of the Council at the accounting date and its income and expenditure for the year ended 31 March 2xxx.
- 3.12.6 The Audit, Governance and Standards Committee is responsible for approving the audited Statement of Accounts.

### **3.13 Treasury Management Framework**

- 3.13.1 The Section 151 Officer is responsible for preparing a Capital Strategy, an Investment Strategy and a Minimum Revenue Provision (MRP) Policy in line with the relevant CIPFA codes and statutory guidance, to be presented to Full Council for approval by 31 March of the preceding financial year.
- 3.13.2 The Section 151 Officer is responsible for preparing a Treasury Management Strategy Statement (TMSS) in line with the relevant CIPFA codes and statutory guidance. Full Council delegates responsibility for approving the TMSS, by 31 March of the preceding financial year, to the Executive.
- 3.13.3 The purpose of these reports is to inform Councillors of the recommended strategy for effectively managing the Council's cash resources in accordance with the legislative and regulative frameworks, including the approach to borrowing and investments taking into account prudential borrowing limits and performance indicators.
- 3.13.4 These reports also set out the approach and operating limits that must be applied in treasury management activity.
- 3.13.5 The monitoring of treasury performance is the responsibility of the Audit, Governance and Standards Committee, who will receive mid-year and end of year treasury performance reports.
- 3.13.6 All executive decisions on borrowing, investment or financing, and administration shall be delegated to the Section 151 Officer, who is responsible for establishing and monitoring Treasury Management Practices.
- 3.13.7 All treasury management activity shall be undertaken by trained staff only and in accordance with the CIPFA Code of Practice for Treasury Management in Local Authorities, the Prudential Code, and the Council's Treasury Management Strategy and comply with the Treasury Management Practices.

## **4.0 Financial Administration, Systems and Procedures**

### **4.1 Introduction**

- 4.1.1 The Section 151 Officer is responsible for determining the accounting procedures and records for the Council.
- 4.1.2 All officers working for or on behalf of the Council must follow the financial administration, systems and procedures set out below. These rules and regulations are essential to an effective framework of efficiency, accountability and control.

- 4.1.3 All accounting systems, procedures and records shall be subject to the approval of the Section 151 Officer. Any changes to existing systems and the introduction of new systems shall also be approved by the Section 151 Officer.
- 4.1.4 All Head of Functions will embed a culture of financial awareness and ensure that their officers and key partners are made aware of how their activities have a financial impact on the Council, either directly or indirectly.
- 4.1.5 All Officers will ensure that all financial transactions will be made through the Council's Accounting System.

## **4.2 Accounting**

- 4.2.1 All accounting arrangements across the Council shall be in a manner approved by the Section 151 Officer, taking into account best practice guidance issued by relevant external bodies, such as CIPFA and the Government.
- 4.2.2 There must be adequate separation of duties to ensure that no one officer is able to handle any financial transaction from start to finish without there being some mechanism for independent checking. By finish is meant the completion of the accounting for the transaction.
- 4.2.3 All expenditure, income, assets and liabilities shall be completely and accurately accounted for within the Council's main Accounting System and any exceptions must be specifically authorised by the Section 151 Officer.

## **4.3 Income**

- 4.3.1 The Section 151 Officer is responsible for drafting the Council's Income and Arrears Management Policy. Approval of the Policy shall be delegated to the Executive. This will be reviewed and approved by the Executive at least every three years, with any minor changes delegated to the Section 151 Officer in consultation with the Portfolio Holder.
- 4.3.2 The Income and Arrears Management Policy sets out the Council's policy and procedures in relation to the billing, collection and recovery of monies owed to the Council and is to be adopted across all functions within the Council.
- 4.3.3 The policy focusses on key aims and principles, priority of debt, vulnerability, methods of payment, payment arrangements, offsets, performance monitoring, data protection, segregation of duties and review.

- 4.3.4 The Section 151 Officer is accountable for the following, with Heads of Functions responsible for ensuring compliance within their functions for :
- Administering all invoicing, credit notes, income and arrears collection
  - Providing the systems and documentation required for collection and associated debt recovery
  - Ensuring that claims for Government grants and other monies are made properly and promptly
  - Ensuring that all monies received are properly receipted, recorded and banked promptly
  - Administering the process for writing off irrecoverable debts and the monitoring and reporting of write off levels
  - Ensuring that a proper scheme of delegation has been established and it operates effectively
  - Notification of all monies due to the Council under contracts, leases or other agreements and the termination of use or change of user affecting this income
  - Reporting income management performance information to the Executive
- 4.3.5 Officers should encourage payment in advance or at point of service delivery wherever possible as per the Income and Arrears Management Policy and minimise the amount of credit given to customers.
- 4.3.6 The Section 151 Officer may authorise payment by instalments if full payment cannot be obtained immediately, in accordance with the Income and Arrears Management Policy, unless otherwise prescribed in relevant legislation, such as council tax and business rates.
- 4.3.7 Head of Functions must notify the Section 151 Officer of all monies due to the Council under contracts, leases or other agreements and the termination of use or change of user affecting this income.
- 4.3.8 Any sales made via electronic commerce accounts, for example eBay and Amazon, must have the individual account pre-approved by the Section 151 Officer, and held in the name of the Council and using the Council's banking details. Head of Functions are responsible for ensuring that any staff in their areas use these accounts appropriately and in line with financial procedure rules.

### **Raising of Invoices**

- 4.3.9 Officers responsible for raising invoices must ensure that VAT has been properly accounted for and the correct fee has been charged as per the approved fees and charges report, or any subsequent amendments.

- 4.3.10 The Head of Customer is responsible for developing a scheme of discretionary discounts, in consultation with the Section 151 Officer.

### **Credit Notes**

- 4.3.11 Any invoice of £1,000 and over, that require cancellation via a Credit Note, will require Budget Holder approval. Any invoice below £1,000 will required approval from an Income Specialist.
- 4.3.12 A clear reason for the Credit Note must be provided, and all evidence must be held on the Council's document management system. This information will be reviewed periodically and action taken to reduce the number of occurrences.
- 4.3.13 Any Credit Note must not be authorised or processed by the same person who raised the original invoice.

### **Unallocated Income**

- 4.3.14 All unallocated income shall be dealt with on a daily basis by either allocation to the correct account/invoice, transferred or refunded.

### **Aged Debt**

- 4.3.15 The Budget Holder will periodically review the outstanding debts pertaining to their functional area, and take reasonable action to aid the collection of those debts and / or consider suspending the provision of goods / services to the customer until all payments due have been made.
- 4.3.16 For any irrecoverable debts, the Budget Holder will put forward a request to write off the debt.

### **Writing Off Bad Debts**

- 4.3.17 The Section 151 Officer is responsible for the arrangements dealing with write off of irrecoverable debts.
- 4.3.18 Any write off per debtor greater than £25,000 in any year will be reported to the Executive for information.
- 4.3.19 Where a debt becomes uncollectable, any debts written off shall be in accordance with the following table:

<b>Threshold</b>	<b>Council Tax &amp; Business Rates, Sundry Income, Housing Benefit Overpayments &amp; Housing Rents</b>
£0 to £25	Customer Champion
£25-£100	Case Manager
£100-£1,000	Specialist / Senior Case Manager responsible for income activity
£1,000-£5,000	Head of Customer
£5,000 +	Section 151 Officer

4.3.20 All write offs will be reported to the Section 151 Officer on a regular basis

#### **4.4 Ordering of Supplies, Works and Services**

4.4.1 All contracts and purchase orders are subject to the Contract Procedure Rules.

4.4.2 Head of Functions must have systems in place to ensure that only authorised officers are allowed to place purchase orders, and that purchase orders are only raised when there is sufficient budget available.

4.4.3 Once the purchase has been agreed, the creation of an official purchase order using the Council's Accounting System will be required for all orders unless agreed by the lead Procurement Officer.

#### **Authorisation of Purchase Orders**

4.4.4 A register of approved authorisers will identify staff authorised to act on the Head of Functions or Senior Officers behalf in respect of placing purchase orders and making payment, together with the limits of their authority.

4.4.5 A register of approved authorisers and authorised purchasers will be maintained within the Council's Accounting System.

#### **Receipt of Supply**

4.4.6 The receipt of supplies, works and services will be undertaken within the Council's Accounting System. The receipt will confirm that the supply is as requested and authorises the release of payment.

#### **Payment of Supplier Invoices**

- 4.4.7 The Section 151 Officer shall make arrangements for the payments of all monies due from the Council in accordance with the relevant legislative and statutory requirements.
- 4.4.8 Payment to a supplier will only be made on receipt of a valid and appropriately addressed tax invoice.
- 4.4.9 All invoices must reference a valid purchase order number, or customer account reference where a purchase order is not required e.g. for utilities contracts.
- 4.4.10 The Council is required to comply with the Late Payment of Commercial Debt Regulations. Any supplier issuing an invoice in error will be required to re-submit a valid invoice with an amended invoice date.

### **Payments in Advance**

- 4.4.11 The Council will ordinarily only pay for goods, services and works upon receipt or completion.
- 4.4.12 Where such goods, services and works are essential and only available if paid in advance (e.g. e-commerce) then Officers, prior to authorising payments in advance, must undertake a risk assessment of the supplier or service provider defaulting.
- 4.4.13 All payments in advance in excess of £5,000 must be agreed with a Finance Specialist and any in excess of £50,000 must be agreed by the Section 151 Officer.

### **Payment Methods**

- 4.4.14 The Section 151 Officer must approve all banking, purchase and credit card arrangements across the Council, and must be satisfied with the safe keeping of all controlled banking stationery.
- 4.4.15 The Section 151 Officer will maintain a register of all bank and card acquiring contracts.
- 4.4.16 Cheques above certain financial limits set by the Section 151 Officer shall be manually countersigned by those designated officers authorised to do so by the Section 151 Officer.
- 4.4.17 Head of Functions are responsible for ensuring that any staff in their areas that use the procurement Credit / Debit Cards adhere to the requirements of the Purchasing Card Guide and Terms and Conditions.

- 4.4.18 Any purchases made via the internet must be made in adherence to the Council's procurement procedures
- 4.4.19 Any purchases made via electronic commerce accounts, for example eBay and Amazon, must have the individual account pre-approved by the Section 151 Officer, and held in the name of the Council and using the Council's banking details. Head of Functions are responsible for ensuring that any staff in their areas use these accounts appropriately and in line with financial procedure rules.

### **Petty Cash**

- 4.4.20 The Section 151 Officer must approve all banking and Petty Cash acquiring arrangements across the Council, and must be satisfied with the safe keeping of all controlled banking stationery.
- 4.4.21 The Section 151 Officer must authorise all Petty Cash accounts and the Petty Cash Account Holder must comply with the rules set within the Petty Cash Guide and Terms and Conditions as prescribed by the Section 151 Officer.

### **Taxation**

- 4.4.22 The Section 151 Officer is responsible for ensuring compliance with all relevant taxation regulations and guidance that affect the Council.
- 4.4.23 Head of Functions must notify the Section 151 Officer immediately of all new areas of business and of any change of circumstances to ensure the impact on VAT has been reviewed. For example, buying or selling a property and / or undertaking new investment activity.

### **Planning Obligations Board**

- 4.4.24 The Planning Obligations Board shall recommend budget allocations from the Community Impact Mitigation (CIM) Fund and other Hinkley S106 Funds for approval as per the following table.

<b>Threshold</b>	<b>Decision</b>
Over £250,000	Full Council
Up to £250,000	Executive

## **4.5 Investments, Borrowing, Capital Financing and Trust Accounts**

- 4.5.1 The Section 151 Officer shall ensure that the Council's money is properly managed and controlled in a way which balances risk with return but with the overriding consideration being given to the security and liquidity of the Council's investment.

- 4.5.2 All investments, except bearer securities, controlled by the Council shall be registered in the Council's name or in the name of nominees approved by the Executive.
- 4.5.3 All securities shall be held securely by the Council's bankers, or custodians approved at the Section 151 Officer.
- 4.5.4 The Section 151 Officer shall ensure that all borrowing is made in the name of the Council.
- 4.5.5 The Section 151 Officer shall ensure that all applicable trust funds are registered in the name of the Council.
- 4.5.6 The Section 151 Officer will provide regular monitoring reports to the Audit, Governance and Standards Committee.
- 4.5.7 The Section 151 Officer will report any breaches or amendments of the Prudential Code to Council.

## **4.6 Asset Management**

### **Asset Register**

- 4.6.1 The Finance Business Partner shall maintain a full and accurate register of all Council fixed assets.

### **Custody of Deeds**

- 4.6.2 The Council's Solicitor shall have custody of the title deeds and other agreements under seal or hand of all land owned by the Council (together with all deeds and documents held as security for any monies owed to the Council) and are responsible for their safe-keeping.

### **Security**

- 4.6.3 The Heads of Functions shall be responsible for the proper security of all buildings, stocks, furniture, equipment and cash etc. within their service. They shall exercise a co-ordinating role on security issues and shall be consulted where it is felt that security is inadequate or in special circumstances.

### **Valuations**

- 4.6.4 The Finance Business Partner will be responsible for ensuring that a valuation report is produced on an annual basis and used as part of creating the Statement of Accounts.
- 4.6.5 The Council will carry out a rolling programme of asset valuations to ensure that all Property, Plant and Equipment required to be measured at fair value is revalued at least every five years.

- 4.6.6 Valuations of land and buildings will be carried out in accordance with the methodologies and bases for estimation set out in the professional standards of the Royal Institution of Chartered Surveyors (RICS).
- 4.6.7 Valuations of vehicles, plant, furniture and equipment will be based on current prices where there is an active second-hand market or latest prices adjusted for the condition of the asset.

### **Impairment**

- 4.6.8 The Finance Business Partner is responsible for ensuring that assets are assessed at each year-end as to whether there is any indication that an asset may be impaired.
- 4.6.9 Where indications exist and any possible differences are estimated to be material, the recoverable amount of the asset is estimated and, where this is less than the carrying amount of the asset, an impairment loss is recognised for the shortfall.

### **Condition Surveys**

- 4.6.10 The Finance Business Partner shall ensure that condition surveys of all buildings and property assets in which the Council has a proprietary interest are carried out at least once every 5 years.
- 4.6.11 Survey details are to be recorded in appropriate systems and work programmes prepared in accordance with priorities set out in the Asset Management Plan.

### **Maintenance of Assets**

- 4.6.12 Heads of Functions are responsible for implementing a system for the maintenance of assets, stocks and stores including regular stock checks and write offs when required.

### **Asset Management Plan**

- 4.6.13 The Lead Place Specialist is responsible for producing an Asset Management Plan. The Plan will be approved by Executive, with the monitoring of the delivery of that Plan delegated to Lead Place Specialist.
- 4.6.14 The Asset Management Plan looks at how the Council's assets support achievement of the Council's objectives and the services it provides.
- 4.6.15 The Plan will set out principles, priorities and actions to ensure the assets are used and managed as efficiently and effectively as possible.
- 4.6.16 The Plan will be reviewed annually to take account of any changes in the Council's objectives or priorities.

### **Acquisition and Sale / Disposal of Assets**

- 4.6.17 All acquisitions and disposals of Council property shall be made in accordance with the approved governance arrangements or otherwise in accordance with the Council's Capital Strategy and its Asset Management Plan.
- 4.6.18 The Section 151 Officer shall be responsible for the appropriate accounting treatment of any acquisition and sale / disposal of assets.
- 4.6.19 All acquisitions and sale / disposal of assets shall be made in line with approved budgets and in consultation with the Section 151 Officer. The authority to approve acquisitions and sale / disposal of assets shall be delegated as per the table below.

<b>Threshold</b>	<b>Decision</b>
Over £250,000	Executive
Up to £250,000	Chief Executive or Head of Function or Director

- 4.6.20 In respect of receipts from sale of assets where values are less than £10,000: these net proceeds will be credited to the appropriate revenue budget.
- 4.6.21 In respect of receipts from sale of assets where values are more than £10,000: the net proceeds will be recorded as either capital receipts unless Statutory Guidance permits the use as Flexible Capital Receipts. The net receipts can then be used to fund revenue costs, provided the expenditure meets the requirements for qualifying expenditure under this guidance.

## **4.7 Payroll**

- 4.7.1 The Head of Paid Service is responsible for producing a Payroll Policy to be approved by the Executive by the 31 March of the proceeding financial year.
- 4.7.2 The Payroll Policy sets out the Council's policy and procedures in relation to the payments of salaries and wages to all staff, including payments for other allowances, and for payment of allowances to Councillors, employed by the Council. This is to ensure that the risk associated with the public sector payroll system are managed effectively.
- 4.7.3 The Section 151 Officer is responsible for all payments of salaries and wages to all staff, including payments for other allowances, and for payment of allowances to Councillors. All payments must be made by BACS once a month through the Council's Payroll System.

- 4.7.4 The Head of Functions and their respective managers must notify central payroll team of all matters relating to the employment (including any changes) of officers so that the appropriate financial entries and payments can be made.
- 4.7.5 Officers will submit their expenses claims through the Council's Payroll System. The relevant manager will then validate the claim prior to online approval.

#### **4.8 Somerset West Lottery**

- 4.8.1 The Council will be an enabler for the lottery and use the contracted services of a licenced External Lottery Manager (ELM) to operate the lottery as per the Gambling Act 2005.
- 4.8.2 The Council will hold the relevant licence(s) obtained from the Gambling Commission as regulated by the Gambling Act 2005.
- 4.8.3 The Section 151 Officer and the Head of Customer will be registered as the 'responsible officers' with the Gambling Commission.
- 4.8.4 Any arrangements of administering the lottery will be delegated to the Head of Customer and Portfolio Holder in consultation with the Section 151 Officer.

#### **4.9 Grants Paid out to VCS**

- 4.9.1 The authority to award grants will be delegated by the Executive to the Grants Panel, and all decisions will be published.
- 4.9.2 In order to make the most effective use of the Council's grants schemes (as listed below) the Council needs to ensure applicants maximise match funding from other funders for their projects in the district.

- Somerset West Lottery Local Community Fund (SWL LCF)
- Voluntary and Community Sector (VCS) Partner Grants
- VCS Small Grants Scheme

- 4.9.3 The Council may choose to outsource this function to an external body to administer on behalf of the Council and present assessed applications to the Council's Grants Panel for consideration and approval.

#### **4.10 Insurance**

- 4.10.1 The Section 151 Officer is responsible for maintaining adequate insurance cover for the Council and keeping comprehensive records of all risks covered.

- 4.10.2 Head of Functions must notify the Section 151 Officer immediately of all new areas of risk and of any change of circumstances likely to affect existing insurance risks.
- 4.10.3 Any incident which could give rise to an insurance claim must be promptly notified to the Section 151 Officer, by the relevant officer, who shall also inform the Police if appropriate.
- 4.10.4 The Section 151 Officer will handle all insurance claims with the insurance company if proceedings are issued.

#### **4.11 Financial Inducements, Gifts, Hospitality and Promotional Offers**

- 4.11.1 All staff must comply with the Employee Code of Conduct and Gifts and Hospitality Guidance and Procedures. Further advice should be sought from the Monitoring Officer.
- 4.11.2 All Councillors and staff must not accept inducements in the process of administering the financial affairs of the Council.

#### **4.12 Declaration of Interest**

- 4.12.1 All officers shall notify their Head of Function and the Monitoring Officer in writing if they have a financial interest (direct or indirect) in any current or proposed contract of the Council. The Monitoring Officer shall record in a schedule to be kept for the purpose, particulars of any such notice given. Failure to disclose a financial interest in a contract is a criminal offence under section 117 of the Local Government Act 1972.
- 4.12.2 All officers shall advise their Head of Function and the Monitoring Officer, to be incorporated into the schedule mentioned above, of any conflict of interest which has arisen or might arise because they are likely to be required or authorised to do something as a Council Officer, in which they have a personal or private interest.

### **5.0 Risk Management and Control of Resources**

#### **5.1 Risk Management**

- 5.1.1 The Head of Performance and Governance is responsible for preparing a Risk Management Strategy as part of the Governance Framework, and ensuring that Councillors and staff consider risk when dealing with Council business and key activities.
- 5.1.2 The Risk Management Strategy will be approved by the Executive, and reviewed at least every three years.
- 5.1.3 Risk management and control arrangements are the responsibility of management, and the Head of Performance and Governance shall report

on risk management arrangements and performance to the Audit, Governance and Standards Committee

## **5.2 Internal Control**

- 5.2.1 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- 5.2.2 The Section 151 Officer is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- 5.2.3 It is the responsibility of Head of Functions to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.
- 5.2.4 The Section 151 Officer shall undertake an annual review of the effectiveness of the systems of internal control, and key findings and actions reported within the Annual Governance Statement.

## **5.3 Internal Audit**

- 5.3.1 Head of Functions shall have regard to the principles of risk management, and to the Council's Risk Management Strategy. It is the responsibility of Internal Audit to review the adequacy and effectiveness of the Council's arrangements for risk management.
- 5.3.2 Under the Accounts and Audit Regulations 2015 the Council has a statutory obligation to have an adequate and effective system of internal audit.
- 5.3.3 The Section 151 Officer has the delegated authority for providing and maintaining this service.
- 5.3.4 The Internal Auditor is responsible for providing an internal audit function which meets the requirements of the Public Sector Internal Audit Standards (PSIAS). They are also responsible for providing an opinion, in support of the Annual Governance Statement, on how the Council's risk management processes identify, evaluate, monitor and report that controls are operating effectively within the Council.
- 5.3.5 Internal Audit is an assurance function that provides an independent, objective assurance and consulting activity designed to add value and

improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

- 5.3.6 Internal Audit has unrestricted access to all information (including records, computer files, databases, systems, property and personnel) across all functions and activities undertaken by the Council, or partners on the behalf of the Council where council information is held in order to review, appraise and report as may be necessary.
- 5.3.7 The Internal Auditor shall report to the Audit, Governance and Standards Committee all significant concerns that he/she may have over the adequacy and effectiveness of internal controls and risk management activities within the organisation.

#### **5.4 External Audit**

- 5.4.1 The council is responsible for approving the appointment of an external auditor. This shall be delegated to the Audit, Governance and Standards Committee.
- 5.4.2 The External Auditor has a responsibility to satisfy themselves that the Council has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. This judgement is based on criteria specified by the National Audit Office.
- 5.4.3 The Section 151 Officer, in conjunction with Head of Functions, must ensure that the Council makes best use of resources, and taxpayers and service users receive value for money.
- 5.4.4 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.
- 5.4.5 The Section 151 Officer is responsible for presenting the Audit Findings Report and the Annual Audit Letter to the Audit, Governance and Standards Committee.
- 5.4.6 The Section 151 Officer must advertise the Public Right of Inspection on the Council's website in line with Accounts and Audit regulations.

#### **5.5 Counter-fraud and Anti-bribery**

- 5.5.1 Section 151 of the Local Government Act 1972 requires every Local Authority to make arrangements for the proper administration of their financial affairs.

- 5.5.2 The Section 151 Officer is responsible for advising the Council on anti-fraud and anti-corruption strategies and measures. Approval of the policy is delegated by the Council to the Executive.
- 5.5.3 This policy provides a coherent and consistent framework to enable the organisation's staff and Councillors to understand and implement arrangements enabling compliance. In conjunction with related policies and key documents it will also enable Councillors/ staff and the public/stakeholders to identify and effectively report a potential breach.

## **5.6 Money Laundering**

- 5.6.1 The Section 151 Officer is responsible for preparing the Council's Money Laundering Policy (MLP) to be scrutinised by the Audit, Governance and Standards Committee and approved by the Executive.
- 5.6.2 The Money Laundering Policy (MLP) will be reviewed on a regular basis, at least every three years, and upon issue of new or updated relevant regulations.
- 5.6.3 This policy will ensure that there are adequate controls in place within the Council to counter money laundering activities and terrorist financing activities, in line with the Money Laundering Regulations 2017.
- 5.6.4 The Executive will appoint a Money Laundering Reporting Officer (MLRO).

## **5.7 Trading Units**

- 5.7.1 It is the responsibility of the Section 151 Officer to advise on the establishment and operation of trading accounts and business units, and to determine the arrangements under which these are operated.
- 5.7.2 The Head of Functions must observe all statutory requirements in relation to trading accounts, including the maintenance of a separate revenue account to include all relevant income and expenditure, including overhead charged and an annual report in support of the Council's annual financial statements.
- 5.7.3 The Head of Functions must ensure that the same accounting principles are applied in relation to trading accounts as for other service units.

## **6.0 External Arrangements**

### **6.1 Partnerships**

- 6.1.1 Partnerships include any arrangements where the Council agrees to undertake, part fund or participate in a project with other bodies; either as a beneficiary of the project, or because the nature or status of the project gives the Council a right or obligation to support it. Where the Council is

simply providing funding without assuming any obligation or risk relating to delivery of the project, this is not a partnership.

- 6.1.2 The Executive is responsible for approving the operational framework for the Council's participation in all strategic partnerships or joint working arrangements with other local public, private, voluntary and community sector organisations. This includes the arrangements for delegation to officers and the detailed arrangements for the provision of both financial and physical resources by the Council.
- 6.1.3 The Section 151 Officer and Monitoring Officer are responsible for promoting, maintaining and monitoring the same high standards of conduct with regard to legal and financial administration and accounting arrangements in partnerships that apply throughout the Council. They shall also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. They shall ensure that the risks have been fully appraised before agreements are entered into with external bodies. They shall ensure that all partnerships are included within the Partnership Register.
- 6.1.4 The approval of both the Section 151 Officer and the Monitoring Officer must be obtained prior to the Council entering into any formal partnership agreement. The approval of the Section 151 Officer must also be obtained where it is proposed that the Council adopts the role of 'Accountable Body' for a partnership.
- 6.1.5 Head of Functions are responsible for ensuring that appropriate preparation work is undertaken and approvals are obtained before any negotiations are concluded in relation to work with external bodies.
- 6.1.6 A written partnership agreement must be produced that clearly establishes the responsibilities, rights, and obligations of the respective partners for managing the arrangement and the resources made available to the partnership.
- 6.1.7 The agreement must clearly set out the financial arrangements of the partnership including accounting, funding, assets, liabilities, insurances, tax accounting and risk management.
- 6.1.8 The agreement must also set out the arrangements in respect of unspent funding at each year end, unless this is to be returned to the Council as unspent money, and for addressing any overspend.
- 6.1.9 The agreement must also include HR advice in respect of employment rights and obligations including IR35 and TUPE implications.

## 6.1 External Funding (Including Grants)

- 6.1.1 The Section 151 Officer, in consultation with the relevant Head of Function, is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- 6.1.2 Head of Functions must advise the Section 151 Officer with details of all bids for external funding, as well as all grant and subsidy notifications by external bodies, as soon as they are received.
- 6.1.3 Head of Functions are responsible for ensuring that the terms and conditions of all grants have been met properly.
- 6.1.4 Head of Functions must not commit expenditure on projects requiring matched funding contributions until the external funding has been confirmed.
- 6.1.5 Each Head of Function is responsible for informing the Section 151 Officer promptly about such funding. Where such income is receivable against a grant claim the relevant Head of Functions shall provide written confirmation to the Section 151 Officer that all output and other grant requirements have been properly and fully met.

## 6.2 Work for Third Parties

- 6.2.1 The Section 151 Officer is responsible for providing specific guidance to Head of Functions in respect of contractual arrangements for the provision of services to third parties or external bodies.
- 6.2.2 Work can only be undertaken for third parties where the Council has the legal powers to undertake the work.
- 6.2.3 With regard to the financial aspects of third party contracts, Head of Functions will:
  - Comply with any guidance issued by the Section 151 Officer and will ensure that appropriate insurance arrangements are made.
  - Ensure that all costs arising from the provision of services to a third party are recovered and hence that there is no subsidy included within the contract.
  - Ensure that the Council is not unnecessarily exposed to the risk of bad debts.
- 6.2.4 A written agreement must be put in place between the Council and the third party, which details the services to be provided, over what period and at what price; this will be signed by both parties to the agreement.
- 6.2.5 Head of Functions will provide information on the contractual arrangements to the Section 151 Officer in order that the appropriate disclosures can be made within the Council's annual statement of accounts.

- 6.2.6 The Head of Function / Section 151 Officer / Solicitor shall be responsible for approving the contractual arrangements for any work for third parties or external bodies.
- 6.2.7 The relevant Senior Officer must ensure that any work carried out for third parties is not outside the Council's powers by formally seeking the opinion of the Council's Monitoring Officer before such an arrangement is entered into.
- 6.2.8 The Section 151 Officer will issue guidance on all financial matters in respect of providing third parties with services.
- 6.2.9 The relevant Senior Officer must ensure that:
- Proposals are costed properly in accordance with the guidance provided by the Section 151 Officer;
  - No contract is subsidised by the Council;
  - Appropriate insurance arrangements are made;
  - Wherever possible, payment is received in advance of the provision of the service;
  - The Section 151 Officer is provided with the appropriate information to enable a note to be entered into the Statement of Accounts; and
  - Information held or assets owned by the Council is/are not used to the detriment of the Council.
  - There is compliance with GDPR.

### **6.3 Alternative Delivery Models**

- 6.3.1 The Section 151 Officer is responsible for providing specific technical guidance to Head of Functions in respect of financial arrangements for any proposal to deliver services via an alternative delivery vehicle. They shall also ensure that any such activities are properly recorded in the Council's accounts.
- 6.3.2 Legal advice shall be sought for the contractual arrangements for any alternative delivery model.
- 6.3.3 Any proposal to deliver services via an alternative delivery vehicle must be developed through the Council's business case governance framework to ensure that there is a robust planning and decision-making process in place.
- 6.3.4 Head of Functions are responsible for ensuring that necessary approval is obtained before any contract negotiations and/or financial transactions are entered into, and that all agreements and arrangements are properly documented.

6.3.5 There are various types of alternative delivery model, including, but not limited to:

- Local Authority Trading Company (LATC)
- Joint Ventures - set up as separate corporate entities joining two or more parties for the purpose of executing a business undertaking
- Charitable incorporated organisation - a corporate entity which is regulated by the Charities Commission
- Social Enterprises - businesses trading for social and environmental purposes
- Outsourcing – a contractual arrangement between the Council and a private provider for the delivery of an agreed service
- Social Impact Bonds – contract to achieve agreed social outcomes through a programme of interventions delivered by a number of service providers
- Joint Committee – joint bodies set up, by agreement, to discharge or carry out activities in conjunction with other local authorities
- Unincorporated association

#### 6.4 **Transparency**

6.4.1 To provide transparency in its stewardship of public funds the Council makes information available to the public in relation to its spending and are available to download via the Council's Open data portal. This brings together all our published datasets and other information of interest on one searchable database for anyone, anywhere to access.  
<https://www.somersetwestandtaunton.gov.uk/open-data/>

**-End of Document-**

# **Contract Procedure Rules**

## **1. Introduction**

1.1 These Contract Procedure Rules apply to all purchases of works, goods and services by the Council. Their observance is mandatory. The object of these Rules are as follows:

- a) To ensure that the Council's procurement activity is fair, open, transparent, non-discriminatory and lawful;
- b) To protect the Council, Councillors and Officers from the risk of challenge, undue criticism or allegations of wrongdoing;
- c) To assist officers in achieving best practice and lawful procurement; and
- d) To ensure the Council fulfils its duty of delivering Best Value for its Council Tax Payers and excellent outcomes for its Customers.

1.2 The expectation is of compliance to these Rules, and in any cases of doubt, advice must be sought from the Head of Performance and Governance. The administration, monitoring and governance of the application of these Rules shall be the responsibility of the Head of Performance and Government.

1.3 If there is any relevant change to English or European Law which affects these Rules, then that change must be observed until these Rules can be revised. Where there is a difference between these Rules and the current legislation, the legislation will prevail.

## **2. Application**

2.1 These Rules apply to:

- a) All contracts for the supply of works, goods or services to the Council;
- b) Partnership and collaborative arrangements with other Local Authorities where the Council is not the Lead Authority. Assurance is to be sought that the Lead Authority is acting in compliance with its own Contract Procedure Rules; and
- c) Concession Contracts.

2.2 These Rules do not apply to:

- a) Contracts solely for the acquisition, disposal or transfer of any interest in land; or
- b) Contracts of employment for the appointment of individual members of staff.

## **Exemptions to These Rules**

2.3. The expectation is that these Procedure Rules will be observed. However, an exemption to the requirements of Contract Procedure Rules 15, 19, 20, 21 and 22 may be sought where one or more of the following circumstances apply:

- a) Goods or materials are proprietary items or are sold only at a fixed price and no satisfactory alternative is available;
- b) Contracts for the execution of mandatory works by statutory undertakers, such as utilities providers;
- c) The work to be executed or the goods or materials to be supplied consist of repairs to or the supply of parts for existing proprietary machinery or plant or the execution of work or supply of goods or services or materials necessary for maintenance or repairs to existing machinery or plant;
- d) Goods, works or services procured in a genuinely unforeseeable emergency (e.g. natural disasters such as flooding or fires, immediate changes to legislation) because of a need to respond to events that were beyond the genuine control of the Council. Any such contract entered into by the Council must not be for a term of more than 6 months. It must be noted that not allowing sufficient time to tender shall not be considered an emergency;
- e) Legal services falling within Regulation 10(1)(d) of the Public Contracts Regulations 2015;
- f) Dealings in the money market or obtaining finance within Regulation 10(1)(e) and 10(1)(f);
- g) Purchases at auction or at public fairs or markets;
- h) Goods or Services where the Council's needs are only capable of being met by one supplier and where the contract assists the Council in meeting its statutory duties;
- i) Contracts falling within the Light Touch Regime;
- j) Life or death – where there is a significant chance that the life or health of Officers, Councillors or the public will be put at real risk;
- k) Increased costs/loss of income – where the Council will incur significant avoidable costs or lose significant income (significant shall be taken to mean material in the sense that it is either material to the project, the service or the Council);
- l) Limited markets – supply of the product or service is demonstrably restricted to a single source of supply; or,

m) Other unforeseen circumstances or specific project conditions that would result in unacceptable commercial and/or reputational impact.

2.4 For contracts less than £50,000, the Procuring Officer must complete the relevant exemption request form and seek the approval of the Head Performance and Governance.

2.6 For contracts at and above £50,000 and below Threshold 3 (see Rule 15 Tables 1 and 2 for Thresholds), the Procuring Officer must complete the relevant exemption request form and seek the approval of the Head of Performance and Governance and the Monitoring Officer. All such requests shall be reported to the S151 Officer.

2.6 The Procuring Officer is responsible for ensuring that the exemption request forms are duly completed and signed prior to the award of a contract.

2.7 No exemption shall be granted for contracts over Threshold 3 unless expressly permitted by the Head of Performance and Governance and the Monitoring Officer.

2.8 Regardless of whether an exemption has been sought, the necessary authorisations to procure, award, amend or sign a contract (at Contract Procedure Rule 27) must also be obtained.

### **3. Compliance**

3.1 Every contract entered into on behalf of the Council shall comply with:

- a) These Contract Procedure Rules;
- b) The Council's Financial Procedure Rules; and,
- c) All relevant English and European legislation.

3.2 All members of staff and consultants engaged in any capacity to manage or supervise the procurement of any works, goods or services for the Council must comply with these Contract Procedure Rules. Non-compliance with these Rules may constitute grounds for disciplinary action.

3.3 If there is any doubt about the application of the Rules, the issues should be referred to the Monitoring Officer.

### **4. Conflicts of Interest**

4.1 Members of staff must avoid any conflict between their own interests and the interests of the Council. This is a requirement of the Council's Employee Code of Conduct (Sections 6, 7, 10, 11 and 12) and includes:

- a) Not accepting gifts or hospitality from organisations or suppliers that the Council has dealings with;

- b) Not working for organisations or suppliers that the Council has dealings with;
- c) Notifying the Head of Performance and Governance and Monitoring Officer in writing if an Officer has links with an organisation or supplier who is tendering or quoting for a contract with the Council or already has a contract with the Council (for example, where a family member or close friend works for the organisation).

4.2 All consultants engaged to act on behalf of the Council must declare that they will avoid any conflict between their own interests or those of any of their other clients and the interests of the Council.

4.3 If a Councillor or a member of staff has an interest (direct or indirect), financial, otherwise, in a contract or proposed contract, he/she must declare it in writing to the Monitoring Officer and their Head of Functions/Director as soon as he/she becomes aware of the interest. A Councillor or member of staff who has an interest in a contract must not take part in the procurement or management of that contract.

4.4 The Monitoring Officer must maintain a record of all declarations of interest notified by Councillors and Officers.

## **5. Prevention of Bribery and Corruption**

5.1 A contract may be terminated immediately and any losses to the Council arising from the termination recovered from the supplier, if the supplier, or anyone acting on his behalf (with or without the supplier's knowledge), offers or promises or gives a financial or other advantage to a Councillor, any member of staff, or any consultant in connection with the contract.

5.2 Any Councillor, member of staff or consultant who becomes aware or has reason to believe that a supplier or potential supplier has committed one of the corrupt acts referred to in Rule 5.1, must report it to the Monitoring Officer.

## **6. Relevant Legislation**

6.1 For the purposes of these Procedure Rules Relevant Legislation is defined as the following legislation:

- a) Public Contracts Regulations 2015 (PCR 2015);
- b) Concession Contracts Regulations 2016 (CCR 2016);
- c) Public Services (Social Value) Act 2012;
- d) Freedom of Information Act 2000;
- e) General Data Protection Regulation (GDPR) and the Data Protection Act 2018;

- f) Equality Act 2010;
- g) Modern Slavery Act 2015;
- h) Transfer of Undertakings (Protection of Employment) Regulations 2006;
- i) Any industry or sector-specific legislation pertaining to the subject matter of the Contract.

6.2 The Procuring Officer should be aware that the Relevant Legislation may operate to dictate the method of procurement and the content of any related contract.

6.3 When planning and preparing all procurement and contracting activities the Procuring Officer shall have regard to the Relevant Legislation and seek advice from the Head of Performance and Governance and Monitoring Officer where necessary to ensure that any applicable Relevant Legislation has been complied with.

## **7. Responsibilities of Heads of Functions**

7.1 Procurement activity in the Council is devolved to individual Function Areas, which are supported in their purchasing activities by SHAPE Legal Partnership, Finance Specialist and Case Officers and by Procurement Officers.

## **8. Estimate of Contract Value**

8.1 The value of a contract is the total amount that the Council expects to pay for the contract, including any additional options, lots, renewals and/or extensions.

8.2 Where the contract period is indefinite or uncertain, the value shall be calculated on the basis that the contract will be for a period of 4 years.

8.3 Contracts must not be packaged or divided into smaller units for the purpose of creating lower value contracts to avoid any provision of these Rules or EU procurement legislation. When tendering consideration must be given to the extent to which it is appropriate to divide the contract into lots to facilitate opportunities for small and medium sized enterprises and voluntary organisations.

8.4 The repeat direct award of contracts or purchase orders for the same or similar services, whatever the value of the individual contracts/purchase orders, to the same supplier shall, for the purposes of determining the aggregated contract value and the application of these Rules, be regarded as extensions to a single contract.

## **9. Use of Framework Agreements**

9.1 The use of framework agreements is permitted for any value of contract. The Monitoring Officer must be consulted, and confirmation given that the Council may lawfully access the

framework before a purchase. The Head of Performance and Governance must be informed of the use of a Framework Agreement.

9.2 In order to select a supplier for a call-off contract under a multi-supplier Framework Agreement, or to conduct a mini competition, the Procuring Officer must follow the procedure set out in that Framework Agreement.

9.3 The Head of Performance and Governance will keep a record of framework use.

## **10. Market Engagement**

10.1 Officers may, prior to commencing the procurement process and on the advice of the Head of Performance and Governance, consult potential candidates in general terms about the nature, level and standard of the supply and seek market views and intelligence that can be used in the planning and conduct of the procurement process.

## **11. Performance Bonds, Parent Company Guarantees and Insurance**

11.1 It is the responsibility of the Procuring Officer, in consultation with the Section 151 Officer to set, where appropriate, adequate levels of insurance for every procurement.

11.2 The Procuring Officer must ensure that any insurance required by the Council is held by the provider with a reputable insurance company (ies) and that the policy (ies) are renewed as necessary during the contract period.

11.3 The Procuring Officer must consult the Section 151 Officer concerning whether a performance bond or a deposited sum is needed where:

- a) The contract is for construction and the value of the contract is in excess of £100,000; or
- b) The contract value is above £1,000,000; or
- c) Where it is proposed to make stage or other payments in advance of receiving the whole of the contract and there is a concern about the stability of the candidate.

11.4 The Procuring Officer must consult the Section 151 Officer concerning whether a parent company guarantee is needed where:

- a) The Total Contract Value exceeds the EU Threshold; or
- b) The award of the contract is based on the evaluation of the parent company or there is some concern about the stability of the supplier.

## **12. TUPE**

12.1 Where relevant, the Procuring Officer must consider the implications of the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended and consult with the Monitoring Officer as to their application.

## **13. Dispute Resolution**

13.1 The Procuring Officer must consider the procedure for resolving disputes arising in relation to the procurement and, where appropriate, contracts shall contain provisions for alternative dispute resolution.

## **14. Form of Contract**

14.1 All contracts, regardless of value, shall be accompanied either by the Council's:

- a) Standard Terms and Conditions of contract; or,
- b) The standard form of contract; or,
- c) Bespoke terms.

14.2 Further guidance regarding the mandatory contract terms to be included in Council contracts can be sought from the Head of Performance and Governance or the Monitoring Officer.

14.3 All Contracts are to be executed in accordance with Procedure Rule 29.

## **15. The Procurement Process**

15.1 The process to be adopted is determined by the value of the contract. The procedure must be both appropriate and proportionate to the value of the contract. It must ensure that the Council achieves Best Value which is to be assessed by an evaluation of both the price and quality of competitive bids so as to determine the most economically advantageous over the life of the contract.

15.2 Procuring officers must, as a minimum, obtain quotations and tenders as follows:

### **A. Contracts for Goods and Services**

**Table 1**

Threshold	Value
1	£5,000
2	£50,000
3	EU Supplies Goods and Services Threshold

Contract Value	Procurement Process	Advertising Requirements	Process Guidance
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Up to Threshold 1	<p>(i) Must demonstrate Best Value by following the procurement process for Lower Value Purchases.</p> <p>(ii) Alternatively, the procurement is carried out under the Rules of an appropriate Framework.</p> <p>Written quotation(s) must be received. One quotation may be sufficient if Best Value is evidenced.</p>	None	<p><i>See Rule 19.</i></p> <p><i>Low Value Procurement process</i></p>
Between Threshold 1 and 2	<p>(i) A minimum of 3 quotations received via the Council's Electronic Tendering System.</p> <p>(ii) Alternatively, the procurement is carried out under the Rules of an appropriate Framework.</p>	Optional	<p><i>See Rule 20.</i></p> <p><i>Quotations</i></p>
Between Threshold 2 and 3	<p>(i) An invitation to Tender via the Council's Electronic Tendering System.</p> <p>(ii) Alternatively, the procurement is carried out under the Rules of an appropriate Framework.</p>	<p>(i) Open advertisement on the Council's Electronic Tendering System and in Contracts Finder.</p> <p>(ii) In accordance with the Rules of the Framework.</p>	<p><i>See Rule 21.</i></p> <p><i>Procurement processes requiring Invitations to Tender</i></p>
At and above Threshold 3	<p>(i) Invitation to Tender as per the Relevant Legislation and via the Council's Electronic Tendering System.</p> <p>(ii) Alternatively, the procurement is carried out under the Rules of an appropriate framework.</p>	<p>(i) Open advertisement on the Council's Electronic Tendering System, in Contracts Finder and in the EU.</p> <p>(ii) In accordance with the Rules of the Framework.</p>	<p><i>See Rule 22.</i></p> <p><i>Procurement processes over the EU Threshold</i></p>

## B. Contracts for Works

15.3 For works contracts, the Council utilises several lists of approved contractors (Approved Select Lists) for example the Devon and Somerset Select List of Approved Contractors (SLOAC) and Construction Line. These Approved Select Lists provide access to pre-qualified contractors who have registered their interest in working in the Somerset West and Taunton area.

15.4 Use of an Approved Select List (ASL) for works contracts below EU thresholds is encouraged but it is not mandated. Where it is used, there are different Rules associated with the award of works contracts, these are detailed in the Table 2 below.

**Table 2**

Threshold	Value
1	£15,000
2	£150,000
3	EU Works Threshold

Threshold	Non-Select List Rules	Select List Rules	Process Guidance
Up to Threshold 1	<ul style="list-style-type: none"> <li>(i) The Officer shall seek sufficient competition to demonstrate that Best Value has been achieved.</li> <li>(ii) Alternatively, the procurement is carried out under the Rules of an appropriate Framework.</li> </ul> <p>Written quotation(s)* must be received. One quotation may be sufficient if Best Value is evidenced.</p>	<ul style="list-style-type: none"> <li>(i) A minimum of 2 quotations is invited with at least 1 randomly selected by Approved Select List Software.</li> <li>The Officer must be satisfied that Best Value has been achieved.</li> <li>Written quotations must be received.</li> </ul>	<p>See Rule 19.</p> <p><i>Low Value Procurement Process</i></p>
Between Threshold 1 and 2	<ul style="list-style-type: none"> <li>(i) A minimum of 3 quotes received via the Council's Electronic Tendering System.</li> <li>(ii) Alternatively, the procurement is carried out under the Rules of an appropriate Framework.</li> </ul>	A minimum of 3 quotes invited, at least 2 randomly selected by the Approved Select List Software.	<p>See Rule 20</p> <p><i>Quotations</i></p>
Between Threshold 2 and 3	<ul style="list-style-type: none"> <li>(i) An Open Tender is advertised via the Supplying the Southwest Portal.</li> <li>(ii) Alternatively, the procurement is carried out under the Rules of an appropriate Framework.</li> </ul>	<p>For values between £150,000 and £250,000:</p> <p>A minimum of 5 invitations and 3 confirmed expressions of interest. At least 3 invitations being randomly selected by the Approved Select List Software.</p> <p>For values between £250,000 and EU Works threshold:</p> <p>All relevant registered suppliers on the Approved Select List</p>	<p>See Rule 21</p> <p><i>Procurement processes requiring Invitations to Tender</i></p>

		invited to register interest.	
At or above Threshold 3	(i) Invitation to Tender as per the Relevant Legislation and via the Council's Electronic Tendering System; or  (ii) Alternatively, the procurement is carried out under the Rules of an appropriate Framework.	Not Applicable above EU Works Threshold	See Rule 22. Procurement processes over the EU Threshold.

## 16. The Procurement Sourcing Strategy

16.1 For procurement processes with a Total Contract Value in excess of the EU Threshold the Procuring Officer must seek approval from the Monitoring Officer prior to procurement and must consult with the Head of Performance and Governance to develop a procurement sourcing strategy.

## 17. Specification

17.1 Each procurement must be appropriately specified, and the Selection and Award criteria must be formulated in advance of inviting expressions of interest to ensure the Council obtains value for money and the procurement process is transparent.

17.2 All works, goods and services must be specified by reference to European standards, or national standards if no European standards are set. The specification must be a clear and comprehensive description of the Council's requirements and should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable a proper assessment to be made of the supplier's ability to meet the Council's requirements.

## 18. Standard Procurement Documents

18.1 The Procuring Officer must use standard Procurement Documents (obtained from the SPL) or relevant Framework Agreement or Dynamic Purchasing System documents.

18.2 Where it is necessary to vary the documents at 18.1, the Procuring Officer must consult with the Head of Performance and Governance.

## 19. Procurement Processes

19.1 The following is applicable to each process:

- a) Where there is a suitable Framework Agreement, Dynamic Purchasing System or Corporate Contractual Arrangement approved by the SPL, that Framework Agreement, Dynamic Purchasing System or Corporate Contractual Arrangement

shall be used, provided that such a course of action achieves the principles of Best Value;

- b) Where acceptance of quote or tender is made by the issuing of a Purchasing Order, the Purchase Order must refer to the Council's Standard Terms and Conditions of Contract, except for where the complexity of the contract requires more bespoke terms, in which case the Purchase Order shall make separate reference to these;
- c) Unless otherwise specified in these Rules, unsuccessful candidates shall be notified and, at their request, shall be given the reason why they were unsuccessful without breaching the commercial confidentiality of other candidates.

19.2 In all cases other than Lower Value Purchases, the Council's Standard Procurement Documents must be used.

### **Process for Lower Value Purchases**

19.3 For contracts up to and including the Total Contract Value of £5,000 (goods and services), or £15,000 (works), the Procuring Officer is required to achieve a minimum of one written quotation to demonstrate compliance.

19.4 Compliance with the principle of Best Value will be demonstrated by evidence of the application of commercial considerations in the decision and a demonstrable conclusion that a better value outcome is unlikely to be achieved without a disproportionate application of further resource input.

19.5 Where compliance with the principle of Best Value cannot be demonstrated by seeking one written quotation, the Procuring Officer shall seek more than one quote.

19.6 The Procuring Officer may choose to either:

- a) Place an order with the selected supplier on the basis of a pre-quoted price (such as in a supplier's catalogue), having satisfied themselves that the price to be paid represents Best Value; or
- b) Select a minimum of one potential candidate to be invited to submit a quotation.

19.7 Where the Procuring Officer is unable to select a potential candidate and/or demonstrate Best Value, the procedure set out at Rule 20 (Quotations) must be followed.

19.8 Acceptance will be notified to the successful supplier by issue of a Purchase Order.

19.9 The Procuring Officer must document their decision-making process to demonstrate compliance with this section.

## **20. Process Requiring Quotations**

20.1 For contracts with a Total Contract Value of more than £5,000 (£15,000 for works) but less than £50,000 (£150,000 for Works), the Procuring Officer is required to achieve a minimum of 3 quotations via the Council's Electronic Tendering System (ETS).

20.2 Compliance with the principle of Best Value will be demonstrated by evidence of the application of commercial considerations in the decision and a demonstrable conclusion that a better value outcome is unlikely to be achieved without a disproportionate application of further resource input.

20.3 Where compliance with the principle of Best Value cannot be demonstrated by seeking 3 written quotations, the Procuring Officer shall seek more than 3 quotations and, if considered necessary, run an open competition

20.4 In respect of works contracts only, Procuring officers are required to consider the use of an ASL in the first instance and to justify, and to record, the reasons for non-use.

20.5 Competitive quotations must be sought inviting at least 3 candidates registered on the ETS, or the relevant ASL.

20.6 In the event that no suitable candidates can be found on the ETS, the Procuring Officer may also place an open advertisement in the ETS and in Contracts Finder.

20.7 If the Procuring Officer cannot obtain 3 quotations, the Procuring Officer must satisfy themselves that they have achieved Best Value and must seek approval from the SPL in order to proceed with the procurement. Justification and approval to proceed must be recorded and available for inspection.

20.8 Acceptance will be notified to the successful supplier by issue of a Purchase Order and Contract.

20.9 Where the Goods, Services or Works will be delivered or utilised over a period of time a Contract Award Record must be made on the Council's Contracts Register.

## **21. Procurement Processes Requiring Invitations to Tender**

21.1 For contracts with a Total Contract Value of £50,000 (£150,000 for Works) but less than the EU Threshold, the Procuring Officer must seek the advice of a procurement Officer

21.2 The Procuring Officer is required to invite tenders from any and all qualified candidates by advertising the opportunity via the Council's Electronic Tendering System and in Contracts Finder. Where an Approved Selection List is used the Procuring Officer must obtain at least 3 confirmed expressions of interest.

21.3 An Invitation to Tender shall be sent to all parties who have expressed an interest.

21.4 The successful supplier and unsuccessful candidates shall be notified of the outcome by issue of a letter sent electronically via the Council's Electronic Tendering System.

21.5 A Purchase Order must be raised.

21.6 A Contract Award Record must be made on the Council's Contracts Register, and in Contracts Finder.

## **22. Procurement Processes for Contracts of a Value Over the EU Threshold**

22.1 The Head of Performance and Governance must obtain approval from the Monitoring Officer before beginning a procurement exercise in respect of any contract at and above the relevant EU Threshold.

22.2 For contracts at and above the relevant EU Threshold, the Procuring Officer is required to invite tenders from any and all qualified candidates by advertising the opportunity via the Council's Electronic Tendering System, in Contracts Finder and EU-wide.

22.3 A statutory minimum period of advertising will apply which will vary depending on the procedure used but will not be less than 10 working days.

22.4 In most cases, the Open Procedure, Restricted Procedure or Competitive Procedure with Negotiation shall be used, however, the advice on the appropriate route to procurement must be sought from the SPL in conjunction with SHAPE Legal Partnership.

22.5 The successful supplier and unsuccessful candidates shall be notified in accordance with the Relevant Legislation and a Standstill Period shall be observed.

22.6 A Purchase Order must be raised.

22.7 A Contract Award Record must be made on the Council's Contracts Register, in Contracts Finder and in the Official Journal of the EU (or elsewhere in accordance with EU Legislation).

## **23. Confidentiality of Tenders and Quotations**

23.1 All matters concerned with quotations and tenders must be treated as confidential, and any information, discussion or correspondence entered into should be confined to those officers of, or consultants to, the Council who are directly concerned.

23.2 The amount or value of any tender or quotation which is to be considered by the Council or Executive shall not be made public before the meeting and shall be omitted from any written report on the subject which may be circulated before the meeting unless the report is marked as confidential.

## **24. Submission, Receipt and Opening and Evaluation of Tenders**

24.1 The submission, receipt, opening and evaluation of tenders is subject to specified procedures (based on the Total Contract Value) and any Officer involved in a procurement

that is likely to require tenders must seek guidance from Head of Performance and Governance. As a minimum requirement:

- a) All Contracts at and above the Total Contract Value of £50,000 (£150,000 for Works) shall be submitted electronically through the Council's Electronic Tendering System;
- b) Tenders received after the stated date and time shall not be accepted under any circumstances. For the purposes of these Rules the time will be deemed to be at the first stroke, e.g. noon shall be 12:00:00;
- c) Submissions shall be verified and opened on the Council's Electronic Tendering System.

## **25. Contract Selection Criteria and Award Criteria**

25.1 The Selection Questionnaire shall be used to assess a candidate's ability to meet the Council's requirements or minimum standards of suitability, capability, legal status or financial standing.

25.2 For all Contracts over the Total Value of £50,000 the Officer shall include the Selection Questionnaire within the Procurement Documents. For works contracts the Procuring Officer should seek guidance from the Head of Performance and Governance in respect of the correct use of selection Questionnaires.

25.3 The Award Criteria shall be used to assess a candidate's ability to deliver the Council's requirements under the Contract, achieving Best Value.

25.4 The Contract shall be awarded to the candidate whose tender best meets the Award Criteria (as set out in the Procurement Documents).

25.5 The Procuring Officer shall consult with the Head of Performance and Governance for guidance on the Selection and Award criteria prior to issuing the Procurement Documents.

## **26. Intention to Award a Contract**

26.1 For contracts with a Total Contract Value over the EU Threshold, Procuring officers must allow candidates a mandatory minimum Standstill Period of 10 calendar days before entering into a contractually binding agreement with the successful supplier(s). It is most important that any communication with the preferred candidate(s) does not constitute a Contract award, conditional or otherwise.

26.2 Following any Standstill Period, if appropriate, an EU Award Notice must be placed by the Head of Performance and Governance.

26.3 All candidates must be simultaneously notified in writing of the award and all letters informing them of the outcome of the Tender must comply with the Relevant Legislation.

26.4 Should any further communication with the candidates be requested/required, advice should be sought by the Head of Performance and Governance prior to any such communication.

26.5 Any complaints, correspondence threatening challenge or formal court proceedings challenging the decision must be immediately submitted to the Head of Performance and Governance and Monitoring Officer.

## **27. Authorisations**

### **Authority to Procure a Contract**

27.1 Heads of Function or a Director may authorise a procurement exercise in respect of contracts of any value so long as:

- a) The decision to procure a contract is not a Key Decision;
- b) The procurement relates to their Function Area;
- c) In doing so they are acting in accordance with the Financial Procedure Rules; and,
- d) Where the contract value is above the relevant EU Threshold the approval of the Monitoring Officer has been obtained.

### **Authority to Award or Amend a Contract**

27.2 Approval to award or amend a contract, Framework Agreement or Dynamic Purchasing System can only be given as set out in Table 3.

27.3 In respect of contract amendments, the Total Contract Value is the total value of the contract plus the value of any proposed amendment.

27.4 The Head of Function or Function responsible for the procurement will determine what a politically sensitive contract is for the purposes of Table 3 however, where the contract value is £1,000,000 or above, the Head of Function or Director shall seek the advice of the Monitoring Officer before concluding that a matter is not politically sensitive.

### **Authority to Sign a Contract**

27.5 The Chief Executive, Section151 Officer and Monitoring Officer may sign any contract.

27.6 Heads of Function or a Director may sign contracts in respect of procurement within their Function Areas.

27.7 Heads of Function or a Director may delegate their Authority to sign to an Officer, however this must be in accordance with the requirement at Finance Procedure Rule 3.1.31 to maintain a register of approved authorisers.

27.8 As well as signing, contracts may also require sealing under Contract Procedure Rule 29.

**Table 3**

Total Contract Value		Approval to Award	Approval to sign Contracts
Contracts of <u>any value</u> involving: Significant risk, Significant externalisation of services Politically sensitive issues.		Key Decision to be made by the Executive.	Chief Executive, Director, Head of Function, Section 151 Officer, Monitoring Officer
Over £1,000,000* and politically sensitive		Key Decision to be made by the Executive.	Chief Executive, Director, Head of Function, Section 151 Officer, Monitoring Officer
Over Threshold 3		Chief Executive, Director, Head of Function, or the Section 151 Officer	Chief Executive, Director, Head of Function, Section 151 Officer, Monitoring Officer
Over £50,000 but less than Threshold 3	Over £150,000 but less than Threshold 3	SPL K-grade Approved Procurement Practitioner (across function).	Chief Executive, Director, Head of Function, Section 151 Officer, Monitoring Officer
Up to and including £50,000	Up to and including £150,000	Grade H Approved Procurement Practitioner (within Function).	Chief Executive, Director, Head of Function, Section 151 Officer, Monitoring Officer.
Up to and including £5,000	Up to and including £15,000	Grade F Approved Procurement Practitioner (within Function).	Chief Executive, Director, Head of Function, Section 151 Officer, Monitoring Officer.
Up to £1,000	Up to £1,000	Any Grade having completed the Passport to Procure e-learning.	Chief Executive, Director, Head of Function, Section 151 Officer, Monitoring Officer.

\*See Contract Procedure Rule 27.4 above in respect of contracts valued at over £1,000,000

## **28. Further Authorisation for Advance Payments**

28.1 Contracts requiring payment in advance must be authorised in accordance with the Financial Procedure Rules. In particular:

- a) Payments in advance in excess of £5,000 must be authorised by a Finance Specialist; and,
- b) Payments in advance in excess of £50,000 must be authorised by the Section 151 Officer.

## **29. Deeds, Sealing and Signing of Contracts**

29.1 A Contract must be sealed with the common seal of the Council where:

- a) The Council may wish to enforce the contract more than 6 years after its end (e.g. construction works); or,
- b) The price paid or received under the contract is a nominal price and does not reflect the value of the goods, services or works; or,
- c) The Total Contract Value is at and above £500,000.

29.2 Before a contract can be sealed by the Council, the Procuring Officer must provide the relevant Authority to award in writing from the appropriate decision maker.

## **30. Contracts Register**

30.1 All contracts having a value or estimated value of £500 (five hundred pounds) or more must be entered in the Council's Contracts Register, which will be monitored by the SPL.

30.2 The Procuring Officer shall ensure that original signed copies of the contract are stored in accordance with the Council's retention policy.

30.3 The Procuring Officer must keep and maintain records in respect of each Tender and Contract (such records should include the materials pertaining to all of the stages of the procurement cycle).

## **31. Contract Documents and Letters of Intent**

31.1 Wherever practicable, work under a contract must not start until the contract documents and all other procedures have been completed to the satisfaction of the relevant Head of Function or, in the case of a procurement valued at £100,000 or more, the Head of Function and Monitoring Officer. A letter of intent must not be issued unless approved by the Monitoring Officer.

## **32. Variations and Extensions**

32.1 Variations must not exceed the scope, financial value or duration of the advertised contract.

32.2 Where relevant Officer considers that a proposed variation may materially change or exceed the specification, price or duration of a contract, advice must be obtained from the SPL.

32.3 Variations to contracts must be approved and signed by the relevant officers in accordance with Table 3 at Rule 27.

32.4 Extensions of contracts may only be made where:

- a) There is budgetary provision; and,
- b) Best Value can be clearly demonstrated, and that the extension will not contravene any legal requirement; and,
- c) The extension is within the scope (description of Goods, Services or Works, duration and Total Value) of the original Contract; and,

32.5 For Contracts below the EU Threshold:

- a) There is a provision stipulated in the original contract for an extension;
- b) The extension does not cause the Total Contract Value to exceed the relevant EU Threshold; or,

32.6 For contracts at or over the EU Threshold, the original Contract Notice advertised, and the contract permits the extension.

32.7 Where the Officer responsible considers that a proposed extension may materially change or exceed the specification, price or duration of a contract, Authority for the extension must be obtained from the Head of Function or a Director for the Function Area to which the procurement relates.

32.8 Extensions to contracts must be approved and signed by the relevant officers in accordance with the approval levels set out in Table 3 in section 28.

32.9 For contracts with a Total Contract Value exceeding the EU Threshold, any variation or extension to a Contract which in aggregate results in additional costs exceeding 10% of the original contract value or £75,000 (whichever is the greater) shall be subject to the prior approval of the Head of Function or a Director for the Function Area to which the procurement relates and the Monitoring Officer.

32.10 For contracts with a Total Contract Value exceeding the EU Threshold, any variation or extension to a contract which in aggregate results in:

- a) additional costs exceeding 15% of the original contract value or £150,000 (whichever is the greater);

- b) A significant delay in the time for completion; or,
- c) Significant risks not initially identified, shall be reported at the earliest opportunity to the Section 151 Officer and shall be subject to their approval in conjunction with an appropriately empowered Officer

32.11 The Officer responsible for the amendment to the contract must ensure that all variations and/or extensions, are stored with the original signed and dated contract.

### **33. Contract Management and Contract Expiry**

33.1 A contract manager must be appointed for all new contracts and named in the Procurement Documents and contract.

33.2 All contracts with a Total Contract Value over the relevant EU Threshold must have in place:

- a) A contract operations manual and plan;
- b) A risk register, and risk and mitigation strategy;
- c) A contingency plan;
- d) An exit management plan, together with appropriate contract clauses, to minimise the potential impact on the Council's service delivery, as a result of the expiry, or early termination, of the contract.

33.3 For any contract with a total value below the relevant EU Threshold, where supplier failure would have an adverse impact on the Council's service delivery the requirements of 33.2.3 and 33.2.4 apply equally.

### **34. Further Advice**

34.1 Should the procurement or management of a contract involve the following, or should the Procuring Officer have any queries regarding the following, the Officer should seek the advice of the SPL or Legal Services as appropriate:

- a) Confidentiality of sensitive commercial information;
- b) The organisation of Presentations, Demonstrations, Site visits and interviews;
- c) Abnormally low bids;
- d) Contracts exceeding the written estimate;
- e) Clarification of tenders from candidates;
- f) Post tender negotiation and best and final offers;
- g) Electronic auctions;

- h) Early termination of a contract;
- i) Assignment or novation of a contract;
- j) State aid;
- k) Development agreements.

## **35. Amendments to These Contract Procedure Rules**

35.1 The Monitoring Officer shall be empowered to review the Contract Procedure Rules from time to time and as often as may be necessary in consultation with the S151 Officer and Lead Councillor and, following formal approval by Full Council, shall publish details of any amendments.

# **Employment Procedure Rules**

## **1. Recruitment and Appointment**

### **1.1. Declarations**

1.1.1. The Council will draw up a statement requiring any candidate for appointment as an Officer to state in writing whether they are related to an existing Councillor or Officer of the Council; or the partner or ex-partner of such a person.

1.1.2. No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Senior Officer (as set out in Appendix A) or an Officer nominated by him/her.

### **1.2. Seeking Councillor Support for Appointment**

1.2.1. Subject to paragraph 1.2.3 below, 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.

1.2.2. Subject to paragraph 1.2.3 below, no Councillor will seek support for any person for any appointment with the Council.

1.2.3. Nothing in paragraphs 1.1.1 and 1.1.2 above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

### **1.3. Senior Officer Posts Covered by These Rules**

1.3.1 Except where stated in these rules, Parts 2 to 8 apply to the following posts: Chief Executive, Monitoring Officer, Section 151 Officer, Director, Heads of Functions and any other posts who are /become permanent members of the Senior Leadership Team. For the purposes of these rules, these posts will be referred to as 'Senior Officer Posts'. The current list of posts is set out at Appendix A but failure to include a post on this list will not exclude it from the provisions of these rules.

## **2. Recruitment**

2.1. Where the Council proposes to recruit and appoint to a Senior Officer Post 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 post concerned; and
  - ii. Any qualifications or qualities to be sought in the person to be appointed;
  - iii. 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
  - iv. Make arrangements for a copy of the statement mentioned in paragraph (2.1.1) to be sent to any person on request.
- b) The Head of Performance and Governance is responsible for keeping this list up to date in the light of changes to the Council's organisational structure.

## **3. Employment Committee**

3.1. The Council will appoint an Employment Committee (the Committee) as and when required to exercise all of its powers in relation to the appointment, discipline, grievances and dismissal of Senior Officer Posts, where not restricted or prohibited by law. References to the Committee include a sub-committee of the Committee established by it to carry out its functions.

3.2. The Committee must include at least one Member of the Executive. Where the Committee is considering the appointment or the dismissal of any Officer (excluding the dismissal of a Statutory Officer – see below), the Committee must also include at least one member of the Scrutiny Committee.

## **4. Appointment of Chief Executive (Head of Paid Service), Section 151 Officer and Monitoring Officer – the Statutory Officers**

4.1 The Full Council will determine whether to approve the appointment of Statutory Officers following a recommendation by the Employment Committee.

4.2 The Council may only make or approve a Statutory Officer appointment, where no well-founded objection has been made by any Member of the Executive (see Part 8).

4.3 The Council has designated the Chief Executive to be its Head of Paid Service.

## **5. Appointment to Other Senior Officer Posts**

5.1 The Staffing Committee has delegated authority to appoint all other senior officer posts, but an offer of employment shall only be made where no material or well-founded objection from a Member of the Executive has been received (see part 8).

**5.2 Officers not covered by these Rules:** Other than statutory assistants to political groups, all other appointments are the responsibility of the Chief Executive as Head of Paid Service, or her/his nominees, and may not be made by Councillors.

**5.3 Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

**Note:** *The Council is not able to make any political assistant appointment until the Council has allocated posts to all political groups which qualify for one. The Council is required to consider the allocation of a political assistant to a political group in accordance with the relevant regulations. Non-qualifying groups are not allowed political assistants. More than one advisor per group is not permitted.*

## **6. Disciplinary Action Against and Dismissal of the Head of Paid Service, Monitoring Officer or Section 151 Officer ('the Statutory Officers').**

6.1 The Employment Committee has power to decide whether to investigate any allegation of misconduct by a Statutory Officer, all matters relating to the conduct of the

investigation (save as set out in 6.2) and may suspend the Statutory Officer on full pay whilst any investigation and/or any subsequent disciplinary process takes place.

6.2 Where the Statutory Officer is the Chief Executive the Employment Committee will follow the procedures set out in the Joint Negotiating Committee for Local Authority Chief Executives National Salary Framework & Conditions of Service Handbook regarding the appointment of its' Independent Panel and any Independent Investigator and review of any suspension.

6.3 The Committee will consider the investigation report, any other evidence it considers relevant and the Officer will have an opportunity to state their case.

6.4 The Committee will consider whether disciplinary action is needed and, if so, the appropriate sanction. Where the proposed sanction is less than dismissal, the Committee will instruct Officers to implement any sanctions.

6.5 Where required, the Committee will consider an appeal against a disciplinary sanction. Where the Statutory Officer concerned is the Chief Executive, the Appeals Committee must be a politically balanced committee of five members who are not members of the Employment Committee and will include at least one Member of the Executive. An Appeals Committee's purpose is to hear appeals against action taken short of dismissal and to take a decision either to confirm the action or to impose no sanction or a lesser sanction.

6.6 Where the Committee proposes dismissal:

- a) A Statutory Officer Independent Panel (the Panel) consisting of at least three Standards Regime Independent Persons drawn from the pool of Independent Persons of the principal councils in Somerset will be established to consider the matter and report its recommendations direct to Full Council.
- b) The Panel's recommendations will be independent of and separate to any recommendations made by the Employment Committee;
- c) The Panel must be established at least 20 working days before the Full Council meeting scheduled to consider any proposal to dismiss a Statutory Officer.

- d) Full Council will decide whether or not to approve the dismissal taking into account: the investigation and its conclusions; the Panel's recommendations and the recommendations of the Employment Committee, together with any representations by the relevant Statutory Officer. Statutory Officers will be allowed to attend this meeting and address Council. Following consideration Full Council should either confirm or reject the recommendation to dismiss. It may at this stage impose a lesser sanction. This stage in the process constitutes any Statutory Officer's final right of appeal against any decision to dismiss. The detailed process for considering such matters will be in accordance with such arrangements agreed by the Council subject to relevant statutory requirements.

## **7. Disciplinary Action Against and Dismissal of Other Senior Officers ('Non-Statutory Officers')**

7.1 The Employment Committee has power to decide whether to investigate any allegation of misconduct by a non-Statutory Officer, all matters relating to the conduct of the investigation and may suspend the non-Statutory Officer on full pay whilst any investigation is undertaken and/or any determine any subsequent disciplinary process that takes place.

7.2 The Committee has power to impose any sanction up to and including dismissal, subject to Section 8 below.

7.3 Where required, the Committee will consider an appeal against a disciplinary sanction or dismissal of a non-Statutory Officer.

## **8. Executive Objections to Appointments or Dismissals**

8.1. Where a committee makes the decision to appoint or dismiss a Senior Officer Post any Executive member has the right to object before an appointment is made or a notice of dismissal is given.

8.2 The Chief Executive will inform all Executive members about the proposed appointment or dismissal in writing. The Chief Executive will advise:

- a) The name of the person who is the subject of the proposed appointment or dismissal
- b) Any other particulars relevant to the appointment or dismissal which the Committee has notified to the Chief Executive
- c) That objections must be received within five working days; and
- d) That any objections must be made to the Leader of the Executive.

8.3. The appointment or dismissal can only be made if:

- a) There is no objection from the Members of the Executive within five working days; or
- b) An objection is received and considered by the Committee but is not considered to be material or well founded.

## **9. Organisational Restructuring**

9.1 Restructuring within a single Function Area is the responsibility of the relevant Head of Function or Director following consultation with the Chief Executive and all other Heads of Function/Director.

9.2 Restructuring involving more than one Function Area is the responsibility of the Chief Executive following consultation with all Heads of Function/Director.

9.3 Restructuring that affects all Function Areas is the responsibility of the Chief Executive, following consultation with all Heads of Function/Director, subject to the approval of the Executive.

9.4 Restructuring/changes to the senior management structure/senior officer posts is the responsibility of the Chief Executive, subject to the relevant requirements set out in these procedural rules.

## **10. Annual Pay Policy Statement**

10.1 Section 38 of the Localism Act 2011 requires the Council to prepare and publish a pay policy statement for the following financial year. The statement will set out the

authority's policies relating to remuneration of chief Officers and its lowest paid Officers; and the relationship between the remuneration of its chief Officers and that of its employees who are not chief Officers.

10.2 The annual pay policy statement for the following financial year will be adopted by Council before the end of March of each year. The Council has the power to amend the statement in-year.

## **APPENDIX A**

## **APPLICABLE POSTS**

Chief Executive

Section 151 Officer

Monitoring Officer

Executive Director and Deputy Chief Executive

Head of Customer

Head of Strategy

Head of Localities

Head of Communications and Engagement

Head of Performance and Governance

Head of Commercial, Investment and Change



## **Procedure Rules for Full Council (Standing Orders)**

Those rules marked \* apply to Council and to the Committees

# **Rules of Procedure**

## **Meetings of the Council**

### **1. Annual Meeting of the Council**

#### **Order of Business**

At Annual Meetings of the Council, the Order of Business shall be as follows:

- a) To choose a Councillor to preside if the Chair and Vice Chair of the Council\* are absent;
- b) To elect the Chair of the Council;
- c) To appoint the Vice-Chair of the Council;
- d) To receive any apologies for absence;
- e) To approve the minutes of the last Ordinary Meeting;
- f) To receive any communications or announcements from the Chair of the Council;
- g) To elect a Leader for a 4-year term of office;
- h) To receive any communications or announcements from the Leader of the Council;
- i) To receive any questions, statements or petitions from the public in accordance With Council Procedure Rules 14, 15 and 16;
- j) To receive any questions from Councillors in accordance with Council Procedure Rule 13;
- k) To decide which Committees to establish for the municipal year;
- l) To decide the size and terms of reference of those Committees;
- m) To decide the numerical allocation of seats to political groups on Committees in accordance with the political balance rules;
- n) To make appointments to Committees;
- o) To make appointments to outside organisations, except where appointment to those bodies has been delegated by the Council or is exercisable only by the Executive. In an election year, such appointments may be deferred to the first Ordinary Meeting of the Council in the municipal year;
- p) To consider any other business set out in the summons;

- q) To authorise the sealing or signing of documents to give effect to any decisions taken.

1.2 Other than items a) to c) above, the Chair of the Council may, with the consent of the Council, vary the Order of Business.

## **2. Extraordinary Council Meetings and Special Council Meetings**

2.1 Extraordinary Meetings shall be held on such days as may be determined by the Council or the Chief Executive, in consultation with the Chair of the Council and political group leaders.

## **3. Calling Extraordinary Meetings**

3.2 An Extraordinary Meeting of the Council may be called at any time by:

- a) The Council by resolution;
- b) The Chair of the Council;
- c) The Monitoring Officer; or,
- d) Any 5 Councillors by written requisition presented to the Chair of the Council where he or she has refused to call a meeting or has failed to call a meeting within 7 days of the presentation of the requisition.

### **Order of Business**

3.3 At Extraordinary Meetings of the Council, the Order of Business shall be as follows

- a) To choose a Councillor to preside if the Chair and Vice Chair are absent;
- b) To receive any apologies for absence;
- c) To receive and note any disclosable pecuniary, prejudicial and/or personal interests from Councillors;
- d) To receive any communications or announcements from the Chair;
- e) To receive any communications or announcements from the Leader of the Council;
- f) To receive only in relation to the business for which the Extraordinary Meeting has been called any questions, statements or petitions from the public in accordance with Council Procedure Rules 14, 15 and 16;
- g) To receive only in relation to the business for which the Extraordinary Meeting has been called any questions from Councillors in accordance with Council Procedure Rule 13;

- h) To consider the business for which the Extraordinary Meeting has been called. The Chair may at his or her absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business;
- i) To authorise the sealing or signing of documents to give effect to any decisions taken.

3.3 Other than items (a) to (c) above, the Chair of the Council may, with the consent of the Council, vary the Order of Business.

### **Special Council Meetings**

3.4 During the course of the municipal year there will be a special meeting solely for the purpose of setting the Council Budget.

## **4. Ordinary Meeting of the Council**

### **Order of Business**

4.1 At Ordinary Meetings of the Council, the Order of Business shall be as follows:

- a) To choose a Councillor to preside if the Chair and Vice-Chair of the Council are absent;
- b) To receive any apologies for absence;
- c) To receive and note any disclosable pecuniary, prejudicial and/or personal interests from Councillors;
- d) To approve the minutes of the last meeting;
- e) To receive any communications or announcements from the Chair of the Council;
- f) To receive any communications or announcements from the Leader of the Council;
- g) To receive any questions, statements or petitions from the public in accordance with Council Procedure Rules 14, 15 and 16;
- h) To receive any questions from Councillors in accordance with Council Procedure Rule 13;
- i) To consider any other business set out in the summons;
- j) To consider any motions in accordance with Council Procedure Rule 4;
- k) To authorise the sealing or signing of documents to give effect to any decisions taken;
- l) To consider reports from Executive Councillors.

### **Variation of Order of Business\***

4.2 The Chair of the Council may, with the consent of the Council, vary the Order of Business.

#### **Minutes\***

4.3 At the next Ordinary Meeting, the Chair of the Council shall, with the Council's assent, sign the minutes of the business transacted at the previous meeting as a correct record.

4.4 The only discussion allowed upon the Minutes shall be as to their accuracy, and any objection upon that ground shall be made by motion. A question may be put to the Chair of the Council as to the accuracy of the Minutes.

#### **Notices of Motion**

4.5 If a Councillor wishes to move a motion at a meeting of the Council, then notice in writing shall be given to the Governance Manager or his/her nominee of its terms and the name of a Councillor who has agreed to second it. Such notices shall be dated, numbered as received and available for the inspection of Councillors.

4.6 Seven clear working days' notice is needed in order to have a notice of motion included in the summons. This means that written notice must be delivered to the Governance Manager or his/her nominee by 4pm on the day that provides 7 clear working days before the Council meeting (excluding the day of the meeting itself).

4.7 The motion shall relate to the work of the Council or the interests of people living in the Council Area.

4.8 A motion shall not be taken if its proposer is not present, unless another Councillor has been asked to propose it and the Council so agree.

4.9 A motion or amendment to rescind a decision within 6 months of it being approved should be made in accordance with Rule 23 of these Procedure Rules.

### **5. Motions During a Debate\***

5.1 A Councillor may at the conclusion of a speech of another Councillor, move without debate one of the following motions:

- a) To amend the motion;
- b) To defer consideration of the motion;
- c) To adjourn the meeting;
- d) To adjourn the debate;
- e) To proceed to the next item of business;
- f) That the question be now put;

- g) To request a Recorded Vote; see Procedure Rule 18;
- h) That Councillor \_\_\_\_\_ be not further heard;
- i) That Councillor \_\_\_\_\_ do leave the meeting;
- j) That the (identified) recommendation be referred back for further Consideration (a deferral);
- k) That the press and public be excluded;
- l) To suspend any one or more Procedure Rules during all or part of the meeting;
- m) To refer a petition which has been presented to a meeting of the Council to a Committee for consideration;

5.2 If the motion is seconded then (subject to the proviso set out in (c) below) the Chair of the Council shall proceed as follows:

- a) The motion shall be put to the vote forthwith and without discussion;
- b) Then - subject only to the right of reply of the Councillor who either presented the report or who proposed the original motion - the motion shall be immediately acted upon;
- c) The Chair of the Council shall have the discretion not to accept such a motion when of the opinion that the matter before the meeting has not yet been sufficiently discussed.

5.3 If the Planning Committee votes against an Officer recommendation, it must either give reasons if it is a refusal or conditions in the case of permitting development:

- a) The Committee must vote on the reasons/conditions which will then form part of the substantive motion;
- b) The substantive motion must then be voted upon;
- c) If the Committee fails to agree the reasons/conditions, then the motion fails.

## **6. Amendments\***

6.1 An amendment shall be either:

- a) To leave out words;
- b) To leave out words and insert or add others; or
- c) To insert or add words;

but shall not have the effect of introducing a significantly different proposal or of negating the motion.

6.2 Before moving an amendment a Councillor shall ensure that there is likely to be a seconder for that amendment.

6.3 When an amendment has been moved and seconded, no further amendments shall be moved until the first amendment has been voted upon.

6.4 If an amendment is carried, it shall be incorporated into the motion which shall become the substantive motion upon which further amendments may be moved. If an amendment is voted down, further amendments may then be moved on the motion.

6.5 With the agreement of any seconder and with the assent of the Council, given without comment, a Councillor proposing a motion or amendment may:

- a) Withdraw that proposal; or
- b) Alter its wording; or
- c) Accept an amendment.

6.6 If there is to be an amendment to the proposed budget, then it must be received by the Governance Manager or his/her nominee by 4pm on the day that provides 2 clear working days before the Council meeting (excluding the day of the meeting itself).

## **7. Points of Order or Personal Explanation\***

7.1 A Councillor may rise on a Point of Order or in personal explanation and shall be allowed by the Chair of the Council to be heard forthwith.

7.2 A Point of Order shall relate only to an alleged breach of a specified Procedure Rule or statutory provision and the Councillor raising it shall immediately identify how it has been broken.

7.3 A personal explanation shall be confined solely to a brief explanation of how a speech in the current debate by that Councillor appears to have been factually misunderstood. It shall not be used to introduce new material.

## **8. Reports of Executive Councillors**

8.1 An Executive Councillor shall submit a report to an Ordinary Meeting of the Council as to current and future business of their portfolio for the information of and comment from the Council. Such reports are for discussion and comment only and no motion shall be put to the meeting as to any such item other than those closure motions described in Standing Order 5.

## **9. Proposers and Seconders**

9.1 If the mover of a motion or of an amendment sits down without speaking to it, the right to speak shall be lost but the mover of a motion shall retain the right of reply.

9.2 The seconder of a motion or of an amendment may declare that the Councillor is reserving the right to speak:

- a) Until later in the debate; or
- b) Until it appears to the Chair of the Council that - at that point - there are no more speakers to be called and before the mover of the motion exercises the right of reply.

## **10. Rights to Speak During Debates**

10.1 A Councillor who has spoken once on any motion or amendment may not speak again. The exceptions to this Rule are that a Councillor who has already thus spoken may also:

- a) Speak once to an amendment moved by another Councillor;
- b) Move a subsequent amendment. If a Councillor wishes to exercise this right, then the Councillor shall immediately make the purpose of this second speech clear to the Chair of the Council;
- c) Exercise a right of reply under Council Procedure Rule 11; or,
- d) Make a Point of Order or personal explanation.

## **11. Rights of Reply**

11.1 The mover of a motion shall have a right of reply to any debate on that motion. This right shall be in addition to that Councillor's speech introducing the motion or the report.

11.2 The mover of a motion shall also have a right of reply to any debate:

- a) On any amendment to that motion;
- b) On a reference back to the Executive of that recommendation; and
- c) Immediately before the following closure motions are put to the vote:
  - i. To postpone consideration of the motion;
  - ii. To adjourn the debate;
  - iii. That the question be now put.

11.3 The Councillor presenting a report shall also have a right of reply to the following closure motions immediately before they are put to the vote:

- a) That the Council proceed to the next business;
- b) To adjourn the debate; or
- c) That the question be now put.

11.4 A Councillor who has moved a motion or introduced a report shall only have the further rights to speak which are defined in this Council Procedure Rule but shall not otherwise speak during that debate.

11.5 A Councillor exercising a right of reply shall not introduce new factual material.

11.6 The mover of an amendment or of any of the procedural motions referred to in Council Procedure Rule 85 shall not have a right of reply.

## **12. Speeches**

12.1 A Councillor shall not speak on a motion or amendment for longer than 3 minutes.

12.2 The exceptions to this Rule shall be that:

- a) The mover of a recommendation (or of a motion of which notice has been given in accordance with Council Procedure Rule 4) may speak for not more than 10 minutes when moving such recommendation or motion;
- b) A Councillor exercising a right of reply may speak for 5 minutes; and
- c) The mover of an amendment may speak for 5 minutes.

12.3 A Councillor shall normally stand when speaking and shall address the Chair of the Council. When the Chair of the Council rises all Councillors shall be silent. No-one else shall speak until the Chair has been resumed.

## **13. Questions from Councillors**

### **Questions on Notice**

13.1 At a Full Council meeting, any Councillor, upon giving 5 working days' written notice, specifying the question to the Governance Manager or his/her nominee, may ask the Leader of the Council a question on a matter which concerns the Council's functions, powers, duties and which affects the Council Area.

13.2 Any Councillor, upon giving written notice, specifying the question, to the Governance Manager or his/her nominee by 4pm on the day that provides 2 clear working days before the Council meeting (excluding the day of the meeting itself), may ask the Leader of the Council, a Lead Councillor, Chair of a Committee or another Councillor who has been appointed to an outside body, a question which concerns the Executive's or Committee's functions, powers and duties or the work of the outside body and which affects the Council Area.

## **Urgent Questions**

13.3 Any Councillor may put to the Leader, a Lead Councillor, or Chair of any Committee, any question relating to urgent business of which notice has not been given. A copy of any such question shall be delivered to the Governance Manager or his/her nominee not later than 12 noon on the day of the meeting.

13.4 The Leader, portfolio holder, or Committee Chair may decline to answer or may direct the question to be answered by the Chair of the appointed sub-committee which has been delegated the subject matter of the question.

13.5 The Councillor asking the question may ask a supplementary question related to the question or arising from the answer to seek further clarification.

13.6 Questions are to be asked and answered without further discussion by other members present. The Leader of the Council, Executive Councillor, or a Committee Chair to whom the question has been addressed may ask another Councillor or Officer to answer it if they are of the opinion that a discussion is required, or they may refer it to another relevant meeting of the Executive or Committee.

13.7 Where it is not possible to provide an answer to a question during the meeting, the person responsible for answering shall provide a written answer within 5 working days of the meeting.

## **14. Public Question Time\***

### **Questions**

14.1 At meetings of the Council, up to 15 minutes shall be allocated to receiving questions from members of the public.

14.2 Members of the public may ask the Leader of the Council, a Lead Councillor or a Chair of a committee questions relevant to any item on the agenda for the meeting or to the functions, powers or duties of the Council at Ordinary Meetings of the Council.

14.3 In relation to each meeting at which a member of the public wishes to ask a question, notice specifying the question should be given in writing by the person and received by the Governance Manager or his/her nominee by 4pm on the day that provides 2 clear working days before the Council meeting (excluding the day of the meeting itself).

14.4 In cases where there is any doubt as to whether a question is relevant to the functions, powers or duties of the Council, the Council Solicitor and Monitoring Officer shall determine whether they are accepted.

14.5 The Governance Manager or his/her nominee, in consultation with the Chair of the Council, appropriate Lead Councillor or Chair of the Committee (in relation to a Committee meeting appropriate) and questioner, may re-word any question to bring it into proper form and to secure brevity.

14.6 If a question relates to a ward-based issue, the Chair of the Council or Chair of the Committee meeting (as appropriate) shall invite a contribution from any Councillor representing that ward before calling for the formal reply.

14.7 In response to a question, the Councillor to whom the question has been put will normally provide and circulate to the questioner and all Councillors at the meeting a written answer which, together with the question, shall also be recorded in the minutes.

14.8 The questioner may, (subject to the time limits in paragraph (1) above) ask one supplementary question if such a question arises from the answer given.

14.9 If the questioner is unable to attend the meeting due to unforeseen circumstances then they may, with the consent of the Chair of the Council or Chair of the Committee (as appropriate) nominate a spokesperson to ask the supplementary question.

14.10 Questions, including any supplementary questions, will be asked and answered without discussion.

14.11 The Leader of the Council, Lead Councillor or Chair may decline to answer a question or nominate another Councillor or Officer to answer it on their behalf. In the case of a Committee meeting, if appropriate, the Chair may nominate the most appropriate Councillor or Officer present to provide a response to a question or supplementary question from a member of the public.

14.12 Any question or response under this Council Procedure Rule 4 shall not exceed 3 minutes in length.

14.13 Questions shall not be disallowed merely because advance notice in writing has not been given. Such questions may not be answered immediately but later in writing. However, it is always preferred that questions are put in writing in order to assist Councillors and Officers to be able to give answers at the meeting.

14.14 The procedure for taking questions or statements from members of the public at meetings of the Planning Committee shall follow such pattern as agreed from time to time by the Chair of the Planning Committee to best take account of its needs for public involvement.

## **15. Statements\***

15.1 As an alternative to asking a question, a member of the public may address the Council or any Committee.

15.2 At meetings of the Council up to 15 minutes shall be allocated to receiving statements from members of the public.

15.3 Statements shall be for a period not exceeding 3 minutes on matters relevant to any item on the agenda for the meeting or to the functions, powers, or duties of the Council, subject to the following conditions.

15.4 In relation to each meeting at which a member of the public wishes to speak and following publication of the agenda, notice, including a summary of the subject matter, must be given in writing by the person to the Governance Manager or his/her nominee not later than 12 noon one working day before the day of the meeting.

15.5 If a speaker is unable to attend the meeting due to unforeseen circumstances then, with the consent of the Chair of the Council (or Committee Chair in respect of a Committee meeting), they may nominate a spokesperson to speak for them.

15.6 The Leader of the Council, relevant Lead Councillor or Committee Chair shall be entitled to respond to the statement, and this shall not exceed 3 minutes in length.

## **16. Presentation of Petitions\***

16.1 A petition is a written request signed by the requisite number of people appealing to an authority about a particular cause or issue.

16.2 A petition requiring debate by Full Council is a petition that contains more than 200 signatures and will be debated by Full Council.

16.3 Excluded Matters are matters that are excluded from the scope of the petitions duty and these are:

- a) Any matter relating to a planning decision, including about a development plan document or the community infrastructure levy;
- b) Any matter relating to an alcohol, gambling or sex establishment licensing decision;
- c) Any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
- d) Any matter which the Chair of the Council or relevant Committee believes to be scurrilous, offensive, improper, repetitious, capricious, irrelevant or otherwise objectionable.

16.4 Petitions submitted to the Council must include:

- a) A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take;
- b) The name and address and signature of any person supporting the petition;
- c) The name and address of the petition organiser.

16.5 All petitions will be acknowledged within 10 working days.

16.6 If a petition contains more than 200 signatures the petition will be debated at the next scheduled meeting of ordinary Council. The normal convention will be to debate no more than one petition at any one Council meeting on a first come basis, subject to the discretion of the Chair of the Council.

16.7 The petition organiser will be given 5 minutes to present the petition to the meeting.

16.8 Councillors will discuss the petition up to a maximum of 15 minutes.

16.9 The Council will decide how to respond to the petition which may include to take the action requested, not to take the action requested for the reasons given in the debate, refer the matter for further investigation, or refer the matter to the Council Executive for final decision.

16.10 A petitioner has the right to request a review of the steps taken in response to the petition if they are unhappy and that request shall be made to the Council's Scrutiny Committee.

## **17. Deputations\***

17.1 Any Somerset West and Taunton elector may ask that a deputation should be received by a meeting which has powers or duties relating to the matter of concern to that deputation. Such a request shall be made by written notice to the Governance Manager or his/her nominee at least 3 working days before the meeting to which it relates unless the Chair of the Council has, because of special circumstances, given approval to a lesser period of notice.

17.2 The person making the request shall indicate in the notice:

- a) The matter to which the request relates;
- b) The number and the names and the addresses of those making up the deputation;  
and
- c) The name of the leader who will speak for them.

17.3 On being called by the Chair of the Council, the leader of the deputation may speak for not more than 5 minutes about the matter described in the notice given.

17.4 For a further period of 5 minutes, Councillors may ask questions of the deputation, which questions shall be asked and answered without discussion.

17.5 Having heard from the deputation, the Chair of the Council (or Councillor chairing the meeting) may either:

- a) Give an immediate oral response to their request, or
- b) Ask that an immediate oral response be given to the deputation by the Leader of the Council (or other Executive Councillor who is present) or by an Officer; or,
- c) Call for a report to be considered at the next meeting of that – or the relevant Committee unless the request relates to business which is already on the Committee's agenda; or
- d) Ask that a written answer be given to the deputation where the necessary information is not readily available.

## **18. Voting\***

18.1 All motions and amendments, unless the law otherwise requires, shall be decided by a simple majority of those Councillors present at the meeting and voting at the time the question was put. The vote will be by affirmation or by a show of hands, as the Chair of the Council shall choose. Councillors must be present in the room for the whole of the item under discussion to be eligible to vote.

18.2 If before the Chair of the Council calls for the vote, either:

- a) The mover and seconder of the motion - or of the amendment, or,
- b) Any Councillor supported by the votes of at least a quarter of the Councillors present, request that a Recorded Vote be taken, then votes shall be publicly declared, and recorded in the minutes.

In addition:

- i. Immediately after any vote is taken at a budget decision meeting there must be a Recorded Vote in the minutes of the proceedings of that meeting given the names of the persons who cast a vote for the decision or against the decision of who abstained from voting;
- ii. 'Budget decision meeting' means the meeting at which the Council makes a calculation (whether originally or by substitute) in accordance with any sections 31A, 31B, 34 to 36A, 42A, 42B, 45 to 49, 52 of the Local Government Finance Act 1992 or subsequent amendments; or
- iii. Issues a precept under Chapter 4 of Part 1 of that Act and includes a meeting where making the calculation or issuing the precept as the case may be was included as an item of business on the agenda for that meeting;

iv. References to a vote are references to a vote on any decision related to the making of the calculation or the issuing of the precept as the case may be.

18.3 In addition to the option under Council Procedure Rule 18 (2), any Councillor may require - immediately after a vote is taken - that the manner in which that Councillor's vote was cast (for, against or abstaining) shall be recorded in the minutes.

18.4 Where a vote is taken upon the choice of more than 2 candidates for an appointment and there is not an absolute majority in favour of one candidate, the candidate receiving the least number of votes shall be excluded and a further vote taken, the procedure being continued until there is an absolute majority in favour of one candidate.

18.5 In the case of an equality of votes, the Chair of the Council shall have a second or casting vote.

18.6 The Chair of the Council shall have unfettered discretion as to its use for or against the proposition.

## **19. Offensive or Disorderly Conduct\***

19.1 If at a meeting a Councillor uses an expression which another Councillor believes is offensive and the latter draws the attention of the Chair to it, the Chair may request the Councillor to withdraw the expression.

19.2 If at a meeting the Chair believes a Councillor to be guilty of persistently disregarding the ruling of the Chair by behaving improperly or offensively, or by deliberately obstructing business, the Chair or any other Councillor may move 'that Councillor \_\_\_\_\_ be not further heard' and the motion, if seconded, shall be put to the vote and voted on without discussion.

19.3 If a Councillor continues to behave improperly after such a motion has been carried, the Chair may either:

- a) Move 'that Councillor \_\_\_\_\_ do leave the meeting'; or
- b) Adjourn the meeting for a specified period.

If seconded the motion shall be put and voted on without discussion.

19.4 If a Councillor does not leave the meeting after a resolution to that effect, the Chief Executive or his/her nominee shall arrange for the removal of the Councillor and shall take such measures as may be necessary to prevent the Councillor from re-entering the meeting.

19.5 In the event of any significant disturbance which makes the due and orderly dispatch of business impossible, the Chair of the Council, in addition to the exercise of any other

power, may, without the need for the Council's approval, adjourn the meeting for such period as s/he thinks necessary.

## **20. Disturbance by Members of the Public\***

20.1 If a member of the public interrupts the proceedings at a meeting, the Chair shall request that there be no further interruptions. If the interruptions continue the Chair shall order the removal of the person interrupting from the room.

20.2 If there should be general disturbance in any part of the room open to the public the Chair may order that part to be cleared.

## **21. Interests of Members and Officers\***

21.1 Where at a meeting any matter is being considered in which a Councillor then present has a '*prejudicial interest*' as defined by the Council's adopted Code of Conduct, that Councillor shall be entitled to make representations, answer questions or give evidence provided that members of the public also have the same right. The Councillor must then leave the meeting immediately thereafter unless:

- a) A dispensation has been granted in accordance with the relevant due process in exercise of its powers under the Local Government Act; or,
- b) The item merely forms part of minutes submitted and is dealt with as 'for information' only.

21.2 Where any matter is being considered in which a Councillor then present has a 'disclosable pecuniary interest' as defined by the Council's adopted Code of Conduct, that Councillor must disclose to that meeting the existence and nature of that interest (except where the matter is considered a sensitive interest and so there is no requirement to disclose the nature of it) and withdraw from the meeting room or chamber as soon as it becomes apparent that the business is being considered at that meeting, unless a dispensation has been granted in accordance with the relevant due process.

21.3 Where a Councillor present at such a meeting has a '*personal interest*' (as defined in the adopted Code) which is not a '*prejudicial interest*' then the Councillor shall immediately draw the attention of the meeting to that personal interest.

21.4 Any Officer of the Council present at a meeting when an item involving a disclosable interest is under consideration shall draw the attention of the meeting to that interest.

21.5 A 'disclosable interest' is an interest which, if the Officer were a Member of the Council, would need to be declared under the Council's adopted Code of Conduct as a *prejudicial interest*.

21.6 No such duty shall arise regarding an item which merely relates to the general terms and conditions of employment of all staff employed by the Council.

## **22. Exclusion of Press and Public\***

22.1 Press representatives and public shall withdraw from a meeting if an exclusion resolution is passed.

22.2 On a motion to exclude the public, unless the motion appears on the agenda, the Chair shall ascertain the grounds for the motion and seek the advice of the Council Solicitor and Monitoring Officer or his/her nominee as to whether members of the public may lawfully be excluded.

22.3 Even where an item or report has been marked either 'Exempt' or 'Confidential', it is for the meeting itself to decide whether, taking the wider public interest into account, the item (or part of it) should nevertheless be considered in the presence of the press and public.

22.4 If an issue should arise during a debate as to the appointment, promotion, dismissal, salary, conditions of service or conduct of any identifiable employee of the Council, the Councillor chairing the meeting shall move the exclusion resolution (due to the likelihood that exempt information about a particular employee would be disclosed to the public).

22.5 The motion shall be immediately approved or rejected before the issue is further considered.

22.6 When an exclusion resolution is passed those permitted to remain include all those who are members of the Council, the Officers or consultants serving that meeting and those specifically invited by the meeting to remain for reasons set out in the minutes.

## **23. Rescindment and Variation of Resolutions\***

23.1 A resolution passed within the previous 6 months shall not be rescinded or varied unless either:

- a) There has been a significant change of circumstances (noted in the minutes of the meeting) since the previous resolution was passed and is agreed by 50% of the members; or
- b) By resolution of the Full Council on a motion of which notice has been given under Council Procedure Rule 4 signed by not less than 12 members.

23.2 Where it is intended that such an item should appear on the agenda for a meeting, the agenda item shall say that this '6-month rule' applies.

23.3 This Council Procedure Rule shall not apply in the case of a planning or licensing application.

23.4 Every such notice of motion shall specify the resolution to be rescinded or varied

## **24. Ruling of the Chair of the Council\***

24.1 The ruling of the Chair of the Council on any question under these Procedure Rules, on a Point of Order, or, on the admissibility of a personal explanation shall be final and shall not be open to discussion.

## 25. Quorum\*

25.1 No business shall be transacted at a meeting unless at least the indicated number of its members is present:

Meeting	Quorum
Full Council	15
Planning Committee	4
Licensing Committee	4
Audit, Governance and Standards Committee	3
The Executive	3
The Scrutiny Committees	4
Any other Member body	1/4 of its members, or 2 (whichever is the greater)

## 26. Agenda and Attendance at Meetings

26.1 A Councillor has the right to receive agenda and papers for all meetings of the Council, the Executive, the Scrutiny Committee, the Licensing Committee, the Audit, Governance and Standards Committee and the Planning Committee and to attend and speak at all such meetings, whether the Councillor is a member of the body or not.

26.2 This right to be treated as a participating member of these bodies shall not extend to their sub-groups which have been convened to act:

- a) In a quasi-judicial role on the Council's behalf in relation to such matters as staff disciplinary appeals, licensing hearings, or to deal with staff appointments or other specifically identified matters; or
- b) A Task and Finish Scrutiny Group.

26.3 With those bodies listed in (2) above:

- a) The right to attend shall be the same as for members of the public;
- b) The right to contribute to the discussion shall be at the discretion of the Councillor chairing that meeting.

26.4 In order to avoid any doubt:

- a) The rights under paragraph (1) shall also extend to Exempt items of business;
- b) Councillors attending a meeting by virtue of this Procedure Rule shall not have a right to vote.

## **27. Summoning of Meetings**

27.1 Those listed below may request the Chief Executive to call a Full Council meeting in addition to Ordinary Meetings:

- a) The Council (by resolution);
- b) The Chair of the Council;
- c) The 'Designated Officers';
- d) Any 5 members of the Council - if they have signed a requisition presented to the Chair of the Council and the Chair has either refused to, or has failed to call, such a meeting within 7 days of presenting their requisition;
- e) The notice convening such a requisitioned meeting shall state the names of those Councillors requesting it and the business which they wish to have dealt with.

## **28. Time Limits for All Meetings\***

28.1 A meeting of Full Council or other committees including the Scrutiny Committee shall not exceed 3 hours in duration, except in accordance with Council Procedure Rule 29 below.

28.2 If the business of the meeting has not been completed within that time, the Chair of the Council or Chair of the relevant Committee will interrupt the debate to announce the time and call for a vote to be taken immediately on the item under discussion.

28.3 No member will be able to address the meeting after the Chair of the Council's or Chair of the relevant Committee's interruption on any item appearing on the agenda.

28.4 Any items remaining on the agenda, which have not been considered, will be adjourned to the next scheduled meeting or a date to be fixed before the meeting adjourns.

28.5 Any suspension of time for adjournments during the meeting shall not count towards the 3-hour time limit.

## **29. Suspension of Council Procedure Rules\***

29.1 A motion to suspend a particular procedural Rule shall state the particular purpose and require a majority of at least half the total number of members appointed to that Council Meeting or Committee.

29.2 On occasions that Rule 28(1) is being waived, the duration of the suspension shall not exceed 30 minutes and shall, if seconded, be put to the vote without discussion.

29.3 Rule 28(1) can only be suspended once per meeting. However, the Chair of the Council, Chair of Planning Committee or Chair of the Licensing Committee may decide otherwise in respect of the meeting they are chairing. This will generally only occur in exceptional circumstances.

29.4 Rules 21 and 25 cannot be suspended.

## **30. Application of Procedure Rules\***

30.1 These Procedure Rules shall apply to meetings of the Full Council. Those Rules marked ‘\*’, shall also apply to meetings of all Regulatory Committees, the Executive, the Audit, Governance and Standards Committee, and Scrutiny Committee, and any other formal decision making meeting (subject to the necessary changes in wording).

## **31. Withdrawal from Meetings**

31.1 Where a member has a Disclosable Pecuniary Interest in any business of the Council, whether registered under paragraphs 2.2.1 of the Council’s Code of Conduct or not, and you attend any meeting of the Council, its Executive or any Committee, Sub-Committee, Joint Committee at which that business is to be considered you must:

- a) Not seek to influence a decision about that business;
- b) Disclose to that meeting the existence and nature of that interest no later than the start of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you. The exception to the requirement to disclose an interest is if the matter is a sensitive interest as set out in paragraph 2.11 of the Code of Conduct;
- c) Withdraw from the meeting room or chamber including the public gallery as soon as it becomes apparent that the business is being considered at that meeting;

Unless you have obtained a dispensation from the Council’s Monitoring Officer or the Audit, Governance and Standards Committee.

31.2 Where a member has a prejudicial interest as defined in the Council’s Code of Conduct the member must:

- a) Not participate in any discussion of the matter at the meeting;

- b) Not participate in any vote on the matter at the meeting;
- c) Disclose the existence and nature of the interest to the meeting and leave the room where the meeting is being held while any discussion or voting takes place on the matter.

31.3 Where a member has a prejudicial interest in any business of the Council, the member may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business and he/she must leave the meeting immediately after making those representations, answering questions or giving evidence.



# **Access to Information Procedure Rules**

## **Part A – General**

### **1. Scope**

1.1 These rules apply to all meetings of the Council, Executive, Committees and Sub-Committees (together called meetings) unless otherwise specified in this Constitution or by legislation.

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

2.1 These rules do not affect and are additional to any rights to information contained elsewhere in the Constitution or the law.

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

3.1 Members of the public and media are welcome and encouraged to attend all meetings, subject only to the exceptions in this Constitution.

3.2 The rights at 3.1 are without prejudice to the Council's power to suppress or prevent disorderly conduct or other misbehaviour at any meeting.

3.3 Third-party recording (including filming, audio recording and photography) is permitted of the public sessions of formal decision-making Council meetings subject to any reasonable protocols that may be in place.

### **4. Notices of Meeting**

4.1 The Council will give at least 5 clear working days' notice of any meeting by posting details of the meeting at the Council offices and on the Council's website.

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

5.1 The Council will make copies of the agenda and reports open to the public and available for inspection at the Council offices and on the Council's website, at least 5 clear working days before the meeting (unless it is not available until a later time).

5.2 Where there are special circumstances requiring an item to be added to the agenda after publication, the revised agenda will be open to inspection from the time the item was added to the agenda.

5.3 Where reports are prepared after the summons to the meeting has been sent out, the Chief Executive shall make each report available to the public as soon as the report is completed and sent to Councillors.

5.4 Upon receipt of a reasonable request, the Council shall make copies of agendas and reports available to the public in alternative formats.

## **6. Supply of Copies**

6.1 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 Monitoring 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 reasonable costs.

6.2 The Council will make available to the public present at a meeting a reasonable number of copies of the agenda and of the reports for the meeting (except during any part of the meeting to which the public are excluded).

## **7. Access to Minutes and Other Information After the Meeting**

7.1. The Council will make available copies of the following for at least 6 years after a meeting:

- a) the minutes of the meeting, or records of decisions taken, together with reasons, for all meetings of the Council, Executive, Committee and sub-committee meetings, excluding any part of the minutes of proceedings when the meeting was not open to the public in the event that exempt or confidential information would be disclosed;

- b) a summary of the proceedings (which would not reveal exempt or confidential information) 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;
- d) reports relating to items when the meeting was open to the public.

## **8. Background Papers**

### **List of Background Papers**

8.1 The report author named at the head of every report will set out at the end of every report a list of those documents (under the heading Background Papers) relating to the subject matter of the report which in his/her opinion:

- a) disclose any facts or matters on which the report or an important part of the report is based; and
- b) which have been relied on to a material extent in preparing the report;

but does not include published works or those which disclose exempt or confidential information as defined in Rule 10 below.

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

8.2 Every Head of Function or Director will make arrangements to ensure that documents referred to in any report written by them or by a member of their staff are available for inspection for 4 years after the date of the meeting concerned. One copy of each of the background documents listed will be retained for this purpose. Background papers will also be available for inspection on the Council's website.

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

9.1. These Rules, as part of the Council's Constitution, will be regarded as the written summary of the public's rights to attend meetings and to inspect and copy documents. These Rules, together with the whole Constitution, are available for inspection at the Council offices and on the Council's website.

## **10. Meetings – Public Exclusion**

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

10.1 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.

### **Meaning of Confidential Information**

10.2 Confidential information means information given to the Council by a government department, service or agency on terms which forbid its public disclosure, or information which cannot be publicly disclosed by Court Order or under any enactment.

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

10.3 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. Such a decision to exclude the public is to be made by resolution of the relevant decision-making body.

10.4 Where the meeting will determine any person's civil rights or obligations or adversely affect their possessions, Article 6 of the European Convention of Human Rights (incorporated into domestic law by the Human Rights Act 1998) establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

### **Meaning of Exempt Information**

10.5. Exempt information means information falling within any of the categories (subject to any qualification) defined in Appendix 1 to these Procedure Rules.

## **11. Reports – Exclusion of Public Access**

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

## **Part B – Executive Decision-Making**

### **12. Additional Rules to be Applied to the Executive**

12.1 Rules 12-21 apply to meetings of the Executive and its Committees. If the Executive or an Executive Committee meets to take a Key Decision, then it must still comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) applies.

12.2 If the Executive or an Executive Committee meet to discuss a Key Decision to be taken collectively with one or more Officers present within 28 clear days of public notice being given of the decision to be taken, then it must still comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) applies.

12.3 The requirement at 12.2 does not apply to meetings whose sole purpose is for Council Officers to brief the decision-maker or members of a decision-making body on matters connected with the making of an Executive Decision.

### **13. Procedure Before Taking Key Decisions**

A Key Decision is as defined in the Executive Procedures Rules of this Constitution.

#### **Notice of Key Decision**

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

- a) a notice ('Notice of Key Decision') has been published in connection with the matter in question;
- b) at least 28 clear days have elapsed since the publication of the Notice of Key Decision (which may include Saturdays, Sundays and public holidays) and the date of the meeting at which the Key Decision is to be made; and
- c) where the decision is to be taken at a meeting of the Executive or its Committees, notice of the meeting has been given in accordance with Procedure Rule 4 (notice of meetings).

#### **Contents of Notice of Key Decision**

13.2 The Notice of Key Decision will state that a Key Decision is to be taken by the Executive, a committee of the Executive, individual members of the Executive, Officers, Area Committees or under joint arrangements in the course of the discharge of an executive function. It will describe the following particulars:

- a) the matter in respect of which a decision is to be made;
- b) where the decision-maker is an individual, his/her name and title, if any, and where the decision-maker is a body, its name and details of its membership;
- c) the date on which, or period during which, the decision is to be taken;
- d) a list of documents submitted to the decision-maker for consideration in relation to the matter and details of how to inspect copies of these documents;
- e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from any document listed is available;
- f) a note that other documents relevant to the decision may be submitted to the decision-maker; and,
- g) the procedure for requesting details of those documents (of any) as they become available; and
- h) where the decision is to be taken at a meeting of the Executive or its Committees, a note that notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

#### **Publication of the Notice of Key Decision**

13.3. The Notice of Key Decision will be made available for inspections by the public at the Council Offices and on the website.

### **14. The Forward Plan**

14.1 The Council is required to give a minimum of 28 clear days' notice of Key Decisions to be taken by the Executive, Executive Members or Officers. However, the Leader may prepare a Forward Plan which sets out the details of the various decisions that the Executive is likely to take over a subsequent period of 4 months, insofar as they are known at the time of publication. Other significant decisions to be taken by Full Council may be included for information.

14.2 The Forward Plan may incorporate the Notices of Key Decision and Notices of Intention to Hold Executive Meetings in Private referred to in Procedure Rule 21.

14.3 Where a Forward Plan is produced it will be published on the Council's website and a copy will be made available for inspection at the Council offices at least 28 clear days before each meeting of the Executive.

14.4 Exempt information need not be included in the Forward Plan and confidential information cannot be included.

## **15. General Exception**

15.1. If a Notice of Key Decision has not been published in accordance with Procedure Rule 13, then subject to Procedure 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 publish a Notice of Key Decision;
- b) the Monitoring Officer has informed the Chair (or in his/her absence the Vice-chair) of the Scrutiny Committee, or if there is no such person immediately available, each member of that Committee in writing, by notice, of the matter on which the decision is to be made;
- c) the Monitoring Officer has made copies of that notice available to the public at the offices of the Council and on the Council's website; and
- d) at least 5 clear working days have elapsed since the Monitoring Officer complied with (b) and (c).

15.2. As soon as reasonably practicable after the Monitoring Officer has complied with Procedure Rule 15.1, he must make available at the Council offices and publish on the Council's website the reasons why compliance with Procedure Rule 13 is impracticable.

## **16. Special Urgency**

16.1 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 Leader or Chair of an Executive Committee or decision-maker (if an individual) obtains the agreement of

the Chair of the Scrutiny Committee that the taking of the decision is urgent and cannot be reasonably deferred.

16.2 If there is no chair of the Scrutiny Committee or if the chair of the relevant Scrutiny Committee is unable to act, then the agreement of the Chair of the Council or in his/her absence, the Vice-chair of the Council will suffice.

16.3 As soon as reasonably practicable after the decision-maker has obtained agreement under Rules 16.1 or 16.2, he or she shall make available to the public at the Council Offices and on the Council's website, a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred.

## **17. Reports to Council**

### **When Scrutiny Committee Can Require a Report**

17.1 If the Scrutiny Committee thinks that a Key Decision has been taken which was not:

- a) the subject of a Notice of Key Decision; or
- b) the subject of the general exception procedure under Procedure Rule 15; or
- c) the subject of an agreement with the chairman of the Scrutiny Committee or the Chair of the Council/Vice-chair of the Council under Procedure Rule 16;

the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The report must include details of the decision and the reasons for the decision, the decision-maker, and the reasons, if any, for the Leader/Executive believing that the decision was not a Key Decision. The power to require a report rests with the Scrutiny Committee, who shall require the Head of Performance and Governance to issue such a report on behalf of that Committee when so requested by the Chair or any 5 Councillors. Alternatively, the requirement may be raised by resolution passed at a meeting of the Scrutiny Committee.

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

17.2 The Executive will submit a report required under paragraph 17.1 to the next available Council meeting. However, if the next meeting of the Council is within 7 days of receipt of the written notice or the resolution of the Committee, then the report may be submitted to the following meeting. The report to the Council will set out particulars of the

decision, the individual or body making the decision and if the Leader is of the opinion that it was not a Key Decision, the reasons for that opinion.

### **Annual Reports on Special Urgency Decisions**

17.3 In any event, the Leader will submit annual reports to the Council on the Executive Decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding year. The report will include the number of decisions so taken and a summary of matters in respect of which those decisions were taken.

## **18. Meetings of the Executive to Be Held in Public**

Meetings of the Executive and its Committees will be held in public, unless it is likely that exempt or confidential information would be disclosed, or whenever a lawful power is used to exclude a Councillor or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting. The public may only be excluded for the part or parts of the meeting during which it is likely that exempt or confidential information would be disclosed.

## **19. Notice of Executive Meetings**

Members of the Executive or its Committees will be entitled to receive 5 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.

## **20. Officer Attendance at Executive Meetings**

The Chief Executive as Head of Paid Service, Monitoring Officer, Section 151 Officer, Heads of Function, Director and their nominees are entitled to attend any meeting of the Executive.

## **21. Notice of Intention to Hold Executive Meetings in Private**

21.1 Subject to this Procedure Rule, where the Monitoring Officer agrees that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during consideration of that item, either:

- a) confidential information, as defined in Procedure Rule 10.2, would be disclosed to them in breach of the obligation of confidence; or
- b) exempt information, as defined in Procedure Rule 10.5, would be disclosed to them,

the meeting shall be held in private, following the exclusion of the public.

21.2 At least 28 clear days before a private meeting (which may include Saturdays, Sundays and public holidays), the decision-making body shall:

- a) make available at the Council offices, a notice of its intention to hold the meeting in private (a "Notice of Private Meeting"); such notice to include a statement of reasons for the meeting to be held in private, and
- b) publish that notice on the Council's website.

21.3 At least 5 clear days before a private meeting, the decision-making body shall:

- a) make available at the Council offices, a further notice of its intention to hold the meeting in private; and
- b) publish that notice on the Council's website.

This notice will be included in the agenda for the meeting.

21.4 A notice under Procedure Rule 21.3 shall include:-

- a) a statement of the reasons for the meeting to be held in private;
- b) details of any representations received by the decision-making body about why the meeting should be open to the public; and
- c) a statement of its response to any such representations.

21.5 Where the date by which a meeting must be held makes compliance with this Procedure Rule impracticable, the meeting may only be held in private where:-

- a) the Chair of the Scrutiny Committee; or
- b) if there is no such person available, or if the Chair of the Scrutiny Committee is unable to act, the Chair of the Council; or
- c) where there is no Chair of the Scrutiny Committee available and in the absence of the Chair of the Council, the Deputy Chair of the Council,

has agreed that the meeting is urgent and cannot reasonably be deferred.

21.6 As soon as reasonably practicable after agreement to hold a private meeting has been obtained under Procedure Rule 21.5, the decision-making body shall:

- a) make available at the Council offices, a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred; and
- b) publish that notice on the Council's website.

## **22. Taking Executive Decisions by Individuals**

### **A. Decisions by the Leader or Individual Lead Councillors**

#### **22.1 Reports Intended to be Taken into Account**

Where the Leader or an individual Lead Councillor receives a report which he or she intends to take into account in making any Executive Decision under the scheme of delegation to Lead Councillors, then he or she will not make the decision until at least 5 clear working days after receipt of that report.

#### **22.2 Provision of Copies of Reports to All Councillors**

On giving such a report to the Leader or an individual Lead Councillor, the Head of Performance and Governance will give a copy of it to all Councillors as soon as reasonably practicable and make it publicly available at the same time. Before the Leader or Lead Councillor takes an Executive Decision, he or she will take into account any written representations submitted by other Councillors or from the public.

### **B. Decisions by Officers**

22.3 Officers contemplating a decision in connection with an Executive Function shall have careful regard to the following principles in deciding how this should be taken:

- A) whether the proposed decision is closely (as opposed to remotely) connected with the discharge of a function which is, as a matter of law, the responsibility of the Authority's Executive;
- B) whether the proposed Executive Decision is merely administrative in nature with only a remote connection with an Executive Function;
- C) whether a proposed Executive Decision is so minor or routine in nature or is otherwise one which would reasonably be considered to be of no interest to a reasonable member of the public;
- D) whether the proposed Executive Decision is sufficiently important and/or sensitive so that a reasonable member of the public would reasonably expect it to be taken by the Executive;

E) whether the proposed Executive Decision is one which affects only particular individuals as opposed to the public generally;

22.4 Taking into account the above principles, the Council has agreed that these Procedure Rules shall apply to:

- a) Key Decisions taken by Officers; and
- b) any Executive Decision taken by an Officer:
  - i. under the scheme of delegation to Officers; or,
  - ii. which has been authorised specifically by the Leader/Executive;

which requires prior consultation with the Leader, a Lead Councillor or a local ward Councillor.

## **23. Record of Executive Decisions**

### **Executive Meetings**

23.1 As soon as reasonably practicable after any meeting of the Executive or any of its Committees (where applicable), whether held in public or private, the Head of Performance and Governance, or if the Head of Performance and Governance was not present, the person presiding at the meeting, shall produce a written statement of every Executive Decision taken at that meeting which shall include the following information:

- a) a record of the decision including the date it was made;
- b) a record of the reasons for the decision;
- c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- d) a record of any conflict of interest relating to the matter decided which is declared by any member of the decision-making body which made the decision; and
- e) in respect of any declared conflict of interest, a note of any dispensation granted in respect of it.

### **Executive Decisions Taken by the Leader or Individual Lead Councillors**

23.2 As soon as reasonably practicable after an Executive Decision has been taken by the Leader or an individual Lead Councillor, the Head of Performance and Governance

or his/her nominee shall prepare a record of the decision, which shall include the following information:

- a) a record of the decision, including the date it was made;
- b) a record of the reasons for the decision;
- c) details of any alternative options considered and rejected by the Councillor when making the decision;
- d) a record of any conflict of interest declared by any member of the Executive who is consulted by the Councillor which relates to the decision; and
- e) in respect of any declared conflict of interest, a note of any dispensation granted in respect of it.

### **Executive Decisions Taken by Officers**

23.3 As soon as reasonably practicable after an Executive Decision has been taken by an Officer, that Officer shall prepare a record of the decision, which shall include the following information:

- a) a record of the decision, including the date it was made;
- b) a record of the reasons for the decision;
- c) details of any alternative options considered and rejected by the Officer when making the decision;
- d) a record of any conflict of interest declared by any member of the Executive who is consulted by the Officer which relates to the decision; and
- e) in respect of any declared conflict of interest, a note of any dispensation granted in respect of it.

The provisions of Procedure Rules 7 and 8 will also apply (in so far as they relate to the provision of documents for inspection) to the making of Executive Decisions by individuals. This does not require the disclosure of exempt or confidential information.

## **24. Inspection of Documents Following Executive Decisions**

24.1 Subject to Procedure Rule 28, after a meeting of a decision-making body at which an Executive Decision has been made, or after the Leader, an individual Lead Councillor

or Officer has made an Executive Decision, the Head of Performance and Governance or his/her nominee shall ensure that a copy of:

- a) any records prepared in accordance with Procedure Rules 22 and 23; and
- b) any report considered at the meeting or, as the case may be, considered by the individual Member or Officer and relevant to a decision recorded in accordance with Procedure Rules 22 or 23 or, where only part of the report is relevant to such a decision, that part;

shall be available for inspection by members of the public, as soon as is reasonably practicable, at the Council offices and on the website.

24.2 Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection referred to in a) above, those documents must be supplied for the benefit of the newspaper by the Council on payment by the newspaper to the Council of postage, copying or other necessary charge for transmission.

## **25. Inspection of Background Papers Following Executive Decision**

25.1 Subject to Procedure Rule 28, when a copy of the whole or part of a report for a meeting is made available for inspection by members of the public in accordance with Procedure Rule 24, the requirements of Procedure Rule 8 (Inspection of Background Papers) will apply.

## **26. Scrutiny access to documents**

### **26.1 Rights to Copies**

Subject to Procedure Rule 26.2 below, a member of the Scrutiny Committee will be entitled to a copy of any document which is in the possession or control of the Leader/Executive and which contains material relating to:

- a) any business transacted at a meeting of the Executive;
- b) any Executive Decision taken by the Leader or an individual Lead Councillor; or
- c) any Executive Decision taken by an Officer.

The documents must be provided as soon as reasonably practicable, but no later than ten clear working days after the request is received.

### **26.2. Limits on Rights**

A member of the Scrutiny Committee will not be entitled to a copy of any document or part of a document that:

- a) is in draft form; or
- b) contains exempt or confidential information unless that information is relevant to:
  - i. an action or decision that that Member is reviewing or scrutinising; or
  - ii. any review contained in the Scrutiny Committee's work programme.

Where the Leader/Executive determines that a member of the Scrutiny Committee is not entitled to a copy of a document or part of any such document for a reason set out in a) or b) above, they must provide the Scrutiny Committee with a written statement setting out their reasons for that decision.

## **27. Additional Rights of Access to Documents for Councillors**

27.1 Subject to Procedure Rules 27.5 and 27.6, any document which is in the possession or under the control of the Leader/Executive which contains material relating to any business to be transacted at a public meeting of the Executive shall be made available for inspection by any Councillor.

27.2 Any document which is required by Procedure Rule 27.1 to be available for inspection by any Councillor must be available for such inspection for at least 5 clear working days before the meeting except that:

- a) where the meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
- b) where an item is added to the agenda at shorter notice, a document that would be required to be available under Procedure Rule 27.1 in relation to that item, must be available for inspection when the item is added to the agenda.

27.3 Subject to Procedure Rules 27.5 and 27.6, any document which is in the possession or under the control of the Leader/Executive and contains material relating to:

- a) any business transacted at a private meeting of the Executive;
- b) any decision made by the Leader or individual Lead Councillor in accordance with executive arrangements; or

c) any decision made by an Officer in accordance with executive arrangements, must be available for inspection by any Councillor when the meeting concludes or in relation to b) and c) above, immediately after the decision has been made.

27.4 Any document which is required by Procedure Rule 27.3 to be available for inspection by any Councillor must be available for such inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made as the case may be.

27.5 Procedure Rules 27.1 and 27.3 do not require a document to be available for inspection if it appears to the Monitoring Officer that it discloses exempt information.

27.6 Notwithstanding Procedure Rule 27.5, Procedure Rules 27.1 and 27.3 do require the document to be available for inspection if the information is information of a description for the time being falling within:

a) category 3 of Appendix I (except to the extent that the information relates to any terms proposed or to be proposed by or to the Authority in the course of negotiations for a contract); or

b) category 6 of Appendix I.

27.7 Where it appears to the Monitoring Officer that compliance with Procedure Rules 27.1 or 27.3 in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant, that paragraph will not apply to that document or part.

27.8 The rights conferred by Procedure Rules 27.1 and 27.3 are in addition to any other rights that a Councillor may have.

## **28. Confidential Information and Exempt Information**

28.1 Nothing in these Procedure Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

28.2 Nothing in these Procedure Rules:

a) authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Monitoring Officer, that document or part of a document contains or may contain confidential information; or

- b) requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Monitoring Officer, that document or part of a document contains or is likely to contain exempt information.

28.3 Where the Leader, a Lead Councillor or an Officer makes an Executive Decision in accordance with executive arrangements, nothing in these Procedure Rules:

- a) authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where, the documents contain confidential information; or
- b) requires documents relating to that decision to be disclosed to the public or made available for public inspection where the disclosure of the documents would, in the opinion of the Councillor or Officer making the decision, give rise to the disclosure of exempt information.

## **Part C – Other (Non-Executive) Decisions Taken by Officers**

### **29. Recording of Decisions**

29.1 The decision-making Officer shall produce a written record of any decision which falls within Procedure Rule 29.2.

29.2 A decision falls within this Procedure Rule if it would otherwise have been taken by the Council or a Committee, Sub-committee or a Joint Committee in which the Council participates, but it has been delegated to an Officer of the Council either:

- a) under a specific express authorisation; or
- b) under a general authorisation to Officers to take such decisions and, the effect of the decision is to:
  - i. grant a permission or licence;
  - ii. affect the rights of an individual; or
  - iii. award a contract or incur expenditure which, in either case, materially affects the Council's financial position\*.

(Note: the Council has decided that the financial threshold at or above which any contract awarded or expenditure incurred is deemed to materially affect its financial position is the same financial threshold referred to in the definition of a key decision.

29.3 The written record shall be produced as soon as reasonably practicable after the decision-making Officer has made the decision and shall contain the following information:

- a) the date the decision was taken;
- b) a record of the decision taken, along with reasons for the decision;
- c) details of alternative options, if any, considered and rejected; and
- d) the names of any Officer who has declared a conflict of interest in relation to the decision.

29.4 The duty imposed by Procedure Rule 29.1 is satisfied where, in respect of a decision, a written record containing the information referred to in sub-paragraphs (a) and (b) of

Procedure Rule 29.3 is already required to be produced in accordance with any other statutory requirement.

## **30. Decisions and Background Papers to Be Made Available to the Public**

30.1 The written record, together with any background papers, shall as soon as reasonably practicable after the record is made, be made available for inspection by members of the public:

- a) at all reasonable hours, at the Council offices;
- b) on the website; and,
- c) by such other means that the Council considers appropriate.

30.2 On request and on receipt of payment of postage, copying or other necessary charge for transmission, the Council shall provide to the person who has made the request and paid the appropriate charges:

- a) a copy of the written record;
- b) a copy of any background papers.

30.3 The written record shall be retained by the Council and made available for inspection by the public for a period of 6 years, beginning with the date on which the decision to which the record relates was made.

30.4 Any background papers shall be retained by the Council and made available for inspection by the public for a period of 4 years, beginning with the date on which the decision to which the background papers relate was made.

30.5 The provisions relating to confidential and exempt information referred to in Procedure Rule 28.1 and 28.2 apply to this Part of these Procedure Rules.

# Appendix 1 – Meaning of Exempt Information

Information which:

- a) falls within any of Categories 1 to 7 below; and
- b) is not prevented from being exempt by virtue of Qualifications 1 or 2 below;

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.

## Categories of Exempt information

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:
  - a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - b) to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

## Qualifications

1. Information falling within Category 3 above is not exempt information by virtue of that paragraph if it is required to be registered under:
  - a) the Companies Acts (as defined in section 2 of the Companies Act 2006);

- b) the Friendly Societies Act 1974;
  - c) the Friendly Societies Act 1992;
  - d) the Co-operative and Community Benefit Societies Act 2014;
  - e) the Building Societies Act 1986; or
  - f) the Charities Act 2011.
2. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission or permission in principle pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.



# Councillor Code of Conduct

## Introduction and Interpretation

As a member and representative of this Council it is your responsibility to comply with this Code when you undertake or claim to be undertaking Council business or give the impression that you are undertaking Council business.

As a representative of this Council your actions impact on how the Council as a whole is viewed by the public. It is important, therefore, that you do not do anything when undertaking Council business which you could not justify to the public. It is not enough to avoid actual impropriety, you should at all times avoid any occasion for suspicion or appearance of improper conduct.

This Code is based upon the seven principles of public life which are set out at Appendix 1. You shall have regard to those principles when fulfilling your role.

An explanation of the terms used in this Code can be found in Appendix 2.

## General Obligations

1. When undertaking Council business, you must:

1.1 treat others with respect;

1.2 not use or attempt to use your position as a member improperly to give yourself or any other person, an advantage or disadvantage;

1.3 when reaching decisions on any matter, consider any relevant advice provided to you by

(a) the Council's Chief Finance Officer (S151) ; or

(b) the Council's Monitoring Officer, in accordance with his or her statutory duties;

1.4 give reasons for decisions in accordance with any statutory requirements and the Constitution of the Council;

1.5 act in accordance with the Council's Constitution and the policies contained within it and any other relevant Council policies;

1.6 not use Council's resources improperly (including for political purposes);

1.7 avoid doing anything which may cause the Council to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010);

1.8 not bully any person;

1.9 not intimidate or attempt to intimidate any person who is or is likely to be:

(a) a complainant,

(b) a witness,

(c) involved in the administration of any investigation or proceedings, or

(d) any other person carrying out the functions of the Council,

in relation to an allegation that a member (including yourself) has failed to comply with the Council's code of conduct;

1.10 avoid doing anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;

1.11 not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

(a) you have the consent of a person authorised to give it; or

(b) you are required by law to do so; or

(c) 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

(d) the disclosure is:

(i) reasonable and in the public interest; and

(ii) made in good faith and in compliance with the reasonable requirements of the Council; and

(e) in all instances listed above you have consulted the Monitoring Officer prior to its release;

1.12 not prevent another person from gaining access to information to which that person is entitled by law; and

1.13 not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Council into disrepute.

## Interests

## **Disclosable Pecuniary Interests**

**2. 2.1** You must register and declare any Disclosable Pecuniary Interests that relate to your public duties as required by this Code and set out in Appendix 3.

**2.2** You must, within 28 days of this Code being adopted by the Council or your taking office as a member or co-opted member, register any Disclosable Pecuniary Interests with the Council's Monitoring Officer, where the Disclosable Pecuniary Interest is yours, your spouse's or civil partner's, or is the Disclosable Pecuniary Interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners. Disclosable Pecuniary Interests will be recorded in the Council's Register of Members' Interests and made available for public inspection including on the Council's website at: [www.somersetwestandtaunton.gov.uk](http://www.somersetwestandtaunton.gov.uk)

**2.3** Within 28 days of becoming aware of any new Disclosable Pecuniary Interest or change to any such interest already registered, you must register details of that new interest or change in writing to the Council's Monitoring Officer.

**2.4** Where any business of the Council, relates to or affects a Disclosable Pecuniary Interest whether registered under 2.2 or 2.3 above or not, and you attend any meeting of the Council, its Executive or any Committee, Sub-Committee, Joint Committee at which that business is to be considered, you must:

- (a) not to seek to influence a decision about that business
- (b) disclose to that meeting the existence and nature of that interest no later than the start of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you. The exception to the requirement to disclose an interest is if the matter is a sensitive interest under paragraph 2.11
- (c) withdraw from the meeting room or chamber as soon as it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from the Council's Monitoring Officer or the Audit, Governance and Standards Committee .

**2.5** Following any disclosure at a meeting or as part of a decision record, of a Disclosable Pecuniary Interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of the disclosure at the meeting or in the decision record in order for the interest to be included in the register.

**2.6** Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a Disclosable Pecuniary Interest. Additionally, you must observe the restrictions the Council places on

your involvement in matters where you have a Disclosable Pecuniary Interest as defined by the Council and set out in this Code.

## Other Interests

**Note:** It is conceivable that an interest could be categorised as both a Disclosable Pecuniary Interest and a personal or a personal and prejudicial interest. If so you must treat it as a Disclosable Pecuniary Interest and comply with the requirements set out in paragraphs 2.1 – 2.6 inclusive

2.7 (1) In addition to the Disclosable Pecuniary Interests notifiable under the Localism Act 2011, you must, within 28 days of:

- (a) this Code being adopted by or applied to the Council;
- (b) or your election or appointment to office (where that is later),

give written notification to the Monitoring Officer of the details of your other personal interests, as defined in 2.8(1) (i) and (ii) below, for inclusion in the register of interests. The exception to this requirement is if the detail of the personal interest is classified as sensitive – see paragraph 2.11.

(2) You must, within 28 days of becoming aware of any new personal interest or change to any such registered interest, notify the Monitoring Officer of the details of that new interest or change.

## Personal Interests

2.8 (1) You have a personal interest in any business of the Council where:

- (a) it relates to or is likely to affect:
  - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
  - (ii) any body:
    - (a) exercising functions of a public nature;
    - (b) established for charitable purposes; or
  - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management;
- (b) a decision in relation to any business of the Council might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a significant person to a greater extent than the majority of

other council tax payers, ratepayers or inhabitants of the electoral division, as the case may be, affected by the decision;

(2) Subject to sub-paragraphs (3) to (5) below, where you are aware of a personal interest described in paragraph (1) above in any business of the Council, and you attend a meeting of the Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the start of the consideration of that business, or when the interest becomes apparent to you.

(3) Where you have a personal interest in any business of the Council which relates to or is likely to affect a significant person (see paragraph 1 (b) above and Appendix 2 for the interpretation of the term 'significant person'), you need only disclose to the meeting the existence and nature of that interest if and when you address the meeting on that business.

(4) Where you have a personal interest but the interest is not detailed in the Council's register of members' interests because of the sensitive nature of the interest, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(5) Where you have a personal interest in any business of the Council and you have made an individual decision (as an Executive Councillor) in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest subject to (4) above.

(6) Any personal interests notified to the Monitoring Officer will be included in the register of interests.

(7) A copy of the register will be available for public inspection and will be published on the Council's website.

## Prejudicial Interests

2.9 (1) Where you have a personal interest in any business of your Council you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and where that business:

(a) affects your financial position or the financial position of a significant person or a body described in paragraph 2.8(1)(a)(i) and (ii) (other than another town parish district, county council or national park of which you are also a member); or

(b) relates to determining any approval, consent, licence, permission or registration in relation to you or any significant person (other than another town parish district, county council or national park of which you are also a member).

(2) Subject to paragraph (3) and (4), where you have a prejudicial interest in any business of your Council:

- (a) You may not participate in any discussion of the matter at a meeting.
- (b) You may not participate in any vote taken on the matter at a meeting.
- (c) You must disclose the existence and nature of the interest to the meeting and leave the room where the meeting is held while any discussion or voting takes place on the matter. The exception to the requirement to disclose the detail of the interest is if the matter is a sensitive interest under paragraph 2.11. In these circumstances you need only state that you have a prejudicial interest and that the details are withheld because of the sensitive information involved.

(3) Where you have a prejudicial interest in any business of your Council, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business and you leave the meeting room immediately after making representations, answering questions or giving evidence.

(4) Subject to you disclosing the interest at the meeting, you may attend a meeting and vote on a matter where you have a prejudicial interest that relates to the functions of your Council in respect of:

- (i) housing, where you are a tenant of your Council provided that those functions do not relate particularly to your tenancy or lease;
- (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends [not applicable];
- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

(5) Where, as an Executive member, you may take an individual decision, and you become aware of a prejudicial interest in the matter which is the subject of the proposed decision you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter, or seek to influence a decision about the matter.

## **Receipts of gifts and hospitality**

2.10 (1) You must, within 28 days of receipt, notify the Monitoring Officer in writing of any gift, benefit or hospitality with a value in excess of £25 which you have accepted as a member from any person or body other than the Council.

(2) The Monitoring Officer will place your notification on a public register of gifts and hospitality.

## **Sensitive Interests**

2.11 (1) If you have a Disclosable Pecuniary Interest or a Personal or Personal and Prejudicial Interest but you consider that disclosure of the interest could lead to you or a person connected with you being subject to violence or intimidation **and** the Monitoring Officer agrees with that assessment then instead of disclosing the interest you need only disclose that you have a Disclosable Pecuniary Interest or Personal or Personal and Prejudicial Interest (as the case may be). In such instances any published version of the register of interests will exclude details of the interest but may state that you have an interest, the details of which are withheld.

## **Scrutiny**

(1) In relation to any business before a Scrutiny Committee of the Council (or of a sub-committee of such a committee) where:

- (a) that business relates to a decision made (whether implemented or not) or action taken by your Council's Executive or another of your Council's committees, sub-committees , joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the Executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph a) and you were present when that decision was made or action was taken; or
- (c) that business relates to a decision made (whether implemented or not) or action taken by you (whether by virtue of the Council's constitution or under delegated authority from the Leader);

you may attend a meeting of the Scrutiny Committee or Sub-Committee of the Council but only for the purpose of making representations, answering questions or giving evidence relating to the business.

## **Appendix 1**

### **The Seven Principles of Public Life**

#### **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 declare and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### **Honesty**

Holders of public office should be truthful.

#### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## **Appendix 2**

### **Council's Code of Conduct - Interpretation**

In the Council's Code of Conduct the following words shall have the following meanings ascribed to them:

“the Act” means the Localism Act 2011;

“Disclosable Pecuniary Interest” is as defined in Appendix 3

“meeting” means any meeting of:

(a) the Council;

(b) the Executive of the Council;

(c) any of the Council's or its Executive's committees, sub-committees, joint committees, joint sub-committees, or area committees; whether or not the press and public are excluded from the meeting in question by a resolution of members.

“member” includes a co-opted member and an appointed member.

“sensitive information” means information relating to a member's interests that the monitoring officer has determined need not be included in the member's registration of an interest or any change to that interest, by virtue of the fact that its availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or intimidation

“bullying” means offensive, intimidating, malicious, insulting or humiliating behaviour based on abuse or misuse of power or authority which attempts to undermine

“disrepute” means a lack of good reputation or respectability which can be reasonably regarded as reducing the public's confidence in that member being able to fulfil their role or adversely affecting the reputation of members generally in being able to fulfil their role

“significant person” in relation to personal and personal and prejudicial Interests means a member of your family or any person with whom you have a close association; or any body:

(a) of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;

(b) exercising functions of a public nature;

- (c) established for charitable purposes; or
- (d) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union), of which you are a member or in a position of general control or management.

“wellbeing” means a condition of contentedness, healthiness and happiness. Anything that could be said to affect a person’s quality of life, either positively or negatively, is likely to affect their wellbeing. It is not restricted to matters affecting a person’s financial position “close association” means someone that you are in regular contact with over a period of time who is more than an acquaintance or colleague. It may be a friend, a business associate or someone you know through general social contacts. It is someone who a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them.

“member of your family” means partner i.e. someone you are married to, your civil partner, or someone you live with in a similar capacity, a parent, a parent- in-law, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of your partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece, and the partners of any of these people

## **Appendix 3**

### **Disclosable Pecuniary Interests**

This note explains the requirements of the Localism Act 2011 (Ss 29-34) in relation to disclosable pecuniary interests.

These provisions are enforced by criminal sanction.

#### **1. Notification of Disclosable Pecuniary Interests**

Within 28 days of becoming a Councillor or co-opted Councillor, you must notify the Monitoring Officer of any 'disclosable pecuniary interests'.

A 'Disclosable Pecuniary Interest' is an interest of yourself or your partner (which means spouse or civil partner, 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) within the following descriptions:

<b>Interest</b>	<b>Description</b>
Employment, office, trade, profession or vocation	An employment, office trade profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>

Contract	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the Council:</p> <ul style="list-style-type: none"> <li>(a) under which goods or services are to be provided or works are to be executed; and</li> <li>(b) which has not been fully discharged.</li> </ul>
Land	Any beneficial interest in land which is within the area of the Council including all property and buildings including any residence.
Licence	Any licence (alone or jointly with others) to occupy land in the area of the Council for a month or longer.
Corporate Tenancies	<p>Any tenancy where (to M's knowledge):</p> <ul style="list-style-type: none"> <li>(a) the landlord is the Council; and</li> <li>(b) the tenant is body in which the relevant person has a beneficial interest.</li> </ul>
Securities	<p>Any beneficial interest in securities of a body where:</p> <ul style="list-style-type: none"> <li>(a) that body (to M/s knowledge) has a place of business or land in the area of the Council; and</li> <li>(b) either: <ul style="list-style-type: none"> <li>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</li> <li>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</li> </ul> </li> </ul>

These descriptions on interests are subject to the following definitions:

“the Act” means the Localism Act 2011;

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014, other than a society registered as a credit union;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means the person M referred to in section 30 of the Act;

“member” includes a co-opted member;

“relevant authority” means the Council of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7) as the case may be, of the Act;

“relevant person” in relation to disclosable pecuniary interests means M or M’s spouse or civil partner or a person with whom M is living as husband and wife or a person with whom M is living as if they were civil partners;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000() and other securities of any description, other than money deposited with a building society.

## **2. Dispensations**

The Audit, Governance and Standards Committee or Monitoring Officer may grant you a dispensation, but only in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

## **3. Offences**

It is a criminal offence to:

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election.
- Fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register.
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed to a meeting.
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest.
- As an Executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.
- The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.

## **Appendix 4**

### **Guidance on Bias and Predetermination**

**Note:** This is **not** part of the code of conduct

Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you may participate in a decision on the issue in your political role as a member. However, you must not place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When making a decision, consider the matter with an open mind and on the facts made available to the meeting at which the decision is to be taken.



# **Protocol for Councillor/Officer Relations**

## **1. Introduction**

1.1 Elected Councillors and paid Officers fulfil different but complementary roles. Councillors are the elected representatives of the community and the Officers provide the professional advice and support. This relationship operates at its best as one of partnership. This protocol seeks to guide Councillors and Officers in their relations with one another.

1.2 It is hoped that this protocol will ensure that Councillors and Officers will continue with their respective roles secure in the knowledge that, provided the conditions contained within this protocol are observed, both Councillors and Officers will be protected from accusations of inappropriate conduct or bias.

1.3 The underlying principle of Councillor/Officer relations will, of course, remain the same, namely that the elected Councillors are responsible for agreeing policy and taking all non-delegated decisions; Officers are responsible for providing advice and support, for making decisions under delegated authorities and for ensuring that all the Council's decisions are efficiently and professionally carried out.

1.4 The protocol is supplementary to the Councillors' Code of Conduct, which Councillors undertook to be guided by in their declarations of acceptance of office after election.

## **2. General Rules**

2.1 It is important that any dealings between Councillors and Officers should observe high standards of courtesy and neither party should seek to take unfair advantage of their position.

2.2 A Councillor should not raise matters relating to the conduct or capability of an Officer at any public session of a meeting. In the event that any Councillor has a complaint concerning an Officer's behaviour, conduct or capability and is unable to resolve same through discussions with the Officer concerned, they should raise the matter in the first instance with the Officer's line manager or relevant Head of Function/Director. If after

receiving a written report from the line manager or Head of Function/Director, a Councillor remains concerned, the Chief Executive should be advised. In the event that a decision is taken to take action against an Officer in respect of a complaint lodged by a Councillor, such action shall be conducted in accordance with the Council's disciplinary rules and procedures.

2.3 Similarly, Officers should not raise matters relating to the conduct or capability of a Councillor at any public session of a meeting. Where an Officer feels that he/she has not been properly treated by a Councillor, they should raise the matter with their line manager, Head of Function/Director or the Chief Executive, or Monitoring Officer as appropriate. In the event that the member of staff does not feel able to discuss the matter directly with the Councillor concerned, the line manager, Head of Function, Director, Chief Executive or Monitoring Officer will take the appropriate action by approaching the Councillor concerned and/or his or her group leader.

### **3. Officer Advice to Councillors and Groups**

3.1 Officers serve the Council as a whole and not any individual political group or any individual Councillor.

3.2 The support provided by Officers may involve a briefing meeting prior to a Council, an Executive, committee or sub-committee meeting, and such support, is available to all Councillors and all party groups.

3.3 There are rules for those who provide advice and support to Councillors, such rules relate to both Councillors and Officers. In particular, the rules comprise:

- a) Officer advice and support must relate only to matters of Council business and not to advise on political issues. In the event that an Officer is of the view that it would be inappropriate to provide the advice and support requested by an individual Councillor, he/she may refuse to provide same and will advise their Head of Function, Director or the Chief Executive as appropriate;
- b) Decisions made at party group meetings are not decisions of the Council and must not be treated or acted upon as such by either Councillors or Officers;

- c) Officers should not normally attend formal meetings of political groups and only attend by explicit agreement of the Group and the Chief Executive or Director or a Head of Function;
- d) Where a Councillor requests information from an Officer, that information will not be supplied to any other Councillor unless the Officer supplying the information states at the time of supplying same that the information in question will be made available to other Councillors;
- e) It must not be assumed by any group or individual Councillor that an Officer is supportive of any policy simply because of that Officer's assistance in the formulation of that policy;
- f) In the event that any Councillor or group requires further information of a factual nature prior to a Council, Executive, committee or sub-committee meeting or wishes to query any facts contained in an agenda item or report, they should, wherever possible, ask the relevant Officer prior to the meeting.

#### **4. Support Services to Councillors and Party Groups**

4.1 The Council provides a number of services to Councillors, such as personal computers and IT facilities, etc. Such services are provided to assist them in discharging their role as Councillors.

4.2 In using the Council's IT facilities and, in particular, the internet facility, Councillors must comply with relevant Council policies.

#### **5. Councillors' Access to Information and Council Documents**

5.1 Access to accurate and up-to-date information and professional advice is vital to enable Councillors to fulfil their elected role effectively. However, access to information and protection of individual and community rights is an increasingly sensitive area, and there is a great deal of legal regulation, both common law and statutory, which governs the rights and restrictions relating to Councillors' access to Council-held information. This section attempts to set out the basic principles and rules to enable Councillors to operate effectively within the law.

5.2 Councillors have a right to approach any Senior Officer to ask for information or seek advice. This right extends only to information, explanation and such advice as they may reasonably need in order to assist them in discharging their role as a Councillor. When seeking such advice or information, Councillors should normally approach a senior Officer of the Function concerned or, on particularly sensitive matters, the relevant Head of Function/Director. In the event of any difficulty, Councillors should approach the relevant Head of Function or Director or Chief Executive.

5.3 As indicated in Paragraph 5.1 above, the legal rights of Councillors to inspect Council documents are covered partly by statute and partly by common law.

5.4 Councillors have a statutory right to inspect any Council documents which contain material relating to any business which is to be transacted at a Council, Executive, committee or sub-committee meeting. Such right applies irrespective of whether the Councillor is a member of the body concerned and applies not only to reports which are to be submitted to the meeting in question, but also to any relevant background papers. This statutory right does not, however, apply to documents relating to items which appear within the confidential part of any agenda for a meeting.

5.5 There is no ‘roving commission’ for a Councillor to examine books and documents and the common law right of Councillors is based on the principle that Councillors have a *prima facie* right to inspect Council documents so far as access to the document in question is reasonably necessary to enable the Councillor to perform his/her duties. This is commonly known as “the need to know” principle.

5.6 To exercise the common law right, Councillors must, therefore, prove a need to know. Officers will always do their best to ensure that Councillors are properly informed of significant issues or events affecting their wards or other areas of responsibility. Nevertheless, the requirements of the legislation and, in particular, the Data Protection Act 2018 and the Human Rights Act 1998, make this a difficult area. In matters of concern on this issue, it is for the Officer holding the document in question to determine whether an individual Councillor has a need to know, and such senior Officer may seek advice from the Monitoring Officer in particular cases of difficulty. In the event of dispute relating

to a Councillor's need to know, the matter will be determined by the Audit, Governance and Standards Committee.

5.7 In many cases, a need to know can be presumed. However, where a Councillor requests to see documents containing confidential information, the Councillor will be required to justify the request in specific terms. Certain documents will not be available to Councillors. These documents may contain information which is covered by statute or may be documents which are in the possession of Officers but are likely to be sensitive material, the release of which in the opinion of the Officer would be prejudicial to the Council's interests.

5.8 Further and more detailed advice regarding Councillors' rights to inspect Council documents may be obtained upon request to the Monitoring Officer.

5.9 Any Council information provided to a Councillor must only be used by the Councillor for the purpose for which it was provided (i.e. in connection with the proper performance of the Councillors' duties). Attention is drawn to the relevant section of the Councillors' Code of Conduct:

- a) Not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
  - i. You have the consent of a person authorised to give it; or
  - ii. You are required by law to do so; or
  - 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 Council; and
    3. In all instances listed above you have consulted the Monitoring Officer prior to its release.

5.10 Any Councillor found to be or suspected of being in breach of the requirement to keep the confidentiality of items taken ‘in committee’ will be the subject of a report to the Audit, Governance and Standards Committee.

## **6. Officer/Chair/Lead Councillor Relationships**

6.1 It is obviously important that there should be a close working relationship between the Chair of a committee and the Officers who report to or interact with that committee. This will also apply between the Leader, Lead Councillors on the Executive and the appropriate Heads of Function/Director and other senior Officers. However, such relationships should never be allowed to become so close or appear to be so close as to bring into question an individual Officer’s ability to deal impartially with other Councillors and other party groups.

6.2 The Leader of the Council or the Chair of a committee or sub-committee will naturally be closely involved in the process of formulating an agenda for a meeting, and such bodies and/or the Chair may of course request that matters are placed on an agenda. In addition, Councillors will appreciate that in certain circumstances an Officer will be under a professional duty to submit a report. An Officer will be responsible for the contents of any report submitted in his/her name and, therefore, any amendment to the report will only be made if such amendment reflects the professional judgement of the author of the report. Any issues arising between a Chair and a senior Officer should be referred to the Chief Executive and/or the Monitoring Officer for resolution, in consultation with the Council Leader.

6.3 A decision on Council business may only be taken by the Council, the Leader/Executive, a committee or sub-committee or a Councillor or Officer acting pursuant to delegated powers.

6.4 Finally, it must be remembered that, while Officers may work closely with the Leader, committee Chairs and lead Councillors, they are accountable to their line manager, Head of Function/Director and the Council and cannot go beyond the bounds of whatever authority they may have been given by their line manager, Head of Function/Director or by the Council.

## **7. Correspondence**

7.1 Correspondence, including e-mails, between an individual Councillor and Officer, particularly when it has been initiated by a Councillor, should not normally be copied by the Officer to any other Councillor, unless the Councillor who initiated the correspondence copied it to other Councillors in which case the Officer shall copy his correspondence to those other Councillors. In the event that in certain circumstances it proves necessary to copy the correspondence to another Councillor, this should be made clear to the original Councillor through notation on the correspondence. A system of 'silent copies' should not be employed. Similarly, correspondence sent to all Councillors or groups of Councillors will make the circulation list clear.

7.2 Official letters on behalf of the Council must normally be sent in the name of the appropriate Officer rather than in the name of a Councillor. Letters which create obligations or give instructions on behalf of the Council will not normally be sent out in the name of a Councillor.

## **8. Ward Councillors**

8.1 Whenever a public meeting is organised by the Council to consider a local issue, all Councillors representing the ward or wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, ward Councillors should be notified at the outset of the exercise.

8.2 Officers will not normally attend meetings arranged by Councillors unless this has been discussed and agreed with the appropriate senior Officer or Head of Function/Director in advance in order that proper representation and briefing can be arranged.

8.3 Copies of correspondence to town/parish councils and amenity groups shall always be sent to local ward Councillors, unless the correspondence contains confidential information to which the provisions of Section 5 apply.

## **9. Conclusion**

9.1 Both Councillors and Officers must bear in mind that mutual understanding and basic respect are the greatest safeguard of the integrity of the Council, its Councillors and Officers.

9.2 Copies of this protocol will be issued to all Councillors, together with any other relevant documentation upon their election to the Council.

9.3 Except as specifically provided in this document, questions on interpretation of this protocol will be determined by the Monitoring Officer, unless the provision in question relates to a matter to be determined by the Chief Executive.

9.4 The Audit, Governance and Standards Committee is responsible for reviewing the practical application of this protocol from time to time and making appropriate suggestions for its improvement and development.

9.5 In the event that it is considered that a Councillor or Officer has breached this protocol appropriate action will be taken in accordance with the current Codes of Conduct and/or disciplinary policies and procedures.

# **Planning Committee Members' Code of Good Practice**

## **1. Overview**

**The aim of this Code of Good Practice:** 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.

**The key purpose of Planning:** to control development in the public interest to facilitate place-shaping and community planning as laid out in the Council's Development Plan.

**Your role as a member of the Local Planning Authority:** to make planning decisions openly, impartially, with sound judgement and for justifiable reasons.

**When the Code of Good Practice applies:** this code applies to Councillors at **all times** when involving themselves in the planning process. (This includes decision-making meetings of the Local Planning Authority or when involved on less formal occasions, such as meetings with Officers or the public and consultative meetings.) It applies as equally to planning enforcement matters or site-specific policy issues as it does to planning applications.

**Councillors are reminded that this document is only for general guidance, as it cannot cover all eventualities. It is the individual Councillor's responsibility to act correctly under all circumstances. If you have any doubts about the application of this code to your own circumstances you should seek advice early from the Monitoring Officer or one of the Council's Solicitors, and preferably well before any meeting takes place.**

## **2. Background**

Planning has a positive and proactive role to play at the heart of local government. It is a powerful tool that helps councils achieve the ambitions of local communities. Good planning stimulates growth and promotes innovation. It helps to translate goals for healthier communities, higher employment, better housing, reduced congestion, educational attainment, safe and sustainable communities into action through well-designed medical centres, offices, universities, homes, roads and other facilities vital to achieving them.

Planning decisions involve balancing the needs and interests of individual constituents and the community with the need to maintain an ethic of impartial decision-making on what can be highly controversial proposals.

The planning process is complex and sometimes highly emotive. It is essential that members of the Planning Committee conduct themselves correctly to avoid complaints

which could have personal consequences and may, in some cases, involve the Council in substantial costs.

For many members of the public, the Planning Committee is the most visible operation of the Council, and one that can affect their lives most directly. Some stand to gain substantial financial benefit from the outcome of a Planning Committee decision.

This Code of Good Practice has therefore been prepared to provide members with additional guidance on their role on the Planning Committee.

### **3. Roles of Councillors and Officers**

The planning system works best when the roles and responsibilities of the many participants essential to its effective operation are clearly understood. It is vital that elected Councillors understand their role and the context and constraints in which they operate.

#### **Councillors**

Councillors on the Planning Committee sit as a non-judicial body, but act in a semi-judicial capacity, representative of the whole local community in making decisions on planning applications. They must, therefore:

- a) Act fairly, openly and apolitically;
- b) Approach each planning application with an open mind, avoiding pre-conceived opinions;
- c) Carefully weigh up all relevant issues;
- d) Determine each application on its individual planning merits;
- e) Avoid undue contact with interested parties; and
- f) Ensure that the reasons for their decisions are clearly stated.

The above role applies also to Councillors who are nominated substitutes on the Planning Committee. Where a Councillor, who is neither a member of, nor a substitute on the Planning Committee, attends a meeting of the Committee, he or she is also under a duty to act fairly and openly and avoid any actions which might give rise to an impression of bias or undue influence.

#### **Role of Planning Officers**

Planning Officers advise Councillors on planning policy and planning applications. They will:

- a) Provide professional, objective and comprehensive advice;
- b) Provide a clear and accurate analysis of the issues;
- c) Advise on the Development Plan and other material considerations;
- d) Give a clear recommendation; and

- e) Implement the Committee's/Council's decisions (including those made by Officers under powers delegated to them).

## 4. Members' Code of Conduct

All Councillors must follow the rules laid out in the Members' Code of Conduct to ensure they are, and are seen to be, fair and impartial in their work as a Councillor.

### **Relationship to the Members' Code of Conduct**

**Always** apply the rules in the Members' Code of Conduct first, which must be complied with. The Members' Code of Conduct can be found in your copy of the Council's Constitution.

**Do** then apply the rules in this Planning Code of Good Practice, which seeks to explain and supplement the Members' Code of Conduct for the purposes of planning control.

If you do not abide by this Code of Good Practice, you may put the Council at risk of proceedings on the legality or maladministration of the related decision, and yourself at risk of being named in a report made to the Audit, Governance and Standards Committee of the Council.

## 5. Development Proposals and Interests Under the Councillors' Code of Conduct

**Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with Officers and other members. Disclose your interest prior to the commencement of discussion on the particular matter in which you have an interest.

**Do** then act accordingly.

Where your interest is either a disclosable pecuniary interest or a personal and prejudicial interest.

**Do not** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the Local Planning Authority.

**Do** ask another ward member to represent the views of the ward. If this is not possible then it is recommended that you put those views in writing to the Committee.

**Do not** get involved in the processing of the application.

**Do not** seek or accept any preferential treatment or place yourself in a position that could give the public the impression you are receiving preferential treatment. In other words, if you have a personal and prejudicial interest in a planning application, you should

not seek to use your position as a Councillor to discuss the matter with Officers and other Councillors when a normal member of the public would not have the same opportunity to do so.

**Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal and prejudicial interest to an appropriate Officer (either in person or in writing), this Code of Good Practice places greater limitations on you in representing that proposal than would apply to a normal member of the public.

For example, where you have a personal and prejudicial interest in an application to be put before the Planning Committee, you would have to withdraw from the Committee Room whilst the meeting considers it, whereas an ordinary member of the public would be allowed up to the three minutes to address the Committee and to observe the meeting's consideration of the application. You are permitted to make a statement as per a member of the public, should you choose to do so, but then must withdraw from the meeting. If you declare a disclosable pecuniary interest, then you would also forego the right to make a statement as a member of the public and you must take no part in the proceedings whatsoever.

**Do** also be aware that, where:

- you have been significantly involved in the preparation, submission or advocacy of a planning proposal; or
- you have been appointed or nominated to an outside body or organisation by the Council as its representative; or
- you are a trustee or company director of the body submitting the proposal and were appointed by the Council;

you should always disclose a prejudicial as well as personal interest and withdraw from the meeting of the Planning Committee.

**Do** consider yourself able to take part in the debate on an application when acting as part of a consultee body (where, for example, you are also a member of the town/parish Council or you are both a Somerset West and Taunton Councillor and a Somerset County Councillor), provided:

- the proposal does not substantially affect the well-being or financial standing of the consultee body;
- you make it clear to the consultee body that:
  - your views are expressed on the limited information before you only;
  - you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward,

- town or parish, as and when it comes before the Planning Committee and you hear **all** of the relevant information; and
- you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Planning Committee;
  - you disclose the personal interest regarding your membership or role when the Planning Committee comes to consider the proposal;
  - **Do** notify the Monitoring Officer in writing of your own applications, and those of relatives and close associates, and note that:
    - notification to the Monitoring Officer should be made no later than submission of the application;
    - the proposal will be reported to the Planning Committee where the Officers have recommended the application for approval; and
    - it is advisable that you employ an agent to act on your behalf on the proposal in dealing with Officers and any public speaking at the Planning Committee.

## **6. Fettering Discretion in the Planning Process**

Before considering this section, it will be helpful to the reader to refer to the broad definition of the term 'fettering a discretion' which is set out at Annex A.

**Do not** fetter your discretion and therefore your ability to participate in the decision-making process by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to its formal consideration at the Planning Committee without having heard the full discussion at the meeting.

Fettering your discretion in this way and then taking part in the decision will put the Council at risk of:

- a) Finding of maladministration; and
- b) Legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

**Do** be aware that you are likely to be considered to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal. Through such significant personal involvement, you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.

**Do not** speak and vote on a proposal where you have fettered your discretion. You do not also have to withdraw, but you may prefer to do so for the sake of appearances.

**Do** explain that you do not intend to speak and vote because you have, or you could reasonably be perceived as having, judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes of the meeting.

**Do** take the opportunity to exercise your separate speaking rights as a ward member where you have represented your views or those of local electors and fettered your discretion, but do not have a personal and prejudicial interest.

Where you do:

- advise the Chair that you wish to speak in this capacity before commencement of the item;
- remove yourself from the member seating area for the duration of that item; and
- ensure that your actions are recorded.

## 7. Contact with Applicants, Developers and Objectors

**Do** refer those who approach you for planning, procedural or technical advice to Officers.

**Do not** agree to any formal meeting with applicants, developers or groups of objectors where you can avoid it. Where you feel that a formal meeting would be useful in clarifying the issues, you should never seek to arrange that meeting yourself but should request the Principal Planner to organise it. The Officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the Local Planning Authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Planning Committee.

**Always:**

- follow the rules on lobbying (see below);
- consider whether or not it would be prudent in the circumstances to make notes when contacted; and
- report to the Principal Planner any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition in respect of presentations by applicants or developers:

**Do not** attend a planning presentation unless an Officer is present and/or it has been organised by Officers.

**Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.

**Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application. This will be carried out by the Planning Committee.

**Do** be aware that a presentation is a form of lobbying and you must not express any strong view or state how you or other Councillors might vote.

## **8. Lobbying of Councillors**

Discussions between a potential applicant and a Council prior to the submission of an application can be of considerable benefit to both parties and are encouraged. With the recognition of the need to allow and encourage Councillors to be champions of their local communities it is recognised that Councillor engagement in pre-application discussions on major development is necessary to allow Councillors to fulfil this role.

**Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it would prejudice your impartiality, and therefore your ability to participate in the Planning Committee's decision-making, to express an intention to vote one way or another or take such a firm point of view that it amounts to the same thing.

**Do** remember that your overriding duty is to the whole community not just to the people in your ward. You therefore need to make decisions impartially, that should not improperly favour, or appear to improperly favour, any person, company, group or locality.

**Do not** accept gifts or hospitality from any person involved in, or affected by, a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to register the gift or hospitality where its value is over £25 in accordance with the Council's rules on gifts and hospitality.

**Do** copy or pass on any lobbying correspondence you receive to the Principal Planner at the earliest opportunity.

**Do** promptly refer to the Principal Planner any offers made to you of planning gain or constraint of development, through a proposed S106 Planning Agreement, or otherwise.

**Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality) who will, in turn, advise the appropriate Officers to follow the matter up.

**Do** note that, unless you have a disclosable pecuniary interest or a personal and prejudicial interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:

- listening to, or receiving viewpoints from residents or other interested parties;

- making comments to residents, interested parties, other members or appropriate Officers, provided they do not consist of, or amount to, pre-judging seeking information through appropriate channels;
- being a vehicle for the expression of opinion or speaking at the meeting as a ward member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard **all** the facts and listened to the debate; or
- being a ward member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard **all** the facts and listened to the debate.

## **9. Lobbying by Councillors**

**Do not** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and are likely to have a personal and prejudicial interest requiring your withdrawal from any Planning Committee meeting where the application is discussed.

**Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local Civic Society. However, you will need to disclose a personal interest where that organisation has made representations on a particular planning application and make it clear to that organisation (if approached by them) and the Committee that you have reserved judgement and the independence to make up your own mind on each separate proposal.

**Do not** lobby fellow Councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

**Do not** decide or discuss how to vote on any planning application at any sort of political group meeting or lobby any other Councillor to do so. Political Group Meetings should **never** dictate how Councillors should vote on a planning issue. Any vote taken on political lines will leave the Council open to challenge as set out in section 4 of this code.

## **10. Site Visits**

Whilst it is not the practice for the Planning Committee to make site visits as a Committee, **do** make a personal visit to an application site if you do not feel you will be able to come

to a fair decision without seeing the site. Always try to view the land or building concerned from a public vantage point, for example an adjoining road or a public footpath.

**Do** ensure that any particular observations you make during the site visit, which are not referred to either in the Principal Planner report or the visual presentation, are reported back to the Planning Committee, so that all Councillors have the same information.

**Do** ensure that you treat the site visit only as an opportunity to observe the site to clarify particular issues. Wherever possible, make the visit unaccompanied.

**Do not** hear representations from any other party during the visit. Where you are approached by the applicant, agent or a third party, advise them that they should make representations in writing to the Local Planning Authority and direct them to the Principal Planner.

**Do not** express opinions or views to anyone.

If you need to enter the site the subject of a planning proposal, **do not** do so without the consent of the owner or occupier and **do not** do so in circumstances where you believe you will not be able to abide by the Good Practice Rules. **Do not** accept an invitation to be shown around by either the applicant, agent or a third party unless you are accompanied by one of the Council's Planning Officers.

## 11. Public Speaking at Meetings

**Do not** allow members of the public to communicate with you during the Planning Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.

**Do** ensure that you comply with the Council's procedures in respect of public speaking.

## 12. Officers

**Do not** put pressure on Officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Principal Planner which may be incorporated into any Planning Committee report).

If you wish to discuss a particular planning proposal outside of any arranged meeting, **do** try to contact the relevant Case Officer or, in his/her absence, another Planning Officer or the Principal Planner.

**Do** recognise and respect that Officers involved in the processing and determination of planning matters must act in accordance not only with the Council's Code of Conduct for Employees but also their professional codes of conduct (primarily the Royal Town

Planning Institute's Code of Professional Conduct). As a result, Planning Officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

## 13. Decision-Making

**Do** come to meetings with an open mind and demonstrate that you are open-minded.

**Do** comply with the requirements of the Town and Country Planning Act 1990 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

**Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision. If you feel there is insufficient time to digest new information or, that there is simply insufficient information before you, request that further information. If necessary, defer a decision on an application for planning permission or refuse it.

**Do not** vote or take part in the meeting's discussion on an application unless you have been present to hear the entire debate, including the Officers' introduction to, or visual presentation in respect of, the matter.

**Do** have recorded the reasons for the Planning Committee's decision to defer any proposal.

**Do** make sure that if you are proposing, seconding or supporting a decision contrary to Officer recommendations or the Development Plan, that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

## 14. Training

**Do not** participate in decision-making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.

**Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.

## Annex A

### A Broad Definition of the Term 'Fettering a Discretion'

**Fettering a Discretion** is one of those unfriendly and legalistic phrases which derive from the statutory basis which underlies all local government decision-making. Unfortunately, it is quite difficult to replace, or to translate into normal English. So, here's a broad definition instead:

It means that where a decision-making body (like a Council, or a Committee or an Executive Councillor) is obliged to exercise some discretionary power under statute, then it must **exercise** that discretion fairly, at the right time and only after taking all proper factors into account. (Deciding upon the fate of a planning application is a good example of such a discretion.)

If, instead of keeping that essential open mind, it can be seen that it (or its members) have already **committed** themselves, in one direction or another, **before the moment when that discretion must be exercised** (i.e. **after** all material factors have been considered) then they are said to have 'fettered their discretion'.

The consequence of such pre-judging can be dire. In a bad case, the validity of the decision could be challenged in a number of ways, including through the courts, with painful and expensive consequences for all concerned, including the Council itself, and for individual Councillors who have left themselves open to this criticism



# **Employee Code of Conduct**

## **1. Standards**

1.1 Where the Council or its officers are dealing with a matter in which an Employee has a private interest, either pecuniary or otherwise, he/she should declare that interest in writing to his/her Head of Function/Director who will decide whether or not the interest is of such a nature that it needs to be brought to the attention of the Executive officer who is dealing with it.

1.2 Somerset West and Taunton Council employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality. Employees must not conduct themselves in a manner which could reasonably be regarded as bringing the Council into disrepute

1.3 Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to their Line Manager or Head of Function/Director any impropriety or breach of procedure. Serious breaches should be reported as set in the Council's Whistle Blowing Policy.

## **2. Disclosure of Information**

2.1 Somerset West and Taunton Council believes that open government is best. Certain types of information are required by law to be made available to members, auditors, government departments, service users and the public. Other types of information, particularly that containing confidential or personal information may not be disclosed unless there is specific authorisation to do so. It is the responsibility of chief officers and managers to ensure that all employees can differentiate between that information which may be disclosed and that which may not.

2.2 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way.

2.3 Any personal information about another member of staff or Councillor should not be divulged without that person's prior approval, except where such disclosure is required or sanctioned by the law.

## **3. Political Neutrality**

3.1 Employees serve the Council as a whole. It follows, therefore, 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.

3.2 It is Somerset West and Taunton Council practice that officers (other than chief officers) should not be required to advise political groups. In the rare event of an employee being asked to undertake such an activity they must do so in a manner, which does not compromise their political neutrality. Employees should also seek the Chief Executive's approval prior to attending such a group meeting.

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

## **4. Relationships**

### **4.1 Councillors**

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

### **4.2 The Local Community and Service Users**

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of this Council.

### **4.3 Contractors**

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to an Employee's Head of Function/Director. Orders and contracts must be awarded on merit, by fair competition against other tenders, in accordance with the Council's Contracts Procedure Rules and no special favour should be shown to businesses with particular connections to employees, (e.g. friends, partners or relatives). No part of the local community should be discriminated against.

Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to their Service Manager or Head of Function or Director.

### **4.4 Colleagues**

Employees should treat colleagues with fairness, dignity and respect at all times. Mutual respect between colleagues is essential to good working relationships. The Council will not tolerate bullying, harassment or victimisation of anyone in any form.

## **5. Appointment and Other Employment Matters**

5.1 Employees likely to be involved in appointments must ensure that they have attended the Council's recruitment and selection training course prior to making any appointments. All appointments must be made on the basis of merit. It would be unlawful 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, employees should not be involved in an appointment where they are related to an applicant or have a close personal relationship outside work with him or her.

5.2 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner etc.

## **6. Outside Commitments**

6.1 Senior employees are not permitted to undertake any employment outside the Council especially where this may conflict with the Council's interests. Any employee wishing to undertake other employment must obtain written consent before doing so.

## **7. Personal Interests**

7.1 Employees must declare to their Line Manager in writing any non-financial interests that they consider could bring about conflict with the Council's interests.

7.2 Employees must declare to their Head of Function or Director in writing if they have, or if a person with whom they have a close family or personal relationship has, a financial interest in a contract, potential contract or any financial or other matter being dealt with by the Council.

7.3 Employees who are in debt as a customer to the Council, i.e. Council Tax arrears should declare this to their Head of Function or Director (this does not include payroll debts or approved money owed to the Council, such as car loans, cycle saver scheme etc.). All debts must be declared even if a repayment plan is already in place.

7.4 Where the employee is in a role which involves collecting money or debts owed to the Council or advising customers about meeting payments or other financial obligations this must also be reported to the Section 151 Officer by their Head of Function or Director.

7.5 The circumstances set out in 7.4 above will require the employee to enter into an agreement with the Council for the repayment of all sums owing to the Council as such circumstances may involve a conflict of interest.

7.6 Employees should declare to their Line Manager membership of any organisation not open to the public, such as Freemasonry.

## **8. Equality Issues**

8.1 All employees should ensure that policies relating to equality issues as agreed by this Council are complied with in addition to the requirements of the law. All members of the local community, customers and other employees, irrespective of their age, race, gender, marital status, sexuality and ability, have a right to be treated with fairness and equity.

## **9. Health and Safety**

9.1 The Health and Safety at Work Act 1974 places personal responsibility upon all employees to ensure the health and safety of themselves, colleagues and visitors to the Authority's buildings. All employees should ensure that they are aware of and comply with the provisions of the Act and the Authority's own policy. Employees should also alert their manager or Health and Safety Committee representative of any situation that is likely to cause a risk to health and safety.

## **10. Separation of Roles During Tendering**

10.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Authority. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

10.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and subcontractors.

10.3 Employees 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.

10.4 Employees contemplating a management buy-out should, as soon as they have formed a definite intent, inform the appropriate Head of Function or Director and withdraw from the contract awarding process.

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

## **11. Gifts and Hospitality**

11.1 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the local 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. They should be properly authorised and recorded within the gifts and hospitality book held by the Monitoring Officer.

11.2 When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the Authority.

11.3 Employees should not accept significant personal gifts from contractors or outside suppliers, although the Council would allow employees to keep small items of token value such as pens, diaries etc providing there was no apparent ulterior motive nor any danger of misinterpretation by the public. In any event all gifts and hospitality of £25 and over must be registered in the gifts and hospitality book.

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

## **12. Corruption**

12.1 Employees must be aware that it is a serious criminal offence for them to corruptly receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained

12.2 Employees must refuse an offer of a gift from any person engaged in negotiating a contract or other matter with the Council, or who has negotiated such a matter and the employee is directly responsible for formulating recommendations to the Council or for monitoring the service received from the person concerned.

12.3 Any employee who is pestered or harassed into accepting gifts or other incentives must inform their Line Manager or the Council's Monitoring Officer immediately.

## **13. Use of Council Resources**

13.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Authority.

13.2 Any intellectual property, such as inventions, creative writing and drawings, created during an employee's contractual hours of employment, belongs to Somerset West and Taunton Council. Employees wishing to use such intellectual property for purposes outside the Council or for obtaining copyright should seek written permission from their Line Manager or where appropriate their Head of Function or Director, in liaison with the Monitoring Officer

## **14. Sponsorship - Giving and Receiving**

14.1 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.

14.2 Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

## **15. Bequests**

15.1 Employees should actively discourage clients from bequeathing property, money or other items to them. Where an employee becomes aware that a client intends to bequeath something to them, they must inform their Line Manager immediately. Wherever possible bequests should be declined, either directly to the Client or to the Solicitor responsible for the will.

15.2 Where it is too late to decline a bequest or to do so would cause undue offence, the employee must submit all relevant details to their Head of Function or Director who will authorise the employees to accept/retain the bequeathed items only if they are satisfied that no undue influence has been exerted on the Client by the employee. A record of this authorisation will be held by the Council's Monitoring Officer. Any allegation that undue influence has been brought to bear will be investigated and, if proven, will be treated as gross misconduct under the Council's Disciplinary Procedure.

## **16. Compliance with Council Policies**

16.1 Employees must comply with all current Council including those included/referred to in the Employee Handbook and those relating to the use and security of the Council's computer systems.

# **Somerset West and Taunton Council Arrangements for Dealing with Standards Allegations Under the Localism Act 2011**

## **1. Context**

These “Arrangements” set out how you may make a complaint that an elected Councillor or co-opted Member of this Authority or of a Town or Parish Councillor within its area has failed to comply with the Authority’s Code of Conduct, and sets out how the Authority will deal with allegations of a failure to comply with the Authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a Councillor or co-opted Member of the Authority or of a Town or Parish Council within the Authority’s area, or of a Committee or Sub-Committee of the Authority, has failed to comply with that Authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Authority to appoint at least one Independent Person, whose views must be sought by the Authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Authority at any other stage, or by a Councillor or co-opted Member or Councillor of a Town or Parish Council against whom an allegation has been made.

## **2. The Code of Conduct**

The Council has adopted a Code of Conduct for Councillors, which is part of the Constitution and available for inspection.

Each Town or Parish Council within the Authority’s area is also required to adopt a Code of Conduct. If you wish to inspect a Town or Parish Council’s Code of Conduct, you should inspect any website operated by the Town or Parish Council and request the Town/Parish clerk to allow you to inspect the Town/Parish Council’s Code of Conduct.

## **3. Making a Complaint**

If you wish to make a complaint, please write to The Monitoring Officer, PO Box 866, TAUNTON, TA1 9GS  
or email [a.tregellas@somersetwestandtaunton.gov.uk](mailto:a.tregellas@somersetwestandtaunton.gov.uk)

Telephone: 0300 304 8000

The Monitoring Officer has a statutory responsibility for administering the system in respect of complaints of Councillor misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, **please complete and send us the model complaint form**, which can be

downloaded from the Somerset West and Taunton Council's website – [www.somersetwestandtaunton.gov.uk](http://www.somersetwestandtaunton.gov.uk) – next to the Code of Conduct, and is available on request from Reception at the Council Offices.

If you have difficulty making your complaint in writing, you will be offered assistance. A request for assistance should be made by contacting the Monitoring Officer, whether in person, by phone or by email (whether by yourself or someone assisting you) using the contact details set out above.

Please do provide us with your name and a contact address or email address so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the Councillor against whom you make the complaint, without your prior consent. The Council does not normally investigate anonymous complaints, unless the Monitoring Officer (in consultation with the Independent Person) concludes that there is a clear public interest in doing so and that the fairness of the procedure would be maintained.

It is very important that you set your complaint out fully and clearly and provide all the information at the outset. You should also provide any documents or other material that you wish to be considered. If a complaint does not contain sufficient information, it may not be dealt with.

It is helpful if you provide a covering note summarising what you are complaining about, especially if your complaint includes a lot of supporting documentation. In the summary you should tell us exactly what each person you are complaining about said or did that has caused you to complain. If you are sending supporting documentation, please cross-reference it against the summary of your complaint.

You should be as detailed as possible and substantiate your complaint where you can. Although you are not required to prove your complaint at this stage of proceedings, you do have to demonstrate that you have reasonable grounds for believing that the Councillor(s) complained about has breached the Code of Conduct.

The Monitoring Officer will acknowledge receipt of your complaint within 10 working days of receiving it and will keep you informed of the progress of your complaint. In addition, the Monitoring Officer will also notify the subject Councillor of the complaint and the relevant Town or Parish Council if appropriate.

#### **4. Will Your Complaint Be Investigated?**

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 2 calendar months of receipt of your complaint. Where the Monitoring Officer has taken a decision, you will be informed of that decision and the reasons for it.

Where additional information is required in order to come to a decision, the Monitoring Officer may come back to you and may also request information from the Councillor against whom your complaint is directed. Where your complaint relates to a Town or Parish Councillor, the

Monitoring Officer may also inform the Town or Parish Council of your complaint and seek the views of the Town or Parish Council before deciding whether the complaint merits formal investigation.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the Councillor accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the Authority. Where the Councillor or the Council make a reasonable offer of Local Resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

Therefore, not every complaint received will be formally investigated or referred for some action. As a starting point, the preference will be to resolve complaints without the need for a formal investigation. The factors to be taken into account in reaching a decision are:

- Whether a substantially similar allegation has previously been made by you, or the complaint has been the subject of an investigation by another regulatory Authority;
- Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
- Whether the allegation is anonymous;
- Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and:
  - i. the resources needed to investigate and determine the complaint are wholly disproportionate to the allegations;
  - ii. whether, in all the circumstances, there is no overriding public benefit in carrying out an investigation;
- Whether the complaint appears to be malicious, vexatious, politically motivated or tit-for-tat;
- Whether the complaint suggests that there is a wider problem throughout the Authority;
- Whether it is apparent that the Councillor complained about is relatively inexperienced, or has admitted making an error and the matter would not warrant a more serious sanction;
- Whether a simple apology, training or conciliation would be the appropriate response;
- Whether a reasonable offer of Local Resolution is offered by the Councillor the subject matter of the complaint but is rejected by you.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

The Monitoring Officer may discontinue a complaint or terminate an investigation if they

consider it appropriate to do so, having regard to whether the balance of the public interest lies in continuing to action the complaint.

## **5. How Is the Investigation Conducted?**

If the Monitoring Officer decides that a complaint merits formal investigation, an Investigating Officer may be appointed. That Investigating Officer may be another senior officer of the Authority, an officer of another Authority or an external investigator. The Investigating Officer will decide whether they need to meet or speak to you to understand the nature of your complaint. This will allow you to further explain your understanding of events and suggest what documents the Investigating Officer may need to see or who the Investigating Officer may need to interview.

The Investigating Officer would normally write to the Councillor against whom you have complained and provide him/her with a copy of your complaint. They will ask the Councillor to provide his/her explanation of events and to identify what documents they need to see and/or who he needs to be interviewed. In exceptional cases, the Monitoring Officer may delete your name and address from the papers or delay notifying the Councillor until the investigation has progressed sufficiently where it might prejudice the investigation.

At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the Councillor concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send their final report to the Monitoring Officer.

## **6. What Happens If the Investigating Officer Concludes That There Is No Evidence of a Failure to Comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and, if after consulting the Independent Person, is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the Councillor concerned and to the Town or Parish Council, where your complaint relates to the Town or Parish Councillor, notifying you that no further action is required. A copy of the Investigating Officer's final report will be given to both of you. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, the Investigating Officer may be asked to reconsider their report.

## **7. What Happens If the Investigating Officer Concludes That There Is Evidence of a Failure to Comply with the Code of Conduct?**

The Monitoring Officer will review the Investigating Officer's report and, after consulting the Independent Person, will then either send the matter for Local Hearing before the Hearings Panel or seek a Local Resolution.

- a) Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the

need for a Hearing. In such a case, the Independent Person will be consulted with you as Complainant and seek to agree what you consider to be a fair resolution, which also helps to ensure higher standards of conduct for the future. Such resolution may include the Councillor accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the Authority. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Audit, Governance and Standards Committee and, if appropriate, to the Town or Parish Council, for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will consider whether to refer the matter for a Local Hearing or to still seek the informal resolution route.

b) Local Hearing

If the Monitoring Officer considers that Local Resolution is not appropriate, then the Monitoring Officer will report the Investigating Officer's report to a Hearings Sub-Committee, which will conduct a Local Hearing before deciding whether the Councillor has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Councillor.

The Monitoring Officer will conduct a 'pre-hearing process', requiring the Councillor to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the Hearing. The Chair of the Hearings Sub-Committee may issue directions as to the manner in which the Hearing will be conducted. At the Hearing, the Investigating Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the Member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the Complainant to attend and give evidence to the Hearings Sub-Committee. The Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Sub-Committee as to why they consider that they did not fail to comply with the Code of Conduct.

If the Hearings Sub-Committee, with the benefit of any advice from the Independent Person, concludes that the Councillor did not fail to comply with the Code of Conduct, they will dismiss the complaint, setting out the principal reasons for the decision.

If the Hearings Sub-Committee concludes that the Councillor did fail to comply with the Code of Conduct, the Chair will inform the Councillor of this finding and the principal reasons for the decision and the Hearings Sub-Committee will then consider what action, if any, the Hearings Sub-Committee should take as a result of the Councillor's failure to comply with the Code of Conduct. In doing this, the Hearings Sub-Committee will give the Councillor an opportunity to make representations to the Sub-Committee and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

**8. What Action Can the Hearings Sub-Committee Take Where a Member Has Failed to Comply with the Code of Conduct?**

The Council has delegated to the Hearings Sub-Committee such of its powers to take action in respect of individual Councillors as may be necessary to promote and maintain high standards of conduct. Accordingly, the Hearings Sub-Committee may:

- a) Publish its findings in respect of the Councillor's conduct;
- b) Report its findings to Council or to the Town or Parish Council for information;
- c) Recommend to the Councillor's Group Leader (or in the case of un-grouped Councillors, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- d) Recommend to the Leader of the Council that the Councillor be removed from the Executive, particular Portfolio responsibilities, as Chair of a committee or from a committee itself;
- e) Instruct the Monitoring Officer to, or recommend that the Town or Parish Council, arrange training for the Councillor;
- f) Remove or recommend to the Town or Parish Council that the Councillor be removed from all outside appointments to which he/she has been appointed or nominated by the Authority or Town or Parish Council;
- g) Withdraw or recommend to the Town or Parish Council that it withdraws facilities provided to the Councillor by the Council, such as a computer, website and/or email and Internet access; or
- h) Exclude, or recommend that the Town or Parish Council exclude, the Councillor from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings;
- i) Restricting contact to named officers or requiring contact be through named officers;
- j) Issue a formal letter of advice as to future conduct to the Councillor;
- k) Request that the Councillor tender an apology to such persons as were aggrieved by his or her actions;
- l) Where the Monitoring Officer and the Independent Person are not satisfied that the Councillor has tendered the apology described at k) above or completed such training as arranged at e) above, then the Monitoring Officer shall report the matter to the Chair of the Audit, Governance and Standards Committee who shall cause a meeting of the Hearings Sub-Committee to take place with the purpose of resolving to apply an alternative sanction.

The Hearings Sub-Committee has no power to suspend or disqualify a Councillor or to withdraw Councillors' or special responsibility allowances.

## **9. What Happens at the End of the Hearing?**

At the end of the hearing, the Chair will state the decision of the Hearings Sub-Committee as to whether the Councillor failed to comply with the Code of Conduct and as to any actions which the Hearings Sub-Committee resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Sub-Committee, and send a copy to the Complainant, to the Councillor, any witnesses and to the Town or Parish Council if appropriate, make the decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

## **10. Who Are the Hearings Sub-Committee?**

The Hearings Sub-Committee is a Sub-Committee of the Council's Audit, Governance and Standards Committee. The Sub-Committee shall be politically balanced and comprise of 5 voting Councillors of the Audit, Governance and Standards Committee. The composition of the Sub-Committee shall be determined by the Monitoring Officer after consultation of the Chair of the Audit, Governance and Standards Committee. A Chair of the Sub-Committee shall be elected from among the voting Councillors.

The Independent Person must be present when misconduct complaints against Councillors and co-opted members are being considered by the Hearings Sub-Committee.

At least one co-opted Town or Parish Councillor Member of the Audit, Governance and Standards Committee and one co-opted independent Member of the Audit, Governance and Standards Committee must be present when misconduct complaints against Councillors and co-opted members are being considered by the Hearings Sub-Committee.

## **11. Revision of These Arrangements**

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Hearings Sub-Committee, the right to depart from these arrangements where they consider it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **12. Appeals**

There is no right of appeal for you as Complainant or for the Member against a decision of the Monitoring Officer or of the Hearings Sub-Committee.

If you feel that the Council has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.



# **Somerset West and Taunton Council**

## **Roles and Responsibilities of Councillors**

### **Background**

The new Council will face many challenges and will be ambitious in its objectives. Particular issues that it will want to address include:

- The opportunities for ‘commercialisation’ by which services are more effectively commissioned and delivered
- Further and extensive use of modern technology to access and deliver services
- To maximise opportunities for regeneration of parts of the new Authority and thereby maximising opportunities for businesses and the creation of new jobs.
- Dealing with financial pressures in a way that seeks to ‘deliver more with less’
- Creating opportunities for ‘locality-based’ decision-making
- To help address ‘climate change’ by aiming to make Somerset West and Taunton carbon neutral by 2030

In order for the Council to fully deliver its new ambitions, it is important that all Members within the Council are able to carry out their roles in a way that delivers effective change in the shortest possible time. Below is a summary of the key points that will set the framework for what will be expected of Councillors in the new Council.

### **Roles and Responsibilities of All Councillors**

Over-riding responsibility to demonstrate community leadership through representing their community at individual, ward and council level objectively taking into account all views and information before reaching their own view of how to act for the greater good.

In particular, to:

- Represent the community within the Council and other agencies
- Deal with individual casework fairly and without prejudice
- To help resolve issues raised by constituents/community groups, working with Officers when necessary
- Campaign on some local issues
- Keep in touch with constituents
- Engage with groups within the community
- Make well-informed decisions at Council meetings
- To be collectively responsible for Council Policy
- Work with partners and outside bodies as a representative of the Council
- Liaise with local parish councils/local organisations
- Proactively engage in the Scrutiny process
- Proactively engage with individual executive portfolio areas
- To undertake appropriate training
- To abide by the Code of Conduct

### **Role and Responsibilities of the Scrutiny Member**

- The Scrutiny Committee Member reviews and scrutinises decisions made or actions taken by the Executive. They may also be involved in policy development prior to decisions being taken by the Executive. The Committees may make reports and recommendations to full Council and the Executive and any relevant partner in connection with Council functions.
- Assist with the development of an effective work programme
- Engage with all stages of the scrutiny process
- Collectively develop a constructive relationship with the Executive, especially with relevant portfolio holders
- Collectively develop a constructive relationship with Corporate Leadership Team in the areas that the Committee scrutinises
- Be collectively responsible for outputs and outcomes of scrutiny
- Receive evidence in an impartial manner

- Analyse information presented to the Committee
- Make recommendations based on the Committee's deliberations

**Role and Responsibilities of the Chairs of the Main Committees including Scrutiny Committee, Audit, Governance and Standards Committee, Licensing Committee and Planning Committee**

- Lead the work of the Committee and ensure it carries out its business effectively and efficiently within its terms of reference
- Chair the meetings impartially and in such a way as to facilitate proper discussion
- Ensure that contributions by the public are facilitated and controlled in accordance with agreed procedure
- Liaise with Officers on the contents of the agenda
- Act as spokesperson for the Committee and liaise as appropriate with external entities
- Encourage high standards of conduct
- Work with Officers to ensure Committee Members develop necessary skills
- Monitor the outcome of the Committee's decisions and follow up on action points

**Roles and Responsibilities of the Chair of the Council**

- Represent the whole community served by the Council
- Preside over meetings of the full Council
- Act as host on behalf of the Council and/or citizens of the area at functions arranged by the Council
- Attend important functions as a representative of the Council
- Perform official openings or presentations
- Promote business, commercial and community activities
- Uphold the office of the Chair
- Notwithstanding representing the Ward for which they were elected as a Ward member bearing in mind they have a view not just as the Chairman but as an individual councillor.

### **Role and Responsibilities of an Executive Member**

- The Executive Member is responsible for delivery of services within the ambit of the portfolio
- Participate effectively as an Executive Member taking joint responsibility for all actions and be collectively accountable
- Build good relationships with appropriate officers and work with them in developing policy
- To take a proactive approach to the early engagement of scrutiny Committees to help in policy development
- Give political direction to Officers working within the portfolio
- Ensure up to date knowledge of related developments and policies at national, regional and local level
- Enhance the Council's reputation through taking the national stage where possible and participating in regional and national networks
- Have an overview of performance management, efficiency and effectiveness of the portfolio
- Represent the Executive by attending scrutiny Committees if requested in connection with any issues associated with the portfolio and consider scrutiny reports as required
- Make executive decisions within the portfolio
- Act as a strong, competent and persuasive figure to represent the portfolio and a figurehead in meetings with stakeholders
- Be prepared to take part in learning and development opportunities to ensure that the role is undertaken as effectively as possible
- Represent the Council on external bodies and feedback to the Executive any issues of relevance and importance.
- Undertake to consider the views of Council members with due weight as well as that of the "executive" for the well-being and benefit of the Council Wards.

### **Role and Responsibilities of the Deputy Leader**

- Assist and work with the Leader of the Council in delivering their responsibilities to the Council
- Deputise for the Leader of the Council in their absence from Executive meetings

- Carry out the requirements of their role so far as legally possible in the absence of the Leader of the Council
- Carry out such other duties and undertake portfolio responsibility as delegated by the Leader of the Council
- Undertake to consider the views of Council members with due weight as well as that of the “executive” for the well-being and benefit of the Council Wards.

### **Role and Responsibilities of the Leader**

#### *A) Leadership*

- Provide an overall cohesive, corporate and strategic leadership and direction for the Council
- Lead and chair the Executive and ensure its overall effectiveness
- Lead in developing the Council’s partnerships with other organisations
- Work with portfolio holders to ensure effective delivery of services within their portfolios against the agreed policies of the Council, and to ensure the delivery of the Executive’s responsibilities
- Ensure effective communication and explanation of all Executive’s decisions and recommendations to Council and the public
- Ensure that the Executive manages the business of the Council within the financial limits set by the Council
- Ensure members of the Executive and all councillors abide by Somerset West and Taunton’s code of conduct
- Undertake to consider the views of Council members with due weight as well as that of the “executive” for the well-being and benefit of the Council Wards.
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#### *B) Overall responsibility*

- Ensure that Executive exercises responsibility for the prudent management of the Council’s budget
- Have overall responsibility for the political management of the authority and the delivery of agreed Council priorities, strategies and policies

#### *C) Working with partners*

- Be the main representative of the Council, with others as appropriate, in dealing with the community, business, voluntary sector and other local, regional and national organisations
- Ensure effective liaison with other political groups within the Council
- Undertake to consider the views of Council members with due weight as well as that of the “executive” for the well-being of the Council Wards.

# LEADERSHIP TEAM

## Chief Executive

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Head of Customer

Head of Commercial and Investment

Head of Localities

Executive Director and Deputy Chief Executive

Head of Strategy

Head of Performance and Governance

Head of Communications and Engagement

- Resolve as many customer enquires as possible at first point of contact
- Promote and support 'channel shift'.
- Providing accurate advice and guidance; and proactively providing additional services to customers where appropriate.

- Enables and delivers major and strategically significant projects, schemes and programmes relating to the place
- Delivering defined outcomes to cost, time and quality and in line with our commercial ambitions

- Developing and delivering our Localities Strategy
- Work strategically with partners, stakeholders and customers to understand localities needs .
- Undertake a wide range of direct service delivery including operational services, looking after the place and our open spaces.

- Responsibility for the ongoing Change programme
- Strategic and Financial Management
- Technology including infrastructure and applications.

- Set the strategic plans and priorities working collaboratively with partners and all parts of the Council
- Set out in our Strategic plans for People, Place and Prosperity.

- Performance & Risk Management
- Governance & Elections,
- Business Strategic support on Procurement,
- People Management
- Data and information Management

- Keeping internal and external customers, including tenants, informed
- Lead the engagement of our customers.
- Provide marketing function to the Council including customer insight
- Promotion of commercial and income generating services,

