

# **BUCKINGHAMSHIRE COUNTY COUNCIL**

## **(Draft Amended 21/5/01)**

### **CONSTITUTION OF THE COUNCIL**

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# **PART 1**

## **SUMMARY AND EXPLANATION**

### **The Council's Constitution**

Buckinghamshire County Council has agreed a new Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, while others are the Council's own choice.

The Constitution is divided into 16 Articles which set out the basic rules governing the Council's business. More detailed procedures and Codes of Practice are provided separately at the end of the document.

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

This Constitution has been written in response to the Local Government Act 2000. It provides the framework for decision making by the Executive and for the discharge of responsibilities by the Council and the Overview and Scrutiny Committees.

Members of the Cabinet are collectively responsible for the decisions made by the Cabinet and responsible for decisions they make individually. There will be a high degree of personal visibility, ensuring that decisions taken are transparent, robust, and clearly documented. Buckinghamshire County Council is committed in the Council Plan, which forms part of the Local Performance Plan, to working in partnership with public and private sectors to provide the best service for the people of Buckinghamshire.

Through the operation of its Constitution, and the Council Plan, the Council will seek to:-

- (a) Facilitate a wider understanding of democratic values within the community, particularly amongst young people, and provide greater knowledge of how the Authority operates and its decision making process;
- (b) Enable the public to have a wider understanding of the role and duties of elected members and of the concept of public service;
- (c) Create an effective means of holding decision-makers to public account;
- (d) Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- (e) Ensure that the Authority's decisions are subject to effective scrutiny and are taken without conflicts of interest damaging to the well being of the community;

- (f) Provide a means of securing best value for the community in the delivery of services;
- (g) Facilitate effective working with key community, regional national and international partners in promoting the best interests of the people of the area.

Articles 2 – 16 explain the rights of the public and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- The public and the Council (Article 3).
- The Council meeting (Article 4).
- Chairing the Council. (Article 5).
- Overview and Scrutiny of decisions (Article 6).
- The Cabinet (Article 7).
- The Standards Committee (Article 9).
- Local Committees (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).

### **How the Council Operates**

The Council is composed of 54 Councillors elected every four years. Councillors are democratically accountable to residents of their electoral area. The overriding duty of Councillors is to the whole community, but they have a special duty to all their constituents.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee oversees training and advises on the code of conduct.

All Councillors meet together as the Council. Meetings of the Council are open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council's decisions are divided between:

- (a) Strategic Decisions, which are decisions regarding Policy or Resource allocation reserved by law as matters which must be determined by the Council;
- (b) Reserved Decisions, which are delegated by the Council to a Committee of the Council, whether in the Terms of Reference of Committees or otherwise;
- (c) Key Decisions, which are allocated to the Leader and individual members by this Constitution, and are therefore subject to consultation, referral and reporting requirements.
- (d) Administrative Decisions, which are delegated by the Cabinet to officers
- (e) Council Delegated Decisions, (Non Executive) which are delegated from the Council or a Committee to officers.

The Council delegates to its Leader and Cabinet members, Chief Officer of the Council, Strategic Managers and Heads of Service the powers and duties necessary to discharge Buckinghamshire County Council's functions within broad areas of responsibility, together with the specific delegations so defined. This should be taken to include powers and duties within those descriptions under all present and future legislation, and all powers incidental to that legislation including the application of the incidental powers under Section 111 of the Local Government Act 1972. This also includes the power to affix the Common Seal of the Buckinghamshire County Council, and to enter contracts under Section 1 of the Local Government (Contracts) Act 1997.

### **How Decisions are Made**

The Cabinet is the part of the Council that is responsible for most day-to-day decisions. The Cabinet is made up of the Leader, elected by the Council, and 7 Councillors appointed by the Leader who together make up the Cabinet one of whom will be the Deputy Leader. When major decisions are to be discussed or made, these are published in the Cabinet's Forward Plan in so far as they can be anticipated. If these major decisions are to be discussed with Council officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet 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.

### **Overview and Scrutiny**

There are 5 Overview and Scrutiny Committees which support the work of the Cabinet and the Council as a whole. They allow the public to have a greater say in Council matters by holding inquiries into matters of local concern. These lead to reports and

recommendations, to advise the Cabinet and the Council as a whole on its policies, budget and service delivery. Overview and Scrutiny Committees also monitor the decisions of the Cabinet. They can 'call-in' a decision that has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsiders the decision.

Overview and Scrutiny Committees may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

### **The Council's Staff**

The Council employs officers to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and members of the Council.

### **The Public's Rights**

The public 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. The local Citizens' Advice Bureau can advise on individuals' legal rights.

Where members of the public use specific Council services, for example as a parent of a school pupil or as a Council tenant, eg Social Services, they have additional rights. These are not covered in this Constitution.

The public have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- petition the Council for a mayoral structure and vote in any subsequent Referendum.
- attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- find out, from the Cabinet's Forward Plan, what major issues are to be discussed or decided by the Cabinet, and when;
- attend meetings of the Cabinet where key decisions are being discussed or decided;

- see (non confidential) reports and background papers, and any record of decisions made by the Council and Executive;
- complain to the Council about a range of matters, listed in the Councils complaints procedure;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Standards Board for England if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes public participation in its work. A statement of the rights of the public to inspect agendas and reports and attend meetings is available from the Head of Secretariat on request.

## **PART 2**

# **ARTICLES OF THE CONSTITUTION**

### **ARTICLE 1 – THE CONSTITUTION**

#### **1.1 Powers of the Council**

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

#### **1.2 The Constitution**

This Constitution, comprising Parts 1-7 herein, is the Constitution of the Buckinghamshire County Council.

#### **1.3 Purpose of the Constitution**

The purpose of the Constitution is to:

- enable the Council to provide clear leadership to the community in partnership with the public, businesses and other organisations;
- support the active involvement of the public in the process of local authority decision-making;
- help Councillors represent their constituents more effectively;
- enable decisions to be taken efficiently and effectively;
- create 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; and
- provide a means of improving the delivery of services to the community.

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

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



The Council has instructed the Monitoring Officer to keep the Constitution up to date and to make any amendments which are required to reflect any changes, whether made by the Council or the Cabinet or by legislation.

## ARTICLE 2 – MEMBERS OF THE COUNCIL

### 2.1 Composition and Eligibility

- (a) **Composition.** The Council will comprise 54 members, otherwise called Councillors. One Councillor will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Only registered voters of the county or those living or working there will be eligible to hold the office of Councillor.

### 2.2 Election and Terms of Councillors

The election of the whole Council takes place every four years.

**Election and terms.** The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2005, unless varied by legislation. 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**

All Councillors will:

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

(b) **Rights and duties**

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.

2.4 **Conduct**

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

2.5 **Allowances**

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

## ARTICLE 3 – THE PUBLIC AND THE COUNCIL

### 3.1 The Public's Rights

The public's rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution. In general they have the following rights:-

- (a) **Voting and petitions.** Those on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution, in accordance with the timetable as prescribed under legislation.
- (b) **Information.** The public have the right to:
  - (i) attend meetings of the Council, the Council committees and the Cabinet except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
  - (ii) attend meetings of the Cabinet when key decisions are being considered;
  - (iii) find out from the Forward Plans what key decisions will be taken by the Cabinet and when;
  - (iv) see reports and background papers, and any records of decisions made by the Council and the Cabinet; except in all cases where confidential or exempt information is being discussed, and
  - (v) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Complaints.** The public have the right to complain to:
  - (i) the Council itself under its complaints scheme;
  - (ii) the Ombudsman after using the Council's own complaints scheme;
  - (iii) the Standards Board for England about a breach of the Councillor's Code of Conduct.

### 3.2 **The Public's Responsibilities**

The public also have responsibilities. They must not be violent, abusing or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.

## ARTICLE 4 – THE FULL COUNCIL

### 4.1 Functions of the Full Council

Only the Council will exercise the following functions:

- (a) adopting and changing principles of Cabinet governance;
- (b) approving or adopting the policy framework and the budget.
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or budget;
- (d) appointing the Leader;
- (e) agreeing and/or amending the terms of reference for committees, deciding on their composition;
- (f) adopting an allowances scheme under Article 2.5;
- (g) changing the name of the area
- (h) promoting or opposing the making of local legislation or personal Bills;
- (i) arrange for the exercise of all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself or its committees rather than the Cabinet; and
- (j) all other matters which, by law, must be reserved to Council.

### 4.2 Meanings

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

These fall into three separate groups:

- (i) those required by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and regulations proposed under section 32 of the Local Government Act 2000 to be adopted by the Council:
  - Annual Library Plan;

- Best Value Performance Plan (Local Performance Plan)
  - Children’s Services Plan;
  - Community Care Plan;
  - Community Strategy;
  - District based Crime and Disorder Reduction Strategies;
  - Early Years Development Plan;
  - Education Development Plan;
  - Local Transport Plan;
  - Plans and strategies which together comprise the Development Plan;
  - Youth Justice Plan.
- (ii) those other plans and strategies which Chapter 2 of DETR Guidance recommends should be adopted by the Council as part of the Policy Framework:
- Food Law Enforcement Service Plan;
  - Adult Learning Plan;
  - Local Agenda 21 Strategy;
  - Quality Protects Management Action Plan.
- (iii) any other plans and strategies which the Council may decide should be adopted by the Council meeting as a matter of local choice.
- nil at present
- (b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the Council tax and the Council’s decisions relating to the Council’s borrowing requirements, its capital expenditure and the setting of virement limits.

#### 4.3 **Responsibility for Functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council’s functions, which are not the responsibility of the Cabinet.

#### 4.4 **Council Meetings**

There are three types of Council meeting:

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

They will be conducted in accordance with the Council's Standing Orders in Part 4 of this Constitution.



## **ARTICLE 5 – CHAIRMAN OF THE COUNCIL**

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

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

### **5.2 Chairing the Council**

The Chairman will be elected by the Council annually. The Chairman will have the following responsibilities:

- (a) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet and Committee Chairmen to account;
- (d) in the event of voting at the Council meeting being equal the Chairman shall have a second or casting vote.
- (e) to uphold and enforce the rules of good debate.
- (f) to promote public involvement in the Council's activities;
- (g) to attend such civic and ceremonial functions as the Council as he/she determines appropriate

## ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES

### 6.1 Terms of Reference

The Council will appoint the Overview and Scrutiny Committees set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 or regulations under section 32 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table. This list currently includes the following services but is not necessarily exhaustive.

Overview and Scrutiny Committee	Summary of Services
Environment of Buckinghamshire	<ul style="list-style-type: none"> <li>• Countryside Services</li> <li>• Gypsies</li> <li>• Waste Management</li> <li>• Emergency Planning</li> <li>• Highways, Infrastructure and Transportation</li> <li>• Traffic and Road Safety</li> <li>• Highway Lighting</li> <li>• Planning and Control of the Environment</li> <li>• Trading Standards</li> </ul>
Personal Care	<ul style="list-style-type: none"> <li>• Community Safety</li> <li>• Coroner’s Service</li> <li>• Children and Families supported by the Council including both their care and educational needs</li> <li>• Services for people with a physical or learning disability</li> <li>• Services for other adults and older people</li> <li>• Mental Health</li> </ul>
Lifelong Learning	<ul style="list-style-type: none"> <li>• Services for Pupils, Students and Families</li> <li>• Youth Service</li> <li>• Services for Children with Special Needs</li> <li>• Libraries, Museums, Records, Local Studies</li> <li>• Sport and Culture</li> <li>• Continuing Education/Awards</li> <li>• Early Years Services</li> <li>• Schools Support and their activities</li> <li>• Planning and Information</li> <li>• Admissions Policy</li> <li>• Lifelong Learning Partnership</li> <li>• Learning and Skills Councils and Connexions</li> <li>• Education budgetary matters</li> <li>• All other Education matters</li> </ul>

<b>Overview and Scrutiny Committee</b>	<b>Summary of Services</b>
Partnership	<ul style="list-style-type: none"> <li>• Community Planning Partnership</li> <li>• External Relations</li> <li>• Working with Partners</li> <li>• Economic Development</li> <li>• YOT and links with Probation Service</li> <li>• Community Planning</li> <li>• Overview of Key Partnerships</li> <li>• Health Service and PCGs</li> <li>• District Councils</li> <li>• Relationships with Parish Councils</li> <li>• Consultation with the Community and special interest groups</li> <li>• Corporate Grants and support to voluntary organisations</li> </ul>
Corporate Performance	<ul style="list-style-type: none"> <li>• Policy Framework overall and Local Performance Plan</li> <li>• Overall Performance of the Council</li> <li>• Revenue and capital strategies</li> <li>• Internal and External Communications</li> <li>• Best Value Performance (but not Best Value Reviews unless commissioned)</li> <li>• Review of the Decision Making Processes</li> <li>• The Constitution</li> <li>• Financial Services</li> <li>• Legal Services</li> <li>• Human Resources</li> <li>• All aspects of Asset Management</li> <li>• Contracts and Purchasing</li> <li>• Architectural Services</li> <li>• Health and Safety</li> <li>• ICT</li> </ul>

Where a matter overlaps between two or more Overview and Scrutiny Committees, this will not limit the area of responsibility of either Committee, but the Chairmen of the respective Committees should agree on a programme of work to avoid duplication and may wish to consider a joint time limited sub group for this purpose. For the avoidance of doubt all matters relating to education will only be considered by the Lifelong Learning Overview and Scrutiny Committee.

## 6.2 **General Role**

Within their terms of reference, Overview and Scrutiny Committees will:

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions;
- (c) consider any matter affecting the area or its inhabitants; and
- (d) exercise the right to call-in proposals for consideration, as well as the right to call-in for reconsideration decisions made, by the Cabinet or an individual Cabinet member but not yet implemented.
- (e) consider any matters referred to it by the Council or the Cabinet.

### 6.3 Specific Functions

- (a) **Policy development and review.** Overview and Scrutiny Committees may:
  - (i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
  - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
  - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  - (iv) question members of the Cabinet and senior officers about their views on issues and proposals affecting the area; and
  - (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
  
- (b) **Scrutiny.** Overview and Scrutiny Committees may:
  - (i) review and scrutinise the decisions made by and performance of the Cabinet and Council officers both in relation to individual decisions and over time;
  - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
  - (iii) question members of the Cabinet and Senior officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
  - (iv) make recommendations to the Cabinet and/or Council arising from the outcome of the scrutiny process;
  - (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and
  - (vi) question and gather evidence from any person (with their consent).

- (c) **Finance.** Overview and Scrutiny Committees may exercise overall responsibility for the finances made available to them (if any), in accordance with the Financial Regulations set out in Part 4.
- (d) **Annual report.** Overview and Scrutiny Committees must report annually to full Council on their work.

#### 6.4 **Proceedings of Overview and Scrutiny Committees**

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

## **ARTICLE 7 – THE CABINET**

### **7.1 Role**

The Cabinet will carry out all of the Authority’s functions which are not the responsibility of any other part of the Authority, whether by law or under this Constitution.

### **7.2 Form and Composition**

The Cabinet will consist of the Leader together with 7 Councillors appointed to the Cabinet by the Leader.

### **7.3 Leader**

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

- (a) he/she resigns from the office; or
- (b) he/she 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) he/she is no longer a Councillor; or
- (d) he/she is removed from office by resolution of the Council on receipt of a Notice of Motion signed by at least 10 Councillors after having given at least 10 days Notice of the same to the Head of Secretariat; or
- (e) he/she is removed from office by simple resolution of the Council (at the meeting of Council following a change in political control of the Council, as signalled to the Head of Secretariat of changes in the composition of the various political groups such that a different group or combination of groups now comprise a majority of the membership of the Council).

Should the situation arise where the Leader no longer holds office as mentioned above, the Deputy Leader will carry out the role and duties of Leader until such time as the Council elects a Councillor to the position of Leader.

#### 7.4 **Other Executive Members**

##### *Appointment of Cabinet*

Following his/her election the Leader will appoint a Deputy Leader and the remaining six members of his Cabinet.

Only Councillors may be appointed to the Cabinet. There may be no co-optees and no deputies or substitutes for Cabinet members. Neither the Chairman nor Vice Chairman of the Council may be appointed to the Cabinet and members of the Cabinet (including the Leader) may not be members of an Overview and Scrutiny Committee.

Other Cabinet members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer Councillors; or
- (d) they are removed from office by the Leader who must give written notice of any removal to the Chief Officer of the Council. The removal will take effect two working days after receipt of the notice by the Chief Officer of the Council.

#### 7.5 **Proceedings of The Cabinet**

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

#### 7.6 **Responsibility for Functions**

The Council may, as part of its Executive Arrangements, allocate specific functions to the Cabinet, to individual Cabinet members (including the Leader) or to Officers. In respect of all Executive decisions, the Leader will determine whom within the Cabinet shall be responsible for the discharge of each particular function or activity. The Leader will therefore determine which Executive functions shall be retained for decision by the Cabinet, which may be allocated to individual members and which shall be discharged by officers. These responsibilities may be amended by the Leader on written notice to the Head of Secretariat who will report on the amendments to the next meeting of the Council.



## **ARTICLE 8 – REGULATORY AND OTHER COMMITTEES**

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

These committees are appointed to carry out functions that are reserved to the Council and the duties of the same shall not be delegated either to the Cabinet or any individual Cabinet member.

The Council will appoint the committees, detailed in the following schedules. Part 3 of this Constitution details responsibility for discharge of Council functions.

## **ARTICLE 9 – THE STANDARDS COMMITTEE**

### **9.1 Standards Committee**

The Council will establish a Standards Committee.

### **9.2 Composition**

Standards Committees do not have to comply with the political balance rules in Section 15 of the Local Government and Housing Act 1989.

The Standards Committee will be composed of six Councillors, including the Chairman or Vice-Chairman of the County Council plus two independent members.

These six councillors shall select a pool of independent members (following submission of applications for the position)

The Monitoring Officer shall select any two available independent members from this pool for any meeting of this Committee.

The Leader may not be a member of the Standards Committee.

A member of the Cabinet may not chair the Committee.

### **9.3 Role and Function**

The Standards Committee shall, subject to any legislative provisions, have the following roles and functions:

- (a) To promote and maintain high standards of conduct by members and to assist all members to observe the Council's code of conduct of members.
- (b) To consider complaints against any member relating to alleged breach of the National Code of Local Government Conduct or such local code as shall replace the National Code, to make findings of fact and decisions in respect of the action to be taken, and where necessary to make recommendations to the County Council.
- (c) To consider the implications for the Council and the proper conduct of its business of the application of the principles of conduct proposed by the DETR and adopted by the Council and to recommend any action required to facilitate compliance with those principles.
- (d) To consider any report referred to it by an Ethical Standards Officer of the Standards Board and to determine any such matters and the exercise of any powers of sanction available to it.

- (e) To advise and bring forward proposals to the Council on a local code of conduct, including provisions which properly reflect the mandatory elements of the Model Code to be produced nationally, once such a code is available.
- (f) To monitor the local code of conduct and to propose such amendments, deletions and additions as shall be needed from time to time to the Council.
- (g) To oversee the implementation of the code including, in particular, the training of Councillors in matters of conduct.
- (h) To advise the Council on any aspects of Standing Orders relating to conduct, or otherwise on propriety.
- (i) To support the Monitoring Officer in discharging his/her role in respect of standards of conduct and behaviour
- (j) To approve and keep under review the Council's Whistleblowing Code of Practice in accordance with the Public Interest Disclosure Act 1998

## **ARTICLE 10 – LOCAL COMMITTEES AND FORUMS**

### **10.1 Local Committees**

The Council may appoint local committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

The Council will consult with relevant parish and town councils and the chairmen of relevant parish meetings when considering whether and how to establish local committees.

The Council has four local committees, covering each District Council area. At present these committees are advisory only.

### **10.2 Local Committees - Conflict of Interest.**

If an Overview and Scrutiny Committee is scrutinising specific decisions or proposals in relation to the business of the local committee of which the Councillor concerned is a member, then the Councillor may not speak or vote and should withdraw at the Overview and Scrutiny Committee meeting unless a dispensation to do so is given by the Standards Committee.

**General policy reviews.** Where the Overview and Scrutiny Committee is reviewing policy generally the member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.

### **10.3 Executive Members on Local Committees**

A member of the Cabinet may serve on a local committee if otherwise eligible to do so as a Councillor.

## **ARTICLE 11 – JOINT ARRANGEMENTS**

### **11.1 Joint Arrangements**

The Local Government Act 2000 and regulations enable local authorities to make use of joint arrangements with other authorities and delegate functions to other local authorities.

At the present time the County Council has no such joint arrangements.

## ARTICLE 12 – OFFICERS

### 12.1 Management Structure

Appointment of staff cannot be the responsibility of the Cabinet. Appointment of staff below other than Strategic Managers and Statutory Officers level must be the responsibility of The Head of Paid Service or his/her nominee.

(a) **General.**

The full Council may engage such officers as it considers necessary to carry out its functions.

(b) **Statutory Officers**

Certain Officer posts are required under either the Local Government Finance Act 1988 or the Local Government and Housing Act 1989.

### 12.2 Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Council will designate the following posts as shown:

<b>Post</b>	<b>Designation</b>
Chief Officer to the Council	Head of Paid Service
Head of Secretariat	Monitoring Officer
Head of Finance	Chief Finance Officer

Such posts will have the functions described in Articles 12.4–12.6 below.

### 12.3 Structure

The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. An initial organisational structure is set out at Part 7 of this Constitution.

### 12.4 Functions of the Head of Paid Service

#### **Discharge of functions by the Council**

The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

## 12.5 **Functions of the Monitoring Officer**

### (a) **Maintaining the Constitution**

The Monitoring Officer will ensure that the Constitution is kept up to date and amended to reflect changes in legislation and decisions of the Council and the Cabinet.

### (b) **Ensuring lawfulness and fairness of decision making.**

After consulting with The Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an Executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

### (c) **Supporting the Standards Committee**

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

### (d) **Receiving reports**

The Monitoring Officer will receive and act on reports made by Ethical Standards Officers and decisions of the case tribunals.

### (e) **Conducting investigations**

The Monitoring Officer will conduct investigations into matters referred by Ethical Standards Officers and make reports or recommendations in respect of them to the Standards Committee.

### (f) **Proper officer for access to information**

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

### (g) **Advising whether Cabinet decisions are within the budget and policy framework**

The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework in consultation with the Chief Finance Officer and the Head of Cabinet Support.

(h) **Providing advice**

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

(i) **Restrictions on posts**

The Monitoring Officer cannot be the Chief Finance Officer or The Head of Paid Service.

## 12.6 **Functions of the Chief Finance Officer**

(a) **Ensuring lawfulness and financial prudence of decision making**

After consulting with The Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Cabinet in relation to an Executive function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

(b) **Administration of financial affairs**

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

(c) **Contributing to corporate management**

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) **Providing advice**

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.

(e) **Give financial information**

The Chief Finance Officer will provide financial information to the media, members of the public and the community.



## 12.7 **Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer**

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

## 12.8 **Conduct**

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

## 12.9 **Employment**

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

## 12.10 **Heads of Service**

Heads of Service have delegated to them all the powers of the Cabinet other than those reserved to the Cabinet or delegated to Committees and individual members of the Cabinet by Statute or this Constitution. This delegation is subject to:

- (a) such protocols as may be approved by the Chief Officer of the Council from time to time and deposited with the Head of Secretariat
- (b) The Policy Framework
- (c) any consequent expenditure being included in the Council's Revenue Budget or approved Capital Programme
- (d) The requirements of the Council's Contract Standing Orders and Financial Regulations
- (e) The approval of the Property Services Manager to dealings in land and property. The Head of Property is authorised to approve any dealing unless the consideration or value of the interest involved exceeds the figure of £500,000 .
- (f) The approval of the Legal Services Manager to the instigation of Legal proceedings
- (g) The ability of the person or body by whom the power is delegated to the Chief Officer (or the Cabinet as a body) being able to exercise the power itself notwithstanding the delegation, and the ability of the Chief Officer to refer the matter for decision to the person or body by whom the power is delegated (or the Cabinet as a body) where appropriate. All powers

delegated to Heads of Service may also be exercised by the Chief Officer of the Council and the Strategic Managers.

## **ARTICLE 13 – DECISION MAKING**

### **13.1 Principles of decision making**

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

In the general public interest and specifically to guard against the possibility of successful legal challenge to decisions made by the Cabinet or by individual Cabinet Members, it is necessary to demonstrate:

- (a) that all relevant matters were fully taken into account in reaching decisions;
- (b) proportionality – that in any decision the action was proportionate to the desired outcome;
- (c) that Council Standing Orders and Contract Standing Orders and Financial Regulations were complied with;
- (d) that the decision has taken into account the provisions of the Human Rights Act;
- (e) that the Cabinet, Chief Officer of the Council, Strategic Managers or Cabinet Members had consulted with and taken professional advice from all relevant officers;
- (f) that any member concerned considered whether he or she had any declarable interest in the particular item and if necessary made a declaration of interest;
- (g) that the current Scheme of Delegation had been complied with;
- (h) that the decision was taken in an open and transparent manner;
- (i) that the decision was taken in accordance with the Council’s aims and strategies;
- (j) that the decision was properly recorded and published within the appropriate timescale, together with declarations of interest and background papers;
- (k) where appropriate the views of the local member had been sought .

This means that a clear audit trail of decision making must be maintained and kept available for future reference. The importance attached to these matters is emphasised by the proposal to make it a criminal offence not to record properly an Executive decision.

The Head of Cabinet Support advises members and officers on these issues, ensures that the County Council's decision making processes meet the requirements of the law and of good government and is responsible for the proper implementation of these procedures in consultation with the Monitoring Officer.

### 13.2 **Types of Decision**

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.
- (b) Key decisions

### 13.3 **"Key Decision"**

"Key Decisions" are defined by Regulation 8 of the Local Government Access to Information (England) Regulations 2000 to comprise those which:-

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

The Council has resolved that the following shall also be treated as key decisions. This description can be changed by the Council and the Cabinet as may be required in the light of experience of operating the new Constitution.

A decision which:

- (a) is not consistent with the Revenue Budget, Capital Programme or Borrowing Limits and Financial Regulations approved by the Council;
- (b) is in conflict with a policy, plan or strategy approved by the Council or a Committee of the Council;
- (c) raises new issues of policy;

- (d) requires any of the following:
  - (i) Staff:

It will give rise to the need to appoint additional permanent staff for which there is no budget provision.
  - (ii) Land:

Requires the acquisition or disposal of any land or interest in land in excess of a value of £500,000;
- (e) comprises or includes the making, approval or publication of a draft or final scheme which may require, either directly or in the event of objections, the approval of a Minister of the Crown;
- (f) requires the passage of local legislation;
- (g) is of such significance to the locality, the Council or the services which it provides that the decision-taker is of the opinion that it should be treated as a Key Decision;

A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

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

Subject to Article 13.1 the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **13.5 Decision Making by The Cabinet**

Subject to Article 13.1 the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **13.6 Decision Making by Overview and Scrutiny Committees**

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

#### **13.7 Decision Making by Other Committees Established by the Council**

Subject to Article 13.1 other Council committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

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

The Council, a Councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the 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.

### 13.9 **Policy Advisory Groups (PAGs)**

Following Nominations from the Group Leaders the portfolio holder or Cabinet member will normally appoint a Policy Advisory Group (PAG) to advise the Cabinet member individually on particular policy issues and matters of current interest. These are not part of the formal decision making process but these groups will support individual Cabinet members, involving members in the work of the Executive and providing opportunities for members to acquire experience of executive decision making. Meetings may be held in public or private and the Cabinet member may consult the PAG by other means including e-mail, fax or telephone. PAGS may meet in the absence of officers to give political advice to Cabinet Members.

## **ARTICLE 14 – FINANCE, CONTRACTS AND LEGAL MATTERS**

This Article refers on to the Authority’s Finance Regulations and Contract Standing Orders which are contained in Part 4 of this Constitution.

### **14.1 Financial Management**

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

### **14.2 Contracts**

Every contract made by the Council will comply with the Contracts Standing Orders set out in Part 4 of this Constitution.

### **14.3 Legal Proceedings**

The Legal Services Manager is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Legal Services Manager considers that such action is necessary to protect the Council’s interests.

### **14.4 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Legal Services manager 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.

Any contract with a value exceeding £65,000 entered into on behalf of the local authority in the course of the discharge of an Executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the Council attested by at least one officer.

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

The Common Seal of the Council shall be kept in a safe place in the custody of the Legal Services manager.

The Common Seal of the Council shall not be affixed to any document unless authorised by:

- (a) a resolution of the Council or a Committee;
- (b) the Cabinet or a Portfolio Holder (after the call-in procedure is completed if appropriate);

(c) a decision of a duly authorised officer

The Seal shall be attested by the Legal Services Manager or a Group Solicitor or a Senior Solicitor.

An entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for this purpose and shall be signed by the persons who shall have attested the sealing.



## **ARTICLE 15 - REVIEW AND REVISION OF THE CONSTITUTION**

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

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

The Monitoring Officer should be aware of the strengths and weaknesses of the Constitution adopted by the Council, and 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:

- (a) observe meetings of different parts of the member and officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
- (d) compare practices in this authority with those in other comparable authorities, or national examples of best practice.

### **15.2 Changes to the Constitution**

#### **(a) Approval**

Changes to the Constitution, other than those forming part of the functions of the Monitoring Officer under Clause 12.5, will only be approved by the full Council after consideration of the proposal by the Monitoring Officer.

#### **(b) Change from a Leader and Cabinet form of Executive to alternative arrangements, or vice versa.**

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals. If the change proposed is to a Mayoral form of Executive it can only be implemented after being approved in a local referendum.

## **ARTICLE 16 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION**

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

#### **(a) Limit to suspension**

The Articles of this Constitution may not be suspended. The rules specified below may be suspended by the full Council to the extent permitted within those Rules and the law.

#### **(b) Procedure to suspend**

A motion to suspend any rules will not be moved without notice unless at least one quarter of the Council is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

#### **(c) Rules capable of suspension**

The following Rules may be suspended in accordance with Article 16.1:

Any Rule may be suspended by resolution of the Council so far as regards any business at a meeting of the Council where its suspension is moved except for those Rules governed by statutory requirements.

A motion to suspend Rules shall not be moved without notice unless at least one quarter of the whole number of the members of the Council are present.

Any motion for a suspension shall state the specific Rule(s) which it is intending to suspend.

### **16.2 Variation and Revocation of Rules**

These Rules may be added to, varied or revoked by giving notice.

### **16.3 Rules to be given to Members**

A printed copy of the Constitution shall be given to each member of the Council by the Head of Secretariat on delivery of the member's declaration of acceptance of office.

#### 16.4 **Interpretation**

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

#### 16.5 **Publication**

- (a) The Head of Secretariat will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (b) The Head of Secretariat will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

#### 16.6 **Description of Executive Arrangements**

The following parts of this Constitution constitute the Cabinet arrangements:

- (a) Article 6 (Overview and Scrutiny Committees) and the Overview and Scrutiny Procedure Rules;
- (b) Article 7 (the Cabinet) and the Cabinet Procedure Rules;
- (c) Article 10 (Local Committees and Forums) – These constitute executive arrangements only where they comprise the establishment of the Local Committee itself or the delegation of Council functions to it.
- (d) Article 11 (Joint arrangements) – These constitute executive arrangements only where they comprise the establishment of the Joint arrangements themselves or the delegation of Council functions to them.
- (e) Article 13 (Decision making) and the Access to Information Procedure Rules;
- (f) Part 3 (Responsibility for Functions).

## **PART 3**

# **RESPONSIBILITY FOR FUNCTIONS**

### **Responsibility for Functions**

Section 13 of the Local Government Act 2000 provides that all the functions of the Authority shall be functions of the Cabinet except in so far as they are reserved to the Council by the Local Government Act 2000, by subsequent legislation or be regulations made under the Local Government Act 2000. The Local Authorities (Functions and Responsibilities)(England) Regulations 2000 define those functions:

- (a) which must not be discharged by the Cabinet; and
- (b) which may be the responsibility of the Cabinet; and
- (c) which may not be the sole responsibility of the Cabinet , and
- (d) circumstances in which functions which would otherwise be functions of the Cabinet fall to be discharged other than by the Cabinet.

Accordingly, the Council only has discretion to define the split of functions between the Council ("Council Functions") and the Cabinet ("Executive Functions") in respect of those which fall within categories (b) and (c) above.

“Council Functions” shall therefore comprise:

- (a) those functions which are reserved as Council functions by the Local Government Act and by subsequent legislation;
- (b) those functions which are reserved as Council functions by Regulation 2 and Schedule 1 of the Local Authorities (functions and Responsibilities) (England) Regulations 2000 and subsequent regulations made under the Local Government Act 2000;
- (c) those functions set out in Regulation 3 and Schedule 2 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, shown in the following table as non executive functions.
- (d) And the plans and strategies the adoption of approval of which shall be a Council function (the “Policy Framework”) shall be those plans and strategies set out in Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 together with such other plans and strategies as the Council shall identify from time to time for this purpose.

The Council has determined that the Council functions shall be determined by the Committees as set out in part 3 of this Constitution.

## **Executive Functions**

All other functions, including those shown in the local choice table, shall be Executive functions.

Under Section 15(2) of the Local Government Act 2000, the Council in determining the Executive Arrangements has agreed that all executive functions shall be vested in the Leader and the Leader shall appoint Cabinet members to a particular portfolio and in turn delegate such powers as are necessary to carry out the duties associated with that portfolio.

The Council has also determined that all powers of the Council including Executive powers shall be delegated concurrently to officers in accordance with the Scheme of Delegation.

For matters within the Policy Framework, Best Value Review or exceptionally, in contentious or “political” cases where the leader or Cabinet member believes the whole Cabinet should be aware of the issue and participate in the decision, or where an officer or cabinet member wishes to refer the decision to be taken by the Cabinet because of public controversy or sensitivity, or where he/she takes a different view of the proposal and feels unable to be associated with it, the item will be submitted to the Cabinet. In such circumstances the Leader may direct that the matter be referred to cabinet for decision and his decision to do so will take precedence.

## **Responsibility for Local Choice Functions**

The following table details the present arrangements with regard to the apportionment of Local choice functions.

## RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

All Non Executive functions are delegated to Council committees as set out in their terms of reference.

Function	Executive or Non Executive
1. The determination of an appeal against any decision made by or on behalf of the authority.	Non Executive
2. The making of arrangements pursuant to subsection (1) of section 67 of, and Schedule 18 to, the 1998 Act (appeals against exclusion of pupils).	Non Executive
3. The making of arrangements pursuant to section 94(1) and (4) of, and Schedule 24 to, the 1998 Act (admission appeals).	Non executive
4. The making of arrangements pursuant to section 95(2) of, and Schedule 25 to, the 1988 Act (children to whom section 87 applies: appeals by governing bodies).	Non Executive
5. The making of arrangements under section 20 (questions on police matters at Council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of functions of a police authority.	Non Executive
6. The making of appointments under paragraphs 2 to 4 (appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996.	Executive
7. The conducting of Best Value Reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999.	Executive
8. Any function relating to contaminated land.	Non Executive
9. The discharge of any function relating to the control of pollution.	Non Executive
10. The service of an abatement notice in respect of a statutory nuisance.	Non Executive
11. The investigation of any complaint as to the existence of a statutory nuisance.	Non Executive
12. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Non Executive
13. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Non Executive
14. The making of agreements for the execution of highways works.	Non Executive
15. The appointment of any individual – (a) to an office other than an office in which he is employed by the authority (b) to any body other than- (i) the authority (ii) a joint committee of the authority; or (c) to any committee or sub-committee of such a body, and the revocation of such appointment.	Executive

## **RESPONSIBILITY FOR COUNCIL FUNCTIONS**

The following committees shall be standing committees of the County Council.

The exercise of some of these functions is delegated to Strategic Managers and Heads of Service.

## **SENIOR APPOINTMENTS AND BUCKS PAY AWARD COMMITTEE**

### **Terms of Reference**

- 1 To be responsible for the recruitment and termination of the posts of Chief Officer of the Council and Strategic Managers, the Monitoring Officer and the Finance Officer having responsibility for the purposes of Section 151 of the Local Government Act 1972
- 2 To consult on and determine annual pay awards
- 3 To make arrangements for the appointment of staff
- 4 To receive representations from recognised trade unions and staff on pay awards and to take decisions, or make any necessary recommendations, arising from these
- 5 To agree local variations and other local conditions of service for the Chief Executive and capability concerning the Chief Executive or Strategic Managers, the Monitoring officer and the S.151 Finance officer

Meeting Frequency: As and when required

Membership: 7 members

# **APPEALS AND COMPLAINTS COMMITTEE**

## **Terms of Reference**

### **APPEALS**

- 1 For all employees, other than staff employed in schools with delegated budgets and education staff employed on education national conditions of service and the Chief Officer of the Council and Strategic Managers to hear and determine appeals and grievances on the following matters.
  - a Dismissal on grounds of misconduct, capability, ill-health and unfair selection of staff for redundancy
  - b Grievances submitted under agreed procedures
  - c Disciplinary action is defined in conditions of employment
  - d Salary appeals as defined in conditions of employment
- 2 To hear appeals against dismissal on disciplinary or redundancy grounds from staff employed on education national conditions of service other than those employed in schools with delegated budgets
- 3 To hear formal grievances from staff employed on education national conditions of service other than those employed in schools with delegated budgets
- 4 To make arrangements to consider requests from parents for review of allocations of children to schools and advise the Strategic Manager (Schools).
- 5 To advise on appeals from pupils/students on matters of entitlement to transport or to financial assistance towards transport costs
- 6 To make arrangements for appeals by Governing Bodies in connection with excluded children
- 7 To make arrangements under Section 67(1) and Schedule 18 of the School Standards and Framework Act 1998 (appeals against exclusion of pupils)
- 8 To determine appeals against the exercise of the Council's function as a Social Services Authority
- 9 To make arrangements for the determination of appeals under Regulation 11 of the Access to Personal Files (Social Services) Regulations 1989
- 10 To determine any other appeal against a decision made by or on behalf of the Council where provision is made for a right of appeal



## **COMPLAINTS**

- 1 To arrange for a panel of 3 members to consider any complaint made against the County Council by a member of the public, when the complaint has not been satisfactorily resolved, through investigations carried out under the County Council's Complaints Procedure and is referred to the Committee for their consideration in accordance with the County Council's Complaints Procedure.
- 2 To receive, on a six monthly basis, statistical reports and details of the complaints received and investigated through the County Council's Complaints Procedure and the outcome of those investigations.
- 3 To review, on an annual basis, the results of investigations carried out under the County Council's Complaints Procedure, and to review the operation of the Procedure and recommend any modifications to it that might be necessary in the light of the reported results to the Cabinet.
- 4 To make payments or provide other benefits in cases of maladministration.

Membership: 5 Members

# **DEVELOPMENT CONTROL COMMITTEE**

## **Terms of Reference**

- 1 To exercise the Council's functions as local planning authority as specified in regulation 2 of the Local Government Authorities (Functions and Responsibilities)(England) Regulations 2000 insofar as such functions are not the responsibility of any other local authority.
- 2 The functions, include,
  - a imposing any condition, limitation or restriction, or determining any other terms, on an approval, consent, licence, permission or registration granted in the exercise of its functions
  - b determining whether to take enforcement action in respect of any breach of any approval, consent, licence, permission or registration granted or breach of any condition, limitation or term to which any such approval, consent, licence, permission or registration is subject to the exercise of its functions
  - c revoking any approval, consent, licence, permission or registration granted in the exercise of its functions
  - d amending, modifying or varying any approval, consent, licence, permission or registration granted in the exercise of its functions or any condition, limitation restriction or term to which it is subject
  - e whether a charge should be made, and the amount of any such charge, for any approval, consent, licence, permission or registration

## **Town and Country Planning and Development Control Functions**

- 1 Power to require information as to interests in land.
- 2 Duty to give notice etc. of applications for planning permission.
- 3 Power to determine application for planning permission.
- 4 Power to decline to determine application for planning permission.
- 5 Power to grant planning permission for development already carried out.
- 6 Power to grant or refuse planning permission for development without complying with conditions to which previous planning permission is subject.

- 7 Power to enter into agreement regulating development of use of land
- 8 Power to serve a completion notice
- 9 Power to serve a planning contravention notice, breach of condition notice or stop notice
- 10 Power to issue an enforcement notice
- 11 Power to apply for an injunction restraining a breach of planning control
- 12 Power to authorise entry onto land
- 13 Power to enter into agreement for the execution of highway work
- 14 Powers relating to the protection of important hedgerows
- 15 Duties relating to the making of determinations of planning applications
- 16 Power to determine application for planning permission made by a local authority, alone or jointly with another person
- 17 Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights
- 18 Power to issue a certificate of existing proposed lawful use or development
- 19 Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject
- 20 Power to require proper maintenance of land
- 21 Duties relating to applications for listed building consent and conservation area consent
- 22 Power to serve a building preservation notice, and related powers
- 23 Powers to acquire a listed building in need of repair and to serve a repairs notice
- 24 Power to apply for an injunction in relation to a listed building

Membership: 10 Members

# **REGULATORY COMMITTEE**

## **Terms of Reference**

- 1 To exercise the Council's functions in respect of regulatory matters as specified in regulation 2 of the Local Government Authorities (Functions and Responsibilities)(England) Regulations 2000 insofar as such functions are not the responsibility of any other local authority.

The functions listed below, include,

- a imposing any condition, limitation or restriction, or determining any other terms, on an approval, consent, licence, permission or registration granted in the exercise of its functions
- b determining whether to take enforcement action in respect of any breach of any approval, consent, licence, permission or registration granted or breach of any condition, limitation or term to which any such approval, consent, licence, permission or registration is subject to the exercise of its functions
- c revoking any approval, consent, licence, permission or registration granted in the exercise of its functions
- d amending, modifying or varying any approval, consent, licence, permission or registration granted in the exercise of its functions or any condition, limitation restriction or term to which it is subject
- e whether a charge should be made, and the amount of any such charge, for any approval, consent, licence, permission or registration

## **General**

- 1 Power to licence agencies for the supply of nurses.
- 2 Power to issue licences for the movement of pigs.
- 3 Power to licence the sale of pigs.
- 4 Power to licence collecting centres for the movement of pigs.
- 5 Power to issue a licence to move cattle from a market.
6. Power to approve premises for the solemnisation of marriages.

## **Miscellaneous**

- 1 Functions relating to the Local Government Pension Scheme

- 2 Functions relating to local government pensions, etc.
- 3 Functions relating to elections
- 4 Power to make amend or revoke byelaws
- 5 functions relating to contaminated land
- 6 The discharge of any function in relation to Control of Pollution or the management of air quality
- 7 Functions in connection with safety certificates for sports grounds
- 8 Power to licence the employment of children
- 9 Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to
  - a an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c.67) or
  - b an order under section 147 of the Inclosure Act 1845 (c.8 & 9 Vict. c.118)
- 10 Power to register variation of rights of common
- 11 Power to require information as to interests in land
- 12 Power to grant a street works licence
- 13 Power to permit deposit of builder's skip on highway
- 14 Power to licence planting, retention and maintenance of trees, etc in part of highway
- 15 Power to licence works in relation to buildings etc which obstruct the highway
- 16 Power to consent to temporary deposits or excavations in streets
- 17 Power to dispense with obligation to erect hoarding or fence
- 18 Power to consent to constructions of vaults, arches and cellars under streets or carriageways
- 19 Power to consent to the making of an openings in footways for access to cellar or vault under street

- 20 Power to restrict the placing of rails, beams etc. over highways
- 21 Powers relating to the removal of things so deposited on highways as to be a nuisance
- 22 Power to recommend to Council changes to Standing Orders and Standing Orders as to contracts

Membership: 7 members (which may not include the Leader)

# **RIGHTS OF WAY COMMITTEE**

## **Terms of Reference**

- 1 To exercise the Council's functions in respect of rights of way matters as specified in regulation 2 of the draft Local Government Authorities (Functions and Responsibilities)(England) Regulations 2000 insofar as such functions are not the responsibility of any other local authority.
- 2 The functions include:
  - a imposing any condition, limitation or restriction, or determining any other terms, on an approval, consent, licence, permission or registration granted in the exercise of its functions
  - b determining whether to take enforcement action in respect of any breach of any approval, consent, licence, permission or registration granted or breach of any condition, limitation or term to which any such approval, consent, licence, permission or registration is subject to in the exercise of its functions
  - c revoking any approval, consent, licence, permission or registration granted in the exercise of its functions
  - d amending, modifying or varying any approval, consent, licence, permission or registration granted in the exercise of its functions or any condition, limitation restriction or term to which it is subject
  - e whether a charge should be made, and the amount of any such charge, for any approval, consent, licence, permission or registration

## **Rights of way functions are**

1. Power to require information as to interests in land.
2. Powers to create footpaths and bridleways.
3. Power to stop up footpaths and bridleways.
4. Power to divert footpaths and bridleways.
5. Duty to assert and protect the rights of the public to use and enjoyment of highways.
6. Duty to keep a definitive map and statement under review.
7. Duty to reclassify roads used as public paths.
8. Power to authorise creation of stiles etc on footpaths or bridleways.

9. Powers relating to the removal of things so deposited on highways as to be a nuisance

Membership:7 members



## **STANDARDS COMMITTEE**

### **Terms of Reference**

- 1 To promote and maintain high standards of conduct by members and to assist all members to observe the Council's code of conduct of members.
- 2 To consider complaints against any member relating to alleged breached of the National Code of Local Government Conduct or such local code as shall replace the National Code, to make findings of fact and decisions in respect of the action to be taken, and where necessary to make recommendations to the County Council.
- 3 To consider the implications for the Council and the proper conduct of its business of the application of the principles of conduct proposed by the DETR and adopted by the council and to recommend any action required to facilitate compliance with those principles.
- 4 To consider any report referred to it by an Ethical Standards officer of the Standards Board and to determine any such matters and the exercise of any powers of sanction available to it.
- 5 To advise and bring forward proposals to the Council on a local code of conduct, including provisions which properly reflect the mandatory elements of the Model Code to be produced nationally, once such a code is available.
- 6 To monitor the local code of conduct and to propose such amendments, deletions and additions as shall be needed from time to time to the Council.
- 7 To oversee the implementation of the code including, in particular, the training of councillors in matters of conduct.
- 8 To advise the Council on any aspects of Standing Orders relating to conduct, or otherwise on propriety.
- 9 To support the Monitoring Officer in discharging her/his role in respect of Standards of Conduct and behaviour
- 10 To approve and keep under review the Council's Whistleblowing Code of Practice in accordance with the Public Interest Disclosure Act 1998

Membership: 7 Members (which may not include the Leader) and 2 Independent Members

# **THE LEADER OF THE COUNCIL AND SCHEME OF DELEGATION TO CABINET MEMBERS**

The details below are descriptive only and may be changed by the Leader in the light of experience, as far as legislation permits.

## **1 Leader of the Council**

The following functions are allocated to the Leader of the Council

- To appoint a Deputy Leader and members of the Cabinet and assign portfolios to them
- To determine which matters shall be decided by the Cabinet collectively and which shall be delegated to Cabinet Members
- To discharge or arrange to be discharged the Executive Functions of the Council
- To delegate the discharge of any Executive Functions within the remit of a Portfolio to that Cabinet Member
- To delegate the discharge of Executive Functions to an Officer of the Council
- To have principal responsibility for the political and policy direction of the Council
- To chair meetings of the Cabinet and oversee the preparation of business for its consideration
- In consultation with the Chief Officer of the Council to draw up a 4 month programme of work by the Cabinet and to keep it under continuous review.
- To be the principal political spokesman for the Council at internal and external meetings
- To share in the responsibilities of the Cabinet and have the responsibilities of an individual member of the Cabinet, with a specific portfolio of responsibilities

2 **Cabinet Members**

- a Where executive functions are not reserved to the Council or to Cabinet or officers, they are Cabinet member matters in accordance with the portfolios within this scheme.
- b The Head of Cabinet Support in consultation with the Leader of the Council shall determine which is the appropriate Cabinet member to deal with a matter in cases of uncertainty.

3 The following areas of responsibility are included in the matters which may be determined by the Cabinet member.

- a To consider reports prepared by officers and to make any decisions in accordance with Article 13 of this Constitution and the Protocol on Decision Making
- b To consider draft reports to the Cabinet with the relevant Strategic Manager or Heads of Service.
- c To determine how expenditure on services should be undertaken within approved budgets
- d To agree annual reports
- e To approve service plans and monitor their performance
- f To monitor the budget for particular services
- g To agree the Best Value review for particular services
- h To determine policies for particular services, which are consistent with the Policy Framework and the corporate strategies
- i To agree responses to consultation papers
- j To make payment of grants to outside bodies within the list approved by the Cabinet except those which fall to the Cabinet itself to decide
- k To approve decisions affecting a particular locality (i.e. which are not service-wide, county-wide or otherwise corporate)
- l To appoint a Policy Advisory Group and determine its work

4 The following Portfolios shall be assigned by the Leader to Cabinet Members and responsibility for the decisions with the relevant service plans set out below:

<b>LEADER</b>	<b>DEPUTY LEADER</b>
<p>To chair the Cabinet and lead on the development of corporate policy and resource allocation for the Council as a whole, presenting such policies to the Council and the people of Buckinghamshire focusing specifically on</p> <ol style="list-style-type: none"> <li>a) the content of the policy framework and Local Performance Plan to reflect the majority group manifesto and the views of the people of Buckinghamshire</li> <li>b) the creation of annual and three year plans</li> <li>c) the improvement in the profile of the Council as leader of the community in the country and beyond</li> </ol>	<p>To support the Leader of Council in his/her role with a specific emphasis on</p> <ol style="list-style-type: none"> <li>a) co-ordinating the work of developing policy so that they integrate effectively and are realistic</li> <li>b) ensuring progression is made in achieving the Council's aims</li> <li>c) taking responsibility for the necessary action so that the Council complies with the modernising agenda, especially in addressing the Best Value requirements</li> <li>d) establishing effective member support/communication/and information services to all members of the Council in the period of change and into the new Council so that the Cabinet is informed of backbench opinion</li> <li>e) Managing important corporate partnership arrangements and establishing a clear protocol for the way the Council works with stakeholders and others</li> </ol>
<p><b>Services/Functions</b></p> <ul style="list-style-type: none"> <li>• Policy Framework</li> <li>• Strategic Overview</li> <li>• Overall Performance</li> <li>• COC, Cabinet support team</li> <li>• Budget Strategy</li> <li>• External Relations</li> <li>• Local Performance Plan</li> <li>• Development of the organisation</li> </ul>	<p><b>Services/Functions</b></p> <ul style="list-style-type: none"> <li>• Communications</li> <li>• Policy co-ordination and monitoring</li> <li>• Best Value Co-ordination</li> <li>• Member Services</li> <li>• Working with partners</li> <li>• Economic Development</li> </ul>

## **CHILDREN AND YOUNG PEOPLE**

To co-ordinate and integrate the services to protect children and young people and to improve the care, education and health of disadvantaged children. Establish specific and measurable performance outcomes over a 3/4 year period for such children so that there are demonstrable improvements in

- a) the protection of vulnerable children
- b) education provided is continuous and uninterrupted and enables children to achieve their full potential
- c) the likelihood that such children will achieve appropriate qualifications, obtain work and find a home
- d) better value for money by improved co-operation
- e) the care of children for whom the Council is responsible

### **Services/Functions**

- Pupils, Students and Families (excl admissions but including SEN support services)
- EWS
- Children and Families – SSD
- Youth Service
- YOT and links with Probation
- PRUs
- Emotionally and Behaviourally disturbed children
- Looked after children and those on the protection register

## **COMMUNITY SERVICES**

To take the lead in raising the profile of services provided for the community. Assisting people to gain access to the County Council and to ensure the highest standards of customer care are delivered.

- a) establishing a programme of improved customer for service delivery
- b) developing services so that they reflect and adapt to the changing needs of the users
- c) Using service delivery points, including electronic, to provide better access to the County Council
- d) Improved co-ordination to obtain greater value for money
- e) Take the lead in involving the community in the work of the Council

### **Services/Functions**

- Library, Museum, Records, Local Studies
- Countryside Services
- Trading Standards
- Registration Service
- Gypsies
- Sport and Culture
- Information Centres
- Corporate Grants
- Continuing Education/Awards
- Community Safety
- Coroner
- Waste Management
- Emergency Planning

## **PLANNING AND TRANSPORTATION**

To recognise the high priority placed by the people of Buckinghamshire, in public consultation exercises, on the development and maintenance of the environment of Buckinghamshire by

- a) leading and creating the most effective means of improving and maintaining the road system in Buckinghamshire through new and innovative means such as the Local Transport Plan which will deliver the county's priorities
- b) improving the performance of public transport providers and establishing a means of improving integration and accessibility of public bus, rail and other transport services
- c) taking the policy lead on the preparation and approval of the new County Structure Plan to achieve development which addresses local needs but preserves the attractiveness of the urban and rural environment of the county

### **Services/Functions**

- Highways and Bridges
- Highways Maintenance
- Routine Maintenance
- Winter Maintenance
- Structural Maintenance
- Passenger Transport
- Traffic and Road Safety
- Highway Lighting
- Transport Strategy
- Structure Planning
- Minerals Plan
- Integration of Public/Private Transport arrangements across the Council

## **CARE SERVICES FOR ADULTS**

To develop the Council's approach to those services which focus on the specific needs of individuals so that services are delivered in a co-ordinated and specific way to address those needs but in particular address how

- a) the budgets for these services can be contained within an agreed envelope of affordable cost by establishing priorities
- b) new partnership/joint arrangements can be created both within and outside the County Council to provide these services
- c) the client centred approach can be developed into practical steps which benefit the individual

### **Services/Functions**

- Learning Disabled
- Physical Disability
- Mental Health
- Older People
- Supporting activities

<b>SCHOOLS</b>	<b>RESOURCES</b>
<p>To recognise the priority that the Council has given to the support of the unique and successful Buckinghamshire system of education. Lead the work of continuing to raise achievement for pupils in all the schools in the county but in particular addressing</p>	<p>To establish clear and effective arrangements for identifying the effectiveness of support services (including by identifying the best practice/good governance) for the Council as a whole, providing strategic and corporate advice to support service delivery and delivering specific support services concentrating specifically on</p>
<p>a) shaping the Council’s response to the challenge posed by the transfer of school budgets direct to schools and planning the re-organisation of the services and functions of the LEA to reflect such changes</p> <p>b) champion the existing system for delivery of education through high performing grammar schools and improving upper schools</p> <p>c) putting in place specific action which will prevent schools from failing and will establish expectation of performance for all schools linked to both existing and new resources</p> <p>d) seeking to improve efficiency by identifying any over provision and exposing support services to competition</p>	<p>a) creating an Asset Management Plan for the better use/disposal/acquisition of resources</p> <p>b) developing the Information Communications Technology Strategy into specific actions which deliver a return on investment including specifically long term strategic partnerships for their provision</p> <p>c) building on the Council’s aim to be a good employer by actions to produce a workforce of improving skills and competencies</p>
<p><b>Services/Functions</b></p> <ul style="list-style-type: none"> <li>• Schools Direct</li> <li>• Early Years</li> <li>• Schools Support</li> <li>• School Organisation</li> <li>• Policy and Planning</li> <li>• Admissions (part of PSF)</li> <li>• Directorate</li> <li>• Resources</li> <li>• Home to School transport policy</li> <li>• Special Schools</li> </ul>	<p><b>Services/Functions</b></p> <ul style="list-style-type: none"> <li>• Finance</li> <li>• Legal</li> <li>• Human Resources</li> <li>• Repairs and Maintenance</li> <li>• Building Surveying</li> <li>• Depots and Properties</li> <li>• Property and related services</li> <li>• Contracts including Fleet Hire</li> <li>• Architectural Services</li> <li>• Health and Safety</li> <li>• Admin Buildings</li> <li>• IS/IT</li> </ul>

# **PART 4**

## **RULES OF PROCEDURE**

### **STANDING ORDERS**

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- 3 Order of Business**
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Please note that the Standing Orders marked • (with necessary modifications) apply to committee meetings (except Overview and Scrutiny Committee Meetings – see Standing Order 14(2) for Standing Orders that apply to these meetings).

# **STANDING ORDER 1**

## **MEETINGS OF THE COUNCIL**

### **Date of Annual Meeting of the Council**

- 1 The annual meeting of the Council shall be held
  - a in the year of election of county councillors on the eighth day after the day of retirement of councillors<sup>1</sup> or on such other day within twenty-one days immediately following the day of retirement as the Council may fix
  - b in any other year on the third Thursday in May.

### **Dates of Other Meetings of the Council**

- 2 Ordinary meetings of the Council shall be held on the fourth Thursday in the months of January, February April, September, November and the third Thursday in the month of July.

### **Calling Extraordinary Meetings by the Chairman or Monitoring Officer**

- 3 The Chairman of the Council or the Monitoring Officer may call an Extraordinary meeting of the Council at any time in accordance with this Standing Order

### **Requisitioning an Extraordinary Meeting**

- 4 Five members may send to the Chairman a signed requisition for an Extraordinary Meeting of the Council. If after receiving such a requisition the Chairman refuses to call an Extraordinary Meeting or does not call such a meeting within seven days, then any five members may immediately call an Extraordinary Meeting<sup>1</sup>
- 5 Where the Chairman has received a requisition for an Extraordinary meeting, the Extraordinary meeting shall be held within fifteen working days of the date of the receipt of the requisition unless the meeting falls in the month of August in which case the meeting shall be held within twenty-five working days of the receipt of the requisition.

### **Location and Times of Council Meeting**

- 6 Meetings of the Council shall normally be held at County Hall, Aylesbury and shall commence at 10 am.

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<sup>1</sup> Standing Orders 1(3) and (4) reflect the statutory rights of members to requisition an Extraordinary meeting of the Council as provided for in Schedule 12 of the Local Government Act 1972

## **Alteration of Location and Times of Council Meetings**

- 2 Council Meetings may be held at other times and in other locations with the agreement of the Chairman of the Council

## **STANDING ORDER 2**

### **QUORUM**

- 1 The quorum is one-fifth of the whole number of members of the Council i.e. eleven members.
- 2 If during any meeting of the Council the number of members present does not form a quorum present, then the Chairman of the Council shall adjourn the meeting and arrange another date and time, or if no such date and time are fixed by the Chairman any unfinished business before the Council shall be considered at the next ordinary meeting of the Council.

### **Quorum of Committees**

- 3 The quorum for a Committee is one fifth of the whole number of the Committee but shall not be less than three voting members.

## STANDING ORDER 3

### ORDER OF BUSINESS

- 1 Except as provided by paragraph 2 of this Standing Order the order of business if relevant at meetings of the Council shall be:
  - a At the annual meeting of the Council to elect a Chairman and elect a Leader, and appoint a Vice-Chairman
  - b If the Chairman and Vice-Chairman are absent, to choose a person to preside such a person not being a member of the Cabinet
  - c *At the Annual Meeting of the Council Advice from the Leader to the Council on the membership of the Cabinet, at other meeting and following any change of membership of the Cabinet*
  - d To read and approve as a correct record the minutes of the last meeting of the Council. If a copy has been circulated to each member of the Council not later than the date of issue of the summons to attend the meeting, they shall be taken as read
  - e To deal with business required by statute to be done
  - f To receive any Reports from Statutory Officers of the Council
  - g Petitions
  - h To receive any apologies for absence
  - i Chairman's Announcements
  - j *Declarations of Interest*
  - k To dispose of business (if any) remaining from the last meeting
  - l To receive and consider reports of the Cabinet, the Leader and/or Cabinet Members
  - m To receive and consider reports of Committees
  - n To move notices of motion in the order in which they have been received
  - o To answer questions asked under Standing Order No 7
  - p Other business, specified in the agenda

- 2 The order of business may be varied at any meeting at the Chairman's discretion but such a variation shall not displace business falling under items a, b, c, d e or f in paragraph 1.

## **STANDING ORDER 4**

### **POWERS OF THE CHAIRMAN**

- Any power or duty assigned to the Chairman relating to the conduct of a meeting may in the Chairman's absence be exercised by the person presiding at the meeting.

## **STANDING ORDER 5**

### **MINUTES**

- 1 As soon as the minutes have been read, or if under Standing Order No 3 (1)(c) they are taken as read, the Chairman shall put the question that the minutes of the last meeting of the Council be signed as a correct record.
- 2 Minutes of any meeting of the Council or committee shall be published and available to all members and interested parties on request, on the basis that the minutes remain unconfirmed until the next meeting of that committee.

### **Accuracy of Minutes**

- 3 No motion or discussion shall take place upon the minutes, except upon their accuracy, and any question of their accuracy shall be raised by moving a formal amendment to the minutes.

### **Signing Minutes**

- 4 The Chairman shall sign the minutes once their accuracy as been agreed.



## **STANDING ORDER 6**

### **PETITIONS**

#### **Petitions to the Council**

- 1 The substance of a petition presented at a meeting of the Council shall be briefly summarised by the member of the Council who presents it. If the petition does not refer to a matter before the Council it shall be referred without debate to the appropriate Committee or Portfolio Holder.
- 2 If the petition refers to a matter before the Council it will be available for members to inspect during the course of the meeting.

#### **Petitions to Committees**

- 3 If a petition is referred to a Committee for further consideration, the member presenting the petition may attend the meeting concerned to present and speak to the petition.
- 4 If, alternatively, a petition is first presented by a member of the Council at a meeting of a Committee, that member may attend the meeting concerned to present and briefly summarise the petition.

## **STANDING ORDER 7**

### **QUESTIONS ON REPORTS**

- 1 Unless the Chairman of the meeting otherwise directs, questions shall be taken by the *Leader, Deputy Leader and each Cabinet Member in turn immediately following their report.*
- 2 *If the number of questions submitted is so great that it is likely to disrupt the conduct of business then the Chairman may direct that after a given time further questions will be answered within 28 days in writing after the meeting by the appropriate member.*

### **QUESTIONS AT COUNCIL MEETINGS**

- 3 Except at the annual meeting in a year of County Council elections a member of the Council may ask any question on Council business if written notice has been given to the Head of Secretariat in accordance with 7(4) below. The Chairman will ask the Leader or another member of the Cabinet or the Chairman of any Council body, whose remit covers the subject matter in question, to answer the question.
- 4 A member wishing to ask a question under Standing Order 7(3) shall send a copy of the question in writing to the Head of Secretariat to be received by 9.30am on the Monday preceding an ordinary meeting of the Council at which the question is to be asked.
- 5 Unless the Chairman of the meeting otherwise directs, questions shall be taken immediately after the Chairman's Communications in the order of business set out in Standing Order 3, and the time allotted for questions shall not exceed 30 minutes.
- 6 Questions shall be taken first from the Group Leaders of the political parties who shall be entitled to ask one initial Leader's question each, including the right to adopt another member's question, subject to that member's consent of which written notice shall have been given prior to the meeting. Other questions shall be drawn at random prior to the meeting. Group Leaders may assign their rights under this Standing Order to any other Member of their Group by giving written notice to the Head of Secretariat.
- 7 Every question will be put and answered without discussion and no resolution may be moved on a question or reply. Alternatively, a written reply may be sent or the questioner may be referred to a Council publication. Written replies shall be circulated to all members and recorded after the end of the Council minutes. *Where a written reply is provided to a written question the reply shall be taken as read and not read out at the meeting.*

- 8 Every person asking a Question shall be entitled to ask one supplementary question, providing it introduces no new matter.
- 9 Where a Member is unable through absence to put a question asked under Standing Order 7(3) when it is reached on the agenda, or the 30 minute period allowed for such questions has expired, such questions shall be treated as withdrawn.

### **Other Questions**

- 10 A Member shall be entitled at any time under this Standing Order to put a written question to the Leader, a Portfolio Holder or a Chairman of a Standing Committee who shall reply within 28 calendar days of receipt. All such questions and answers shall be collated and reported quarterly to the Council but without discussion, unless a question is asked under Standing Order 7(3).

## **STANDING ORDER 8**

### **NOTICES OF MOTION**

- 1 Except for Motions under Standing Order No 9 which may be moved without notice, every notice of motion shall be given in writing, signed by the member or members of the Council giving the notice, and delivered at least twelve clear days<sup>3</sup> excluding Sundays and Bank Holidays before the next meeting of the Council, to the office of the Head of Secretariat, by whom it shall be dated and entered in a book which shall be open to the inspection of every member of the Council during normal office hours.

### **Motions to be set out in summons**

- 2 The Head of Secretariat shall set out in the agenda for every meeting of the Council all notices of motion given in the order in which they have been received, unless a member when giving notice has stated in writing that the motion will be moved at some later meeting or the motion has since been withdrawn in writing.

### **Scope of Motions**

- 3 Every notice of motion shall be relevant to a matter over which the Council has power, or which affects the County.
- 4 If it appears to the Head of Secretariat in consultation with the Legal Services Manager that a notice of motion is not in order, or is framed in improper or unbecoming language, the Head of Secretariat in consultation with the Legal Services Manager shall take the instructions of the Chairman as to whether and in what form it shall be placed on the Agenda, and the decision of the Chairman, after consultation if possible with the giver of the notice, shall be final.

### **Motions not Moved**

- 5 Subject to Standing Order 8(6) a member giving a notice of motion under Standing Order 8(1) shall move the motion. If the motion is not moved it shall, unless postponed by consent of the Council, be treated as abandoned and shall not be moved without fresh notice.
- 5 Where a member is unable through absence to move a motion under Standing Order 8(5), that member may, in writing, and with the consent of the Chairman, assign the right to move the motion to another member.

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<sup>3</sup> The notice must be given before midnight on the Wednesday, which is 2 weeks and 1 day before a Thursday Council meeting. The due date is always given in the County Council Diary

## **References of Motion to Committees and Cabinet Members**

- 7 Motions for which notice has been given under Standing Order 8(1) shall, upon being formally moved and seconded, stand referred without any discussion to a Committee, the Leader, the Cabinet, or Cabinet Member as the Council may determine for consideration and report unless Standing Order 8(2) or 8(9) is invoked.
- 8 The body or person referred to in 8(7), shall report back to the next ordinary meeting of the Council or such other meeting of the Council as it may advise, and the report shall advise the Council as to whether or not the motion should be adopted or give such other advice as is appropriate.
- 9 The Chairman may allow any motion to be dealt with at the meeting at which it is moved.
- 10 If the Chairman does not exercise the power given under Standing Order 8(9), the member moving the motion shall not speak until the report on the motion comes before the Council.

## **Proposer of Motion may attend Committee of which he is not a Member**

- 11 A member who has proposed a motion shall be given notice of any meeting where it is proposed to consider the motion. The member shall have an opportunity of speaking but not voting when the motion is under consideration or have the right to submit a letter supporting the motion. Where a notice of motion has been proposed by more than one member only one member may speak on behalf of the proposers.

## **Rescission of Preceding Resolution**

- 12 No motion to rescind any resolution of the Council passed within the preceding six months, and no motion or amendment to the same effect as one which has been disposed of within the preceding six months, shall be proposed unless a recommendation is made by a Committee or Cabinet Member or a notice of motion has been given bearing the names of at least eleven members of the Council.
- 13 A Committee which, acting under delegated powers, has reached a decision on any matter shall not consider a motion to rescind that decision (or a motion or amendment to the same effect as one which has been disposed of) within six months unless such proposed action appears on the agenda for the meeting.

## **STANDING ORDER 9**

### **MOTIONS WHICH MAY BE MOVED WITHOUT NOTICE**

1 The following motions may be moved without notice except for i, m (Standing Order 9f does not apply to Council meetings):

- a Appointment of a Chairman for that meeting
- b Motions relating to the accuracy of the minutes
- c Reference back to a Committee of its report or any item in it
- d Appointment of Committee members if arising from an item in the agenda of the meeting
- e Adoption of reports and recommendations of the Cabinet, Committees or officers
- f Motions arising from Officers or other reports submitted to Committees
- g That leave be given to withdraw a motion
- h Amendments to motions
- i Suspending any standing order in accordance with Standing Order 28(1)
- j Motion to exclude the public
- k That a member named under Standing Order No 12 be not further heard or do leave the meeting
- l Inviting a member to remain under Standing Order No 24
- m Giving consent of the Council where the consent of the Council is required by these Standing Orders
- n Amending the time limit for speeches
- o That the meeting proceed to next business
- p That the question be now put

- q That the debate be now adjourned
- r That the Council do now adjourn.

## **STANDING ORDER 10**

### **CONSIDERATION OF COMMITTEE REPORTS**

#### **Recommendations as Motions**

- 1 For the purpose of Standing Order 11 (Rules of Debate) each recommendation to the Council arising out of a Cabinet or Committee report shall be a separate motion.

#### **Items for Report**

- 2 Each item for report to the Council arising out of a Cabinet or Committee report shall be debated in accordance with Standing Order 11.

#### **Related Items of Business**

- 3 When there are items of business before the Council which appear to be related the Chairman may decide that they should be taken together.



# **STANDING ORDER 11**

## **RULES OF DEBATE**

### **Respect for the Chairman**

- 1 Whenever the Chairman stands up during a debate a member then speaking or standing shall be seated and the Council shall be silent.

### **Member shall Stand when Speaking**

- 2 A member shall stand when speaking and shall address the Chairman. This will not apply to members with mobility difficulties.
- 3 If two or more members rise, the Chairman shall call on one to speak.

### **Chairman's Decisions to be Final**

- 4 The decision of the Chairman on the admissibility of a personal explanation, a point of order and the Chairman's interpretation and application of these Standing Orders shall be final.

### **Points of Order, etc**

- 5 A member may raise a point of order or personal explanation. A personal explanation shall consist of the right to correct any statement concerning the member made about him/her by another member during a previous speech in the course of the same debate.
- 6 In such circumstances, a member shall be entitled to be heard immediately.

### **Speeches to be Relevant**

- 7 Speeches shall be relevant to the question under discussion or to a point of order or to a personal explanation.

### **Time Limit on Speeches**

- 8 With the exception of speeches by the Chairman of the Council, the Chairmen of Committees, the Leader and Cabinet Members *when speaking in that capacity* no speech shall exceed four minutes except with the consent of the Chairman of the Council.
- 9 The Leader, Portfolio Holders and Chairmen of Committees may speak for more than 4 minutes when presenting a report to the Council or after responding to a Notice of Motion. The Chairman of the Council shall not be time limited in any speech.

## **Motions and Amendments**

- 10 A motion or amendment shall not be discussed or put to the meeting until it has been moved and seconded and, unless notice has been given under Standing Order No 8(1) or if it is a motion moved under Standing Orders 9 and 11(22), it shall be put in writing and handed to the Chairman before it is discussed or put to the meeting.

### **Secunder may Reserve Speech**

- 11 A member when seconding a motion or amendment may, if he/she then declares his/her intention to do so, reserve his/her speech until a later period of the debate.

### **Alteration of Motion**

- 12 A member may with the consent of his/her seconder and of the Council, signified without discussion, alter in Committee, his/her motion if the alteration is one which could be made as an amendment.

### **Withdrawal of Motion or Amendment**

- 13 A motion or amendment may be withdrawn by the mover with the agreement of the seconder and of the Council, signified without discussion, and no member shall speak upon it after the mover has asked permission for its withdrawal unless such permission has been refused.

### **Right to Speak**

- 14 A member shall only speak once on any motion or amendment (for up to 4 minutes) except in exercise of the right of reply given in Standing Order 11(24) to 11(28) or on a point of order, or by way of personal explanation, or to move "That the question now be put".

### **Notices of Motion referred to Cabinet or a Committee - Order of Debate**

- 15 (i) Where a notice of motion has been referred for consideration under Standing Order 8(7) and there is a report back under Standing Order 8(8) the following order of debate shall apply:

The mover of the notice of motion shall speak first

The Chairman (or Chairmen) of the Committee(s) the Leader or Cabinet Member reporting on the Notice of Motion shall then speak

The matter is then open to debate

The person reporting on the Notice of Motion shall have the right to make the penultimate speech in reply to the debate on the Notice of Motion

The mover of the notice of motion shall have the right of reply at the end of the debate.

- (ii) Standing Order 15(i) above does not apply when a motion is taken on the day it is put, when the normal rules of debate will apply.

### **Amendments**

16 Subject to 11(17) below an amendment shall be relevant to the motion and shall be either

- a To leave out words
- b To insert or add words.
- c To leave out words and insert or add others.

17 No amendment shall be allowed which is contrary to the motion before the Council or has the effect of introducing a new proposal.

18 Only one amendment may be moved and discussed at a time, and no further amendment may be moved until the amendment under discussion has been dealt with.

19 If an amendment is rejected different amendments may be proposed on the original motion.

20 If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion on which any further amendment may be moved.

21 The original motion or the motion as amended shall be put to the meeting.

22 No amendment shall be proposed on the motion after the mover of the motion has exercised his/her right of reply.

### **Motions that may be Moved during Debate**

23 When a motion is under debate no other motion shall be moved except the following:

- a to amend the motion

- b to withdraw a motion or amendment
- c to postpone consideration of the motion
- d to adjourn the meeting
- e to adjourn the debate
- f to proceed to the next business
- g that the question now be put
- h that a member be heard no further
- i that a member leave the meeting
- j that the subject of debate be referred back to a Committee
- k under Section 100 A(4) of the Local Government Act 1972 to exclude the public
- l To consent to the continuation of a speech beyond four minutes
- m To suspend a Standing Order or Standing Orders.

### **Closure Motions**

- 24 A member may move without comment at the conclusion of a speech of another member "That the Council proceed to the next business" or "That the question be now put" or "That the debate be now adjourned" or "That the Council do adjourn" on the seconding of which the Chairman shall proceed as follows:
  - a On the motion to proceed to the next business:
 

Unless in the Chairman's opinion the matter before the meeting has not been sufficiently discussed, the Chairman shall first give the mover of the original motion the right to speak against the closure motion, and then put to the vote without debate the motion to proceed to the next business.
  - b On a motion that the question be now put:
 

Unless in the Chairman's opinion the matter before the meeting has been insufficiently discussed, the Chairman shall first put to the vote without debate the motion that the question be now put and if it is passed then give the mover of the motion under debate a right of reply before putting the motion or amendment to the vote.

- c On a motion to adjourn the debate:

If in the Chairman's opinion the matter before the meeting cannot reasonably be discussed on that occasion, the Chairman shall put the adjournment motion without debate to the vote and without giving the mover of the original motion the right of reply on that occasion. If the motion is passed, consideration of the matter under discussion shall stand adjourned to the next ordinary meeting of the Council.

- d On a motion to adjourn the Council:

A member may move at any time "That the Council now adjourns". The mover and one other speaker replying on the invitation of the Chairman may speak for four minutes each and the question shall then be put. If the motion is carried the meeting shall stand adjourned with unfinished business held over to the next ordinary meeting of the Council, unless an extraordinary meeting is called to deal with it.

### **Right of Reply**

- 25 The mover of a motion shall have a right of reply at the close of the debate on the motion immediately before it is put to the vote or after the motion "That the question be now put" is carried.
- 26 If an amendment is moved the mover of the original motion has a right of reply at the close of the debate and before the amendment is put to the vote, but shall not otherwise speak on the amendment.
- 27 The proposer of an amendment has no right of reply to the debate on that amendment but shall have the right to make the penultimate speech in to the debate on the amendment.
- 28 A member exercising a right of reply or a right to speak under Standing Order 11(26) shall not introduce any new matter.
- 29 After every reply to which Standing Order 11(24) and (25) applies a vote shall be taken without further discussion.

### **Motions affecting Persons Employed by the Council**

- 30 If any question arises at a meeting of the Council concerning a particular person employed or formerly employed by the Council, the Chairman shall move a motion that shall immediately be put without debate to exclude the public under Section 100A(4) and Schedule 12A paragraph 1 of the Local Government Act 1972.

## **STANDING ORDER 12**

### **DISORDERLY CONDUCT**

- **Motion to End Disorderly Conduct**
  - 1 If, at a meeting, any member of the Council, in the opinion of the Chairman notified to the Council, misbehaves by persistently disregarding the ruling of the Chairman, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Council, the Chairman or a member may move "That the member named be not further heard" and the motion if seconded shall be put to the vote without discussion.
  - 2 If, after such a motion has been carried, the member persistently misbehaves the Chairman may require the removal of the member for such period as the Chairman shall determine. The Chairman may if necessary adjourn or suspend the sitting of the Council.
  - 3 If a member is required to leave the meeting under Standing Order 12(2) the member is not entitled to vote during the period of exclusion.

### **Disturbance by Members of the Public**

- 4 If a member of the public interrupts the proceedings at any meeting the Chairman shall issue a warning. If the interruption continues the Chairman shall order the person's removal from the Council Chamber.
- 5 In case of general disturbance in any part of the chamber open to the public the Chairman shall order that that part shall be cleared and if the Chairman considers it necessary, adjourn or suspend the sitting of the Council.

## **STANDING ORDER 13**

### **VOTING**

#### **Voting at Council Meetings**

- 1 Every question shall be determined by a show of hands.
- 2 On the requisition of any member supported by nine other members who show their support by standing up, the voting on any question shall be recorded so as to show how each member present and voting gave his vote.
- 3 Whenever a vote shall be taken by show of hands only, the Chairman shall ask for all those in favour and all those against to signify in turn, and if requested by a member of the Council the number of those signifying shall be recorded and entered into the minutes of the Council.
- 4 A member may not change his/her vote once he has cast it and the next member has been called upon to vote.
- 5 If a member arrives before the casting of votes has been completed s/he is entitled to cast his vote.
- 6 Immediately after a vote is taken any member may require that his/her vote cast for or against the question, or whether s/he abstained, is recorded in the minutes.
- 7 In the event of the voting being equal, the Chairman shall have a second or casting vote.

#### **Voting on Appointments**

- 8 Where there are more than two persons nominated for any position to be filled by the Council, and no person receives more than one half of the votes given, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on until a clear majority of votes is given in favour of one person.

## **STANDING ORDER 14**

### **STANDING ORDERS TO APPLY TO COMMITTEES**

1 The following Standing Orders shall, with any necessary modifications, apply to Committee meetings (but not Overview and Scrutiny Committee Meetings).

- |                    |  |
|--------------------|--|
| 2(3)               | Quorum   |
| 4                  | Powers of Chairman of Meeting  |
| 5(1)(2)(3) and (4) | Approval of Minutes  |
| 7(10)              | Questions  |
| 8(8)               | References of Motion to Committee  |
| 8(11)              | Proposer of Motion may attend Committee of which he is not a member  |
| 9                  | Motions which may be moved without notice except for i, m (Standing Order 9f does not apply to Council meetings) |
| 10(1)(2)           | Consideration of Committee reports   |
| 11(1)              | Respect for the Chairman   |
| 11(2)              | Member shall stand when speaking   |
| 11(3), (4)         | Chairman's Decisions to be final   |
| 11(5) and (6)      | Points of Order  |
| 11(7)              | Speeches to be relevant  |
| 11(8)              | Time limit on speeches   |
| 11(10)             | Motions and Amendments   |
| 11(11)             | Secunder may reserve speech  |
| 11(12)             | Alteration of Motion   |
| 11(13)             | Withdrawal of Motion or Amendment  |
| 11(16) to (22)     | Amendments   |



11(23)	Procedural Motions that may be moved during debates (with the exception of m)
11(24)	Closure Motions
11(25 to (29)	Right of Reply
11(30)	Motions affecting Persons employed by the Council
12(1) to (5)	Disorderly Conduct
13(1) (4)(5)(6) (7)(8)	Voting and Voting on Appointments
16	Exercise of Delegated Powers
17(6)	Casual Vacancies

2 The following Standing Orders shall, with any necessary modifications, apply to Overview and Scrutiny Committee meetings.

2(3)	Quorum
4	Powers of Chairman of Meeting
12(1) to (5)	Disorderly Conduct
13(1)(4)(5)(6) (7)(8)	Voting
15	Rules of Debate
18	Rights of Access
20	Committee Summons and Agenda Procedure

## **STANDING ORDER 15**

### **OVERVIEW AND SCRUTINY COMMITTEES - RULES OF DEBATE**

- 1 The Chairman presiding at a Overview and Scrutiny Committee meeting shall have all the powers necessary to ensure the orderly transaction of the meeting's business, including power to:
  - a apply any part of Standing Order 11.
  - b invite any person present to speak.

*Subject to the provisions of The Overview of Scrutiny Committee Rules contained in Part 4 of the Constitution and the Protocol on Overview and Scrutiny contained in Part 5 of the Constitution*

## **STANDING ORDER 16**

- **EXERCISE OF DELEGATED POWERS**

The Council, or a duly constituted Committee acting in the exercise of its delegated powers and in accordance with its terms of reference, shall be entitled to take all necessary action to fulfil its duties.

# STANDING ORDER 17

## APPOINTMENT OF COMMITTEES

- 1 The following Committees shall be Standing Committees of the Council.
  - The Buckinghamshire Environment Overview and Scrutiny Committee
  - Care Services Overview and Scrutiny Committee
  - Lifelong Learning Overview and Scrutiny Committee
  - Partnership Overview and Scrutiny Committee
  - Corporate Performance Overview and Scrutiny Committee
  - Development Control Committee
  - Regulatory Committee
  - Appeals and Complaints Committee
  - Rights of Way Committee
  - Senior Appointments and Bucks Pay Committee
  - Standards Committee

### Rules on Proportionality

- 2 Seats on Committees shall be distributed among the political groups in proportion to their membership of the Council.<sup>4</sup>
- 3 Before the annual meeting in the year of election of County Councillors the Head of Secretariat shall consult with the retiring Chairman of the Council and Group Leaders on the size and membership of Committees and shall report as appropriate to the annual meeting immediately following the election.
- 4 Such consultations and report determine the allocation to the different political groups of all the seats on Committees and recommends such appointments to give effect to the wishes of a particular group as to their allocation of seats.
- 5 Similar reports shall be submitted to each Standing Committee at its first meeting after the annual meeting of the Council in the year of the election of County Councillors.

### Casual Vacancies

- 6 Upon nomination from the appropriate Group Leader or the Head of Secretariat the Council may appoint members to fill any casual vacancies that may arise.

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<sup>4</sup> For Committees only the total number of seats available on all Committees have to be distributed among the political groups on a proportional basis. The implications of this allocation have then to be assessed and reconciled with the number of seats on each Committee.

### **Co-opted Members**

- 7 Any Church representatives or governors shall be members of the Lifelong Learning Overview and Scrutiny Committee.

### **Temporary Membership of Committees**

- 8 *The Head of Secretariat may by delegated powers vary the membership of a Committee on a permanent or temporary basis on the prior nomination of the Group Leader.*
- 9 *Any nomination shall be received and acted upon prior to the commencement of the meeting of the Committee.*

## **STANDING ORDER 18**

### **RIGHTS OF ACCESS TO THE COUNCIL, CABINET AND COMMITTEES**

- 1 Meetings of the Council the Cabinet or any Committees shall be open to the public except when dealing with exempt or confidential information as specified in Standing Order 18(2) and 18(3).

*A detailed description of the rights of the public to information is contained in the Access to Information procedure Rules in part 4 of this Constitution.*

#### **Exclusion of Public - Exempt Information**

- 2 The public may be excluded from the whole or part of a meeting of the Council, or one of its Committees, on the ground that exempt information would be disclosed.

#### **Prohibited Disclosure**

- 3 The public must be excluded from any meeting of the Council, or any of its Committees when any information would be disclosed to them which
  - a has been provided by a Government Department on terms which forbid disclosure, or
  - b would be prohibited by law or by an order of the Court.
- 4 The Head of Secretariat in consultation with the Legal Services Manager shall determine which Committee reports or parts of reports are unlikely to be taken in public and shall withhold such papers from public circulation.

#### **Rights to Speak - Members**

- 5 A member who is not a member of a Committee may attend such meeting to make a statement on behalf of the member's constituents in the case of any item under discussion which directly affects the member's division, with the prior consent of the Chairman of the meeting which will not be unreasonably withheld.<sup>5</sup>

#### **Part Two Meetings of Committees<sup>6</sup>**

- 6 A member who is not a member of a Committee shall be excluded from its meetings when exempt business is being considered, unless he/she can

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<sup>5</sup> This Standing Order is designed to assist a member to attend and address meetings when particular issues affecting a local area arise for consideration. The two key criteria which Chairmen are required to consider are that the member wishes to make a statement on behalf of his/her constituents and the matter directly affects his/her Division

<sup>6</sup> A part two meeting is a Committee meeting or part of such a meeting from which the public have been excluded because confidential or exempt business is being considered

demonstrate a "need to know" in order to carry out his/her duties as a councillor.<sup>7</sup>

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<sup>7</sup> A member's "need to know" arises when he/she requires information to carry out properly his/her duties as a councillor. Such rights exist whether or not confidential or exempt material is being considered. If a councillor is a member of a Committee, then he/she usually has a right to inspect the documents relating to the business of that body and attend its meetings. If a councillor is not a member of the specific Committee etc. he/she has to demonstrate why it is necessary for him/her to see documents and/or attend its meetings to perform his/her duties. The Legal Services Manager will decide whether a member has demonstrated a "need to know". The test that will be applied is whether it is reasonable to refuse access given all the circumstances. For example, if a member is motivated by improper indirect or ulterior reasons then it would be appropriate to refuse access.

## **STANDING ORDER 19**

### **ELECTION OF CHAIRMAN OF COMMITTEES**

#### **Election of Chairman and Vice-Chairman**

- 1 Every Committee shall, at its first meeting after appointment and at its first meeting after the annual meeting of the Council or as soon as practicable thereafter, elect a Chairman and appoint a Vice-Chairman, who shall hold office for a year or until their successors are elected or appointed.
- 2 If both Chairman and Vice-Chairman are absent from a meeting a Chairman for the meeting shall be elected.
- 3 Except on the Standards Committee, no person shall hold the office of Chairman or Vice-Chairmen unless he/she is a member of the Committee in question and is also a member of the Council.



## **STANDING ORDER 20**

### **COMMITTEE SUMMONS AND AGENDA PROCEDURE**

#### **Summons**

- 1 At least three clear working days before a meeting of the Council or any Committee a summons to attend the meeting in the name of the Head of Secretariat together with an agenda specifying the business to be transacted shall be delivered to the usual place of residence (or such other address as the member may specify) of every member of the body in question, provided that want of service of the summons shall not affect the validity of the meeting.

#### **Limitation of Business**

- 2 No business may be transacted at a meeting of the Council or a Committee which is not specified in the agenda for the meeting unless the Chairman of the meeting agrees that the item should be considered as a matter of urgency and the reason for urgency shall be specified in the minutes.

## **STANDING ORDER 21**

### **SPECIAL MEETINGS OF COMMITTEES**

- 1 The Chairman of a Committee or the Chairman of the Council may summon a special meeting of a Committee. A special meeting shall also be summoned on the requisition in writing of a quarter of the members of the Committee. The summons shall set out the business to be considered at the special meeting and no other business than that set out shall be considered at that meeting.

## **STANDING ORDER 22**

### **INSPECTION OF DOCUMENTS**

#### **Supply of Agendas and Minutes to the Public**

- 1 Agendas of Committees will be available for inspection on request by the public at County Hall during normal office hours and at the major reference libraries in the County, apart from items which are not open to the public.
- 2 All documents which are open to public inspection, shall be available 3 clear days before the meeting.

#### **Additional Access for Members**

- 4 Any document in the possession of the Council which relates to an item on the agenda of a meeting of the Council or any of its Committees shall be open to inspection by members of the Council, but this right of access does not extend to exempt information as defined in the Local Government Act 1972.
- 5 Members of the Council who can satisfy the "need to know"<sup>11</sup> test will be entitled to inspect papers in the possession of the Council not otherwise open to members.
- 6 Members of the Council shall not knowingly inspect or call for a copy of any document in the possession of the Council on any matter in which they are professionally interested or in which they have directly or indirectly any pecuniary interest within the meaning of Sections 94 to 98 and 105 of the Local Government Act 1972.
- 7 The Legal Services Manager may refuse to allow inspection of any document in the possession of the Council which is or in the event of legal proceedings would be protected by privilege arising from the relationship of solicitor to client.
- 8 The Legal Services Manager and the Head of Secretariat shall decide which documents cannot automatically be disclosed to members.

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<sup>11</sup> See Footnotes to Standing Order 18

## **STANDING ORDER 23**

### **DISCLOSURE OF INFORMATION BY MEMBERS**

#### **Improper Disclosure**

- 1 A member shall not disclose or quote in public the contents of any agenda, report or other document which is marked "Confidential" or "Not for Publication" unless the document has been made available to the public or the press on behalf of the Council.
  
- 2 A member shall not disclose to a non-member or quote in public any unpublished matter disclosed to the member in his/her capacity as a member of the Council where such disclosure would prejudice the interests of the Council.

## **STANDING ORDER 24**

### **INTEREST OF MEMBERS IN CONTRACTS AND OTHER MATTERS**

- 1 All members on accepting office shall declare that they will be guided by the National Code of Local Government Conduct.

#### **Pecuniary Interests**

- 2 If any member of the Council has any pecuniary interest direct or indirect within the meaning of Section 94, 95(1) or 95(3) of the Local Government Act 1972 in any contract, proposed contract or other matter, and is present at a meeting of the Council at which the contract or other matter is the subject of discussion, such member shall at the meeting or as soon as practicable after its commencement disclose the fact and not take part in the debate or vote and shall withdraw from the meeting, unless:
  - a the disability imposed upon the member by that Section has been removed by the Secretary of State under Section 97(1) of the same Act, or
  - b the Council, or Committee invite the member to remain, or
  - c the contract, proposed contract or other matter is part of the report of a Committee and is not itself the subject of debate.

#### **Non-Pecuniary Interests**

- 3 Any member who has a private or personal interest, as defined by the National Code of Local Government Conduct, in any matter shall immediately disclose that interest (unless it is insignificant or one which is shared by members of the public). The member may remain, speak and vote unless the interest is clear and substantial, in which case the member shall not take further part in the proceedings and shall withdraw from the meeting whilst the matter is being considered;
- 4 Involvement in the affairs of another public body or voluntary association by a member who has been appointed by the Council as its representative and in other specified cases does not automatically disqualify the member from being present at and taking part in the debate. In the following circumstances, a member may speak, and in some cases vote, in spite of the fact that the member has declared a clear and substantial private or personal interest: <sup>(8)</sup>
  - a if the interest arises in a member's capacity as a member of a public body, the member may speak and vote on matters concerning that body; for this purpose, a public body is one where, under the law governing declarations of pecuniary interests, membership of the body would not constitute an indirect pecuniary interest;

- b if the interest arises from being appointed by the Council as its representative on the managing committee, or other governing body, of a charity, voluntary body or other organisation formed for a public purpose (and not for the personal benefit of the members), the member may speak and vote on matters concerning that organisation;
- c if the interest arises from being a member of the managing committee, or other governing body of such an organisation, but not appointed by the Council as its representative, then the member may speak on matters in which that organisation has an interest but should not vote on any matter directly affecting the finances or property of that organisation, though he/she may vote on other matters in which the organisation has an interest;
- d if the interest arises from being an ordinary member or supporter of such an organisation (and not a member of its managing committee or other governing body), then the member may speak and vote on any matter in which the organisation has an interest.

### **Register of Members' Interests**

- 5 Every member shall submit details of his/her interests to the Head of Secretariat who shall maintain a Register of Members' Interests required by a member under the Local Authorities (Members' Interests) Regulations 1992, and the Register shall be open during normal office hours to the inspection of any member of the public.

### **Interest of Officers in Contracts**

- 6 The Head of Secretariat shall record in a book to be kept for the purpose particulars of any notice given by an officer of the Council under Section 117 of the Local Government Act 1972, of a pecuniary interest in a contract, and the book shall be open during office hours to the personal inspection of any member of the Council.

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#### **Footnote**

- (8) Two sets of rules in respect of pecuniary and non-pecuniary interests have to be observed. The Local Government Act 1972 deals with pecuniary (or mainly financial) interests. The Code of Conduct deals with non pecuniary ones. It is sometimes difficult to know what non-pecuniary interests should be disclosed.

The test is to decide whether such interests are private or personal. This includes those of your family and friends and those which arise because of your membership or association with, say, a club, a society, a trade union or voluntary body or as a freemason. You should always disclose these interests unless they are insignificant or generally shared with others in the community eg as a Council Tax payer.

Even then you might still be able to remain and vote unless your interest is clear and substantial. The test to apply to decide if an interest is clear and substantial is to ask whether members of the public, knowing the facts of the situation, would reasonably think that you might be influenced by it. If so, declare the interest and withdraw.

Finally there are some specific exceptions when you might have to declare a clear and substantial interest and can still stay and vote. This applies in general when your membership is of a public body or organisation formed for a public purpose. The detailed grounds are set out in Standing Order 24(4) above.

Declaring interests is a sensitive issue. The rules are rather complicated, but if you are ever in any doubt, contact either the Legal Services Manager, the Head of Secretariat or their staff who will be pleased to assist.

## **STANDING ORDER 25**

### **INSPECTION OF LANDS OR PREMISES**

- 1 A member of the Council, unless authorised to do so has no right to enter and/or inspect any lands or premises which the Council has the right or statutory duty to inspect.
  
- 2 A member of the Council has no right to enter County Council premises or require any action to be taken for any works to be carried out by or on behalf of the Council without proper authority being given.



# **STANDING ORDER 26**

## **CANDIDATES FOR APPOINTMENT OF OFFICERS**

### **Canvassing of Members**

- 1 Canvassing of members of the Council or any Committee of the Council directly or indirectly for any employment under the Council shall disqualify the candidate for such appointment.

### **Canvassing by Members**

- 2 A member of the Council shall not seek for any person any employment with the Council, or recommend any person for such appointment or for promotion; but this paragraph of this Standing Order shall not prevent a member from giving a written testimonial of a candidate's ability, experience or character for submission to the Council with an application for appointment.

### **Relatives of Members or Officers**

- 3 Candidates for any appointment under the Council who know that they are related to any member or senior officer of the Council shall, when making application, disclose that relationship. A candidate who fails to do so shall be disqualified for such appointment and, if appointed, shall be liable to dismissal without notice.
- 4 Every member and senior officer of the Council shall disclose to the Head of Secretariat any relationship known to exist between himself/herself and a candidate for an appointment of which he/she is aware. It shall be the duty of the Head of Secretariat to report to the Council or to the appropriate Committee any such disclosure made.
- 5 When relationship to a member of the Council is disclosed, Standing Order 24 shall apply.

### **Proximity of Relationship**

- 6 For the purpose of this Standing Order "senior officer" means an officer the maximum of whose salary grade exceeds the maximum of Bucks Pay Range 6. Persons shall be considered to be related if they are:
  - Father or mother
  - Husband or wife or partner
  - Son or daughter
  - Son-in-law or daughter-in-law
  - Grandson or granddaughter
  - Brother or sister

- Nephew or niece

of the member or the senior officer or his/her spouse/partner.

### **Appointment of Chief Executive and Strategic Directors etc.**

- 7 Where the Council proposes to appoint the Chief Officer to the Council, a Strategic Manager, the Monitoring Officer (Head of Secretariat) or the Chief Financial Officer (Head of Finance) and it is not proposed that the appointment be made from among its existing officers, it shall
  - a draw up a statement specifying
    - i the duties of the officer concerned, and
    - ii any qualifications or qualities to be sought in the person to be appointed;
  - b make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - c make arrangements for a copy of the statement mentioned in paragraph a to be sent to any person on request.
- 8 Where a post has been advertised as provided in Standing Order 26(7)(b), the Council shall
  - a interview all applicants for the post, or
  - b Select a short list of such applicants and interview those included on the short list.
  - c where no qualified person has applied the authority shall make further arrangements for advertisement in accordance with Standing Order 26(7)(b).
- 9 Every appointment of a Chief Officer of the Council, a Strategic Manager, the Monitoring Officer or the Chief Financial Officer shall be made by the Council's Senior Appointments and Bucks Pay Committee.

### **Disciplinary Action**

- 10 No disciplinary action in respect of the Chief Officer to the Council, the Head of Finance (Chief Financial Officer) or the Head of Secretariat (Monitoring Officer), except action described in Standing Order 26(11), shall be taken by the authority, other than in accordance with a recommendation in a report made by a

designated independent person under regulation 3 of the Local Authorities (Standing Orders) Regulations 1993.

- 11 The action mentioned in paragraph 26(10) is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension shall be on full pay and terminate no later than the expiry of two months beginning on the day on which it takes effect.

## **STANDING ORDER 27**

### **THE COMMON SEAL**

#### **Custody of Seal**

- 1 The Common Seal of the Council shall be kept in a safe place in the custody of the Legal Services Manager.

#### **Sealing of Documents**

- 2 The Common Seal of the Council shall not be affixed to any document unless authorised by:

a resolution of the Council or a Committee

the Cabinet or a Portfolio Holder (after the call-in procedure is completed if appropriate)  
a decision of a duly authorised officer

- 3 The Seal shall be attested by the Legal Services Manager, a Group Solicitor or a Senior Solicitor.
- 4 An entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for this purpose and shall be signed by the persons who shall have attested the sealing.

#### **Signature of Documents**

- 5 Where any document is a necessary step in legal proceedings on behalf of the Council it shall, unless any enactment otherwise requires or authorises or the Council has given the necessary authority to some other person for the purpose of such proceedings, be signed by the Legal Services Manager or a Group Solicitor.

## **STANDING ORDER 28**

### **Suspension of Standing Orders**

- 1 Any Standing Order may be suspended by resolution of the Council so far as regards any business at a meeting of the Council where its suspension is moved except for those Standing Orders governed by statutory requirements.
- 2 A motion to suspend Standing Orders shall not be moved without notice under Standing Order 9(i) unless at least one quarter of the whole number of the members of the Council are present.
- 3 Any motion for a suspension shall state the specific Standing Order(s) which it is intending to suspend.

### **Variation and Revocation of Standing Orders**

- 4 These Standing Orders may be added to, varied or revoked by giving notice under Standing Order 8(1).

### **Standing Orders to be given to Members**

- 5 A printed copy of these Standing Orders and of the statutory provisions which govern the procedure at meetings of the Council shall be given to each member of the Council by the Head of Secretariat on delivery of the member's declaration of acceptance of office.

### **Compliance with Standing Orders etc**

- 6 Every Committee, the Cabinet, Portfolio Holders and Officers shall comply with the Scheme of Delegation to Committees, Standing Orders, Financial Regulations, Standing Orders as to Contracts and the Scheme of Delegation to Officers.

## **STANDING ORDER 29**

### **PUBLICATION OF ADDITIONAL INFORMATION**

- 1 The Council shall maintain a register giving:
  - a the name and address of every member of the council for the time being and the division which he/she represents; and
  - b the name and address of every member of any Committee or body of the Council
  
- 2 The Council shall maintain a list:
  - a specifying those powers of the Council which are exercised by officers of the Council
  - b stating the designation of the officer by whom each of the powers listed is exercised

but a power need not be specified in the list if the arrangements for its discharge by the officer are made for a specified period not exceeding six months.
  
- 3 There shall be kept at the offices of the Council a written summary of the rights of members and the public:
  - a to attend meetings of the Council, its Committees and other bodies
  - b to inspect and copy documents and to be provided with documents.
  
- 4 The register maintained under subsection (1) above, the list maintained under subsection (2) above and the summary kept under subsection (3) above shall be open to inspection by the public at the Council's offices during normal office hours.

# **ACCESS TO INFORMATION PROCEDURE RULES**

## **1 SCOPE**

These rules apply to all meetings of the Council, Overview and Scrutiny Committees, local committees, the Standards Committee and Regulatory Committees and public meetings of the Cabinet (together called meetings).

## **2 ADDITIONAL RIGHTS TO INFORMATION**

These rules do not affect any additional rights to information contained elsewhere in this Constitution or the law.

## **3 RIGHTS TO ATTEND MEETINGS**

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

## **4 NOTICES OF MEETING**

The Council will give at least three clear days notice of any meeting by posting details of the meeting at County Hall Aylesbury Buckinghamshire.

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

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least three clear days before the meeting. If an item is added to the agenda later, the Head of Secretariat shall make each report available to the public as soon as the report is completed and sent to Councillors, and will ensure that it will be open to inspection from the time the item was added to the supplementary agenda.

## **6 SUPPLY OF COPIES**

The Council will supply copies of:

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

to any person on payment of a charge for postage and any other costs.

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

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

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

## 8 **BACKGROUND PAPERS**

### 8.1 **List of background papers**

The Head of Secretariat will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Executive reports, the advice of a political advisor.

### 8.2 **Public inspection of background papers**

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

## 9 **SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at Buckinghamshire County Council, County Hall Aylesbury.



## 10 EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

### 10.1 Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

### 10.2 Meaning of confidential information

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

### 10.3 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

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

### 10.4 Meaning of exempt information

Category	Condition
1 Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under the authority	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
2 Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, a magistrates' court committee.	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated.
3 Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority	Information is not exempt information unless it relates to an individual of that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a

Category	Condition
	particular individual in the roles indicated
4 Information relating to any particular applicant for, or recipient or former recipient of any service provided by the authority	Information is not exempt information unless it relates to an individual if that description in the capacity indicated by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicates
5 Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority	Information is not exempt information unless it relates to an individual of that description in the capacity indicate by the description, i.e. it must relate to and be recognisable as referring to a particular individual in the roles indicated
6 Information relating to the adoption, care, fostering or education of any particular child	Child means a person under 18 and anyone who is 18 and is still registered as a school pupil, or is the subject of a care order, within the meaning of section 31 Children Act 1989
7 Information relating to the financial or business affairs of any particular person (other than the authority)	Information within paragraph 7 is not exempt if it must be registered under various statutes, such as the Companies Act or Charities Act. To be exempt the information must relate to a particular third person who must be identifiable.
8 The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services	Information within paragraph 8 is only exempt if, and for so long as, disclosure of the amount involved would be likely to give an advantage to a person entering into or seeking to enter into a contract with the authority in respect of the property, goods or services, whether the advantage would arise as against the authority or as against other such persons
9 Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services	Information within paragraph 9 is only exempt if, and for so long as, disclosure to the public of the terms would prejudice the authority in those or any other negotiations concerning that property or those goods or services. (The disposal of property includes granting an interest in or right over it).

Category	Condition
<p>10 The identity of the authority (as well as of any other person, by virtue of paragraph 7 above) as the person offering any particular tender for a contract for the supply of goods or services</p>	<p>For the purpose of this paragraph “tender” includes a DLO/DSO or partnering written bid.</p>
<p>11 Information relating to any consultations or negotiations, or contemplated consultations or negotiations. In connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority</p>	<p>Information within paragraph 11 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter</p> <p>“Labour relations matters” are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations Act 1974, i.e. matters which may be the subject of a trade dispute</p>
<p>12 Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received. Information obtained or action to be taken in connection with:</p> <p>(a) any legal proceedings by or against the authority; or</p> <p>(b) the determination of any matter affecting the authority.</p> <p>whether, in either case, proceedings have been commenced or are in contemplation</p>	
<p>13 Information which, if disclosed to the public, would reveal that the authority proposes:-</p> <p>(a) to give under any enactment a notice under or by virtue of</p>	<p>Information within paragraph 13 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is</p>

Category	Condition
which requirements are imposed on a person; or  (b) to make an order or direction under any enactment	to be given or made
14 Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	
15 The identity of a protected informant	A “protected informant” means a person giving the authority information which tends to show that:  (a) a criminal offence; (b) a breach of statutory duty; (c) a breach of planning control; or (d) a nuisance,  has been, or is being, or is about to be committed

Information falling within any of paragraphs 1-15 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

**11 EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS**

The Head of Secretariat may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

**12 APPLICATION OF RULES TO THE CABINET**

Rules 13 – 24 apply to the Cabinet. If the Cabinet meets to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. The Cabinet and Individual Cabinet Members will also comply with the Protocol for Making Key Decisions attached in Part 5 of this Constitution. A key decision is as defined in Article 13.3 of this Constitution.

If the Cabinet meets to discuss a key decision to be taken collectively, with an officer within 28 days of the date according to the Forward Plan by which it is to

be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is as defined in Article 13.3 of this Constitution. This requirement does not include meetings, whose sole purpose is for officers to brief members.

### 13 **PROCEDURE BEFORE TAKING KEY DECISIONS**

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

- (a) a notice (called here a Forward Plan) has been published in connection with the matter in question;
- (b) at least 3 clear days have elapsed since the publication of the forward plan; and
- (c) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

### 14 **THE FORWARD PLAN**

The Leader will prepare a Forward Plan which must list all Key Decisions which the Cabinet anticipate that they will take during the next 4 months, together with any particularly significant Key Decisions which they anticipate that they will take within the next 4 to 12 months. Individual Cabinet members will also prepare Forward Plans on the same basis. The Chief Officer of the Council may also include in the Forward Plan reference to significant decisions, which are to be taken by the Council or any of its Committees or Sub Committees.

The Forward Plan shall include the following information in respect of each such Key Decision:

- (a) the matter in respect of which the decision is to be taken
- (b) the person or body by whom the decision is to be taken
- (c) the date on which, or the period within which, the decision is to be taken
- (d) those persons or bodies whom the decision-taker proposes to consult before taking the decision
- (e) the means by which such consultation is to be carried out
- (f) the date by which any representation must be received, and the addressee by whom it must be received, if it is to be taken into account by the decision taker

- (g) a list of any documents (such as issues papers, previous officer reports or records of previous decisions on the matter) which are available to the public in respect of the decision.

Where the Cabinet anticipate taking a Key Decision on a matter, and inclusion of the matter within the Forward Plan would disclose confidential or exempt information and so prejudice the conduct of the Council's business, the Cabinet may limit the entry in the Forward Plan to such information as may be disclosed without prejudice. At least 14 clear days before the first day on which the Forward Plan has effect, the Head of Secretariat shall arrange for a notice to be published which informs the public of the importance and availability of the Forward Plan.

The Cabinet shall review and update the Forward Plan at least once in every calendar month, and shall make arrangements for the revised Forward Plan to be provided to all members of the Council and available to the public on request.

## 15 **GENERAL EXCEPTION**

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

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next Forward Plan relates; and/or
- (b) the Head of Cabinet Support has informed the Chairman of a relevant Overview and Scrutiny committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made; and/or
- (c) the Head of Secretariat has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 3 clear days have elapsed since the Head of Cabinet Support complied with (a) and (b).

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

## 16 **SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of a relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred. If there is no Chairman of a relevant Overview and Scrutiny Committee, or if the Chairman of each relevant Overview and Scrutiny Committee is unable to act, then the

agreement of the Chairman of the Council, or in his/her absence the vice Chairman will suffice.

## **17 REPORT TO COUNCIL**

### **17.1 When an Overview and Scrutiny Committee can require a report**

If an Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

- (a) included in the Forward Plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant Overview and Scrutiny Committee Chairman, or the Chairman/vice Chairman of the Council under Rule 16;

the committee may require the Cabinet to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the committee when so requested by at least 50% of the members of the Overview and Scrutiny Committee. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

### **17.2 The Cabinet's report to Council**

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

### **17.3 Quarterly reports on special urgency decisions**

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

## 18 **RECORD OF DECISIONS**

After any meeting of the Cabinet, the Head of Cabinet Support, or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and, where appropriate, any alternative options considered and rejected at that meeting.

## 19 **EXECUTIVE MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS**

The Cabinet have decided that meetings relating to matters which are not key decisions will be held in public.

Where a Cabinet Member or Officer takes a decision other than a Key decision s/he shall keep such notes and records of the decision as s/he considers appropriate in the circumstances and taking into account any requirements to produce such information to an Overview and Scrutiny Committee, if requested to do so.

## 20 **DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET**

### 20.1 **Reports intended to be taken into account**

Where an individual member of the Cabinet receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 3 clear days after receipt of that report.

### 20.2 **Provision of copies of reports to Overview and Scrutiny Committees**

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chairman of every relevant Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time, provided that such reports do not contain confidential or exempt information.

### 20.3 **Record of individual decision**

As soon as reasonably practicable after any decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the proper officer to prepare, and publish a record of the decision, and, as appropriate, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

## 21 **OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO**



## **DOCUMENTS**

### **21.1 Rights to copies**

Subject to Rule 21.2 below, an Overview and Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to

- (a) any business transacted at a public or private meeting of the Cabinet or its committees ; or
- (b) any decision taken by an individual member of the Cabinet.

### **21.2 Limit on rights**

An Overview and Scrutiny Committee will not be entitled to scrutinise:

- (a) any document that is in draft form and not yet formally available for consideration by the Cabinet or an individual Cabinet member;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or is relevant to a decision which they have given notice of their intention to scrutinise; or

## **22 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS**

### **22.1 Material relating to previous business**

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet and contains material relating to any business previously transacted unless either it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information.

### **22.2 Material relating to key decisions**

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its committees which relates to any key decision unless paragraph 24.1(a) or (b) above applies.

### **22.3 Nature of rights**

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

# **BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

## **1 THE FRAMEWORK FOR EXECUTIVE DECISIONS**

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

## **2 PROCESS FOR DEVELOPING THE FRAMEWORK**

- (a) Before a plan/strategy/budget needs to be adopted, the Cabinet will publish initial proposals for the budget and policy framework, having first canvassed the views of local stakeholders as appropriate and in a manner suitable to the matter under consideration. Any representations made to the Cabinet may be taken into account in formulating the initial proposals, and shall be reflected in any report dealing with them. If the matter is one where an Overview and Scrutiny Committee has carried out a review of policy, then the outcome of that review will be reported to the Cabinet and considered in the preparation of initial proposals.
- (b) The Cabinet's proposals shall be referred to the relevant Overview and Scrutiny Committee for further advice and consideration. The proposals will be referred by sending a copy to the Head of Overview and Scrutiny Support who will forward them to the Chairman of the relevant Overview and Scrutiny Committee. If there is no such Chairman, a copy must be sent to every member of that committee. The Overview and Scrutiny Committee shall report to the Cabinet on the outcome of its deliberations. The Overview and Scrutiny Committee shall agree the timescale for their response to these initial proposals with the Cabinet, taking into account any special factors.
- (c) Having considered the report of the Overview and Scrutiny Committee, the Cabinet, if it considers it appropriate, may amend its proposals before submitting them to the Council meeting for consideration. It will also report to Council on how it has taken into account any recommendations from the Overview and Scrutiny Committee.
- (d) The Council will consider the proposals of the Cabinet and may adopt them, amend them, refer them back to the Cabinet for further consideration, or substitute its own proposals in their place. In considering the matter, the Council shall have before it the Cabinet's proposals and any report from any relevant overview and scrutiny committee.
- (e) The Council's decision will be publicised in accordance with Part 4 and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective Immediately (if the Council accepts the Cabinet's proposals without amendment) or (if

the Cabinet's proposals are not accepted without amendment), that the Council's decision will become effective on the expiry of 5 working days after the publication of the notice of decision, unless the Leader objects to it in that period.

- (f) If the Leader objects to the decision of the Council, he/she shall give written notice to the Head of Secretariat to that effect prior to the date upon which the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Head of Secretariat shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting.
- (g) The Council meeting must take place within 21 working days of the receipt of the Leader's written objection. At that Council meeting, the decision of the Council shall be reconsidered in the light of the objection, which shall be available in writing for the Council.
- (h) The Council shall at that meeting make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Part 4, and shall be implemented immediately.

### **3 DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) Subject to the provisions of the Financial Regulations the Cabinet, individual members of the Cabinet and any officers, local committees or joint arrangements discharging Executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to 4 below.
- (b) If the Cabinet, individual members of the Cabinet and any officers, local committees or joint arrangements discharging Executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the policy framework, or the budget. If the advice of either of those officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

4 **URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) The Cabinet, an individual member of the Cabinet or officers, local committees or joint arrangements 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:
- (i) if it is not practical to convene a quorate meeting of the full Council; and
  - (ii) if the Chairman of a relevant Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the Chairman of the relevant Overview and Scrutiny Committees' consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of a relevant Overview and Scrutiny Committee the consent of the Chairman of the Council and in his absence the consent of the vice-Chairman, will be sufficient.

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

5 **CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK**

- (a) Where an Overview and Scrutiny Committee is of the opinion that a decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- (b) In respect of functions, which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Cabinet with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief

Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 21 working days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:

- (i) endorse a decision or proposal of the Cabinet 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

- (ii) amend the Council's Financial Regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

Or

- (iii) where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

# **EXECUTIVE PROCEDURE RULES**

## **1 HOW DOES THE CABINET OPERATE?**

### **1.1 Who may make Executive decisions?**

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

- (a) The Cabinet as a whole;
- (b) an individual member of the Cabinet;
- (c) an officer;
- (d) a local committee;
- (e) joint arrangements; or
- (f) another local authority.

### **1.2 Delegation by the Leader**

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations of executive functions made by him/her to Cabinet members for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about Executive functions in relation to the coming year:

- (a) the names, addresses and electoral divisions of the people appointed to the Cabinet by the Leader;
- (b) the extent of any authority delegated to Executive members individually as Portfolio holders, including details of the limitation on their authority;
- (c) the terms of reference and Constitution of such Executive committees as the Leader appoints and the names of Executive members appointed to them;
- (d) the nature and extent of any delegation of Executive functions to local committees, any other authority or any joint arrangements and the names of those Executive members appointed to any joint committee for the coming year; and

- (e) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### **1.3 Sub-delegation of Executive functions**

- (a) Where the Cabinet, or an individual member of the Cabinet is responsible for an Executive function, they may delegate further to an officer.
- (b) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to an officer.
- (c) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

### **1.4 The Council's scheme of delegation and Executive functions**

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) The Leader may amend the scheme of delegation relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the Head of Secretariat 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, committee or the Cabinet as a whole. Where the proposal provides for a change in delegation to a local committee, joint committee or other joint working arrangement the Head of Secretariat will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader. In all other cases the appropriate amendments will be made by the Monitoring Officer to the Constitution.
- (c) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its Chairman.

### **1.5 Conflicts of Interest**

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

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

#### 1.6 **Executive meetings – when and where?**

The Cabinet shall normally meet at least 12 times a year at such dates and times as shall be:

- (a) determined by the Leader and notified by the Leader to the Head of Cabinet Support and the Head of Secretariat.
- (b) determined by the Head of Cabinet Support where possible after consultation with the Leader (or in his absence, the Deputy Leader), being within 15 days following receipt of a written requisition signed by at least three members of the Cabinet stating the matter or matters to be considered at that meeting, or
- (c) exceptionally, determined by the Head of Cabinet Support where in his opinion, where possible after consultation with the Leader (or in his absence, the Deputy Leader) there is an urgent matter or urgent matters which require the consideration of the Cabinet but no convenient meeting of the Cabinet has been arranged.

All meetings of the Cabinet shall be held at County Hall, Aylesbury unless the Leader notifies the Head of Cabinet Support of an alternative location for a particular meeting.

The Head of Cabinet Support shall maintain a diary of all future meetings of the Cabinet, and shall as far as possible ensure that the dates of meetings of the Cabinet for the coming months are notified to all members of the Council and made available to the public.

#### 1.7 **Quorum**

The quorum at any meeting of the Cabinet shall be three.

If a quorum is not present within 10 minutes of the scheduled start of a meeting the business of the meeting shall be adjourned until the next meeting of the Cabinet



## 1.8 **How are decisions to be taken by The Cabinet?**

Executive decisions which have been delegated to the Cabinet, as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

## 2. **HOW ARE EXECUTIVE MEETINGS CONDUCTED?**

### 2.1 **Who presides?**

The Leader or, in his absence, the Deputy Leader shall preside at meetings of the Cabinet. In the absence of both the Leader and the Deputy Leader, the members of the Cabinet present shall choose a person to preside.

### 2.2 **Who may attend?**

The Press and public shall be entitled to admission to all meetings of the Cabinet except:

- (a) where the Cabinet resolves that the Press and public be excluded for the consideration of all or part of the consideration of a matter because the discussion of that matter is likely to result in the disclosure of exempt or confidential information, or
- (b) where the person presiding at the meeting has ordered their removal in order to prevent disruption of the meeting

Any Councillor may attend any meeting of the Cabinet as a member of the public except:

- (a) where excluded under paragraph 1, or
- (b) where the Councillor would have been required to declare an interest in the matter if it had come before a meeting of the Council at which the Councillor was present.

A Councillor who is not a member of the Cabinet may only speak at the meeting if invited to do so by the person presiding.

Officers' rights of attendance shall be as follows:

- (a) Strategic Managers shall be responsible for ensuring that they are present or represented at meetings of the Cabinet when necessary in order to assist the Cabinet in the conduct of its business and enable the efficient discharge of the decisions of the Cabinet
- (b) The Statutory Officers of the Council, or their nominees, shall be entitled to attend all meetings of the Cabinet and to speak on issues affecting their statutory responsibilities

Substitutes are not permitted for Cabinet Members. The absence of a Cabinet Member for any reason shall not prevent consideration and determination of a matter. If a matter is delegated to a Cabinet Member it may be referred to the Cabinet for decision.

### 2.3 **Deputations**

Deputations will not be received at meetings of the Cabinet. Cabinet Members will meet deputations from local members, interested members of the public, community groups and other interested parties to discuss matters which are to be considered by the Cabinet or decided by Cabinet Members. At least one officer will attend such meetings to give professional advice. The Head of Cabinet Support will ensure that a note is made of any discussion.

### 2.4 **What business?**

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

- (a) consideration of the minutes of the last meeting;
- (b) declarations of interest, if any;
- (c) matters referred to the Cabinet (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (d) consideration of reports from Overview and Scrutiny Committees; and
- (e) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure rules set out in Part 4 of this Constitution.

### 2.5 **Consultation**

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, 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.

Reports to the Cabinet will normally appear in the name of the Cabinet Member incorporating advice from appropriate officers. Exceptions will include a report from a Statutory Officer. The originator of a report will ensure that draft reports are the subject of consultation with the Head of cabinet Support and any relevant

Heads of Service, including in all cases the Head of Finance and the Monitoring Officer.

## 2.6 **Who can put items on The Cabinet agenda?**

At least 3 clear days before any meeting of the Cabinet, the Head of Cabinet Support shall deliver to Cabinet members a summons giving the date, time and place of the meeting, the agenda and inviting their attendance.

The Head of Cabinet Support shall include on the agenda:

- (a) agenda items notified by the Leader (or in his absence the Deputy Leader) to the Head of Cabinet Support
- (b) matters that the Leader or the Cabinet have decided to review being matters for determination by the Council, or a Committee
- (c) such matters as the Head of Cabinet Support, where possible after consultation with the Leader (or in his absence, the Deputy Leader), determines are necessary for the Cabinet to consider for the proper discharge of the Council's functions,
- (d) matters referred or recommended to the Cabinet by Council, or a Committee
- (e) matters notified to the Head of Cabinet Support in a requisition signed by at least three members of the Cabinet.
- (f) Reports from Statutory Officers in respect of Executive functions.

## **OVERVIEW AND SCRUTINY PROCEDURE RULES**

### **1 WHAT WILL BE THE NUMBER AND ARRANGEMENTS FOR OVERVIEW AND SCRUTINY COMMITTEES?**

The Council will have the Overview and Scrutiny Committees set out in Article 6 and will appoint to them, as it considers appropriate from time to time. Overview and Scrutiny Committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.

### **2 TERMS OF REFERENCE**

The terms of reference of the Overview and Scrutiny Committee will be:

- (a) To review the policies of the Council and the Cabinet and to recommend to the Council or the Cabinet:
  - (i) whether any new policies are required
  - (ii) whether any existing policies are no longer required
  - (iii) whether any changes are required to any existing policies
  - (iv) whether any action is required to make the policies more effective
- (b) To review the discharge of Executive functions, and to recommend to the Council or the Cabinet:
  - (i) whether any action should be taken to improve the economy, efficiency and effectiveness of those functions
  - (ii) whether any action should be taken to improve the co-ordination of the various functions within the Authority, or with any other person or body
  - (iii) whether the function should continue to be discharged or be discharged in another way
- (c) To review any decisions or proposed decisions of the Council and of the Cabinet and to recommend to the Council or the Cabinet:
  - (i) whether the decision should be reconsidered, and if so what alternative decision should be taken
  - (ii) whether the proposed decision should be taken or taken in a different form
  - (iii) whether any further action should be taken in the experience of that decision to ensure proper or better implementation of

decisions whether any further action should be taken in the experience of that decision to improve the manner or quality of decision-making for the future

- (d) To consider any matters which affect the Council or its administrative area or the inhabitants of that area and to make recommendations to the Council or the Cabinet arising from that consideration.
- (e) To consider any matter referred to it by the Council or the Cabinet and recommend to the Council or the Cabinet accordingly. The following matters shall be referred to the Overview and Scrutiny Committee automatically:
  - (i) reports of statutory inspections and Inquiries
  - (ii) reports from the District Auditor and the Council's Internal Auditor
  - (iii) draft policies, plans and strategies which are recommended by the Cabinet to the Council for approval
  - (iv) the draft Budget which is recommended to the Council by the Cabinet
  - (v) any proposals from the Cabinet for a modification of the authority's Constitution
  - (vi) Ombudsman reports
- (f) In undertaking such reviews and considerations, the Overview and Scrutiny Committee shall in particular consider:
  - (i) whether the relevant criteria were used
  - (ii) whether the decision is in accordance with the Policy framework of the Council
  - (iii) whether the decision or action was within the powers of the Authority
  - (iv) whether the decision was lawful
  - (v) whether the decision contributes to the efficient, effective and economic discharge of the function

- (g) To review and comment on the Best Value programme including
  - (i) reviewing performance against the previous years plan
  - (ii) commenting on outcomes and targets on the Best Value Local Performance Plan
  - (iii) reviewing whether the Council's policies, resources and services are properly and effectively co-ordinated with the policies, resources and services of other agencies and bodies and to make appropriate reports to the Cabinet and Council
- (h) To consider any matter identified by a member of the Committee for consideration
- (i) To prepare an annual Work Plan, after consultation with the Cabinet, identifying particular topics for review during the year.
- (j) In order to facilitate more informal style of scrutiny, Overview and Scrutiny Committees may set up sub-groups including groups covering the whole Committee with added members to look into specific projects, or exceptionally for more general purposes and to operate such sub groups on an informal basis.
- (k) Standing sub-groups will be the exception rather than the rule. Sub-groups will normally be set up as ad hoc groups by the Overview and Scrutiny Committee to do a specified task or project and will have defined terms of reference and be time limited. These may vary in formality and constitution and may be either open to the press and public or closed. All such sub-groups shall submit an open report to the Overview and Scrutiny Committee at the completion of their work.
- (l) Any member who has formed part of a sub-group shall be entitled to see all papers considered by the sub-group. A member will only be able to vote if they are appointed as a voting member of the relevant Select Committee. A member will not be able to be a member of a sub-group of a Select Committee if he or she has already participated in the consideration of the issue as a member of a policy advisory group commissioned by the Cabinet.
- (m) The meetings will generally be held in an informal manner but the Chairman of the sub-group may, if he or she thinks it appropriate, structure a discussion and limit the time allowed for questioning by members of the sub-groups. The provisions of these rules on papers, records and confidentiality apply to sub-groups as they do to Overview and Scrutiny Committees.

### 3 **WHO MAY SIT ON OVERVIEW AND SCRUTINY COMMITTEES?**

All Councillors except members of the Cabinet may be members of an Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision which he/she has been directly involved.

### 4 **CO-OPTTEES**

Overview and Scrutiny Committees may have such co-optees as shall be decided by the Overview and Scrutiny Committees in question but with the exception of co-opted members on the Lifelong Learning Overview and Scrutiny Committees, co-optees will not be able to vote.

Members of any policy advisory group commissioned by the Cabinet may sit on Overview and Scrutiny Committees when a conflict of interest does not arise

### 5 **EDUCATION REPRESENTATIVES**

The Lifelong Learning Overview and Scrutiny Committee dealing with education matters shall include in its membership the following voting representatives:

- (a) 1 Church of England diocese representative (at least one);
- (b) 1 Roman Catholic diocese representative (at least one);
- (c) 2 parent governor representatives (between 2 and 5); and
- (d) A relevant Overview and Scrutiny Committee in this paragraph is an Overview and Scrutiny Committee of a local education authority, where the committee's functions relate wholly or in part to any education functions which are the responsibility of the authority's Executive. If the Overview and Scrutiny Committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

### 6 **MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEES**

Each Overview and Scrutiny Committee should normally meet no more than once a month. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman of the relevant Overview and Scrutiny Committee, by any 3 members of the committee or by the proper officer if he/she considers it necessary or appropriate.

### 7 **QUORUM**

The quorum for an Overview and Scrutiny Committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

### 8 **WORK PROGRAMME**

Following discussions between the Cabinet and the Chairmen of the Overview and Scrutiny Committees the Overview and Scrutiny Committees will formulate an annual programme for their own work. This work programme shall be submitted to the Council for agreement.

Where the Select Committee believes that a particular matter should be included in the four month Forward Plan, it may recommend to the Cabinet to that effect and may require the Cabinet to report to it on the matter, but the final decision as to whether to include a matter is within the Forward Plan remains with the Cabinet.

## 9 **AGENDA ITEMS**

Any member of an Overview and Scrutiny Committee shall be entitled to give notice to the Head of Overview and Scrutiny Committee Support that he/she wishes an item relevant to the functions of the committee to be included on the agenda for the next available meeting of the committee. On receipt of such a request he/she will ensure that it is included on the next available agenda. The Chairman and the appropriate Cabinet Member and any relevant officer may reply to any item added to the Agenda in accordance with this provision.

The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the Cabinet to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Committee within one month of receiving it.

## 10 **POLICY REVIEW AND DEVELOPMENT**

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



## 11 **REPORTS FROM OVERVIEW AND SCRUTINY COMMITTEE**

- (a) All reports from Select Committees will normally first be referred to the Cabinet for consideration and resource assessment before being considered by the Council. The Cabinet then has the opportunity to discuss the report and its recommendations with the Select Committee before reporting its views to the Council. Every effort would be made to avoid undue delay.
- (b) If an Overview and Scrutiny Committee cannot agree on one single final report to the Cabinet, then up to one minority report may be prepared and submitted for consideration by the Cabinet with the majority report.
- (c) The Cabinet shall consider the report of the Overview and Scrutiny Committee at the earliest opportunity and if necessary discuss the report and its recommendations with the Committee before reporting its views to the Council.

## 12 **MAKING SURE THAT OVERVIEW AND SCRUTINY REPORTS ARE CONSIDERED BY THE CABINET OR POLICY COMMITTEES**

- (a) Once an overview and scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of two weeks from the date the report was adopted by the Overview and Scrutiny Committee. In such cases, the report of the Overview and Scrutiny Committee shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the overview and scrutiny report within four weeks then the matter will be referred to Council for review, and the Head of Secretariat will call a Council meeting to consider the report and make a recommendation to the Cabinet
- (b) Overview and Scrutiny Committees will in any event have access to the Cabinet's Forward Plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an Overview and Scrutiny Committee following a consideration of possible policy/service developments, the committee will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

13 **RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

- (a) In addition to their rights as Councillors, members of overview and scrutiny committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

The following is a summary of the access to information available to Overview and Scrutiny Committees:

An Overview and Scrutiny Committee:

- (a) May within the limits of its budget (if any), commission research or advice (including from external organisations) to assist in any deliberations and may request that a budget for such work is provided.
- (b) Shall have access to all relevant papers of the Council

Overview and Scrutiny Committee members who have access to confidential material shall at all times respect the confidentiality of that material and shall not use it in a context other than the Committee examination without the permission of the Committee.

Overview and Scrutiny Committees will also have access to background information from a range of sources including but not limited to:

- (a) The Council Plan
- (b) The 4 month Forward Programme of work for the Cabinet
- (c) The Policy Framework and corporate strategies
- (d) Service plans
- (e) External Audit Management Letter
- (f) Internal and external audit plan and reports
- (g) Legislation and Government guidance
- (h) Government reports and national studies
- (i) National performance and comparative information eg: CIPFA statistics

- (j) Complaints
- (k) Community plans and processes
- (l) Cabinet or Portfolio Holder papers
- (m) Representations from the community (individuals, community groups, local members, area committees, residents, surveys etc)
- (n) Research published by other organisations or commissioned by Overview and Scrutiny Committees
- (o) Evidence from expert witnesses at the Overview and Scrutiny Committees request

The right of access to documents rests with the Committee, and not with the individual member. Accordingly where a member of an Overview and Scrutiny Committee wishes to have access to particular documents for the purpose of the functions of the Select Committee, he may request (not require) access directly of the officer who holds the documents. In the alternative, he may:

- (a) Request the relevant Head of Service to make arrangements to enable him or her to inspect the documents, or
- (b) Request the Chairman of the Overview and Scrutiny Committee, who may request the relevant Head of Service accordingly, or
- (c) Refer the matter for consideration by the Committee and recommend the Committee to instruct the officer concerned to report thereon including copies of relevant documents

#### 14 **MEMBERS AND OFFICERS GIVING ACCOUNT**

- (a) Any Overview and Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any (other) member of the Cabinet, The Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or

(iii) their performance.

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

- (b) Where any member or officer is required to attend an Overview and Scrutiny Committee under this provision, the Chairman of that committee will inform the Head of Overview and Scrutiny Committee Support. He/she shall inform the member or officer in writing giving at least 3 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the member or officer arrange an alternative date for attendance to take place within a maximum of 14 days from the date of the original request: or
- (d) He/she may nominate another officer or member, who is able to speak on the topic to attend.

## 15 **ATTENDANCE BY OTHERS**

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

## 16 **CALL-IN**

Call-in should only be used in exceptional circumstances. These are where members of the appropriate Overview and Scrutiny Committee have evidence which suggest that the Cabinet did not take the decision in accordance with the principles set out in Article 13 (Decision Making). Where a decision is taken in accordance with the recommendation contained in the report the Overview and Scrutiny Committee will not call in the decision unless they are satisfied that there are substantial issues which could not reasonably have been raised before the decision was taken.

- (a) When a decision is made by the Cabinet, an individual member of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or an local committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2

days of being made. Chairmen of all Overview and Scrutiny Committees will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

- (b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of three working days after the publication of the decision, unless an Overview and Scrutiny Committee objects to it and calls it in.
- (c) During that period, an Overview and Scrutiny Committee member may give notice of the intention to request the call in of any proposal by the Cabinet or the Cabinet member other than one taken under the urgent action procedure.
- (d) Once the fact that the Cabinet or a Cabinet member is to consider an item is published, any member of the relevant Overview and Scrutiny Committee, may ask to see the papers (unless they contain confidential or exempt information) to be considered and take preliminary advice from officers supporting the Overview and Scrutiny Committee about the implications of the decision.
- (e) A member of an Overview and Scrutiny Committee must notify the Head of Secretariat within three working days of the publication of the proposal of the intention to request the Committee to examine the proposal and of the requirement for the attendance by the Cabinet member and any officer.
- (f) An Overview and Scrutiny Committee shall consider the request for a call-in at its next meeting.
  - (i) If, following discussion the Overview and Scrutiny Committee agrees that the matter should be called in it may proceed to determine its response at that meeting. If the Committee agrees that further investigation or information is required, the Cabinet or Cabinet member may agree to extend the time in which a final view may be expressed.
  - (ii) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker they shall then reconsider within a further five working days, amending the decision or not, before adopting a final decision.
  - (iii) If following an objection to the decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date

of the overview and scrutiny meeting, or the expiry of that further five working day period, whichever is the earlier.

- (iv) If the matter was referred to full Council and the Council does not object to a decision, which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of a Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet, a meeting will be convened to reconsider within five working days of the Council request. Where the decision was made by an individual, the individual will reconsider within five working days of the Council request.
- (v) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

## 17 **REVIEW OF DECISIONS**

The Head of Overview and Scrutiny Support shall arrange for a decision to be reviewed by an Overview and Scrutiny Committee if so requested by the Committee, and shall then notify the decision-taker of the review. He/she shall call a meeting of the committee on such date as he/she may determine, where possible after consultation with the Chairman of the committee, and in any case within 5 days of the decision to call-in.

## 18 **EXCEPTIONS**

### **Call-In and Urgency**

- (a) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. Where the Head of Overview and Scrutiny Committee Support receives a request for the call in of an urgent decision he/she shall check the reasons why the decision is stated to be urgent and shall not call it in if he/she is satisfied that the decision is genuinely urgent.

Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

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

## 19 **PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

- (a) Overview and Scrutiny Committees shall consider the following business:
  - (i) minutes of the last meeting;
  - (ii) declarations of interest;
  - (iii) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
  - (iv) responses of the Cabinet to reports of the Overview and Scrutiny Committee; and
  - (v) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to give evidence at committee meetings, which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

## 20 **MATTERS WITHIN THE REMIT OF MORE THAN ONE OVERVIEW AND SCRUTINY COMMITTEE**

- (a) Where an Overview and Scrutiny Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of another Overview and Scrutiny Committee, then the

committee conducting the review shall invite the Chairman of the other committee (or his/her nominee) to attend its meetings when the matter is being reviewed.

- (b) Where any matter to be considered relates to any aspect of Education it will be considered only by the Life Long Learning Overview and Scrutiny Committee.



**TABLE 1:**

The terms of reference are those set out in section 1 of the scrutiny and overview procedure rules. The following committees will be set up and will be bound by those terms of reference in the following areas of responsibility:

Committee	Responsibility
The Environment of Buckinghamshire	<ul style="list-style-type: none"> <li>• Countryside Services</li> <li>• Gypsies</li> <li>• Waste Management</li> <li>• Emergency Planning</li> <li>• Highways, Infrastructure and Transportation</li> <li>• Traffic and Road Safety</li> <li>• Highway Lighting</li> <li>• Planning and Control of the Environment</li> <li>• Trading Standards</li> </ul>
Personal Care	<ul style="list-style-type: none"> <li>• Community Safety</li> <li>• Coroner's Service</li> <li>• Children and Families supported by the Council including both their care and educational needs</li> <li>• Services for people with a physical or learning disability</li> <li>• Services for other adults and older people</li> <li>• Mental Health</li> </ul>
Lifelong Learning	<ul style="list-style-type: none"> <li>• Services for Pupils, Students and Families</li> <li>• Youth Service</li> <li>• Services for Children with Special Needs</li> <li>• Libraries, Museums, Records, Local Studies</li> <li>• Sport and Culture</li> <li>• Continuing Education/Awards</li> <li>• Early Years Services</li> <li>• Schools Support and their activities</li> <li>• Planning and Information</li> <li>• Admissions Policy</li> <li>• Lifelong Learning Partnership</li> <li>• Learning and Skills Councils and Connexions</li> <li>• Evaluating budgetary matters</li> <li>• All other Education matters</li> </ul>

Committee	Responsibility
Partnership	<ul style="list-style-type: none"> <li>• Community Planning Partnership</li> <li>• External Relations</li> <li>• Working with Partners</li> <li>• Economic Development</li> <li>• YOT and links with Probation Service</li> <li>• Community Planning</li> <li>• Overview of Key Partnerships</li> <li>• Health Service and PCG's</li> <li>• District Councils</li> <li>• Relationships with Parish Councils</li> <li>• Consultation with the Community and special interest groups</li> <li>• Corporate Grants and support to voluntary organisations</li> </ul>
Corporate Performance	<ul style="list-style-type: none"> <li>• Policy Framework overall and Local Performance Plan</li> <li>• Overall Performance of the Council</li> <li>• Revenue and capital strategies</li> <li>• Internal and External Communications</li> <li>• Best Value Performance (but not Best Value Reviews unless commissioned)</li> <li>• Review of the Decision Making Processes</li> <li>• The Constitution</li> <li>• Financial Services</li> <li>• Legal Services</li> <li>• Human Resources</li> <li>• All aspects of Asset Management</li> <li>• Contracts and Purchasing</li> <li>• Architectural Services</li> <li>• Health and Safety</li> <li>• ICT</li> </ul>

# **FINANCIAL REGULATIONS**

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# FINANCIAL REGULATIONS

## INTRODUCTION

- 1 Local authorities spend large sums of money and have a duty to account clearly for the money they spend to the public, who pay for the spending through various forms of taxation.
- 2 These Financial Regulations are a part of the overall control framework within which Buckinghamshire County Council operates. Rather than a barrier to action they should be viewed as providing the framework within which you can act, setting out best practice throughout the County Council and ensuring a high quality of financial information enabling better decision making and in turn, improved service delivery and greater client satisfaction. As such they form part of the general administrative arrangements of the County Council.
- 3 The financial control framework can be seen as a hierarchy as set out below.

Standing Orders	Approved by County Council
Financial Regulations	Approved by County Council
Financial Instructions	Approved by Head of Finance
Manuals of Guidance/Work Procedures	Approved by Heads of Service
- 4 In addition to this main set of Financial Regulations, there is a separate set relating to Locally Managed Schools.
- 5 Finance Division staff are ready and willing to provide assistance in all areas relating to financial management and financial control. In particular, you should seek advice if you are intending to create a new financial procedure, or amend an existing one.
- 6 Each financial regulation and financial instruction provides a contact name and telephone number, for you to contact if you have a query. There are also local finance staff who will be able to assist over matters of interpretation.
- 7 Heads of Service are responsible for ensuring that financial controls in their areas of responsibility are operating effectively. Internal Audit monitors the financial control framework.
- 8 The responsibility for the creation and maintenance of the framework rests with the Head of Finance.
- 9 The Head of Finance welcomes feedback on the operation of Financial Regulations and Financial Instructions to ensure they remain relevant and effective. Initially the Assistant Head of Finance (Corporate) (01296 383120)

should be contacted if you have comments on the application or operation of particular regulations or instructions.

# **1 RESPONSIBILITIES**

## **Preamble**

The financial regulations have been written with the intention of delegating responsibility to service managers wherever appropriate. This regulation sets out the framework of responsibilities within which that delegation takes place.

## **Regulations**

- 1.1 These Financial Regulations are made by the County Council and are subject to the provisions of the Local Government Act 1972, the Local Government Finance Act 1982 and Section 114 of the Local Government Finance Act 1988. They set out the working arrangements by which the Council gives effect to its statutory financial responsibilities.
- 1.2 These Financial Regulations apply to all areas of the County Council. There is a separate set of Financial Regulations for schools operating under local management.
- 1.3 Each Head of Service is responsible for the observance of financial regulations within his or her service area and for the training of staff to enable them to comply with these Regulations.
- 1.4 All reports to Committees, Cabinet Members and the Cabinet must contain a financial appraisal setting out the full financial implications arising from the proposals contained within the report. The financial appraisal must be agreed with the Head of Finance.
- 1.5 The nature and format of all accounting procedures and financial records shall be determined by the Head of Finance.

## **Responsibilities**

- 1.6 The Head of Finance shall, for the purposes of Section 151 of the Local Government Act 1972, be responsible for the proper administration of the Council's financial affairs and report to the Council, the Cabinet and Cabinet Member - Resources on the discharge of this responsibility.
- 1.7 The Head of Finance has a statutory responsibility for ensuring that adequate systems and procedures exist to account for all income due and expenditure disbursements made on behalf of the Council and that controls operate to protect the Council's assets from loss, waste, fraud or other impropriety. The Head of Finance shall discharge that responsibility in part by the issue and maintenance of Financial Instructions with which all staff of the County Council shall comply.
- 1.8 Each Head of Service is individually responsible for the proper financial management of resources allocated to his/her service area through the budget-making process and for the identification of income arising from activities within

his/her operational areas. This includes the control of staff and the security, custody and management of assets including plant, equipment, buildings, materials, cash and stores relating to his/her service area.

Each Head of Service shall ensure that staff comply with the requirements contained in Financial Regulations and Financial Instructions.

- 1.9 The Head of Finance may delegate, in writing, certain of his responsibilities within Financial Regulations and Instructions to finance staff, within agreed parameters.

**Contact:** Martin Shefferd (01296) 383120

## **2 MEDIUM TERM REVENUE FORECAST**

### **Preamble**

In order for the Council to be able to plan the development of services and the priorities for the allocation of resources between services it needs to undertake medium-term financial planning. The Code of Practice on a Prudential Approach to Local Authority Commitments requires the Council to prepare such a forecast.

### **Regulations**

- 2.1 Each Head of Service shall prepare a medium term revenue forecast each year, in consultation with the Head of Finance, for submission to the appropriate Cabinet Member and to the Cabinet.
- 2.2 The Head of Finance will determine the format of the medium term revenue forecast and the timing of reports, subject to any overriding requirements of the Cabinet.
- 2.3 Each Head of Service shall include the financial effects of all known commitments in the medium term revenue forecasts, together with any other proposals for changes to the level of existing services, or for new services.

**Contact:** Martin Shefferd (01296) 383120



### **3. REVENUE BUDGET**

#### **Preamble**

The revenue budget provides an estimate of the annual income and expenditure requirements for all services and sets out the financial implications of the County Council's policies. It provides Heads of Services with authority to incur expenditure and a basis on which to monitor the financial performance of the County Council. These regulations seek to provide a consistent framework for the preparation and monitoring of the revenue budget.

#### **Regulations**

- 3.1 Each Head of Service shall prepare a draft revenue budget for the next financial year, in consultation with the Head of Finance and other appropriate officers, for submission to the appropriate Cabinet Member, the Cabinet and the Council.
- 3.2 The Head of Finance shall specify the format of the revenue budget and the timing of reports, subject to any overriding requirements of the Cabinet.
- 3.3 Expenditure may be incurred within the revenue budget approved by the Council in pursuance of the aims for which those budgets have been established, subject to any other requirements of the Cabinet or the Council.
- 3.4 Throughout the year each Head of Service shall monitor income and expenditure against budgets for which they are responsible. The Head of Finance shall provide financial advice to assist Heads of Service fulfil their responsibilities. Heads of Service shall supply the Head of Finance with sufficient information to enable accurate budget profiling.
- 3.5 Budget monitoring statements, including a forecast for the full financial year, shall be submitted to the appropriate Cabinet Member by the responsible Heads of Service at times agreed by the Head of Finance.
- 3.6 Each Head of Service shall report on the outturn of income and expenditure, to the appropriate Cabinet Member, as soon as practicable after the end of the financial year.
- 3.7 If it appears that net expenditure will be in excess of the approved budget and the excess cannot be financed by virement the appropriate Head of Service shall at the earliest opportunity, following consultation with the Head of Finance, report the matter to the appropriate Cabinet Member and, if necessary, the Cabinet. If expenditure in excess of the approved budget is incurred due to an emergency, this emergency expenditure must be reported to the appropriate Cabinet Member and, if necessary, the Cabinet as soon as possible thereafter.

3.8 Cabinet Members for each portfolio will be able to carry forward underspendings of 1% of controllable non-delegated budgets and 50% of any underspendings above 1%. All overspendings will be carried forward.

**Contact:** Martin Shefferd (01296) 383120

## **4 VIREMENT**

### **Preamble**

Virement is a transfer of budget provision either within or between budget headings. It is an important facility to assist in managing budgets effectively within a cash limit. These regulations set out the authorisations required for virement to take place.

### **Regulations**

- 4.1 Each Head of Service shall ensure that virement is undertaken as necessary to maintain the accuracy of budget monitoring and inform the Head of Finance as soon as practicable.
- 4.2 Virements within approved service plan revenue budgets may be agreed by the relevant Head of Service and the Head of Finance.
- 4.3 Virements between approved service plan revenue budgets within a portfolio shall be authorised only by the relevant Cabinet Member.
- 4.4 The approval of the Cabinet shall be required if the virement involves:
  - (a) spending outside the policy framework
  - (b) an addition to commitments in future years beyond any agreed allocations
  - (c) a transfer of expenditure from one portfolio to anotheror
  - (d) if the Head of Finance requires it
- 4.5 Income received in excess of the budgeted amount may be spent. This can be achieved by a virement between income and expenditure budgets in accordance with the above regulations.

**Contact:** Mick Bowden (01296) 382384

## 5. TRADING ACCOUNTS

### Preamble

The trading account is a statement bringing together for a separately costed area of activity:-

- on the income side, charges to users in accordance with previously agreed rates for services provided,
- on the expenditure side, the cost of providing the service including overheads.

The key characteristic of trading accounts is that providers do not hold direct budgets to provide resources but must earn income to fund their expenditure.

Formal trading account status confers a number of specific freedoms in relation to carry forwards of surpluses (outside the carry forward rules set for service controllable expenditure) and relaxation of virement rules. It is thus necessary to ensure an appropriate corporate framework for the management of trading accounts.

### Regulations

- 5.1 The approval of the Head of Finance will be required to qualify for formal trading account status. The criteria for approval shall be included in guidance notes issued by the Head of Finance.
- 5.2 Only trading accounts with formal trading account status qualify for the specific trading account carry forward rules and for the relaxation of normal virement rules.
- 5.3 Trading account surpluses of up to 3% of gross expenditure can be carried forward and all deficits on trading accounts shall be carried forward.
- 5.4 Budget monitoring statements including a forecast for the full financial year shall be submitted periodically by the responsible Head of Service to the appropriate Cabinet Member, as agreed by the Head of Finance.
- 5.5 All trading accounts shall be operated in accordance with guidance notes issued by the Head of Finance.
- 5.6 Each Head of Service operating a formal trading account shall prepare a draft trading account for the next financial year in consultation with the Head of Finance, for submission to appropriate Cabinet Member.

**Contact:** Cynthia Changer (01296) 383056

## **6. CAPITAL PROGRAMME**

### **Preamble**

Capital expenditure is an important element in the development of the Council's services since it represents a major investment in new and improved assets. These regulations seek to provide a consistent framework for the preparation and appraisal of the capital programme, to provide appropriate authorisations for schemes to proceed and to allow Heads of Service to manage their capital programmes within defined parameters.

### **Regulations**

- 6.1 Each Head of Service shall prepare draft capital programmes in consultation with the Head of Finance and other appropriate officers, for submission to the appropriate Cabinet Member, the Cabinet and the Council.
- 6.2 The Head of Finance shall determine the format of the capital programme and the timing of reports, subject to any overriding requirements of the Cabinet.
- 6.3 Draft capital programmes shall consist of the immediate start year and schemes in three further start years.
- 6.4 Project appraisals, in a format determined by the Head of Finance, shall be prepared by appropriate Heads of Service for all schemes included in draft capital programmes and submitted to the officer CAPS group for approval. The Head of Finance may require particular project appraisals also to be submitted to Cabinet Members and/or the Cabinet for its approval.
- 6.5 Approval of the capital programme by the Council shall provide the following authorisations:

### **Start Year**

To incur expenditure on schemes providing that the scheme project appraisal has been approved and expenditure on the scheme does not exceed the sum contained in the approved programme by more than 10% or £10,000 (whichever is the greater) and all necessary approvals have been received from Government Departments. This approval is subject to any expenditure being met from within the Cabinet Member's portfolio capital cash limit for the start year.

### **Start Year plus One, Two and Three**

To seek any approvals necessary for site purchase, to seek planning permissions, to incur professional fees and preliminary expenses and to seek any necessary Government approvals. This approval is subject to any expenditure being met from the Cabinet Member's portfolio capital cash limit in the year in which it is incurred.

- 6.6 A Head of Service, in consultation with the appropriate Cabinet Members, may vary the approved capital programme by the addition, deletion or material modification of schemes provided that:
- (a) it can be funded from the existing cash limit, additional borrowing approvals and/or approved revenue funding.
  - (b) a project appraisal for any new or materially modified scheme has been approved.
  - (c) committed expenditure in later years of the capital programme is not increased.
- 6.7 The approval of the Cabinet to any variation is required if:
- (a) an increase in the Cabinet Member's portfolio capital cash limit is required,
  - (b) committed expenditure in later years of the capital programme is increased,
  - (c) the Head of Finance determines it is appropriate.
- 6.8 Each Head of Service shall monitor expenditure throughout the year against the approved programme.
- 6.9 Each Head of Service shall periodically report to the appropriate Cabinet Member on actual expenditure against the approved programme.
- 6.10 Each Head of Service shall report annually, the outturn of expenditure on individual schemes within the capital programme, for each financial year.

**Contact:** Martin Shefferd (01296) 383120

## **7 INTERNAL AUDIT**

### **Preamble**

The Accounts and Audit Regulations 1996, made under sections 23 and 35 of the Local Government Finance Act 1982, require the County Council to maintain a continuous, adequate and effective internal audit of the Authority's accounts. The County Council has delegated this responsibility to the "Responsible Financial Officer" (the Head of Finance). The following regulations provide the framework for this statutory duty to be discharged.

### **Regulations**

- 7.1 The Head of Finance shall maintain an adequate and effective internal audit of the activities of the Council. The Head of Finance's representatives shall have authority to enter at all times on any premises or land used by the County Council and to have access to all correspondence, documents, books or other records of any employee of the Council and appertaining in any way to the activities of the Council. The Head of Finance shall be entitled to require such explanation as he/she considers necessary to establish the correctness of any matter under examination. The Head of Finance shall have the authority to require any employee of the Council to produce cash, stores, or other Council property under his/her control.
- 7.2 The Head of Finance shall have regard to any relevant professional guidelines and any audit standards issued by the Auditing Practices Board of the Consultative Committee of Accountancy Bodies.
- 7.3 The Head of Finance and the Legal Services Manager shall be notified immediately by Strategic Managers or Heads of Service of any financial irregularities or suspected irregularities, or any circumstances which may suggest the possibility of irregularities in the exercise of any of the County Council's functions. Such communication may be oral initially but must be confirmed promptly in writing. Where any allegation relates to a Strategic Manager or Head of Service, the Chief Officer of the Council shall be informed immediately.
- 7.4 The Head of Finance shall determine the scope of any internal enquiries or investigations, subject to consultation with the Legal Services Manager and the relevant Head of Service, or, in appropriate cases, the Chief Officer of the Council.
- 7.5 The Head of Finance and the Legal Services Manager, in consultation with the relevant Head of Service shall decide whether any matter under investigation should be referred to the police and take recovery action as appropriate on such matters. The Head of Finance shall keep the Chief Officer of the Council informed of all cases of suspected fraud or other irregularity, of the action taken, the progress of any investigation and shall inform him of the outcome when the investigation is concluded.

7.6 Each Head of Service shall take steps to minimise the risks of financial irregularities occurring.

**Contact:** John Kilkenny (01296) 382280



## **8 TREASURY MANAGEMENT**

### **Preamble**

The Head of Finance is responsible for the arrangements for managing the County Council's cash flow, its borrowing activities and its lending activities, in accordance with policies agreed by the County Council. This regulation places a duty on the Head of Finance to keep these arrangements under review.

### **Regulations**

- 8.1 The Head of Finance shall undertake Treasury Management activities in accordance with the CIPFA Code of Practice on Treasury Management in Local Authorities.
- 8.2 The Head of Finance shall periodically review the Treasury Policy Statement and report to the Cabinet Member - Resources on any necessary changes.
- 8.3 The Head of Finance shall maintain a Treasury Systems Document setting out the framework for Treasury Management within the County Council.

**Contact:** Phil Triggs (01296) 382330

## **9 VOLUNTARY FUNDS**

### **Preamble**

Whilst not owned by the County Council it is unreasonable to expect contributors to these funds to distinguish between them and official monies, and therefore, standards of accounting and propriety need to be the same as those expected for official monies.

### **Regulations**

- 9.1 A voluntary fund is any fund which, although not officially owned by the County Council, is controlled or administered solely, or in part, by an employee by reason of his or her employment by the County Council.
- 9.2 The Head of Finance shall be informed of the purpose and nature of all voluntary funds maintained by employees in the course of their duties with the County Council. The accounts shall be audited annually by a competent, independent person and shall be submitted with an audit report to the appropriate body within 6 months of the accounting year end. The Head of Finance shall be entitled to verify that this has been done and to carry out such checks on the accounts as he/she considers appropriate.
- 9.3 Voluntary Funds shall be operated in accordance with any guidance notes issued by the Head of Finance.

**Contact:** John Kilkenny (01296) 382280

## **10 TRUST FUNDS**

### **Preamble**

Trust Funds have a formal legal status governed by a Deed of Trust. Employees acting as trustees must ensure that they are conversant with the requirements of the Trust Deed and the law and comply fully with them.

### **Regulations**

- 10.1 All employees acting as trustees by virtue of their official position shall ensure that accounts are audited as required by law and submitted annually to the appropriate body and the Head of Finance shall be entitled to verify that this has been done.
- 10.2 Trustees must comply with accounting standards and procedures laid down in the Charities Act 1993 and in regulations issued by the Charity Commission.

**Contact:** John Kilkenny (01296) 382280

## **11 PARTNERSHIPS AND COMPANIES**

### **Preamble**

Increasing local authorities are being required to or choosing to work in partnership with other organisations. Such partnerships can take a variety of forms and a protocol is being developed to set out the various issues that need to be considered in setting up partnerships. One specific form of partnership is a local authority company and this regulation requires professional input before establishing such a company.

### **Regulations**

- 11.1 Prior to the Council, or any officer on behalf of the Council, taking an interest (e.g. share holding or directorship) in a company, advice should be sought from the Legal Services Manager and the Head of Finance.
- 11.2 Any clauses required by the Legal Services Manager and / or the Head of Finance to safeguard the County Council's position must be included in the company's memorandum and articles of association.

**Contact:** Martin Shefferd (01296) 383120 (Finance)  
Linda Forsythe (01296) 383767 (Legal)

# CONTRACT STANDING ORDERS

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## **A BRIEF GUIDE TO CONTRACT STANDING ORDERS**

Contract Standing Orders are made for the purpose of securing competition and regulating the awarding of contracts in accordance with section 135 of the Local Government Act 1972

They aim to promote good purchasing practice, public accountability and deter corruption. Following the rules is the best defence against allegations that a purchase has been made incorrectly or fraudulently.

Officers or employees responsible for purchasing or disposal must comply with Contract Standing Orders. These Standing Orders lay down minimum requirements. A more thorough procedure may be appropriate for a particular contract.

- ✓ As soon as you are contemplating any purchase make sure you follow the procedures set out in Contract Standing Orders from the outset.
- ✓ Take legal, financial and professional advice from the appropriate department.
- ✓ Allow sufficient time for the tendering process.
- ✓ Keep tender information confidential.
- ✓ Declare any personal or potential financial interest in a contract – Corruption is a criminal offence.
- ✓ Complete a written contract or order before the supply or works begin
- ✓ Keep a record of dealings with suppliers / contractors.
- ✓ Assess a contract afterwards to see how well it met the purchasing need and Best Value requirements.
- ✓ Electronic commerce may require changes to these Standing Orders in due course. However, in the meantime, ensure that the requirements of these Standing Orders are implemented in full.
- ✓ Be aware that the County Council produces a number of documents to help guide you on procurement matters e.g. the Market Testing Guide, the Purchasing Framework etc. Please check the Council's Intranet site for details.

### **Further advice available from;**

Legal Services: Linda Forsythe, Corporate Solicitor, extension 3759

Internal Audit: John Kilkenny, Chief Internal Auditor, extension 2280

Finance: Martin Shefferd, Head of Finance, extension 3120

Purchasing: Lee Collins, Purchasing Officer, extension 3622

# STANDING ORDERS AS TO CONTRACTS

## 1 Definitions

A “contract” for the purpose of these Standing Orders includes a series of transactions amounting to one contract.

## 2 Relevant Provision

2.1 Every contract made by the Council or by a committee, the Cabinet, a Cabinet Member or officer acting on their behalf shall comply with

- (a) the EEC Treaty;
- (b) any relevant Directives of the European Union for the time being in force in the United Kingdom;
- (c) any relevant provisions of the law of the United Kingdom; and
- (d) these Standing Orders.

2.2 Exemption from any of the following provisions of these Standing Orders except Standing Order 14 may be made

- (a) by direction of the Council; or
- (b) by a direction of the Cabinet or
- (c) by a committee to which the power of authorising the making of contracts shall have been delegated, where they are satisfied that the exemption is legal and justified in special circumstances; or
- (d) by the appropriate Strategic Manager or Head of Service in an emergency.

Exemption from Standing Order 14 may only be made by direction of the Council

2.3 The appropriate committee, the Cabinet or Cabinet Member shall be informed of the circumstances of every exemption made by an Officer; and they may decide that they shall have received sufficient notice for the purpose of this Standing Order if a list of the exemptions is placed on the table for public inspection at each regular meeting and is available for public inspection in the appropriate department on reasonable notice during normal working hours without charge.

2.4 Where goods, services or works are purchased by another public body on behalf of the Council or by the Council through a contract, properly let by another such organisation, then this shall be deemed as having satisfied the requirements for



competition. Where the value of the goods, services or works is above the relevant EU threshold the responsible Officer must satisfy himself or herself that a proper process has been followed in respect of EU procurement directives.

- 2.5 These Standing Orders must be followed by consultants and contractors authorised to form contracts on behalf of the Council and by persons who are not officers of the Council engaged to manage a contract on behalf of the Council. This requirement must be stated in their contracts for service.
- 2.6 No contract shall be deliberately subdivided so that the value would fall below the requirements of these standing orders or the EU procurement directives.

### **3 Invitation of Tenders**

- 3.1 Except as provided in Standing Order 7, no contract which is estimated to exceed £5000 in value or amount for the supply of goods or materials (other than proprietary articles or articles for which no competitive tenders can be obtained) or for the execution of any work or services shall be made unless at least three written quotations be invited beforehand using Buckinghamshire County Council conditions of contract or appropriate professional institution conditions of contract
- 3.2 Except as provided in Standing Order 7, where the estimated value or amount of a proposed contract exceeds £30,000, and in any other case where the appropriate committee or the Cabinet or Cabinet Member may determine, tenders shall be invited in accordance with Standing Orders 4, 5 or 6.
- 3.3 Where a contract is estimated to be in excess of the EU procurement directive threshold figures advice must be sought from the Head of Contracts before commencing the process. (The values of EU procurement threshold figures are reassessed every two years. The current figures can be obtained from the Head of Contracts).
- 3.4 Where it is planned to purchase goods, services or works in excess of the EU procurement directive threshold figures, and where the requirement is identified sufficiently in advance, then it shall be advertised through a Prior Information Notice (PIN) in the Official Journal of the European Communities (OJEC).(Further advice is available from the Head of Contracts).

### **4 Open Tendering**

- 4.1 This Standing Order shall apply where tenders for a contract are to be obtained by open competition.
- 4.2 Wherever the estimated value of a contract for the supply of goods or materials (other than proprietary articles or articles for which no competitive tenders can be obtained) or for the execution of any work exceeds £30,000 at least 10 days public notice shall be given in one or more local newspapers and also, wherever the estimated value of the contract exceeds £50,000 in one or more newspapers

or journals circulating among such persons or bodies as undertake such contracts. The notice shall express the nature and purpose of the contract, state where further details may be obtained, invite tenders for its execution and state the last date and time when tenders will be received.

## **5 Selective Tendering - Standing List**

5.1 This Standing Order shall apply where the estimated value of a contract exceeds £30,000 and invitations to tender for the contract are to be limited to those persons or bodies whose names shall be included in a standing list compiled and maintained for that purpose.

5.2 The list shall:

- (a) be approved by the appropriate committee, the Cabinet or Cabinet Member;
- (b) contain the names of all persons or bodies who wish to be included and who are selected in the manner determined by the appropriate committee, the Cabinet or Cabinet member; and
- (c) indicate in respect of a person or body whose name is so included, the categories of contract and the values or amounts in respect of those categories for which approval has been given.

5.3 At least 4 weeks before a list is first compiled, notices inviting applications for inclusion in it shall be published:

- (a) in at least one local newspaper; and
- (b) in at least one newspaper or journal circulating among such persons or bodies as undertake such contracts.

5.4 Any such list shall be reviewed by the appropriate committee, the Cabinet or Cabinet Member at regular intervals of not less than 1 year nor more than 4 years.

5.5 Any such list shall be open to inspection on request by any member of the Council or any other person interested.

5.6 Invitations to tender for a contract shall be sent to:

- (a) not less than 3 of those persons or bodies selected in the manner determined by the appropriate committee, the Cabinet or Cabinet Member, from among those approved for a contract of the relevant category and amount or value; or
- (b) where fewer than 3 persons or bodies are approved for a contract of the relevant category and amount or value, all those persons or bodies.

## **6 Selective Tendering - Ad Hoc List**

- 6.1 This Standing Order shall apply where the estimated value of a contract exceeds £30,000 and invitations to tender for the contract are to be limited to some or all of those persons or bodies who have replied to a public notice.
- 6.2 For the purposes of this Standing Order, public notice shall be given:
- (a) in at least one local newspaper; and
  - (b) in at least one newspaper or journal circulating among such persons or bodies who undertake such contracts.
- 6.3 A copy of the notice may also be sent to all persons whose names appear in a list maintained under Standing Order 5 as being approved for the contract in question.
- 6.4 The public notice shall:
- (a) specify details of the contract into which the Council wish to enter;
  - (b) invite persons or bodies interested, to apply for permission to tender; and
  - (c) specify a time limit, being not less than 10 days, within which such applications are to be submitted to the Council.
- 6.5 After the expiry of the period specified in the public notice invitations to tender for the contract shall be sent to:
- (a) not less than 3 of the persons or bodies who applied for permission to tender, selected in the manner determined by the committee, the Cabinet or Cabinet Member concerned either generally or in relation to a particular contract or a class of contract; or
  - (b) where fewer than 3 persons or bodies have applied or are considered suitable, those persons or bodies who are considered suitable in accordance with the criteria referred to in (a) above.

## **7 Negotiated Contracts**

7.1 This Standing Order shall apply where

- (a) the Head of Contracts is satisfied that the Council is likely to obtain better value for money if some or all of the terms of a contract (not being a contract for land, building or civil engineering works) are defined by negotiation with one or more parties or bodies; and
- (b)
  - (i) the value or amount of the contract is estimated not to exceed £100,000 or
  - (ii) the negotiations are to be based on a tender received as a result of competitive tendering

7.2 The Head of Contracts may seek to define a contract by negotiation and to let such a contract provided that:-

- (a) the Head of Contracts is satisfied in each particular case that the contract so defined is the best value for money which can reasonably be obtained to satisfy the Council's requirements in all the circumstances of that particular case;
- (b) reasonable notice is given to the Legal Services Manager and the Head of Finance in writing of the negotiation prior to the letting of a contract so defined and the notice shall contain such particulars as are required from time to time by the Legal Services Manager and the Head of Finance;
- (c) the appropriate committee, the Cabinet or Cabinet Member shall be informed of all such contracts and shall be provided with such details as they require; and

7.3 A contract under this Standing Order shall not be made by reletting to an existing contractor except with the consent of the relevant Cabinet Member after they have received a written statement of the Head of Contracts' reasons for seeking a renewal by negotiation.

## **8 Sub-Contracts**

8.1 These Standing Orders shall apply to the selection of a Council nominated sub-contractor and of a Council nominated supplier as if a sub-contract were a contract within Standing Order No 1, except that for the purpose of sub-contractors the committee, the Cabinet or Cabinet Member concerned may authorise the use of approved lists prepared other than in accordance with Standing Orders 5 or 6.

## **9 Proprietary Articles**

- 9.1 Proprietary articles or articles for which no competitive tenders can be obtained shall not be selected by or on behalf of the Council for use in any building or civil engineering work contracted for or to be contracted for by the Council (whether directly or by sub-contract) or in the supply of goods or materials unless:
- (a) either the value of any such articles of any one description in any one contract is less than £5,000 ; or
  - (b) the Officer concerned is satisfied that there are no reasonably satisfactory alternative articles or that it would not be in the best interests of the Council to provide for alternative articles.

## **10 Other Requirements**

- 10.1 Where in following these Standing Orders invitations to tender are required, every notice of such invitation shall state that no tender will be received except in a plain, sealed envelope which may bear the word “Tender .....” followed by the subject to which it relates. The Envelope must not bear any names or mark indicating the sender and must be addressed to, and remain in the custody of, the Head of Secretariat until the time appointed for its opening.
- 10.2 Tenders shall be opened and details recorded at one time, and in the presence of the Head of Finance or designated representative and one representative from the Head of Property Management, the Head of Transportation’s or the Head of Contracts office. In addition, where the estimated value of a contract exceeds £100,000 tenders shall be opened in the presence of at least one member of the Council.
- 10.3 Any tender submitted in competition may be treated as having been validly received when the tender has been received before the other tenders have been opened. Any such tender received after the other tenders have been opened shall be returned promptly to the tenderer. The tender may be opened to ascertain the name of the tenderer, but no details of the tender shall be disclosed.
- 10.4 Where examination of tenders reveals errors or discrepancies, which would affect the tender figure(s) in an otherwise successful tender the tenderer should be given details of such errors or discrepancies and afforded an opportunity of confirming or withdrawing his offer. If the tenderer withdraws, the next tender in competitive order should be examined and dealt with in the same way. Any exception to this procedure may be authorised only by, or on behalf of, the committee, the Cabinet or Cabinet Member concerned after consideration of a report by the Officer concerned.
- 10.5 This Standing Order shall not apply in the case of any contract that is estimated not to exceed £30,000 in amount.

- 10.6 Except as provided in Standing Order 7 a tender other than the lowest or most advantageous tender if payment is to be made by the Council or the highest tender or most advantageous if payment is to be received by the Council shall not be accepted unless the committee, the Cabinet or Cabinet Member concerned have reasonable grounds for deciding otherwise.
- 10.7 Where a contract is to be awarded to the most advantageous tender, the criteria shall be stated in the invitation to tender documents, where possible in descending order of importance, and tenders shall be evaluated in accordance with them. The criteria may include price, period for completion or delivery, cost effectiveness, quality, aesthetic, environmental and functional characteristics, after sales service, running costs, profitability, technical assistance and technical merit (which for works contracts shall be based on an assessment of itemised and separately costed health & safety method statements and plans in accordance with the CDM 1994 regulations). Assessment criteria must not include non-commercial considerations (e.g. matters that discriminate against EU suppliers or contractors).
- 10.8 Where tenders have been received in accordance with these Standing Orders, the officer concerned may without reference to the committee, the Cabinet or Cabinet Member concerned accept tenders for capital projects in cases where;
- (a) the committee, the Cabinet or Cabinet Member has already approved the estimated cost;
  - (b) the tender concerned is the lowest or most advantageous and does not (except as otherwise agreed by the Council) exceed the approved estimate by more than 10% or £10,000 whichever is the greater; and
  - (c) the expenditure is contained within the appropriate capital cash limit;
- and may accept tenders in other cases provided that the tender concerned is the lowest or most advantageous offer (or the highest or most advantageous in the case of disposals) and reasonable financial provision has been included in the approved estimates of the appropriate budget holder.
- 10.9 Every contract shall be in writing and shall be in a form agreed by the Legal Services Manager. Where the contract is
- (a) to be supported by a bond or guarantee or
  - (b) in respect of a sum in excess of £100,000 it shall be executed under the Council's seal and be attested by the Legal Services Manager or a Group Solicitor
- 10.10 A contract in respect of a sum of £100,000 or less made by the Cabinet or a Cabinet Member must be signed by at least two Council officers whether or not the contract is also signed by any member.

- 10.11 Where tenders include a foreign currency content, and there is a risk of exchange rate fluctuations, advice must be sought from the Head of Finance
- 10.12 Every contract shall require that all goods and materials used or supplied and all work shall, where such exists, be in accordance with or exceed the respective European Standard Specification or where no European Standard Specification exists, the respective British Standard Specification or British Standard Code of Practice issued by the British Standards Institution.
- 10.13 Every Contract shall make appropriate provisions for Best Value, as defined by the Local Government Act 1999, which places a duty on Local Authorities to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 10.14 In every contract a clause shall be inserted to secure that the Council shall be entitled to cancel the contract or determine the employment of the contractor and to recover from the contractor the amount of any loss resulting from such cancellation or determination, if the contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the contract or any other contract with the Council or for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Council, or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the contractor), or if in relation to any contract with the Council the contractor or any person employed by him or acting on his behalf shall have committed any offence under the Prevention of Corruption Acts, 1889 to 1916, or shall have given any fee or reward the receipt of which is an offence under sub-section 117(2) of the Local Government Act, 1972.
- 10.15 In implementing these Standing Orders every officer shall have regard to the Council's Procurement Guidelines issued by the Head of Contracts.
- 10.16 Where the disposal of land or buildings or any interest in land or buildings by way of tender has been authorised, the provisions of those Standing Orders relating to the manner in which tenders shall be invited, received, opened and accepted shall apply to any such proposed disposal with the necessary or relevant changes to make them so apply being deemed made.

## **OFFICER EMPLOYMENT PROCEDURE RULES**

### **1. Recruitment and appointment**

- (a) Declarations
  - i) The Council will draw up a statement requiring any candidate for appointment as a senior officer, as defined by Standing Order 26, to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece or close personal friend of an existing Councillor, senior officer, or of the partner of such persons.
  - ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.
- (b) Seeking support for appointment.
  - i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
  - ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council or give a reference for any person for any appointment with the Council.

### **2. Recruitment of Head of Paid Service and Strategic Managers**

Where the Council proposes to appoint a Strategic Manager and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

- (a) draw up a statement specifying:
  - i) the duties of the officer concerned; and
  - ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

### **3. Appointment of Head of Paid Service and Strategic Managers**



4. **Other Appointments**

**Officers below Strategic Managers.** Appointment of officers below Strategic Managers is the responsibility of The Head of Paid Service or his/her nominee, and may not be made by Councillors.

5. **Disciplinary action**

- (a) **Suspension.** In accordance with Standing Order No 26, the Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- (b) **Independent person.** No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person, conducted in accordance with Standing Order No 26.
- (c) Councillors will not be involved in the disciplinary action against any officer, below Strategic Manager, except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to members in respect of disciplinary action.

6. **Dismissal**

Councillors will not be involved in the dismissal of any officer below deputy Strategic Manager except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.

## **PART 5**

### **CODES AND PROCEDURES**

#### **PROTOCOL ON KEY DECISION MAKING BY THE CABINET AND BY INDIVIDUAL CABINET MEMBERS**

No Key Decision shall be taken before the expiry of three clear days from publication of a written report which shall contain all or any of the following issues as appropriate:

- i the officer or member making the recommendation;
- ii the person or body which will take the decision;
- iii the issue to be decided
- iv the date on which the decision will be made;
- v the date by which representations may be made and to whom they should be addressed;
- vi the timescale for implementation of the decision;
- vii confirmation or otherwise that the issue falls within the current four month forward plan;
- viii where the proposed decision is not included in the current Forward Plan, **and** it is not possible to give three clear days notice, whether the written agreement has been obtained of the Chairman of each relevant Overview and Scrutiny Committee or, if they are unable or unwilling to act, of the Chairman or in his absence the Vice-Chairman of the Council, that the proposed decision cannot reasonably be deferred.
- ix whether the report contains confidential or exempt information (that is, information which justifies the exclusion of the press and public);
- x the reasons for the recommendation and any other options;
- xi any legal requirements;
- xii any comments from the Head of Cabinet Support;
- xiii any County Council policy relating to the issue;
- xiv any relevant national or regional guidance;
- xv staffing, financial and all other resource implications;

- xvi any comments or recommendations from the relevant Overview and Scrutiny Committee or its Chairman;
- xvii any consultations undertaken, including district town and parish councils and other organisations and responses received, if any.
- xviii implications for other County Council activities;
- xix the electoral division(s) affected and confirmation that the local member(s) has been consulted when appropriate (local members will also be sent a copy of the report to be considered by the Cabinet or Cabinet Member).
- xx any background papers referred to eg Crime and Disorder Act/Human Rights Act implications/Equal Opportunities.

“Publication” means the dispatch of the report to all members of each relevant Overview and Scrutiny Committee, and the preparation of copies of the report such that the Head of Secretariat can make it available to any other member of the Council or to a member of the public on request.

Where, on a politically contentious matter or when the Strategic Manager or Head of Service does not wish to support the recommendations of the Cabinet Member to the Cabinet, the report must contain the professional advice of the relevant officer to enable a fully informed decision to be made, even where the officer’s views may not accord with those of the Cabinet Member.

# **PROTOCOL ON OVERVIEW AND SCRUTINY COMMITTEES**

## **ATTENDANCE**

1 An Overview and Scrutiny Committee may require any of the following to attend a Overview and Scrutiny Committee meeting to advise and answer questions

- (a) A member of the Council
- (b) An officer

Provided that where a Overview and Scrutiny Committee asks for an officer to attend who is not a Head of Service or a Strategic Manager, the Head of Service or Strategic Manager shall also be entitled to be heard or to nominate a senior officer on their behalf to be heard by the Overview and Scrutiny Committee. A Cabinet member may ask an officer to attend with him or her to assist in providing technical advice.

2 In the scrutiny of any decision, officers shall be accountable to the Overview and Scrutiny Committee in respect of decisions which they have taken and advice which they have given. Decisions which have been taken by the Cabinet / Portfolio Holders or by the Council or a Committee of the Council. shall be the responsibility of the interested decision taking body.

3 An Overview and Scrutiny Committee may request any of the following to attend an Overview and Scrutiny Committee meeting:

- (a) Any elected or nominated co-opted member to attend and advise and particularly, where appropriate, the local member
- (b) A representative of any outside body whose powers or interests are relevant to the matter in hand to give their view
- (c) Any external expert to give evidence provided arrangements can be made within the budget to pay any expenses or fees so incurred
- (d) Any resident of Buckinghamshire or any person with a legitimate interest in the topic under consideration to attend to give their views

4 The above are subject to the following provisions:

- (a) Any requirements to attend shall be subject to not less than three working days' notice, except in a case of urgency
- (b) Where someone requested to attend is unable to attend for reasons given to the Committee then he or she may nominate another member or officer who is able to speak on the topic to attend.

- (c) Anyone asked to speak shall be entitled to see the terms of reference of the particular matter under consideration by the Overview and Scrutiny Committee before attending to speak.
- (d) Anyone asked to speak shall be entitled to see the public papers which have been made available to the Overview and Scrutiny Committee and wherever possible on the same timescale for a member of the Overview and Scrutiny Committee.
- (e) Anyone asked to speak shall wherever possible be given access to statements submitted by people from whom the Overview and Scrutiny Committee has already heard but not those who have not yet given evidence. The chairman of the Overview and Scrutiny Committee shall have a discretion to disclose other papers, including statements submitted by following speakers and confidential (exempt) material, if he or she considers that will help the speakers to address a particular point or will otherwise assist the Overview and Scrutiny Committee's examination of the issue.
- (f) All speakers shall respect the confidentiality of any confidential or exempt information they receive and shall not disclose it without the authorisation of the Overview and Scrutiny Committee.
- (g) Speakers may submit papers in advance to the Overview and Scrutiny Committee but such papers shall be clear and succinct.
- (h) Speakers shall be able to bring such notes and diaries as are helpful to them in assisting the Overview and Scrutiny Committee, but shall expect to make available any such notes (subject to privilege and confidentiality rule to the Committee on the request of the chairman.
- (i) Providing that no exempt information is contained in them, papers submitted by speakers shall become public documents once they have presented their evidence and shall be cited as background papers to the Overview and Scrutiny Committee's published report.
- (j) Officers and PAG members shall not be required to give a personal opinion on any Cabinet decision which is different from the recommendation they made.
- (k) Overview and Scrutiny Committee members may be expected to ask searching questions but will always behave in a polite and respectful way to anyone contributing to the Overview and Scrutiny Committee's proceedings.
- (l) The speaker shall have at least five minutes to contribute evidence or such longer period as the chairman of a Overview and Scrutiny Committee may specify. If someone making such a contribution exceeds the time limit given the chairman may stop him or her. The chairman may also

structure a discussion and limit the time allowed for questioning by members of the Overview and Scrutiny Committee.

- (m) Overview and Scrutiny Committee members should limit their questions to the matter under consideration. Persons attending at the request of a Overview and Scrutiny Committee are entitled to respect for their personal and private lives except where these impinge directly upon the performance of their duties to the Council. Where any person objects to a question as unreasonable, they should advise the Chairman of the Overview and Scrutiny Committee of the grounds on which they so object. The Chairman should then either:
  - i Rule that the question be pursued or be no longer pursued
  - ii If so requested by the speaker, adjourn the meeting to hear in private the speaker's reasons for objection and the questioner's reasons for pursuing the question, and the advice of the Head of Secretariat and/or Legal Services Manager before ruling whether the question should or should not be pursued; or
  - iii Adjourn the question, requesting the speaker to submit a statement of their reasons for objection and the questioner to submit a statement of their reasons for pursuing the question, and seeking advice of the Legal Services Manager before deciding whether the matter should be put before a subsequent meeting of the Overview and Scrutiny Committee, and the question pursued.
- (n) Speakers shall be entitled to a copy of any draft minute or other record taken of their contribution for comment. Should they feel that such record is not accurate then they shall be given the opportunity to make a written representation asking for the correction to be submitted to the next meeting of the Overview and Scrutiny Committee.

Overview and Scrutiny Committee meetings shall be open to the press and public except where they are considering matters which exempt as defined under the Local Government Act 1972 .

### **Guidance on Call-in**

- 5 The Overview and Scrutiny Committee shall consider such and the following points as may be appropriate in deciding whether to proceed with a call-in at the request of a Member.
  - (a) If it is a Cabinet or other decision which may affect more than one Overview and Scrutiny Committees remit, the Chairman shall consult any other Overview and Scrutiny Committee Chairmen affected.

- (b) If it affects an electoral division the Chairman shall consult the local member(s).
- (c) Consider any representations made, whether by members of the Overview and Scrutiny Committee, or other members of the Council or members of the public.
- (d) Take such practical, technical, financial, legal and propriety advice as the Committee considers necessary to clarify any matters of doubt affecting the decision to call-in, including consultation with the relevant Cabinet member or officers as appropriate.
- (e) The Chairman shall take political soundings from all political parties on the Overview and Scrutiny Committee.
- (f) Ascertain whether any other all-party or Overview and Scrutiny Committee examination has already been given to the issue.

6 The Committee will then consider the following “protocol questions”:

- (a) Is the decision likely to cause significant concern or distress to the local community or prejudice to individuals within it?
- (b) Has more than one third of the Overview and Scrutiny Committee expressed the view that the call-in should proceed.
- (c) Is the issue one that has not been considered in open forum or at all, or otherwise the subject of consultation before the decision was made?
- (d) Is it a case where delay will not significantly damage the interests of the Council?
- (e) Is it a case where other significant representations have been made but not considered before the decision was taken?
- (f) Are there significant representations against the decision from outside bodies?

7 The more protocol questions elicit the answer “yes” the more likely it will be that it will be appropriate to proceed with the call-in.

8 A proposal should only be called in once. If, however, the Cabinet substantially amends the original proposal in a way which the Overview and Scrutiny Committee has not considered, nor could reasonably have foreseen, to the extent that in reality it is a different proposal, the Overview and Scrutiny Committee has the right to call it in again.

9 These provisions should be read in conjunction with Article 13 of this Constitution on Decision Making



## **MEMBERS' CODE OF CONDUCT**

*This will be produced by the Standards Committee, based on the Model Code issued by the Secretary of State.*

## **OFFICERS' CODE OF CONDUCT**

This will contain the national code of conduct for officers

## **PROTOCOL ON MEMBER/OFFICER RELATIONS**

This will cover the following areas

1. principles underlying member-officer relations;
2. roles of members;
3. roles of officers;
4. relationship between the Chairman of Council and officers;
5. relationships between Leader and members of Cabinet and officers;
6. relationships between Chairmen and members of overview and scrutiny committees and officers;
7. relationships between Chairmen and members of other committees and officers;
8. officer relationships with party groups;
9. members in their ward role and officers;
10. Councillor access to documents and information;
11. other individuals who are members of Council bodies;
12. press releases; and
13. correspondence.

## **PART 6**

### **MEMBERS' ALLOWANCES SCHEME**

#### **Members' Allowances Scheme**

The Council adopted a new Scheme of Allowances on 22 February 2001 (to be inserted)

**PART 7**  
**MANAGEMENT STRUCTURE**

**Management Structure**

*Insert Structures as agreed at County Council 24 May 2001*