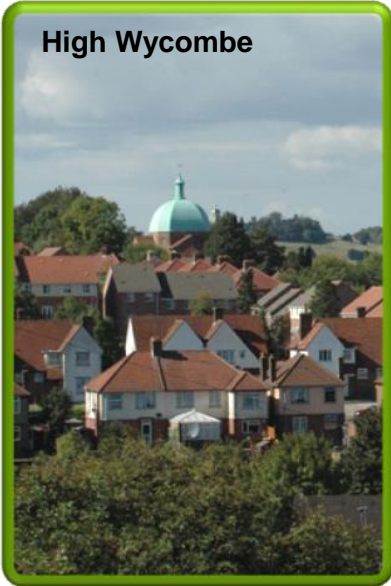


# BUCKINGHAMSHIRE COUNTY COUNCIL CONSTITUTION

Made under the Local Government Act 2000  
Approved by Council on 20 November 2014

Effective from 1 April 2015



## Version Control

<b>Version No.</b>	<b>Reviewer</b>	<b>Key Changes</b>	<b>Date amended</b>
<b>N/A</b>	<b>full Council</b>	<b>Updates (current until 31 March 2015)</b>	<b>25 April 2013</b>
<b>Draft V0.1</b>	<b>full Council</b>	<b>Updates all</b>	<b>20 Nov 2014</b>
<b>V1</b>	<b>Sarah Ashmead, Monitoring Officer</b>	<b>New Version Approved (editing changes only following full council approval) Live 1 April 2015</b>	<b>12 Feb 2015</b>
<b>V1.01 LIVE</b>	<b>Sarah Ashmead, Monitoring Officer</b>	<b>Minor change to Article 14 para 5 under delegated powers</b>	<b>19 Mar 2015</b>
<b>DRAFT V1.08</b>	<b>Reg &amp; Audit Committee</b>	<b>This version was considered and approved by the Committee.</b>	<b>24 June 2015</b>
<b>DRAFT V1.09</b>	<b>Sara Turnbull, Head of Member Services</b>	<b>Draft for County Council Consideration.</b>	<b>7 July 2015</b>

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## PART 1 – INTRODUCTION AND SUMMARY

**Buckinghamshire County Council's Constitution provides the overarching rules on how the Council is run in line with statutory requirements.**

It provides the basis for good governance which for the County Council means that decision-making is democratically-led, open, accountable, efficient and effective in delivering the services and outcomes required in the best interests of Buckinghamshire.

Through the operation of the Constitution, the Council will seek to provide a means of securing value for money in the delivery of services, ensure that decisions are made effectively and that those making decisions can be held to account, enable the public to have a wider understanding of the role and duties of elected members and local authorities, and to promote understanding of democratic values and the decision-making process.

The Council's governance framework is supported by rules, structures, processes, and an organisational culture that is underpinned by principles of openness, integrity and public accountability for decision-making.

The Constitution works in conjunction with an Operating Framework which sets out how the different parts of the local authority should work together including clear accountabilities and responsibilities.

The Constitution is divided into six parts; each part contains more detailed articles, sections, procedures and/or codes of practice as required. The parts are as follows:

Part 1 – *Introduction and Summary* (overall purpose and content of the Constitution)

Part 2 – *Articles of the Constitution* (outline of key parts, roles and operation of the Council's governance, including Committees)

Part 3 – *Responsibility for Functions* (greater detail on the functions of the Council)

Part 4 – *Standing Orders* (specific detail on the procedures/operation of Council functions)

Part 5 – *Codes and Protocols* (principles of public life, Member and officer codes of conduct)

Part 6 – *Members' Scheme of Allowances* (allowances to which Members are entitled)



### Elected Members

Buckinghamshire's full Council comprises 49 elected Members. Members are democratically accountable to residents of their electoral area. The overriding duty of members is to the whole community of Buckinghamshire but they have a special duty to their constituents.

Members have key roles strategically and locally. Buckinghamshire County Council operates an executive model of decision-making whereby the

majority of decision-making powers are vested in the Leader and delegated to Cabinet and Cabinet Members. Strategically non-executive members (those members who are not part of the Council's Cabinet) also have a key role strategically in holding decision-makers to account through select committees (the Council's scrutiny function); and via membership of other statutory committees of the Council.



A key role of all Members is to agree the Council's Strategic Plan at full Council, which sets out the high-level intended objectives and financial allowance for each. All Members also have a critical role locally as community leaders representing residents in their divisions.

Further information on the roles and responsibilities of members of Buckinghamshire County Council can be found in Part 5, the key positions on the Council include:

- Chairman of the Council (non-executive, maximum of one);
- Vice Chairmen of the Council (non-executive, maximum of one);
- Leader of the Council (executive, maximum of one);
- Deputy Leader of the Council (executive, maximum of one);
- Cabinet Members (executive, maximum of nine including a Deputy Leader);
- Deputy Cabinet Members (no more than the maximum number of Cabinet Members);
- Chairman of a Select Committee (each select committee must have a chairman); and
- Chairman of a standing or statutory committee (as above).

To undertake their duties, Members have agreed that they will operate to a Code of Conduct to ensure high standards. The Regulatory and Audit Committee ensures that the Code of Conduct is kept up to date and relevant. It is unlikely that a hearing will be held into alleged breaches of the Code of Conduct, but should they do so they will be heard by the Senior Appointments and Buckinghamshire Pay Award Committee. Further details on these bodies and other Standing Committees can be found in Parts 2 and 3.

### How decisions are made

The functions of the authority are defined by statute (law) as either 'Executive Functions' that must be discharged by the Executive (the Cabinet), or as Council functions which are discharged either by the whole Council (full Council) or a Committee of full Council (acting on the Council's behalf). The types of decisions are:

#### Executive

- i. Key decisions which are reserved to Cabinet, or Cabinet Members, or exercised jointly by Deputy Cabinet Members and Managing Directors or Service Heads except in emergencies;
- ii Delegated non key decisions to officers.

## Non-Executive decisions

- i. Council decisions – decisions reserved to Council by statute such as setting the precept;
- ii. Council reserved decisions – decisions which Council has reserved to itself;
- iii. Delegated Council decisions – decisions delegated to Committees and Officer.

As described above, the Council delegates the decision-making powers necessary to discharge the Council's functions to: the Leader of the Council, Cabinet, Cabinet Members, the Chief Executive, statutory officers and relevant senior officers as required. These delegations should be taken to include powers and duties 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 into contracts under Section 1 of the Local Government (Contracts) Act 1997.

## Decision-making process

As mentioned above, the majority of the strategic decisions of the Council are made by the Executive (Cabinet). The Cabinet is led by the Leader of the Council (the leader of the Council's largest political grouping – the majority group) who can choose up to nine other elected members of Council to be responsible for service areas of the authority (often known as portfolios). One of the Cabinet Members must be designated as the Deputy Leader. Members of the Cabinet are collectively responsible for the decisions made by the Cabinet and

responsible for decisions they make individually.



Those elected members who are not on the Cabinet form the non-executive. A key role of the non-executive is to discharge the Council's overview and scrutiny powers (powers in law for non-executive members to examine, contribute to, and challenge the decisions and policies of the executive). At Buckinghamshire County Council, overview and scrutiny powers are discharged by select committees. Council agrees the number and remit of select committees at the recommendation of the Chief Executive.

## Public Rights

The public have a number of rights in relation to the local authority. These are set out in more detail in Part 2 Article 3. Some of these are legal rights, while 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 recipient of care, they have additional rights. These are not covered in this Constitution.

The Council welcomes public participation in its work and all agendas and reports and decisions are publicly available, unless confidential for specific legal reasons. In summary, the public have a right to:

- vote at local elections if they are registered;



- contact their local member about any matters of concern to them;
- obtain a copy of the Constitution;
- petition the Council for a different governance structure and vote in any subsequent referendum;
- attend non-confidential meetings of the Council and its committees;
- find out, from the Cabinet's Forward Plan, what major issues are to be discussed or decided by the Cabinet, and when;
- make representations on decisions to be made by Council and attend non-confidential meetings of the Cabinet;
- see non-confidential reports and background papers, and any record of decisions made by the Council and Executive (Cabinet);
- complain to the Council about a range of matters, following the procedure listed in the Council's complaints procedure;
- complain to the Ombudsman if they think the Council has not

followed procedures properly (they should only do this after using the Council's own complaints process);

- complain to the Council if they have evidence which they think shows that a member has not followed the Council's Code of Conduct for elected Members;
- raise concerns about the behaviour of elected members with the Monitoring Officer in accordance with the Council's Code of Conduct;
- inspect the Council's accounts and make views known to the external auditor; and
- make an application to the Council for information under the provisions of relevant legislation including the Freedom of Information Act 2000 and the Data Protection Act 1998, together with any other associated legislation.

## **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, consisting of Parts 1-6, is the Constitution of Buckinghamshire County Council as required by Law.

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

The purpose of the Constitution is to provide a single point of reference to:

- Set out how decisions are to be taken efficiently and effectively and to provide a system for good governance of the local authority;
- Support elected members to represent their constituents effectively;
- Ensure that those responsible for decision making are clearly identifiable and accountable to local people;
- Enable the local authority to provide leadership to the area of Buckinghamshire in partnership with the public, businesses and other relevant organisations;
- Support engagement of the public in the progress of local authority decision-making; and
- Create effective means of holding decision-makers to account, and ensure that no one will review or scrutinise a decision in which they were directly involved.

#### **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

The Council will comprise 49 members. Members 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.

Only registered voters of the county or those living or working there will be eligible to hold the office of member.

### 2.2 Election and Terms of Members

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

The Election and Terms - the regular election of members will be held on the first Thursday in May every four years beginning in 2013, unless varied by legislation.

The terms of office of members will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

Where a Member ceases to be a Member at least six months before the next normal date for local elections, a by-election will be held and a new Member elected for the balance of the original Member's term of office. A Member Declaration of acceptance of Office will need to be made within two calendar months of the election date. Within 28 days of election, Members must also complete the Register of their Disclosable **Pecuniary and Other** Interests.

### 2.3 Roles and Functions of all Members

All Members will:

- Collectively be the ultimate strategic policy-makers and commissioners for the local authority through decision-making on the Strategic Plan and other core council policies;
- Be involved in the decision-making and accountability processes of the local authority;
- Balance the different interests identified within their electoral division, and represent the electoral division as a whole, bringing the views of constituents into the Council's decision-making process;
- Address individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- Be available to represent the Council on the Council's local forums; and
- Maintain the highest standards of conduct and ethics at all times.

## 2.4 **Rights and Duties**

Members will have such rights of access to all documents, information, land and buildings of the Council necessary for proper discharge of their functions in accordance with the law.

Members 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 member or officer entitled to know.

For the above purposes, “confidential” and “exempt” information are defined in the Access to Information Standing Orders in Part 4 of this Constitution.

## 2.5 **Conduct**

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

## 2.6 **Allowances**

Members 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 Standing Orders in Part 4 of this Constitution. In general they have the following rights:

**Voting**-Those on the electoral roll for the area have the right to vote at local elections and in local referenda.

**Petitions and Referenda**- Those on the electoral roll may sign a petition to request a referendum for a different form of governance (i.e. to move from an Executive Leader and Cabinet model to either a directly elected Mayor or to a Committee system) in accordance with the timetable as prescribed under legislation, and to vote in any local referendum in respect of an increase in the local authority's precept.

**Information**-The public have the right to:

- Attend meetings of the Council, Council committees and the Cabinet except where confidential or exempt information is to be disclosed and the meeting or part of the meeting is therefore held in private;
- Attend meetings of the Cabinet when key decisions are being considered;
- Ascertain from the Forward Plan what key decisions will be taken by the Cabinet and Cabinet Members and when, and make representations;
- Make representations that confidential or exempt information shown in the Forward Plan should be made available or discussed in public;
- See reports and background papers, and records of decisions made by the Council, the Cabinet and Cabinet Members; except in all cases where confidential or exempt information is being discussed;
- Inspect the Council's accounts and make their views known to the external auditor; and
- Request other information from the Council in accordance with the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004.

**Complaints**-The public have the right to complain to:

- the Council itself under its complaints scheme;
- the Ombudsman after using the Council's own complaints scheme;
- the Council about a breach of the Members' Code of Conduct;
- the Information Commissioner about a breach of the Council's obligations under the Data Protection Act 1998, the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

### 3.2 The Public's Responsibilities

The public also have responsibilities in their interaction with the Council and its representatives. In this respect, members of the public must not be abusive,

threatening or violent to members or officers of the local authority and must not wilfully damage property or belongings of the Council, members or officers.

## Article 4 – The Full Council

### 4.1 Functions of the full Council

Only the full Council will exercise the following functions:

- adopting and changing the form of governance and the Executive Arrangements which define the principles of Cabinet governance;
- approving or adopting relevant strategies and policies of the Council; (the policy framework) and the budget;
- subject to the urgency procedure contained in the Access to Information Standing Orders 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 the decision in a manner which would be contrary to the policy framework or budget;
- electing the Leader of the Council;
- agreeing and/or amending the terms of reference for committees and deciding on their composition;
- agreeing the appointment of the membership to Council Committees annually at its annual general meeting, including substitutes where they are permitted;
- adopting an allowances scheme under Article 2.5;
- changing the name of the area covered by local authority;
- adopting a local Code of Conduct and arrangements for dealing with standards complaints and appointing the Independent Person to consider Standards issues as required by the Localism Act 2011;
- promoting or opposing the making of local legislation or personal bills;
- arranging for the exercise of all local choice functions, as set out in Part 3 of this Constitution, which the Council decides should be undertaken by itself or its committees rather than the Cabinet;
- the Local Health Authority (Public Health, Health & Wellbeing Boards and Health Scrutiny) Regulations 2013;
- making a report to the Secretary of State where the Council cannot reach agreement with health providers and proposals for 'substantial development' or 'substantial variation' in service provision;
- taking the final decision to appoint the Head of Paid Service, and taking the final decision to also dismiss the three statutory officers the Head of Paid Service, Monitoring Officer and S151 Officer; and

- all other matters which, by law, must be reserved to full Council.

## 4.2 Meanings

**Policy Framework** The policy framework refers to all Council strategies and policies which are listed in the Council's single policy register.

**Council Strategies** set out what the Council is aiming to achieve through a vision, set of aims, and medium to long term objectives.

**A Policy** is a set of principles that explains how strategic objectives are to be achieved. Council employees must follow all Council Strategies and Policies.

Further details on the policy-making process are set out in the Council's Operating Framework.

## 4.3 County Council agreed policies

Statutorily there are some policy documents that the Council must have. These are:

- The Budget
- Local Transport Plan
- Minerals and Waste Development Plan
- Community Safety Plan
- Youth Justice Plan
- Children and Young People's Plan
- Health and Wellbeing Strategy
- Treasury Management Strategy
- Food Enforcement Plan
- Pay Policy Statement

Some of these statutory documents are also required legally to be approved by the County Council. Statutory documents that will be approved by the County Council are (or any other such titled documents which fulfil the same functions as those shown below):

- The Budget (included as part of the Medium Term Financial Plan)
- Local Transport Plan
- Minerals and Waste Development Plan
- Treasury Management Strategy
- Pay Policy Statement

The County Council may also as a matter of local choice adopt at a Council meeting any other strategies and policies it wishes. Those identified as a matter of local choice are (or any other such titled documents which fulfil the same functions as those shown below):

- Strategic Plan
- Health and Wellbeing Strategy

## 4.4 Core Council and Partnership Strategies & Policies

Core Council Strategies and Policies are the most important documents for the Council to deliver services and positive outcomes for Buckinghamshire. The Councils' Core Policies currently comprise:

<b>Core Council Strategies and Policies</b>	<b>Decision-maker</b>
Strategic Plan	Council
Medium Term Financial Plan	Council
Commissioning Framework	Cabinet
Business Unit Plans	Cabinet
Capital Investment Strategy	Council
Asset Management Strategy	Cabinet
Treasury Management Strategy	Council
Operating Framework	Cabinet
Local Transport Plan	Council
Minerals and Waste Development Plan	Council
People and Organisational Development Strategy	Cabinet

4.5 **Core Partnership Strategies:** The Council works with partners to develop broader policies and plans for Buckinghamshire as a whole. The objectives and outcomes in these strategies will inform, and be informed by, the Strategic Plan. The core partnership policies that the Council currently operates are:

<b>Core Strategies</b>	<b>Partnership</b>	<b>Partnership Lead</b>	<b>Council Decision-maker</b>
Health and Wellbeing Strategy		H&W Board	Council
Safer Bucks Plan		Safer and Stronger Bucks Partnership Board	Cabinet
Youth Justice Strategic Plan		Youth Justice Management Board	Cabinet
Children and Young People's Plan		Children and Young People's Partnership Executive	Cabinet
Strategic Economic Plan		Local Economic Partnership	Cabinet

#### 4.6 **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.

#### 4.7 **Council Meetings**

There are three types of full Council meeting: the annual meeting; ordinary meetings; extraordinary meetings. These meetings 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 and the Vice Chairman will be elected by the Council annually. The Chairman will have the following responsibilities:

- to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- to preside over meetings of the full Council so that its business can be carried out efficiently and with regard to the rights of members and the interests of the community;
- to ensure that the full 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;
- in the event of voting at the Council meeting being equal to have a second or casting vote;
- to uphold and enforce the rules of good debate;
- to promote public involvement in the Council's activities;
- to attend such civic and ceremonial functions as he/she determines appropriate.



## Article 6 – Select Committees

- 6.1 The Council will discharge its overview and scrutiny functions through a number of select committees, appointed by the Council at its Annual Meeting.
- 6.2 The Council has resolved that it will appoint sufficient select committees to discharge all its statutory functions in connection with overview and scrutiny including those functions conferred by section 21 of the Local Government Act 2000, regulations made under section 13 of the Local Government Act 2000 or sections 7 and 8 of the Health and Social Care Act 2001. Between them these Committees will have the power to scrutinise all the functions of the County Council and the statutory functions it has to scrutinise partners.
- 6.3 The Chief Executive will report annually to full Council on the number of select committees and membership required to fulfil the Council's Overview and Scrutiny functions for the ensuing year.
- 6.4 Chairmen of the respective select committees will agree programmes of work to avoid duplication and may wish to consider joint time-limited inquiry groups. For the avoidance of doubt:
- All matters relating to education for children will be considered by a Select Committee determining during its work programme that it will consider matters relating to Education (the Education Select Committee) at specific times.
  - All matters relating to Health Scrutiny will be considered by a Select Committee determining during its work programme it will consider matters relating to Health (the Health Select Committee) at specific times.

## **Article 7 – The Executive**

### **7.1 Role**

The Executive will carry out all of the County Council's functions which are not the responsibility of any other part of the County Council whether by law or under this Constitution.

### **7.2 Form and Composition**

The Executive (in Buckinghamshire called 'The Cabinet') will consist of the Leader together with such number of elected members of the Council, not exceeding nine as he/she may appoint to the Cabinet.

### **7.3 Leader of the Council**

The Leader will be a member elected by Council for such term, not exceeding four years, as Council may determine. Council has determined that the Leader shall be elected every four years. The Leader will hold office until:

- he/she resigns from the office; or
- he/she is no longer an elected member of the Council; or
- he/she is removed from office by resolution of the Council on receipt of a Notice of Motion signed by at least 10 members after having given at least 10 days' notice to the Monitoring Officer; or
- 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 Monitoring Officer. A change in political control is a change 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;
- he/she is disqualified from being a councillor

Should a 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 member to the position of Leader.

### **7.4 Deputy Leader**

The Leader following his or her election will appoint one of the Members of the Cabinet as his/her Deputy.

The Deputy Leader may not vary the arrangements made by the Leader under articles 7.4 – 7.8 inclusive or alter any arrangements made by the Leader under this Constitution for the exercise of executive functions, except for:

- changes consequent upon the dismissal of a Leader during the period until the new Leader is elected; or
- where, in the opinion of the Chief Executive, the Leader is incapacitated for such a period of time that the efficient operation of the Council would be significantly impaired.

The Deputy Leader shall be appointed annually by the Leader and shall hold office until:

- the next annual meeting of the Council;
- he/she resigns from office; or
- until the end of the Leader's term of office and the new Leader has been elected; or
- he/she is no longer a member; or
- he/she is removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive
- he/she is disqualified from being a councillor.

## 7.5 Other Executive Members

### *Appointment of Cabinet*

Following his/her election, the Leader will appoint up to nine further Members of the Cabinet.

Only Members of Council may be appointed to the Cabinet. There may be no co-optees 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 the select committees.

Cabinet Members shall be nominated annually by the Leader and shall hold office until:

- the next annual meeting of the Council; or
- they resign from office; or
- they are no longer members; or
- they are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

## 7.6 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Executive Standing Orders set out in Part 4 of this Constitution.

## 7.7 Responsibility for Functions

The Leader will determine which Executive Functions he/she will discharge personally, which shall be retained for decision by the Cabinet, which shall be allocated to individual members, and (subject to any statutory requirements and in accordance with the Schemes of Delegation) which Executive functions shall not be retained for decision by the Cabinet and, therefore, shall be discharged by officers. These responsibilities may be amended by the Leader on written notice to the Monitoring Officer who will report on the amendments to the next meeting of the Council.

## 7.8 Children's Services – Lead Member arrangements

In respect of Children's Services, the Leader shall designate a Member as Lead Member for Children's Services, in accordance with section 19(1), Children Act 2004. The Leader may allocate such Member-level functions in relation to Children's Services as he or she considers appropriate to a second Cabinet Member, who shall not be known as a Lead Member. Notwithstanding any such appointment of a second Member, the Lead Member shall be responsible for the strategic direction of the Authority's Children's Services and their effective overview, and shall carry overall political responsibility for those services.

## 7.9 Deputy Cabinet Members

The Leader may appoint non-executive Members as Deputy Cabinet Members provided that the total number of Deputy Cabinet Members does not exceed the number of Cabinet Members to advise and assist Cabinet Members in the discharge of his/her duties within their portfolio(s). In the absence of Cabinet Members, a key decision may be taken by a Managing Director or relevant senior officer in consultation with the appropriate Deputy Cabinet Member. .

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

8.1 The Council has resolved to appoint the following:

- **Regulatory & Audit Committee**
- **Rights of Way Committee**
- **Development Control Committee**
- **Health and Wellbeing Board**
- **Pension Fund Committee**
- **Senior Appointments and Buckinghamshire Pay Award Committee**

The Regulatory and Audit Committee also has a role in overseeing and developing the Council's Code of Conduct and the overall standards of conduct and ethics of Members of Buckinghamshire County Council.

### **8.2 Safeguarding**

Under the requirements of the Children Act 2004, the Buckinghamshire Safeguarding Children Board is the key statutory mechanism for agreeing how relevant organisations in Buckinghamshire will co-operate to safeguard and promote the welfare of children in its locality. Under this statutory requirement, the Board also required to ensure the effectiveness of what these organisations do. Further information on the Board can be found on the Buckinghamshire Safeguarding Children Board website.

## **Article 9 – The Health and Wellbeing Board**

- 9.1 The Council is required by The Health and Social Care Act 2012 to form a Health and Wellbeing Board with a membership laid down in statute. The Board will ensure that the Council complies with its statutory obligations under the 2012 Act. Further details of the composition, role and functions of the Health and Wellbeing Board are set out in Part 3 of the Constitution.

## **Article 10 – Local Committees and Fora**

### **10.1 Local Committees**

The Council may appoint local committees or Local Area Forums 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.

Such Local Area Forums remain informal meetings or can be established as Area Committees of the Council, comprising the local members for the area in which the Forum's functions are to be discharged, or as Joint Committees with District and/or Parish Councils, in which case they can include District and Parish Members as full voting members of the Forum.

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

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

If a Select Committee is scrutinising specific decisions in relation to the business of the Local Committee, Local Area Forum or Local Community Partnership of which the member concerned is a committee member, then that member may not speak or vote and should withdraw at the Select Committee meeting unless a dispensation to do otherwise is given by the Chief Executive. Where a Select 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, Local Area Forum or any other Local Joint Working Arrangement if otherwise eligible to do so as a member.

## **Article 11 – Joint Arrangements**

### **11.1 Joint Arrangements**

The Local Government Act 1972, Local Government Act 2000 and regulations enable local authorities to make use of joint arrangements with other authorities and to delegate functions to other local authorities.

Such Joint Arrangements may take the form of participation in a statutory Joint Board, such as the Buckinghamshire and Milton Keynes Combined Fire and Rescue Authority, or voluntary joint arrangements comprising a Joint Committee with other Local Authorities.

The County Council has joint arrangements such as:

- **The Police and Crime Panel**
- **The London Housing Consortium**
- **The Buckinghamshire and Milton Keynes Joint Fire Authority**
- **The Joint Committee for a Joint Trading Standards Service between Buckinghamshire County Council and Surrey County Council**



## Article 12 – Officers

### 12.1 Management Structure

The Council may appoint such officers as it considers appropriate for the discharge of its functions. The final decision on the appointment of the Head of Paid Service is reserved by law to full Council, as well as the dismissal of the three statutory officers – Head of Paid Service, Monitoring Officer and S151 Officer. Council has delegated the appointment of statutory officers, discipline and dismissal of other senior officers to the Senior Appointment and Buckinghamshire Pay Award Committee (SABPAC). Appointment, discipline and dismissal of all other staff have been delegated to the Head of Paid Service or his/her nominee.

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

The Council is required to designate specific officers to the following statutory posts, and has determined that the following officers shall be designated to these statutory posts:

Post	Designation
Chief Executive to the Council	Head of Paid Service
Director of Strategy and Policy	Monitoring Officer
Director of Assurance	Chief Finance Officer
Managing Director for Adults, Communities and Health	Director of Adult Social Care
Managing Director for Children’s Social Care and Learning	Director of Children’s Services

Such posts will have the functions described in Articles 12.4 – 12.6 below. In addition to the posts above, the authority has a number of other statutory posts which shall be designated by Managing Directors or other relevant senior officers as required.

### 12.3 Structure

The Head of Paid Service will determine and publicise a description of the overall organisational structure of the Council showing the management structure and deployment of officers.

### 12.4 Functions of the Head of Paid Service- Discharge of functions by the Council

The Head of Paid Service shall report to full Council, where he/she considers it appropriate to do so on:

- the manner in which the discharge of the Council’s functions is to be co-ordinate
- the number and grade of officers required for the discharge of functions; and

- the organisation of officers.  
Some statutory functions may be carried out by the same employee. For example the Head of Paid Service may also be the S151 Officer where that employee is a qualified accountant.

## 12.5 Emergency Powers

The Chief Executive has the following emergency and general powers to act in the interest of the County Council in cases of urgency:

- To take the actions allocated to Managing Directors, Service Heads and other relevant senior officers in paragraph 12.11 of this Article where such actions relate to more than one service;
- Granting exceptions to politically restricted posts.

## 12.6 Functions of the Monitoring Officer

- **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 Executive and changes of fact. Any such amendments made by the Monitoring Officer should be reported immediately to the Leader of the Council and the Regulatory & Audit Committee.

- **Ensuring lawfulness and fairness of decision making**

After consulting with the Head of Paid Service and Chief Finance Officer where practicable, 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.

- **Granting dispensations to Members**

- To grant dispensations to Members in respect of any conflict of interest other than a Disclosable Pecuniary Interest to allow them to participate in discussion and debate during meetings of the Council, or its Committees, where they would otherwise be prevented from doing so.

- **Promoting and Maintaining High Standards**

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

- **Conducting Informal investigations**

The Monitoring Officer will, where appropriate, conduct investigations into complaints about Member Conduct under the Buckinghamshire County Council conduct procedures.

- **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.

- **Advising whether proposed Cabinet decisions are within the budget and policy framework**

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



- **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 members.

- **Restrictions on posts**

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

## 12.7 Functions of the Chief Finance Officer

- **Ensuring lawfulness and financial prudence of decision making**

After consulting with the Head of Paid Service and the Monitoring Officer where practicable 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.

- **Administration of financial affairs**

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council; leading the promotion and delivery by the whole organisation of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.

- **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, and be actively involved in all material business decisions to ensure immediate and longer term implications, opportunities and risks are fully considered, and aligned with the Council's financial strategy.

- **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 members and will support and advise members and officers in their respective roles.

- **Giving financial information**

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

- **Certifying the Robustness of the Council's Estimates**

The Chief Finance Officer shall have responsibility for certifying the robustness of the Council's Budget estimates and the adequacy of the Council's reserves.

## 12.8 **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 the officers' opinion sufficient to allow their duties to be performed.

## 12.9 **Other Statutory Posts**

The Council is required under the Children Act 2004 to appoint officers as (1) Director of Children's Services and (2) Director of Adult Social Care. Under the provisions of the Health and Social Care Act 2012, the Council is also required to appoint a person to the statutory role of Director of Public Health to carry out the statutory functions of that role. Under Section 9B of the Local Government Act 2000, the Council must appoint a designated Scrutiny Officer.

## 12.10 **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.

## 12.11 **Employment**

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

## 12.12 **Officer indemnity**

The Council has an officer indemnity procedure to indemnify all employees against any expenses liability loss claim or proceedings whatsoever arising from their neglect act error or omission (other than conduct of a reckless or wilful nature) in the course of their employment (whether they were acting for the Council itself or another person or body with the Council's consent). The procedure can be obtained via the Council website.

## 12.13 **Managing Directors and Service Heads**

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

- the Policy Framework;
- any consequent expenditure being already included in the Council's Revenue Budget or approved Capital Programme;
- the requirements of the Council's Contracts Standing Orders and Financial Regulations;
- the approval of the proper officer to dealings in land and property. The proper officer is authorised to approve any dealing unless the

consideration or value of the interest involved exceeds the figure of £500,000 (see also Land and Property Standing Orders in Part 4);

- the approval of the proper officer to dealings in legal matters, or such officers as he/she may specifically authorise, to the instigation or defending of Legal proceedings;
- the power of any officer to whom power is delegated to exercise that power notwithstanding the fact that it has been delegated to another person or body;
- the power of any person to whom a power has been delegated to choose to refer the matter for decision to the body which has delegated the power;
- the power of the Chief Executive and Managing Directors to exercise all powers delegated to Service Heads and other delegated officers.

12.14 Managing Directors, Service heads and other relevant senior delegated officers shall, make arrangements within their respective services to determine what further delegations are necessary to ensure the efficient day-to-day operation and management of the services, provided that such delegations are specific to identifiable posts within their management structure and are formally recorded.

12.15 The Monitoring Officer shall be provided with a copy of the delegation arrangement provided by each Managing Director and other relevant senior officers, and maintain a central record of this information.

12.16 In the case of an absent or vacant Managing Director or Service head post, the Chief Executive shall make arrangements to cover the vacancy by either appointing a person in an acting capacity or determining other temporary arrangements.

12.17 Any person or persons temporarily fulfilling the responsibilities of a post shall be entitled to exercise the delegated authority referred to in this Article as if they were the permanent post holder until such time as a permanent appointment is in post or other permanent arrangements are made and agreed by the Council.

## Article 13 – Decision Making

### 13.1 Principles of decision making

All decisions of the Council will be made in accordance with the principles listed below. In the general public interest, and specifically to guard against the possibility of successful legal challenge to decisions made by the Council, the Cabinet or individual Cabinet members and relevant officers, it is necessary to demonstrate:

- that all relevant matters were fully taken into account in reaching decisions;
- that in any decision the action was proportionate to the desired outcome (proportionality);
- that Council Standing Orders and Contracts Standing Orders and Financial Regulations were complied with;
- that the decision was/is taken with the benefit of professional advice from all relevant officers including the Monitoring Officer and the Chief Finance Officer;
- that any Members concerned shall have considered whether he or she had any declarable interest in the particular item and, if necessary, made a declaration of interest, and that no Member shall participate in a decision where he/she is precluded from doing so by virtue of a disclosable interest;
- that where appropriate the views of the local member have been sought.
- that the current Schemes of Delegation to Cabinet Members and to Officers (where relevant) have been complied with;
- that, where relevant, the provisions of the Council's operating procedures have been complied with;
- that the decision was taken in an open and transparent manner and that the reasons for the decision are clearly articulated;
- that the decision was taken in accordance with the Council's Strategies and Policies as set out in the policy framework;
- that the decision, if applicable, has taken into account wider legal provisions for example the Human Rights Act 1998; and
- that the decision was properly recorded and published within the appropriate timescale, together with declarations of interest and background papers.

Compliance with the above means that a clear audit trail of decision making must be maintained and kept available for future reference. It is a criminal offence not to record properly an Executive decision.

The Monitoring Officer, in consultation with the relevant officers (for example, the Chief Finance Officer) , shall advise members and officers on these issues, ensure that the County Council's decision making processes meet the requirements of the law and of good governance, and is responsible for the proper implementation of these procedures.



## 13.2 Types of Decision

### Executive Decisions

- i. Key decisions which are reserved to Cabinet, or Cabinet Members, or exercised by Managing Directors or Service Heads except in emergencies;
- ii. Delegated non key decisions.

### Non-Executive Decisions

- i. Council decisions – decisions reserved to Council by statute such as setting the precept;
- ii. Council reserved decisions – decisions which Council has reserved to itself;
- iii. Delegated Council decisions – decisions delegated to Committees and Officers

## 13.3 Key decision

Key decisions are defined by Regulation 8 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 to comprise those which:

- 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;
- 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 may be changed by the Council and the Cabinet as may be required in the light of experience of operating the Constitution.

A decision which:

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

- 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;
- requires the passage of local legislation; or
- 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 Part 4 of this Constitution and, in particular (and to the extent applicable in any given case) with:
  - I. the Access to Information Standing Orders;
  - II. the Budget and Policy Framework provisions;
  - III. the Executive Standing Orders and, so far as practicable, the Guidance contained in the Protocol on Key Decision-Making by the Cabinet and by individual Cabinet Members (attached to those Standing Orders), and the Select Committee Standing Orders; and
  - IV. so far as practicable, the guidance on select committees and Select Committee Standing Orders in Part 4.

A key decision may only be taken by the Cabinet, an individual Cabinet Member, or by an appropriate Managing Director or relevant senior officer, except in a case to which Access to Information Standing Order 16 or 17 applies (i.e. Special Urgency or Major Emergency respectively). An officer may take a decision which, if made by a Member, would be a key decision **only with the agreement of the Leader of the Council that it is appropriate** for that officer, rather than a Member, to take the decision. Article 13.8 below applies to a decision made under this provision.

#### 13.4 Decision Making by the full Council

Subject to Article 13.1, the Council meeting will follow Standing Orders 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 Executive Standing Orders set out in Part 4 of this Constitution when considering any matter.

### 13.6 **Decision Making by select committees**

Select committees will follow the Select Committee Standing Orders 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 Standing Orders 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 member 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 **Decision Making by Officers**

Officers may make decisions under their delegated powers (“Delegated Decisions”). Where an officer takes a decision in connection with the discharge of a function which is the responsibility of the Executive of the Authority (an Executive Decision), the officer must publish a written record of the decision in accordance with the requirements of the Openness of Local Government Bodies Regulations 2014. .

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

This Article refers to the County Council's Financial Regulations and Contracts 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 person carrying out the functions of the Head of Legal Services, is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where they consider that such action is necessary to protect the Council's interests.

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

### **14.4 Execution of Contracts**

Any contract on behalf of the Council in the course of the discharge of a function shall be made in writing. Such contracts must either be signed by at least two officers of the Council 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 person carrying out the function of the Head of Legal Services or delegated legal officer.

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 Cabinet Member (after the call-in procedure is completed if appropriate); and
- a decision of a duly authorised officer.

The Seal shall be attested by the person carrying out the functions of the Head of Legal Services.

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. A senior member of the Council's legal services team will also be the Managing Director of the Council's legal company Buckinghamshire Law Plus limited.

## 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 limitations of the Constitution adopted by the Council, and make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

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

### 15.2 Changes to the Constitution

- **Approval**

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

- **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**

- **Limit to suspension**

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

- **Procedure to suspend**

A motion to suspend any standing orders will not be moved without notice. 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.

- **Rules capable of suspension**

The following standing orders may be suspended in accordance with Article 16.1:

- I. 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.
- II. Any motion for a suspension shall state the specific standing order(s) which it is intending to suspend.

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

The standing orders may be added to, varied or revoked by giving notice.

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

Each member of the Council, upon delivery of the Member's declaration of acceptance of office, will be provided with the details of where to view a copy of the Constitution on the Council's website by the Monitoring Officer.

### **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**

The Monitoring Officer will ensure a copy of this Constitution is available for inspection on the Council's website, and copies of this Constitution may be downloaded at Council offices, libraries and other appropriate locations.

## **PART 3 – RESPONSIBILITY FOR FUNCTIONS**

### **1.1 Functions Meaning**

Section 9D of the Local Government Act 2000 provides that all the functions of the Authority shall be functions of the Executive except in so far as they are reserved to the Council by the Local Government Act 2000, by later legislation or by regulations made under the Local Government Act 2000. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 define those functions:

- a those functions which must not be discharged by the Cabinet;
- b those functions which may be the responsibility of the Cabinet;
- c those functions which may not be the sole responsibility of the Cabinet;
- 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.

### **1.2 Council Functions**

Council Functions shall therefore comprise:

- a those functions which are reserved as non-executive functions by the Local Government Act 2000 and by subsequent legislation;
- b those functions which are reserved as non-executive functions by Regulation 2 of, and Schedule 1 to, 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 of, and Schedule 2 to, 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 or approval of which shall be a non-executive function (the Policy Framework), namely 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 may identify from time to time for this purpose.

The Council has determined that certain non-executive functions shall be carried out by the Committees as set out in this part of this Constitution.

### **1.3 Executive Functions**

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

All Executive functions shall be vested in the Leader, and the Leader shall determine which functions he/she shall discharge personally, which functions shall be allocated to the Cabinet, which functions shall be allocated to individual Cabinet Members and which functions shall be delegated to officers.

All decisions to change the Memorandum and Article of any Council Company will be taken by the Cabinet as a whole not by a single Cabinet Member.

(See also Article 12.11 in relation to Service Heads and Managing Directors)

For matters within the Policy Framework, 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 to 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/her decision to do so will take precedence.

### **1.4 Description of Executive Arrangements**

The following parts of this Constitution constitute the Cabinet arrangements:

- a Article 6 (select committees) and the Select Committee Standing Orders;
- b Article 7 (the Cabinet) and the Executive Standing Orders;
- c Article 10 (Local Committees and Fora) – 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 Standing Orders;
- f Part 3 (Responsibility for Functions).

### **1.5 Responsibility for Local Choice Functions**

The following table details the present arrangements with regard to the apportionment of 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 regulations made under section 52 of the Education Act 2002 (exclusion of pupils).	Non Executive
3 The making of arrangements pursuant to section 94(1) and (4) of, the Schools Standards and Framework Act 1998, and in accordance with regulations made under section 50 of the Education Act 2002 (admission appeals).	Non Executive
4 The making of arrangements pursuant to section 95(2) of the Schools Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies), and regulations made under section 95 of that Act.	Non Executive
5 The enabling of questions to be put on the discharge of functions of a Police and Crime Commissioner and Police and Crime Panel.	Non Executive
6 The making of appointments to the Police and Crime Panel	Executive
7 Any function relating to contaminated land.	Non Executive
8 The discharge of any function relating to the control of pollution.	Non Executive
9 The service of an abatement notice in respect of a statutory nuisance.	Non Executive
10 The investigation of any complaint as to the existence of a statutory nuisance.	Non Executive
11 The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Non Executive
12 The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Non Executive
13 The making of agreements for the execution of highways works.	Non Executive
14 The appointment of any individual – a to an office other than an office in which he/she 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

## 1.6 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 Managing Directors, Service Heads and other relevant senior officers.

### A Senior Appointments and Buckinghamshire Pay Award Committee

#### Terms of Reference

To be responsible for the recruitment and termination of the posts of Chief Executive, Managing Directors, the posts of Monitoring Officer and the Chief Finance Officer having responsibility for the purposes of Section 151 of the Local Government Act 1972 subject to the final decision to appoint or to dismiss the Chief Executive being reserved to Council, and for the final decisions to dismiss the Monitoring Officer and S151 Officer also being reserved to Council

2. To advise the Council in relation to any proposed dismissal of the Head of Paid Service, Monitoring Officer or S151 Officer. SABPAC will carry out this role by appointing a Panel to consider any disciplinary action in relation to the three statutory officers – Head of Paid Service, Monitoring Officer and S151 Officer. The membership of the Panel shall be determined by SABPAC. The Panel membership must include two of the Independent Persons appointed by Council (who shall be full voting members of the Panel) and may include any number of additional Panel members so long as those members are from within the membership of SABPAC and the proportionality rules shall apply to such Panel.

- 1 To agree significant changes in Employment conditions for Buckinghamshire Pay Employees.
- 2 To consult on, and determine pay awards to, staff employees on Buckinghamshire Pay Conditions (after taking into account any representations made by recognised Trade Unions and staff).
- 3 To agree relevant Human Resources procedures (e.g. Conduct, Capability) for the senior officers of the Council, i.e. the Chief Executive, Managing Directors and Directors including statutory officers.
- 4 In accordance with the Human Resources Policies and Procedures to hear and determine appeals and grievances from senior officers as defined in these policies.  
In accordance with the Council's Code of Conduct, to arrange for a Sub Committee to hear and determine any allegations that an elected Member has breached the Council's Code of Conduct and associated protocols; and to recommend to the County Council candidates for appointment to the role of Independent Person.

Membership: 7 Members

## **B 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 determining 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 for 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 vary the terms of any enforcement notice issued
- 12 Power to apply for an injunction restraining a breach of planning control.
- 13 Power to authorise entry onto land.
- 14 Power to enter into agreement for the execution of highway work.
- 15 Powers relating to the protection of important hedgerows.
- 16 Duties relating to the making of determinations of planning applications.
- 17 Power to determine application for planning permission made by a local authority, alone or jointly with another person.
- 18 Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
- 19 Power to issue a certificate of existing or proposed lawful use or development.
- 20 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.
- 21 To exercise the Council's powers in approving licensing for:
  - a. Street Works;
  - b. The depositing of a builder's skip on a highway;
  - c. The planting, retention and maintenance of trees etc. in part of the highway;
  - d. Works in relation to buildings, etc, which obstruct the highway; and
  - e. Temporary deposits or excavations in streets.
- 22 The power to:
  - a. Dispense with obligation to erect hoarding or fence;
  - b. Require information as to interests in land;
  - c. To consent to constructions of vaults, arches and cellars under streets or carriageways;
  - d. Ensure the removal of things so deposited on highways as to be a nuisance;
  - e. Consent to the making of an opening in footways for access to a cellar or vault under a street; and
  - f. Restrict the placing of rails, beams etc over highways

Membership: 8 Members

## C Regulatory and Audit Committee

The purpose of the Regulatory and Audit Committee is to:

1. Provide independent assurance on the adequacy of the Council's governance, assurance and risk management frameworks and the associated control environment;
2. Provide independent scrutiny of the authority's financial and non-financial performance to the extent that it affects the authority's exposure to risk and weakens the control environment; and
3. Oversee the financial reporting process.
4. Exercise the Council's functions as specified in regulation 2 of the Local Authority (Functions and Responsibility) (England) Regulations 2000 insofar as such functions are not the responsibility of any other Committee of the Council or of any other Local Authority.
5. Oversee changes to the Council's Constitution which includes ensuring all significant changes need to be in writing before agreement.
6. Provide assurance on the adequacy of the Council's Treasury Management risk framework and the associated control environment7. Oversee and develop the Council's Code of Conduct and the overall standards of conduct and ethics of Members of Buckinghamshire County Council

### Terms of Reference

#### Audit

1. Consider the Chief Internal Auditor's annual plan and annual report (including a summary of internal audit activity and the level of assurance it can give over the Council's governance arrangements).
2. Consider summaries of specific internal audit reports and the Chief Executive's responses to such reports.
3. Consider reports dealing with the management and performance of the providers of internal audit services.
4. Consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
5. Consider specific reports as agreed with the Chief Finance Officer, Chief Internal Auditor, Monitoring Officer, Chief Executive or external auditor.
6. Comment on the scope and depth of external audit work and to ensure it gives value for money.
7. Commission work from internal and external audit in accordance with guidelines.
8. Such other matters as are required in legislation or guidance to be the proper remit of this Committee.

#### Governance

9. Maintain an overview of the Council's Constitution in respect of all aspects including decision-making, contract procedure rules, financial regulations and codes of conduct and behaviour.
10. Review any issue referred to it by the Chief Executive, Chief Finance Officer or Monitoring Officer, or any Council Body within the remit of these terms of reference.
11. Monitor the effective development and operation of risk management and

- corporate governance within the Council.
12. Approve and monitor Council policies on “whistleblowing” and the anti-fraud and corruption.
  13. Review and make recommendations on the Council’s Annual Governance Statement.
  14. Consider the Council’s arrangements for corporate governance and make recommendations to ensure compliance with best practice.
  15. Monitor the Council’s compliance with its own and other published standards and controls.
  16. Consider reports dealing with the management of risk across the organisation and to consider reports identifying the key risks facing the Council, seeking assurance of appropriate management action.
  17. The Chairman of the Committee shall act as the Member Risk Champion.
  18. Such other matters as are required in legislation or guidance to be the proper remit of this Committee.
  19. To receive, on an annual basis, statistical reports and details of the complaints received and investigated through the County Council's Complaints Procedure, where payments or other benefits have been provided in cases of maladministration.
  20. Receive on behalf of the Council reports issued by the Local Government Ombudsman into investigations that the Council's actions have amounted to maladministration causing injustice.

### **Governance - Code of Conduct**

To promote and maintain high standards of conduct by County Councillors, in accordance with the Council’s Code of Conduct for Members.

To keep the Council’s Code of Conduct under review and make recommendations to Council on any amendment or revision of the Code when appropriate;

To facilitate training and development for County Councillors on the Code of Conduct for Members;

To give general guidance and advice to County Councillors on Members’ interests and keep under review the Register of Members’ Interests maintained by the Monitoring Officer; and

To give general guidance and advice to County Councillors and employees on gifts and hospitality.

To receive an annual report from the Monitoring officer detailing complaints received, complaints dealt with and resolutions achieved.

To support the Monitoring Officer in discharging his/her role in respect of standards of conduct and behaviour

### **Financial Reporting**

21. View the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.

22. Consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### **Regulatory**

23 To:

- a) Impose 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 (other than Development Control functions);
- b) Determine 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 (other than Development Control functions);
- c) Revoke any approval, consent, licence, permission or registration granted in the exercise of its functions (other than Development Control functions); Amend, modify or vary 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; and
- d) Determine whether a charge should be made, and the amount of any such charge, for any approval, consent, licence, permission or registration.

24. To exercise the Council's powers in approving licensing for:

- a) The movement and sale of pigs;
- b) Collecting centres for the movement of pigs;
- c) Movements of cattle from a market;
- d) Premises for the solemnisation of marriages;
- e) Employment of children.

25. To carry out appropriate statutory functions relating to:

- a) Elections;
- b) Contaminated land;
- c) Control of pollution or the management of air quality; and
- d) Safety certificates for sports grounds.

26. Such other matters as are required in legislation or guidance to be the proper remit of this Committee.

Membership: 8 Members



## **D 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 Authorities (Functions and Responsibilities) (England) Regulations 2000 insofar as such functions are not the responsibility of any other Local Authority, and in accordance with the County's Policies and Procedures to determine appeals from pupils/students on matters of entitlement to transport where applicable or to financial assistance towards transport costs.
- 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, 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 determining 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 Power 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.
- 10 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)
- 11 Power to register variation of rights of common.
- 12 Power to make, amend, revoke, re-enact or enforce by-laws.

Membership: 8 Members

## **E Health and Wellbeing Board**

The Health and Social Care Act 2012 makes provision for the Council to establish a Health and Wellbeing Board as a committee of the County Council appointed under section 102 of the Local Government Act 1972.

### **Composition**

In accordance with the Statute, the Board will comprise:

- Two Executive Members nominated by the Leader of the Council
- A 'back bench' (non-executive) Member nominated by the Leader of the Council
- The Managing Director for Adults, Communities & Health
- The Managing Director for Children's Social Care and Learning
- The Director of Public Health
- Representatives of Clinical Commissioning Groups operating within the Council's area
- A representative of Local Health Watch

It is expected that a County Council Elected Member will be the Chairman of the Board and a delegate of the Clinical Commissioning Group will be the Vice Chairman. In the absence of a Vice Chairman, the Clinical Commissioning Group will be asked to nominate another for the role of Vice Chairman.

The Board may be joined by a member of the NHS Commissioning Board:

1. When it is preparing the Joint Strategic Needs Assessment and the Joint Health and Wellbeing Strategy for the Council's area,
2. When it is considering any matter relating to the exercise or proposed exercise of the NHS Commissioning Board's functions in the area, and
3. When requested to do so by the Health and Wellbeing Board.

### **Co-optees**

- The Board may co-opt such other parties, either to be standing members of the Board or for particular areas of its work as it sees fit.
- The Council will invite nominations of district Councillors to be co-opted onto the Health and Wellbeing Board and from those nominations will co-opt up to two nominees.

### **Delegation to Sub Committee/s and Officers**

- The Board may arrange for the discharge of any of its functions by a sub-committee or an officer of the Authority
- Unless the Board otherwise directs, the sub-committee may arrange for the discharge of any of those functions by an officer of the Authority
- The Board may appoint one or more sub committees of the Board to advise the Board with respect to the discharge of functions by the Board.

In accordance with the terms of the Health and Social Care Act 2012 all statutory members of the Health and Wellbeing Board have the right to vote on any decision in accordance with the Council's Standing Orders on Committees.

The Board may form such sub committees, other panels and working groups as the Board considers necessary to carry out its functions

The Proportionality rules in the Local Government and Housing Act 1989 will not apply to this Committee.

### **Role and Functions**

To comply with the following statutory duties:

- 1 To discharge the functions imposed upon it by the Health and Social Care Act 2012 (and other legislation), together with such other functions as the Council may from time to time as it to discharge;
- 2 To prepare and publish an assessment of needs - Joint Strategic Needs Assessment (JSNA) - in relation to the Council's area, having regard to any guidance with the Secretary of State for Health;
- 3 To prepare and publish a Joint Health and Wellbeing Strategy (JHWS) to meet the needs included in the Joint Strategic Needs Assessment in relation to the Council's area, having regard to any guidance as above;
- 4 To involve third parties in preparation of the JHWS including local Healthwatch and people living and working in the Council's area;
- 5 In carrying out 1 and 2 above, to have regard to the NHS Commissioning Board mandate in developing the JSNA and JHWS;
- 6 In carrying out 1 and 2 above, to consider opportunities for 'flexibilities' under the Health Act 2006 and Section 75;
- 7 In carrying out 1 and 2 above, to consider whether any opportunities arise to access additional funding streams to achieve JSNA objectives by working with the Council and its partners;
- 8 To carry out all other statutory functions of the Health and Wellbeing Board (and in any subsequent legislation);
- 9 To make available to the Council its JSNA and JHWS to enable to Council and its services to have regard to the same while preparing policies, strategies and service plans.

### **Additional provisions**

- The Leader of the Council has the power to nominate to the Board any member to substitute for the Executive Members in the event that one of the appointed members is not able to attend.
- In accordance with powers under Article 12 of this Constitution, the Chief Executive has the power to appoint to the Board any temporary or permanent substitutes for the officer members of the Board.

The Board will agree a protocol to ensure that the members of the Board work together in a constructive and productive way. The Board shall review its operation as required and inform the Council of any proposed changes of operation.

### **Voting Members**

- Relevant Cabinet Members with lead responsibility for Adults and Family Wellbeing Children's Services,
- Chairman of the Healthy Communities Partnership,

- Managing Director for Adults, Communities and Health
- Managing Director for Children's Social Care and Learning
- Director of Public Health,
- Aylesbury Vale Clinical Commissioning Group (2 votes),
- Chiltern Clinical Commissioning Group (2 votes),
- The local Healthwatch

## **F Pension Fund Committee**

### **Role and Function**

To be responsible for the Council's statutory function as administering authority (also including investment matters) under the Local Government Pension Scheme Regulations and associated legislation under Sections 7, 12 and 24 of the Superannuation Act 1972. The committee will be established under s101 of the Local Government Act 1972.

The Pension Fund Committee will be provided with full-delegated powers to discharge the following functions on behalf of the Council:

- To deal with all matters arising relating to the Buckinghamshire Local Government Pension Scheme;
- To instruct the Chief Finance Officer on the management and investment of the Buckinghamshire County Council Pension Fund ("the Pension Fund")
- To constitute a Pension Fund Board in accordance with the Pension Fund Board's terms of reference.

### **Terms of Reference**

To agree and ensure the continual review of:

1. The strategic asset allocation and objectives of the Pension Fund,
2. The Statement of Investment Principles,
3. The strategic benchmarks for the performance of the Pension Fund against which the actual performance is to be measured,
4. The strategic targets against which the performance of the Fund Managers is to be measured,
5. To agree the appointment and termination of:
  - Fund Managers
  - The Actuary
  - The Custodian
  - Firms or individuals to provide investment and actuarial advice for the Fund
6. On a quarterly basis, review the performance of the Pension Fund and the Fund Managers against the objectives, benchmarks and targets set and to consider if, and to what extent, any change may be necessary to ensure the efficient and effective performance of the Pension Fund. This may include:
  - The dismissal, selection, appointment and enhanced performance monitoring of, the Managers of the Pension Fund,
  - Reviewing the allocation of the assets of the Pension Fund and the generic selection of asset portfolios in order to meet the objectives of the Pensions Fund,

- To agree from time to time any restrictions to be placed on any one or more Managers of the Pension Fund as to particular classes of authorised investment or decisions they may take on behalf of the Pension Fund or as to the exercise of voting rights,
  - Reviewing the structure of the management arrangements necessary to achieve the effective management of the Pension Fund to meet its objectives,
  - Reviewing the Pension Fund Risk Assessment
7. On an annual basis (or more frequently as required by the Committee), review the performance of the Pension Fund and the Fund Managers against the strategic objectives, benchmarks and targets set by them and to consider if, and to what extent, any change may be necessary to ensure the efficient and effective performance of the Pension Fund,
  8. To approve the Pension Fund Annual Accounts and Governance Compliance Statement,
  9. Review the formal Actuarial Valuation and to consider if, and to what extent, any change may be necessary to ensure the efficient and effective performance of the Pension Fund,
  10. To approve the admission of employing organisations to the Fund where there is discretion to do so,
  11. To have due regard to the advice of the Chief Finance Officer and to the advice of Consultants appointed by the Committee. If the Pensions Fund Committee shall disregard the advice of Consultants, their reasons for so doing shall be recorded in the minutes of the Committee,
  12. To receive minutes and consider recommendations from key officers and the Pension Fund Consultative Group. To ensure the effective performance of the Pension Fund Consultative Group and thereby ensuring that effective arrangements exist for consultation with the stakeholders that have an interest in the affairs of the Pension Fund,
  13. To receive auditor reports as appropriate and seek assurance that any action points arising are implemented,
  14. To deal with any other matters arising in respect of Local Government Pensions.

### **Reporting**

- 1 Minutes of the Committee will be reported to Council under the existing County Council Committee framework,
- 2 An annual report shall be presented to Cabinet on the discharge of the Committee's responsibility and the performance of the Fund,
- 3 The Committee will aim to operate as transparently as feasible, although detailed performance reports will remain confidential items on

Committee agenda as will any other item deemed as such by the Chairman,

- 4 The Chairman shall consult with the County Council's Monitoring Officer (and that of any relevant partner organisation) where any Member misses three Committee meetings in a row (to include formal training sessions).

### **Membership**

Comprises nine members as follows:

- Six Elected Members from Buckinghamshire County Council,
- One Elected Co-Opted Member from Milton Keynes Council,
- One Elected Police and Crime Commissioner (PCC) from Thames Valley Police, the Deputy PCC or a nominated member from the Police and Crime Panel,
- One Elected Co-Opted Member chosen by the four District Councils in Buckinghamshire

Members have Quasi-Trustee status and consequently substitutions are not permitted.

All co-opted Members may exercise a right to vote.

The quorum for this Committee is 4 Members.

### **Frequency**

Eight meetings will be scheduled each year and at least six meetings should occur.



## **G Select Committees**

The Council shall discharge its overview and scrutiny functions through such select committees as it shall from time to time appoint. The Council will invite the Chief Executive to report to it annually on the functioning of overview and scrutiny and on the number, Terms of Reference and constitution of the select committees required to discharge the Council's overview and scrutiny functions. The Council shall appoint such committees at its annual meeting.

All select committees will hear, discuss and determine how to deal with Call-ins and Councillor Calls for Action, which may include the setting up of Scrutiny Panels or any other appropriate mechanism to enable the Committees to consider the issues raised and will also consider the opportunity to provide a forum for the Councillor Call for Action.

### **General Terms of Reference**

Within their agreed remit select committees will:

- a. Review and/or scrutinise decisions made or actions taken in connection with the discharge of any executive functions wherever it may be exercised.
- b. Make reports and/or recommendations to the Council and/or the Leader/Cabinet Member in connection with the discharge of any functions; make reports and/or recommendations to partners.
- c. Exercise the right to call in, for reconsideration, decisions made but not yet implemented by the Leader/Cabinet/Cabinet Member or Managing Director, Director or relevant senior officer jointly with a Deputy Cabinet Member or by any other officer.
- d. Consider any matter affecting the County or its inhabitants.

They will also carry out specific roles:

### **Scrutiny**

- a. Reviewing and scrutinising the decisions made by the Leader/Cabinet/Cabinet Member or Managing Director or relevant senior officer jointly with a Deputy Cabinet Member or by any other officer,
- b. Questioning the Leader and all other Cabinet Members and senior officers about their decisions and performance whether generally in relation to policies and targets over a period of time or specifically in relation to particular decisions, initiative or projects,
- c. Scrutinising the work of partnerships and partnership boards,
- d. Making reports and/or recommendations to the Cabinet/Leader/Cabinet Member or Council arising out of the scrutiny process.

### **Overview, Policy Development and Review**

- a. Reviewing current policies and strategies and making recommendations to the Leader/Cabinet or Council,
- b. Undertaking in depth analysis of policy issues and options to assist with the Council and the Leader in developing and setting the budget and policy framework,

- c. Considering matters referred to them by the Leader/Cabinet and reporting to the Leader/Cabinet with proposals and/or options,
- d. Where applicable, reviewing and investigating matters which are not the direct responsibility of the County Council but which would affect the economic, environmental and social wellbeing of the county.

### **Education Select Committee**

- One Select Committee will carry out the functions of the designated Education Select Committee. The Committee will normally meet twice a year, but may meet more frequently should the business of the Council require it to do so.
- When sitting as the Education Select Committee, the Committee will include the statutory education representative as co-optees namely:
- One Church of England Diocesan representative; One Roman Catholic Diocesan representative; and three Parent Governor representatives from LA maintained schools (one representing secondary schools, primary schools and special schools in the County).
- These co-optees will receive agenda and reports relating to all the items to be considered by the Committee, but may vote only on matters pertaining to education and not on any other matters considered by the Committee at the same meeting.
- The Chairman's decision on whether or not a matter before the Committee pertains to education is final.

### **Health Scrutiny Terms of Reference**

- a. The Committee carrying out the Health Scrutiny Function may review and scrutinise any matter relating to the planning, provision and operation of the health service in its area in addition to the functions outlined above so far as these matters relate to all relevant health service providers within the Council's area.
- b. The Committee will also have the following powers in relation to broader health issues in the County:
  - i. To make reports and/or recommendations to the full Council and/or the Cabinet and to the local NHS body (as defined in regulations) or other appropriate body, or request a response from such a body to a report or recommendation made to it, in accordance with regulations made by the Secretary of State. Reports to the Council or Cabinet will, in addition, go to the Board of the NHS bodies that have been scrutinised. The reports will be copied to other persons or bodies the Committee deems to be appropriate.
  - ii. To request from a local NHS body such information about the planning, provision and operation of health services in the area as the Committee reasonably requires in order to discharge its functions, subject to any provision made by the Secretary of State in regulations to prevent, or apply conditions to, the disclosure of any such information which is confidential information or the disclosure of which is otherwise prohibited by statute. (The functions of the Select Committee will not include issues of individual employee performance and officers attending meetings will not be required to account personally for their actions).

- iii. To require Senior Managers of organisations carrying out NHS functions to attend Committee meetings and provide such evidence to the Committee as it may require.
  - iv. To respond appropriately to any referral by Healthwatch of matters of concern
  - v. To provide a robust challenge to all health service providers within the Council's area including questioning the actions of acute hospitals.
- c. When carrying out the review and scrutiny of a particular matter, the Committee must:
- i. Invite interested parties to comment on the matter,
  - ii. Take account of relevant information available to it and, in particular, to take into account relevant information provided to it by a local Healthwatch organisation or contractor,
  - iii. To consider any quality and safety issues arising out of such a review

If the scrutiny is as a result of a matter being referred to the Committee, the Committee will acknowledge receipt of the referral within 20 days and keep the referrer informed as to any action taken in connection with the matter.

### **Additional Specific Functions**

#### **Policy Development and review**

The Committee responsible for health scrutiny functions will review and/or scrutinise any matter relating to the planning, provision and operation of health services within Buckinghamshire within the framework set out below:

- i. Arrangements made to secure hospital and community health services to the inhabitants of the County Council area,
- ii. The provision of such services to those inhabitants,
- iii. Arrangements made for public health, health promotion and health improvement (including addressing health inequalities) in the Authority's area (provided that such scrutiny does not conflict with the development by the Health and Wellbeing Board of the Joint Strategic Health Strategy),
- iv. The planning of health services, including plans made in co-operation with Local Authorities setting out a strategy for improving both the health of the population and the provision of health care,
- v. The arrangements made by NHS bodies for consulting and involving patients and the public under the duty placed on them by Section 11 of the Health and Social Care Act 2001.

#### **Other Functions**

The Select Committee with responsibility for Health Scrutiny will also consider:

- i. Matters referred to the Committee by a patients' forum,
- ii. Social Care services and other health related services delivered by the Local Authority and other partner bodies,

- iii. The Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy prepared by the Health and Wellbeing Board,
- iv. The delivery by the Council or its public health functions under the Health and Social Care Act 2012,
- v. A report required by the Committee and made to it annually by NHS organisations operating within the county of complaints received and incidents reported

#### **Consultation by local NHS bodies**

The Select Committee with responsibility for Health Scrutiny shall have the following functions in relation to consultation by a local NHS body:

- i. It may consider and respond to proposals made by that body for a substantial development of, or variation to, the health service in the area;
- ii. To respond to notification by an NHS body that proposals are being made without consultation with the Council because of a risk or safety or welfare or patients
- iii. Where an NHS body does not agree with the response to a consultation made by the Committee, to take such steps as are as reasonable to try to reach agreement in relation to the subject of the recommendation
- iv. Where the Committee considers that consultation on a proposal has not been adequate in relation to the content or time, or where it is not satisfied that the reasons given for the proposals are adequate, or where the proposals on which it has been consulted by a local NHS body would not be in the interests of the health service in the area, to refer the issue to full Council to enable the Council to make a formal report to the Secretary of State for Health.

The duty to consult does not extend to any proposal to establish or dissolve an NHS Trust or Clinical Commissioning Group, or to vary the constitution of such a group, or to any proposals contained in a Trust's Special Administrators report or draft report or the recommendations by a Health Special Administrator on the action which should be taken in relation to a company subject to a Health Special Administrations Order under the Health and Social Care Act 2012.

The Council may also arrange for its Health Scrutiny functions to be discharged by a joint committee or by an Overview and Scrutiny Committee of another Authority.

#### **Health Co-opted Members**

The Committee carrying out the Health Scrutiny function may co-opt District Councillors from the Districts within the Council's area. If the Committee decides to co-opt such Members, the Committee may also decide whether such Members may vote as Members of the Committee.

## **Councillor Call for Action**

Any Member shall be entitled to ask the proper Officer for Scrutiny in writing to include any issue of concern to that Member on the agenda of the next meeting of the appropriate Select Committee.

In normal circumstances such a request must be made at least 10 working days before the meeting of the appropriate Select Committee.

At the meeting the member who has put the matter on the agenda may address the Committee on the matter.

Members of the Committee should consider whether the issue raised is best addressed under the Councillor Call for Action (CCfA) procedure or another procedure (for example Call-In). In normal circumstances, the same issue will only be considered under one of these procedures. The proper Officer for Scrutiny can advise Members on this matter if requested.

Once determined as a CCfA matter, the following, in the order they appear on this list, (and if present) shall then respond:

- The relevant Cabinet Member and/or the Deputy Cabinet members;
- Another Cabinet Member;
- A Senior Officer with functional responsibility for the matter.

All speakers may address the Committee for up to five minutes as determined by the chairman unless otherwise agreed by the Chairman.

The Chairman shall then invite Members of the Committee to discuss the matter to question and to consider any recommendation which has been submitted by the Member as part of the agenda item.

The Committee may then:

- Resolve not to consider the matter further;
- Resolve to take no further action as the issue is one where an individual or body has a statutory right to a review or appeal (including matters relating to a planning decision);
- Resolve to take no further action but at the meeting advise the Member raising the matter what further action, if any, the Member should take to resolve the matter;
- Refer the matter to the Cabinet Member or Officer with responsibility for the matter to ask what can be done to resolve the matter;
- Place the item on its agenda for consideration by the full Committee at a later meeting;
- Consider whether to commission a scrutiny inquiry to consider the matter further;
- Make a report or recommendation to the Cabinet or full Council of the Authority, or to the appropriate executive body of any partner organisation.

## **Public Questions at select committees**

Any person living, studying, working or in the receipt of a Council service in Buckinghamshire may raise an issue to a Select Committee through Public Questions including issues about services of the County Council or partner body. The question or issue must affect a number of people or community rather than an individual.

Submissions for Public Questions must be made in writing by the individual, or individual representing an organisation, and outline the issue or question to be raised, to a Select Committee, and what the desired outcome is from raising it to a Select Committee. Only one issue can be raised per person per meeting.

Once received, the submission will be considered by the Chairman of the relevant Select Committee over whether the request should progress to the Select Committee. The Chairman has the right to not progress a Public question submission to a Select Committee.

A maximum of four Public Question issues will be considered at each Select Committee meeting. If there are more than four public platform requests made then they will either be referred to the relevant Cabinet Member or responsible officer for a written response within 28 days or be deferred to the next possible Committee meeting.

If the Public Question submission is accepted by the Chairman of the relevant Select Committee, the matter will be placed on the public agenda of the next Select Committee. At this meeting the member of the public will be invited to speak for up to four minutes on their issue (the Chairman has the discretion to lengthen this time allocation). The member of the public does not have to present at the Select Committee and can also submit in writing in which case the Chairman will read out the question.

The relevant responsible person – Cabinet Member or senior officer or NHS staff (if in attendance) – will be invited to respond up to a maximum of four minutes. Committee Members may then ask any questions or clarification to either party through the Chairman of the Committee. Neither party will have the opportunity to question Committee Members or join in any Committee discussion. The Chairman has the discretion to offer each part a 'right to reply' to responses given at the Committee.

The Committee will then decide if it is satisfied with the response given by the Cabinet Member or senior officers, or partner representative on the issue. If not satisfied, the Committee may then consider to;

- Request a detailed written response from the responsible Cabinet Member or officer;
- Make recommendations to the relevant decision-taker;
- And/or investigate the matter further wither through a Committee item or inquiry.

A maximum of 30 minutes set aside for the Public Questions item on a Select Committee agenda (including responses and Committee discussion). This may be extended only with the Chairman's permission).

The following issues cannot be raised through Public Questions at select committees;

- Complaints – Public Questions is not for personal complaints about individual dealings with an officer or particular service. For such issues, the Council's Complaints Procedure must be followed;
- Defamatory, frivolous, vexatious or offensive;
- Repeat issues or questions that have already been brought to a Select Committee within the previous six months;
- Matters that are subject to legal proceedings;
- Matters which call for the disclosure of confidential or exempt information (as this can be requested via a Freedom of Information request);
- And/or multiple issues or questions – only one issue or question (relating to one subject) will be allowed;
- Concerns about the behaviour of individual members of staff.

## H 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 of the Council in the light of experience, as far as legislation permits.

### Leader of the Council

The following functions are reserved to the Leader of the Council:

- To appoint a Deputy Leader, Members of a Cabinet and Deputy Cabinet Members, to assign to them their portfolio areas, and maintain effective working relationships with the Cabinet Members,
- To determine the content of portfolios assigned to Cabinet Members,
- To determine which matters shall be decided by the Cabinet collectively and which shall be delegated to Cabinet Members, this shall include the decision-making in relation to the approval of new Delivery Units or other major service changes which will normally be discharged by the Cabinet collectively unless delegated authority is given by the Leader to the appropriate Cabinet Member.
- 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 strategic policy direction of the Council including the Strategic Plan;
- To chair meetings of the Cabinet and oversee the preparation of business for its consideration;
- In consultation with the Chief Executive, to draw up a four month programme of work by the Cabinet (Forward Plan) 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; and
- To appoint members of the Council to outside bodies or to delegate the discharge of this executive function

Responsibilities:

1. To complement the above, the Leader has the following responsibilities:



2. To provide leadership to the Council and its administration.
3. To lead the development and delivery of the policy framework, to reflect agreed Council priorities and the views of the people of Buckinghamshire.
4. To guide the Cabinet in the development of objectives and strategies, the Medium Term Financial Plan and the Strategic Plan, setting out standards and targets for improvement.
5. To represent the Council externally, in leading community planning arrangements within the County and furthering the Council's interests in the region, nationally and in Europe.
6. To allocate Cabinet Member portfolios, ensuring that there is proper opportunity for the scrutiny of Cabinet and Cabinet Member decisions.
7. To act as principal spokesman for the Council, or to appoint another member of the Cabinet to do so.
8. To undertake any key responsibilities of the Deputy Leader in the absence of the latter.
9. To seek to ensure that the Council obtains value for money from its services.
10. To meet regularly with and provide policy direction to the Chief Executive and his/her senior team including Managing Directors, Service Directors and other relevant senior officers
11. To take the lead in proposing new policy and taking decisions on strategy, budget and service standards for his/her portfolio as appropriate
12. To remain alert to, and take appropriate advice from the Monitoring Officer, around any conflicts of interest arising from roles as lead commissioner for services within their portfolio, and being a representative on boards or governance structures of external delivery units.
13. To keep up to date on key issues and delegated decisions and to enable changes to be proposed to strategies and policies as necessary.
14. To maintain regular contact with non-executive Members, community representatives and other local stakeholders and to take account of their views in order that decisions are well informed and that the Council's policies are widely understood and positively promoted.
15. To maintain good working relationships and a climate of mutual respect with all Members and Officers.
16. To maintain the principles of collective and individual responsibility within the Cabinet.
17. To promote good working relationships across the political groups that make up the Council.

18. To develop effective communication with Chairmen of relevant select committees and to attend meetings of select committees to answer questions on specific issues within the portfolio.
19. To demonstrate propriety and high standards of conduct and ensure decisions taken by Cabinet Members individually and the Cabinet collectively are properly recorded in accordance with legislation and agreed procedures.
20. To comply with Standing Orders and all other relevant regulations, processes and procedures adopted by the Council.
21. To undertake relevant training and development necessary to fulfil the above responsibilities effectively.

## **Deputy Leader of the Council**

### Responsibilities:

1. To support and assist the Leader in the formal processes and procedures arising from the Leadership role, making decisions on the Leader's behalf when the Leader is not available.
2. To carry out the function assigned to the Deputy Leader by the Leader.
3. To assist the Leader in management of the Cabinet and to take the Chairmanship of Cabinet meetings in the Leader's absence.
4. To represent the Council as required by the Leader.
5. To assist the Leader and, as Cabinet Member, to share in the Executive responsibility for developing and proposing overall strategy, budget, policy arrangements and service reviews.
6. To seek to ensure that there is proper opportunity for the scrutiny of Cabinet decisions.
7. To participate in reviews of services as appropriate
8. To take the lead in proposing new policy and taking decisions on strategy, budget and service standards for his/her portfolio as appropriate
9. To remain alert to, and take appropriate advice from the Monitoring Officer, around any conflicts of interest arising from roles as lead commissioners for services and outcomes within their portfolio, and being a representative on boards or governance structures of commissioned delivery units.
10. To meet regularly with the Chief Executive, Managing Directors, Service heads and other relevant senior officers, to be briefed on key issues and to enable changes to be proposed to strategies and policies as necessary.
11. To maintain regular contact with Non-Executive Members, community representatives, other local partner organisations and the media, and to take account of their views in order to ensure that decisions are well informed and that Council policies are widely understood and positively promoted.
12. To keep up to date on key issues and delegated decisions and to enable changes to be proposed to strategies and policies as necessary.
13. To promote good working relations across the political groups that make up the Council.
14. To maintain good working relationships and mutual respect with all Members and Officers.
15. To maintain the principles of collective and individual responsibility within the Cabinet.

16. To develop effective communication with the chairmen of the relevant Select Committee and to attend when requested meetings of the above Committees, and any other Committees, as appropriate, to answer questions on specific issues within the portfolio.
17. To demonstrate propriety and high standards of conduct and ensure that decision making by Cabinet and by Cabinet Members is properly carried out.
18. To comply with Standing Orders and all other relevant regulations, processes and procedures adopted by the Council.
19. To undertake relevant training and development necessary to fulfil the above responsibilities effectively.

### **Cabinet Members**

Where Executive functions are not reserved to the Council, to Cabinet or officers, they are Cabinet Member matters in accordance with the portfolios within this scheme.

The Director of Strategy and Policy, in consultation with the Leader of the Council, shall determine the appropriate Cabinet Member to deal with a matter in cases of uncertainty.

The following areas of responsibility are included in the matters which may be determined by the appropriate Cabinet Member:

- a To consider reports prepared by officers and to make any decisions in accordance with Article 13 of this Constitution and Key Decision Making by the Cabinet and by individual Cabinet Members,
- b To consider draft reports to the Cabinet with the relevant Managing Director and/or other relevant senior officer,
- c To determine how expenditure on services should be undertaken within approved budgets,
- d To agree annual reports,
- e To develop and approve Business Unit plans and monitor the performance of services,
- f To monitor the budget for particular services,
- g To determine policies for particular services, which are consistent with the Policy Framework, corporate strategies, and the Operating Framework,
- h To agree responses to consultation papers,
- i 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,

- j To approve decisions affecting a particular locality (i.e. which are not service-wide, county-wide or otherwise corporate)

The Leader may make such changes to the number and structure of the Portfolios as may be necessary to carry out the functions detailed above. Such changes will be reported to full Council.

To complement the above, Cabinet Members have the following responsibilities:

- 1 To participate fully in the work of the Cabinet.
- 2 To implement agreed policies by taking responsibility individually and/or collectively for any assigned portfolio.
- 3 To take the lead in proposing new policy and take decision on strategy, budget and service standards for his/her portfolio as appropriate
- 4 To act as the principal spokesman for his/her portfolio.
- 5 As a Cabinet Member, to share in the executive responsibility for developing and proposing overall strategy, budget, policy arrangements and service reviews.
- 6 To seek to ensure that there is proper opportunity for the scrutiny of individual and Cabinet decisions relevant to his/her portfolio.
- 7 To keep Cabinet colleagues, portfolio spokesmen and other Members of the Council, informed of current key issues within his/her portfolio.
- 8 To pursue service improvement, including through best value performance reviews.
- 9 To meet regularly with appropriate Managing Directors and Service heads and other relevant senior officers, to keep up to date on key issues and to enable changes to be proposed to strategies and policies as may be necessary.
- 10 To be briefed/advised by Officers before taking key Cabinet and Cabinet Member decisions.
- 11 To remain alert to, and take appropriate advice from the Monitoring Officer, around any conflicts of interest arising from roles as lead commissioners for services within their portfolio, and being a representative on boards or governance structures of commissioned delivery units.
- 12 To seek to ensure, as appropriate, that all decisions taken are recorded in accordance with agreed procedures.
- 13 To maintain regular contact with Non-Executive Members, community representatives, other local partner organisations and the media (in relation to portfolio specific issues) and to take account of their views in order to ensure that decisions are well informed and that Council policies are widely understood and positively promoted.

- 14 To maintain good working relationships and mutual respect with all Members and Officers.
- 15 To represent the Council in the community and elsewhere as required by the Leader.
- 16 To develop effective communication with Chairmen of relevant select committees and to attend meetings of Select Committee to answer questions on specific issues within the portfolio.
- 17 To comply with Standing Orders and all other relevant regulations, processes and procedures adopted by the Council.
- 18 To undertake relevant training and development that may be necessary to enable effective discharge of the above responsibilities.

Where Executive functions are not reserved to the Council, to Cabinet or officers, they are Cabinet Member matters in accordance with the portfolios within this scheme.

The Director of Strategy and Policy, 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.

- 1 The following areas of responsibility are included in the matters which may be determined by the appropriate Cabinet Member:
  - a To consider reports prepared by officers and to make any decisions in accordance with Article 13 of this Constitution and Key Decision Making by the Cabinet and by individual Cabinet Members;
  - b To consider draft reports to the Cabinet with the relevant Managing Director and/or other relevant senior officer;
  - c To determine how expenditure on services should be undertaken within approved budgets to meet the Council's agreed priorities and outcomes as set out in the Strategic Plan and Business Unit Plans;
  - d To agree annual reports;
  - e To monitor the budget for particular outcomes including services;
  - f To approve decisions on Strategies and/or Policies for particular issues within the Cabinet Member's Portfolio;
  - g To take decisions on any significant change to an existing service delivery model where this power has been delegated by the Leader or to make recommendations to Cabinet on a decision on these matters;
  - h To agree responses to consultation papers;
  - i 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;

- j To approve decisions affecting a particular locality (i.e. which are not service-wide, county-wide or otherwise corporate);
- 2 The Leader may make such changes to the number and structure of the Portfolios as may be necessary to carry out the functions detailed in paragraph 3 above. Such changes will be reported to full Council.

### **Deputy Cabinet Member**

#### Responsibilities:

- a) To deputise for the relevant Cabinet Member at meetings of the Cabinet and full Council when the Cabinet Member cannot be present and to answer questions at those meetings on behalf of the Cabinet Member;
- b) To support the Cabinet Member in undertaking his/her responsibilities effectively;
- c) To be consulted as part of the decision-making process;
- d) To represent the relevant Cabinet Member at appropriate meetings;
- e) In the absence of the relevant Cabinet Member to be the Senior Member who a Managing Director or senior officer consults under the constitution in appropriate cases before exercising delegated powers;
- f) To undertake specific tasks, research and investigations as directed by the relevant Cabinet Member within their areas of responsibility;
- g) To attend conferences, seminars and meetings as requested by the Cabinet Member;
- h) To keep abreast of current policy and development initiatives;
- i) To meet regularly with the relevant Cabinet Member and advise him/her on policy development in relation to decision-making,
- j) To meet regularly with relevant senior officers in order to keep fully apprised of relevant service issues and advise the Cabinet Member;
- k) To attend regular policy and review meetings with the Cabinet Member and relevant Managing Director and relevant officers;
- l) To liaise with other non-executive members to ensure that the Cabinet Member is fully aware of issues which are of concern to Members;
- m) To carry-out any other appropriate duties as directed by the relevant Cabinet Member;
- n) To help co-ordinate and sometimes chair appropriate meetings;

- o) To report back in writing to the relevant Cabinet Member on a monthly basis;

**A Deputy Cabinet Member cannot:**

- a) Exercise a vote on behalf of a Cabinet Member at a Cabinet meeting;



# **I Scheme of Delegations to Officers**

This section sets out the Council's Scheme of Delegations in the relation to:

- Council Functions
- Annex – Delegations by the Chief Executive
- Executive Functions
- Annex – Delegations by the Chief Executive

## **COUNCIL FUNCTIONS – OFFICER DELEGATIONS**

SCHEME OF DELEGATION BY CHIEF EXECUTIVE TO OFFICERS OF COUNCIL FUNCTIONS AND LOCAL CHOICE FUNCTIONS WHICH ARE NOT THE RESPONSIBILITY OF THE EXECUTIVE.

### **Introduction**

#### **1 General Principles**

- a This scheme is made by the Chief Executive. It delegates to officers the powers and duties of the Council which, by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 or any amendments to them (the "Regulations"), are not to be the responsibility of the Council's Cabinet; together with those local choice functions which are not the responsibility of the Cabinet.
- b This Scheme is made, under section 101(1)(a) of the Local Government Act 1972. It is made in accordance with section 151 of that Act, and all other provisions relating to functions held by the Council; and shall be construed in accordance with any legislation amending, or substituted for, any of those provisions, or any legislation having a similar purpose or made for similar purposes.
- c This scheme does not delegate to officers:
  - (i) any matter reserved to full Council;
  - (ii) any matter which by law may not be delegated to an officer;
  - (iii) any matter expressly reserved to a committee by the Council's Standing Orders or Financial Regulations, or

- withdrawn from delegation by this scheme or by a committee;
  - (iv) any power to change fees, charges or concession policies;
  - (v) any power to make a decision on permanent savings in a budget;
  - (vi) any power to make an order for the compulsory acquisition of land;
  - (vii) any power to acquire land in advance of requirements;
  - (viii) any power to confirm any order, or to issue or grant any permission, consent, licence or other determination, which is the subject of a statutory right of objection that has been duly exercised.
- d In respect of any matter falling within the parameters of this scheme, the Chief Executive may in writing make such detailed delegations to officers concerning functions and activities within a given area of responsibility (“internal delegations”) as he considers appropriate.
- e The Chief Executive may, in writing, delegate any function of the Council (or local choice function not the responsibility of the Executive) which has been delegated to him/her, and which is not otherwise delegated under this Scheme, and he may vary in writing any delegation made under this scheme.
- f This scheme delegates powers and duties within broad functional descriptions. It includes powers and duties under all legislation, present and future, within those descriptions, and all powers and duties incidental to that legislation, as well as authorising the affixing of the Common Seal.
- g This scheme includes an obligation on officers to keep Members of the Council properly informed of activity arising within the scope of these delegations.

## **2 General Limitations**

- a An officer, in exercising delegated powers, shall consult other appropriate officers and shall have regard to any advice received.
- b Any exercise of delegated powers shall be subject to any policy framework approved by the Council from time to time, including the authority’s employment policies and disciplinary procedures, equal opportunities policies, and any service delivery policies; and shall be guided by relevant Codes of Conduct or protocols produced or adopted from time to time by the authority

(including any Code or protocol which has been included within the authority's constitution) and the Corporate Plan.

- c Any exercise of delegated powers shall be subject to:
  - any statutory restrictions
  - the Council's Standing Orders
  - the Financial Regulations
  - the Contracts Standing Orders
  - the provisions generally of Part 4 of the Constitution
  
- d In exercising delegated powers, officers shall not go beyond the provision made in the revenue or capital budgets for their service, except to the extent permitted by the Financial Regulations or the Contracts Standing Orders.

### **3 Further provisions**

#### *Individual Delegations*

- a An officer to whom a delegation has been made by, or in accordance with, this scheme may (subject to the terms of any applicable internal delegation) further delegate in writing all or any of their delegated functions to another officer (described by name and post), either fully or under the general supervision and control of the delegating officer. Delegations made under this sub-paragraph (“individual delegations”) may be made across service boundaries.

#### *Register of Internal and Individual Delegations*

- b Subject to paragraph 3c below, all internal delegations made under paragraph 1d above, and individual delegations made under paragraph 3a above, shall be recorded in a register kept by the Director of Assurance in accordance with section 100G of the Local Government Act 1972. (See also paragraph 3e below).

#### *Continuation of existing delegations*

- c A delegation to an officer which existed at the date of the introduction of this scheme shall, to any extent that it remains unaltered by (and is not inconsistent with) any delegation (or variation to a delegation) made by or under this scheme, shall continue to have effect.

#### *Deemed delegations*

- d Where in respect of a given function or activity, no delegation is in effect, and an officer has a management responsibility in relation to the exercise of that function or activity, the exercise of any delegated authority necessary to carry out the function or activity effectively shall be deemed to have been delegated to that postholder.

#### *Other provisions*

- e All action taken under the terms of these delegations (and not falling within the description of an internal delegation in paragraph 1d above, or an individual delegation in paragraph 3a above) shall be properly documented in accordance with arrangements approved by the Director of Assurance.
  
- f It shall always be open to a senior officer to consult the appropriate Chairman of a Committee, Cabinet Member or other appropriate Member, on the exercise of a delegated function; or, not to exercise

a delegated function but to refer the matter back to a sub-committee (or other Member grouping), Committee or the Council.

- g In this scheme, “officer” means the holder of any post to which a function or activity, or powers and duties in relation to such a function or activity, may be delegated.
- h Where a function or activity has been specifically delegated by or under this scheme to an officer, that function or activity shall not be exercised by another officer without the consent of the former, other than in circumstances of the death or incapacity of that officer or, in an emergency, where the officer to whom the delegation was made is absent or otherwise unavailable.
- i An authority delegated to officers includes management of the human and material resources made available for the business unit/portfolio areas and any function concerned; to the extent of that authority, within the limitations of this scheme, and subject to any specific delegations made by or in accordance with this scheme to another officer.
- j In each case, a delegated authority excludes any determination of policy, any exception to policy, or of any budget by the officer concerned.

#### **4 Delegations to officers**

- a The functions or activities listed in the Annex to this Scheme and varied from time to time, are hereby delegated to the officers in the posts named in the Annex.

##### *Limitation of delegations*

- b The powers delegated to officers under this Scheme do not include any power to take a decision which is properly a matter for the Council, or a committee or sub-committee. Officers are, in the context of this Scheme, responsible for the management of their services, the provision of advice to the Council and Members, and the implementation of Council policies and decisions. A decision which an officer takes, under a delegation made by or under this Scheme, must:
  - implement a policy previously approved or decision previously taken, by the Council, or a committee or sub-committee (or by or with the Executive); or
  - facilitate, or be conducive or incidental to, the implementation of a policy or decision previously approved, or decision

- relate to the management of the human, material or financial resources made available for the functions for which the Council is responsible
- Any officer exercising powers or duties in pursuance of full sub- delegation will be politically restricted under section 2(1)(g) of the Local Government and Housing Act 1989.

## **Annex– Council Functions: Delegations by the Chief Executive**

The following functions or activities are delegated by the Chief Executive to the following officers:

**NB:** References below to “the Regulations” are to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (SI 2000 No. 2853).

### **MANAGING DIRECTOR OF TRANSPORT, ECONOMY AND ENVIRONMENT BUSINESS UNIT**

- 1 To exercise the functions of the Council relating to highways and public rights of way that are specified in the following provisions of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (“the regulations”): paragraphs 41, 46A and 47-55 of Schedule 1B (Licensing and Registration Functions) in so far as they relate to highways that are public rights of way (the latter term with the meaning used in the regulations); and paragraphs 1-34 of Schedule 1I (Miscellaneous Functions), **except** for the following paragraphs: 2;5;7;9;11;12;23;24;25;and 30
- 2 To exercise the functions of the Council in relation to common land, and town and village greens, as specified in paragraphs 51-53 of Part Two of Schedule 1I (Other Miscellaneous Functions) of the Regulations
- 3 To exercise all the functions of the Council relating to town and country planning and development control specified in paragraphs 5-23 of Schedule 1A (Functions relating to town and country planning and development control) of the Regulations, **except** for the following:
  - (i) determination of planning applications, or proposals in accordance with the development plans, where objections or contrary observations are raised by other local authorities (including parish councils or parish meetings), statutory consultees, persons adversely affected by the proposals (provided that the objection or observation is on planning grounds and the objection or observation has not been previously considered and discounted by the authority), or an appropriate local Member;
  - (ii) determination of minerals and waste applications requiring Environmental Impact Assessments;
  - (iii) determination of applications for County Council development where objections are raised to the proposals;
  - (iv) approval of major departures from development plans arising from planning applications and proposals.

- 4 To exercise the functions of the Council in relation to the making of agreements for the execution of highways works under S278 of the Highways Act 1980
- 5 To exercise the functions of the Council relating to highways that are specified in the following provisions of the Regulations: Paragraphs 41, 46A and 47-55 of Schedule 1B (Licensing and Registration Functions)
- 6 To exercise the Council's statutory function of Traffic Manager in accordance with the Traffic Management Act 2004
- 7 To exercise the licensing and registration functions of the Council as specified in paragraphs 22, 26- 27, 31, 43-46, and 56 of Schedule 1B (Licensing and Registration Functions) of the Regulations. <sup>1</sup>

#### **DIRECTOR OF ASSURANCE**

- 1 To exercise the proper administration of the Council's financial affairs under section 151 of the Local Government Act 1972 and
- 2 To be the chief finance officer for the purposes of section 114 of the Local Government Finance Act 1988.
- 2 To be the Proper Officer under section 115 of the Local Government Act 1972
- 3 To manage the Pension Fund, including the power to seek professional advice and to devolve day-to-day handling of the Fund to professional advisers within the scope of the Pensions Regulations.

**(Note:** The Director of Assurance is not empowered to change the managers of the Pension Fund).

#### **DIRECTOR OF STRATEGY AND POLICY**

- 1 To be the Monitoring Officer in accordance with Local Government and Housing Act 1989.
- 2 To be the Proper Officer of the Council, except where legislation or the Scheme of Delegation names another postholder, and to authorise the making and issue of any formal documents.
- 3 After consultation with the Chairman of the Council, to authorise the reproduction of the County Coat of Arms or the flying of the County flag by other bodies or persons.

#### **MANAGING DIRECTOR BUSINESS ENTERPRISE AND BUSINESS SERVICES**



- 1 To exercise the functions of the Council in relation to pensions as specified in Schedule 1H (Functions relating to pensions etc) of the Regulations.  
*(Note: This delegation excludes management of the Pension Fund, which is the responsibility of the Director of Assurance.)*
- 2 Subject to the agreement of the Chief Executive, in any case involving a Managing Director, the Director of Assurance to exercise discretion under the Local Government pensions regulations, the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000, the Teachers' pension regulations, or subsequent or amending provisions concerning any of those matters.

#### **MANAGING DIRECTOR COMMUNITIES, HEALTH AND ADULT SOCIAL CARE**

- 1 To exercise the functions of the Council in relation to the approval of premises for the solemnisation of marriages, as specified in paragraph 36 of Schedule 1B (Licensing and Registration Functions) of the Regulations.

## EXECUTIVE FUNCTIONS – OFFICER DELEGATIONS

SCHEME OF DELEGATION, BY CHIEF EXECUTIVE TO OFFICERS, OF EXECUTIVE FUNCTIONS AND LOCAL CHOICE FUNCTIONS WHICH ARE THE RESPONSIBILITY OF THE LEADER AND CABINET

### Introduction

#### 1 General Principles

- a This scheme is made by the Chief Executive of the authority. It delegates powers and duties in relation to executive functions and local choice functions exercisable by the Executive to officers. It may be read with Part 3h of the authority's Constitution, which delegates powers and duties in relation to executive functions and local choice functions to the Leader and Cabinet. Where their functions are common, Members of the Executive and officers exercise those functions as a partnership, subject to their differing roles (for example, in decision-making).
- b This scheme is made, as part of the executive arrangements of the authority under section 15(2)(d) of the Local Government Act 2000. It is made in accordance with that section, and with the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 (SI 2000 No. 2851). It shall be construed in accordance with any legislation amending, or substituted for, either of those provisions; or any legislation having a similar purpose or made for similar purposes.
- c In respect of any matter falling within the parameters of this scheme, the Chief Executive may in writing make such detailed delegations to officers concerning functions and activities within a given area of responsibility ("**internal delegations**") as he considers appropriate.
- d The Chief Executive may in writing delegate any executive function which has been delegated to him/her, and which is not otherwise delegated under this scheme. He/she may vary in writing any delegation made under this scheme.
- e This scheme delegates powers and duties within broad functional descriptions. It includes powers and duties under all legislation, present and future, within those descriptions, and all powers and duties incidental to that legislation, as well as authorising the affixing of the Common Seal.

- f This scheme includes an obligation on officers to keep members properly informed of activity arising within the scope of these delegations.

## **2 General Limitations**

- a An officer, in exercising delegated powers, shall consult other appropriate officers and shall have regard to any advice received.
- b Any exercise of delegated powers shall be subject to any policy framework approved by the Council, or the policies approved by the Cabinet from time to time, including the authority's employment policies and disciplinary procedures, equal opportunities policies, and any service delivery policies; and shall be guided by relevant Codes of Conduct or protocols produced or adopted from time to time by the authority (including any Code or Protocol which has been included within the authority's Constitution) and the Corporate Plan.
- c Any exercise of delegated powers shall be subject to any statutory restrictions, and to the provisions of Part 4 of the Constitution.
- d In exercising delegated powers, officers may not go beyond the provision made in the revenue or capital budgets for their service, except to the extent permitted by the Financial Regulations and Contracts Standing Orders.

## **3 Further provisions**

### *Individual Delegations*

- a An officer to whom a delegation has been made by, or in accordance with, this scheme may (subject to the terms of any applicable internal delegation) further delegate in writing all or any of their delegated functions to another officer (described by name and post), either fully or under the general supervision and control of the delegating officer. Delegations made under this sub-paragraph ("individual delegations") may be made across service boundaries.

### *Register of Internal and Individual Delegations*

- b Subject to paragraph 3c below, all internal delegations made under paragraph 1c above, and individual delegations made under paragraph 3a above, shall be recorded in a register kept by the Director of Assurance. (See also paragraph 3e below).

### *Continuation of existing delegations*

- c A delegation to an officer which existed at the date of the introduction of this scheme shall, to any extent that it remains unaltered by (and is not inconsistent with) any delegation (or variation to a delegation) made by or under this scheme, shall continue to have effect.

### *Deemed delegations*

- d Where in respect of a given function or activity, no delegation is in effect and an officer has a management responsibility in relation to the exercise of that function or activity, the exercise of any delegated authority necessary to carry out the function or activity effectively shall be deemed to have been delegated to that postholder.

### *Other provisions*

- e All action taken under the terms of these delegations (and not falling within the description of an internal delegation in paragraph 1c above, or an individual delegation in paragraph 3a above) shall be properly documented in accordance with arrangements approved by the Director of Assurance.
- f It is always be open to a senior officer to consult the appropriate Cabinet Member on the exercise of a delegated function; or, not to exercise a delegated function, but to refer the matter to the Cabinet or an appropriate Cabinet Member.
- g In this scheme, “officer” means the holder of any post to which a function or activity, or powers and duties in relation to such a function or activity, may be delegated.
- h Where a function or activity has been specifically delegated by or under this scheme to an officer, that function or activity shall not be exercised by another officer without the consent of the former, other than in circumstances of the death or incapacity of that officer or, in an emergency, where the officer to whom the delegation was made is absent or otherwise unavailable.
- l An authority delegated to officers includes management of the human and material resources made available for the service/portfolio areas and any function concerned; to the extent of that authority, within the limitations of this scheme, and subject to any specific delegations made by or in accordance with this scheme to another officer.

- j In each case, a delegated authority excludes any determination of policy, or exceptions to policy, or of any budget by the officer concerned.

#### **4 Delegations to officers**

- a The functions or activities listed in the Annex to this Scheme of Delegation, and as varied from time to time, are hereby delegated to the officers in the posts named in the Annex.

##### *Limitation of delegations*

- b The powers delegated to officers under this Scheme do not include the power to take a key decision. Officers are responsible, in the context of this Scheme, for the management of their services, the provision of advice to the Executive and to Members, and the implementation of Council and Executive policies and decisions. A decision which an officer takes, under a delegation of an executive function, must:
- implement a policy previously approved, or decision previously taken, by the Cabinet or a Cabinet Member; or by or with the Council, or a committee or sub-committee; or
  - facilitate, or be conducive or incidental to, the implementation of a policy previously approved, or decision previously taken, by the Cabinet or a Cabinet Member; or by or with the Council, or a committee or sub-committee; or
  - relate to the management of the human, material or financial resources made available for the functions for which the Executive are responsible.

Any officer exercising powers or duties in pursuance of full sub- delegation will be politically restricted under section 2(1)(g) of the Local Government and Housing Act 1989.

## **Annex – Delegations of Executive Functions by the Chief Executive**

### **MANAGING DIRECTOR COMMUNITIES HEALTH AND ADULT SOCIAL CARE**

To exercise the social services functions of the authority in relation to adults (where these are executive functions).

### **MANAGING DIRECTOR CHILDREN'S SOCIAL CARE AND LEARNING**

To exercise the social services functions in relation to children and young people (where these are executive functions) pursuant to Section 18 Children Act 2004 and to exercise all education functions in relation to children and young people.

### **MANAGING DIRECTOR TRANSPORT, ECONOMY AND ENVIRONMENT**

To exercise the functions delegated to the Cabinet Members for Transportation, Planning and Environment in relation to transportation, planning and environment.

### **DIRECTOR OF PUBLIC HEALTH**

To exercise the functions delegated to the Cabinet Member for Community Engagement and Public Health in relation to public health.

### **MANAGING DIRECTOR BUSINESS ENTERPRISE AND BUSINESS SERVICES**

To exercise the functions delegated to the Cabinet Member for Resources in relation to organisational development and human resources.

### **DIRECTOR OF ASSURANCE**

- 1 To exercise the proper administration of the Council's financial affairs under section 151 of the Local Government Act 1972 and section 114 of the Local Government Finance Act 1988.
- 2 To be the Proper Officer under section 115 of the Local Government Act 1972.
- 3 To have responsibility for the overall management of the internal audit function in accordance with the Accounts and Audit Regulations 2003 (or any amending or substituted legislation, or legislation with a similar purpose or made for similar purposes).
- 4 To have responsibility for borrowing and lending within limits approved by the authority.

## **DIRECTOR OF STRATEGY AND POLICY**

- 1 To be the Monitoring Officer in accordance with the Local Government and Housing Act 1989.
- 2 To be the Proper Officer of the authority, except where legislation, or a delegation made by or under this Scheme, names another officer; and to authorise the making and issue of any formal documents.

## **PART 4 - STANDING ORDERS**

### **A Council Standing Orders**

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## **1 MEETINGS OF THE COUNCIL**

- 1 The annual meeting of the Council will be held:
  - a in the year of election of members on the eighth day after the day of retirement of members, or on any other day within twenty-one days of the day of retirement that the Council may fix, or
  - b In any year other than the year of election of members on the fourth Thursday in May or any other day in May that the Council may fix.
- 2 Ordinary meetings of the full Council will be normally held on the fourth Thursday in the months of February (budget) April, September, and November and on the second Thursday in July. The Chairman of the Council and the Leader of the Council may jointly agree to vary the time or date of any ordinary meeting or to cancel any ordinary meeting. If they decide to do so, the decision must be agreed and notified to the Monitoring Officer no less than one month before the date that the meeting was due to take place, unless the variation or cancellation is due to exceptional and unforeseen circumstances.
- 3 The Chairman of the Council or the Monitoring Officer may call an extraordinary meeting of the Council at any time.
- 4 Five members may send the Chairman a signed request for an Extraordinary Meeting of the Council. If after receiving such a request the Chairman refuses to call an Extraordinary Meeting or does not call such a meeting within seven days, then any five members have a statutory right immediately to call an Extraordinary Meeting.
- 5 Where the Chairman has received a request for an Extraordinary meeting, the Extraordinary meeting must be held within 15 working days of the date he/she receives the request. If the 15 working day period expires in the month of August, the meeting must be held within 25 working days of the receipt of the request.
- 6 The Chairman of the Council and the Leader of the Council may jointly agree to part of one meeting of the full Council becoming the Ceremonial Council. The Ceremonial Council is a committee established under section 101 of the Local Government Act 1972 comprising all members of the full Council. The function of the Ceremonial Council will be to:
  - a recognise outstanding achievements by individuals, community groups and organisations.
- 7 Meetings of the Council will normally be held at County Hall, Aylesbury or the Oculus, Aylesbury and will normally commence at 9.30 am. There is an expectation that, unless Members agree otherwise by vote, that the meeting will close by 1.00pm. Council Meetings may be held at other times and in other appropriate locations with the agreement of the Chairman of the Council and the Leader. Public accessibility (particularly for those with limited mobility) is a key factor in determining the suitability of alternative venues for meetings.
- 8 The quorum is one-quarter of the total number of members of the Council i.e. 13 members.

- 9 If during any meeting of the Council the number of members present does not form a quorum, then the Chairman of the Council must adjourn the meeting and arrange another date and time. If no date and time are fixed by the Chairman, any unfinished business before the Council must be considered at the next ordinary meeting of the Council.
- 10 If the Chairman is absent from a meeting, any power or duty assigned to the Chairman relating to the conduct of a meeting may be exercised by the person presiding at the meeting.

## **2 ORDER OF BUSINESS**

The Chief Executive will call the meeting to order and the meetings will normally commence with a procession into the Chamber by the Chairman, the Vice-Chairman and other invited guests prior to the formal commencement of the meeting, the Chairman may say a short prayer.

- 1 Normally, meetings of the Council will deal with the following items (where relevant) in the following order:
  - a At the annual meeting of the Council, to elect a Chairman and appoint a Vice-Chairman as the first items of business.
  - 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 first Annual Meeting of the Council, after an election or in the event of a vacancy in the post of Leader, elect the Leader of the Council.
  - d At all Annual Meetings of the Council, the Leader will advise the Council of any changes to membership of the Cabinet.
  - e At all Annual Meetings of the Council, the Chief Executive will advise Council on the number of select committees, overall membership numbers per committee and their remits for the forthcoming year to discharge the Council's Overview and Scrutiny functions.
  - d To read and approve as a correct record the minutes of the last meeting of the Council.
  - e To deal with business required by statute to be done.
  - f To receive any Reports from Statutory Officers of the Council.
  - g To receive any Petitions.
  - h To receive any apologies for absence.
  - i For the Chairman to make any announcements.
  - j To receive any Declarations of Interest relevant to the business before the meeting.

- k To dispose of any business remaining from the last meeting.
  - l To receive and consider reports of the Cabinet, the Leader and/or Cabinet Members. Questions may be asked of Cabinet Members on any matter within the remit of their portfolio. Any written questions of which Notice has been given to the Monitoring Officer in accordance with Standing Order 5 below to the Cabinet Member will be answered in writing immediately after the presentation of the appropriate report. In the absence of a Cabinet Member, the Council will permit a Deputy Cabinet Member to respond to questions raised.
  - m To receive and consider reports of Committees. Any written questions of which Notice has been given to the Monitoring Officer in accordance with Standing Order 5 below shall be asked and answered in writing immediately after the presentation of the appropriate committee report.
  - n To ask any questions to the Chairman of which written notice has been given to the Monitoring Officer in accordance with Standing Order 5 below or make comments on any report presented by a Select Committee.
  - o To ask any other questions on Council business of which written notice has been given to the Monitoring Officer in accordance with Standing Order 5 below.
  - p To move notices of motion in the order in which they have been received.
  - q To conduct any other business, specified in the agenda.
- 2 The Chairman has discretion to vary the order of business or add items of business at any meeting. The order of business may also be varied if a notice of motion is put forward and carried by the majority of members at the meeting. Such a variation may not displace business falling under items (a), (b), (c), (d), (e) or (f) in paragraph 1.
- 3 The Chairman has discretion to invite a speaker to address the Council meeting, or to permit an officer of the Council to attend the meeting and present a briefing paper or report on any matter before the Council.

### **3 MINUTES**

- 1 The minutes of a meeting of the Council will be submitted to the next ordinary meeting for approval as “a correct record”.
- 2 Draft minutes of any meeting of the Council will be published and available to all Members and interested parties on request, on the basis that the minutes remain unconfirmed until the next meeting.
- 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.
- 4 The Chairman shall sign the minutes once their accuracy has been agreed.

#### **4 PETITIONS**

- 1 Any Member of the County Council may present to the Chairman of the Council any petition received from constituents addressed to the Council. At the Chairman's discretion, members of the public may accompany a Member when presenting a petition.
- 2 The substance of a petition presented at a meeting of the Council will briefly be 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 Cabinet Member.
- 3 If the petition refers to a matter before the Council it will be available for members to inspect during the course of the meeting.
- 4 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 about the petition.
- 5 The appropriate committee chairman or Cabinet Member will report the Council's response to the petition as soon as possible, but at the latest within six months of the meeting at which the petition was presented to the Council.

#### **5 QUESTIONS**

- 1 Except at the annual meeting in a year of County Council elections, any member of the Council may ask any question on Council business if written notice has been given to the Monitoring Officer in accordance with paragraph 2 below.
- 2 A member wishing to ask a written question on Council business shall send a copy of the question in writing to the Monitoring Officer to be received by **Noon** on the Monday before the meeting of the Council at which the question is to be asked.
- 3 Unless the Chairman of the meeting otherwise directs, questions or comments relating to a report by the Leader, Deputy Leader, a Cabinet member or a Committee shall be dealt with immediately following reports by the Cabinet Member a written reply to the written question will be given.
- 4 Written questions that are related to the select committees shall be taken after all Cabinet Member reports have been presented. The Chairman of the Committee will make a written reply available to all Members of the Council.
- 5 A Member may at any time, ask a written question of the Leader, a Cabinet Member, a Chairman of a Select Committee or a Chairman of a Standing Committee who should attempt to reply within 28 calendar days of receipt. All questions and answers will be reported quarterly to the Council without discussion.
- 6 Questions to members must relate to action they have or have not taken as a Member or to their portfolio and must not raise personal issues.

- 7 Questions must be reasonably concise and must be framed in appropriate language. They must not divulge, or require the answer to divulge, confidential or exempt information. They must not be abusive, defamatory, frivolous or vexatious. The Monitoring Officer or the Chairman may edit or require the questioner to withdraw any question or part of a question that does not comply with these requirements.

## **6 ORAL QUESTIONS**

- 1 Oral questions on Cabinet Member Reports shall normally be time-limited to one minute per question per member.
- 2 If the Opposition Group Leader has an oral question on a Cabinet Member Report, he/she shall be invited to ask that question first.
- 3 The Chairman of the Council will decide the total amount of time allocated to questions on each Cabinet Member Report.

## **7 MOTIONS WITH NOTICE**

- 1 Any member may propose a motion by giving notice in accordance with this standing order. Motions must be relevant to a matter over which the Council has power, or which affects the County.
- 2 A notice of motion must be signed by one or more members of the Council and delivered to the Monitoring Officer no later than **Noon** on the Monday before the meeting of the Council at which it is to be considered.
- 3 Where the Monitoring Officer has received a Notice of Motion, he/she will:
- a determine whether the issue requires a technical investigation which cannot be completed by the time of the Council meeting, in which case he/she will notify the member or members who have submitted the notice of motion that he/she has commissioned such an investigation and that the notice of motion will now be considered at the next but one meeting of the Council, and he/she will report for information to the next meeting of the Council the receipt of the notice of motion and the commissioning of the investigation;
  - b where consideration of the notice of motion is not deferred for a technical investigation, determine whether a background briefing would be of assistance to members and, if so, arrange its preparation and distribution to all members with the agenda for the meeting or as soon as possible thereafter.
- 4 The Monitoring Officer will set out in the agenda for every Council meeting all notices of motion in the order in which they were received, unless:
- a a member giving notice has stated in writing that the motion will be moved at a later meeting or
  - b the motion has since been withdrawn in writing.

- 5 Notices of motion must be framed in appropriate language and must not be abusive, defamatory, frivolous or vexatious.
- 6 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 (whether by the Council or by a member or a committee), shall be proposed unless:
  - a a recommendation is made by the committee or portfolio holder or
  - b a notice of motion has been given bearing the names of at least eleven members of the Council.
- 7 If it appears to the Monitoring Officer that a notice of motion is not in order, or is framed in improper or unbecoming language, he/she will consult the Chairman as to whether and in what form it shall be placed on the agenda. The decision of the Chairman, after consultation with the giver of the notice, shall be final. .
- 8 A motion will generally be moved by the member, or one of the members, who has given notice of the motion. Where a member is unable through absence to move a motion, that member may, in writing, and with the consent of the Chairman, assign the right to move the motion to another member.
- 9 If the motion is not moved it will, unless postponed by consent of the Council, be treated as abandoned and may not be moved without fresh notice.
- 10 Once a motion has been moved, the Chairman will invite a member to second the motion. If the motion is seconded, the Chairman will then invite the Cabinet member under whose portfolio the issue falls, or in his absence another Cabinet member, to respond. The motion will then be open for debate.**
- 11 In exceptional circumstances, the Council may resolve to refer a motion to a committee (including a Select Committee) or to the Cabinet (if its an executive matter). Where this takes place, the member who gave the notice of motion (or one member from among those members who gave the notice of motion) is entitled to attend and speak at the meeting of that body. The body must report its recommendation or decision on the motion to the next Council meeting.

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

- 1 The following motions may be moved without notice:
  - a Appoint a Chairman for that meeting or part of the meeting
  - b To amend the minutes
  - c To approve the minutes as a correct record
  - d To refer a committee's report or any item in it, or any other item, back to a committee
  - e To appoint committee members if this arises from an item in the agenda of the meeting

- f To adopt a report or recommendation of the Cabinet, a committee or an officer
- g To amend a motion
- h To withdraw a motion or amendment
- i To suspend any standing order capable of being suspended
- j To exclude the public
- k Not to hear a member further, or to remove a member from the meeting on the grounds of disorderly conduct
- l To amend the time limit for speeches
- m To proceed to the next business
- n To postpone consideration of a motion
- o To put a question to the vote (otherwise known as a motion “that the question be put”)
- p To adjourn the debate
- q To adjourn the meeting
- r To vary the order of business

## **9 CONSIDERATION OF COMMITTEE REPORTS**

- 1 Where a committee or the Cabinet puts a report before the Council, each recommendation to the Council arising out of the report shall be debated in accordance with the Council’s rules of debate unless the item is placed before the Council for noting only.
- 2 For the purpose of the rules of debate, each recommendation to the Council arising out of a Cabinet or committee report shall be a separate motion.
- 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.

## **10 RULES OF DEBATE**

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

- 4 The Chairman's interpretation and application of these standing orders shall be final.
- 5 A member may raise a point of order or personal explanation:
  - a A point of order may only relate to an alleged breach of these standing orders or the law. The member must indicate the rule or law and the way in which he or she considers it has been broken.
  - b 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.

The decision of the Chairman on the admissibility of a point of order or a personal explanation shall be final.

- 6 Where a member raises a point of order or a personal explanation, he or she shall be entitled to be heard immediately and the speaker shall give way.
- 7 Speeches shall be relevant to the question under discussion or to a point of order or to a personal explanation.
- 8 With the exception of speeches by the Chairman of the Council, the Chairmen of Committees, the Leader and Cabinet Members and Leader of the Opposition when speaking in that capacity no speech shall exceed four minutes except with the consent of the Chairman.
- 9 Chairmen of Committees, the Leader and Cabinet Members (or Deputy Cabinet Member when their Cabinet Member is absent from the meeting) may speak for more than four minutes when presenting a report to the Council or responding to a motion. Otherwise, they may only speak for more than four minutes with the consent of the Chairman. The Chairman of the Council shall not be time limited in any speech.
- 10 A motion or amendment shall not be discussed or put to the meeting until it has been moved and seconded. Unless notice has been properly given under standing order 6 or the motion is one which may be moved without notice under standing order 7, the motion shall be put in writing and handed to the Chairman, in time for it to be circulated to all members of the Council, unless otherwise agreed by the Chairman, before it is discussed or put to the meeting. The Chairman's decision as to whether the motion may be proposed without due notice shall be final.
- 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.
- 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.
- 13 A motion or amendment may be withdrawn by the mover with the agreement of the seconder and the Council itself, signified without discussion. No member



shall debate a motion after the mover has asked permission to withdraw it unless such permission has been refused.

14 A member shall only speak once on any motion or on any amendment except:

- a in exercise of the right of reply or
- b on a point of order, or
- c by way of personal explanation, or
- d to move that the question be put to a vote.

15 Where a motion for which notice has been given has been referred for consideration to a committee or the Cabinet and there is a report back, the following order of debate shall apply:

The mover of the motion shall speak first

The Chairman (or Chairmen) of the committee(s), the Leader or Cabinet member reporting on the motion shall then speak

The matter is then open to debate

The person reporting on the motion shall have the right to make the penultimate speech in reply to the debate on the motion

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

This paragraph does not apply when a motion is taken on the day it is put, when the normal rules of debate will apply.

16 Any amendment will normally be in writing and copied and circulated to all members of the Council 24 hours before the commencement of the meeting. It must be relevant to the motion and must be either

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

17 An amendment may not be contrary to the motion before the Council or have 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, further amendments may be proposed on the original motion. 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.

- 20 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.
- 21 The proposer of an amendment has no right of reply to the debate on that amendment but if the amendment is carried he/she shall have the right to make the penultimate speech in the debate on the amendment.
- 22 The mover of a motion has a right to reply at the end of the debate on the motion. The original motion or the motion as amended shall then be put to the vote. No amendment shall be proposed on the motion after the mover of the motion has exercised his/her right of reply.
- 23 A member exercising a right of reply or a right to make the penultimate speech in the debate on the amendment shall not introduce any new matter.
- 24 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 to put the question to a vote
  - h not to hear a member further, or to remove a member from the meeting on the grounds of disorderly conduct
  - i to refer the subject of debate back to a committee
  - j to exclude the public
  - k to amend the time limit for speeches
  - l to suspend any standing order capable of being suspended .
- 25 A member may move without comment at the conclusion of a speech of another member to proceed to the next business or to put the question to a vote or to adjourn the debate or to adjourn the meeting. If such a motion is seconded, 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 to put the question to a vote:

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, without giving the mover of the original motion the right of reply. 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 to adjourn the meeting. 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.

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

## **11 DISORDERLY CONDUCT**

- 1 If, in the opinion of the Chairman, any member of the Council misbehaves at a meeting 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 not to hear the member further. If the motion is seconded it shall be put to the vote without discussion.
- 2 If, in the opinion of the Chairman, the member persistently misbehaves after such a motion has been carried, 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 a meeting under this Standing Order, the member is not entitled to vote during the period of exclusion.

- 4 If a member of the public interrupts the proceedings at any meeting, the Chairman may issue a warning. If the interruption continues the Chairman may 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 may order that part cleared. If the Chairman considers it necessary, he/she may adjourn or suspend the sitting of the Council.

## **12 VOTING**

- 1 Voting is generally by a show of hands, save that voting will be by a recorded vote when the Council is voting on budget proposals.
- 2 Any member may ask for a vote to be recorded provided he/she is supported by nine other members who show their support by standing up. Individual votes will then be taken by way of a roll call and recorded in the minutes so as to show how each member present and voting gave his/her vote.
- 3 Whenever a vote is taken by show of hands and not by roll call, the Chairman shall ask for those in favour, and those against to vote in turn. The chairman will then ask those abstaining from voting to indicate accordingly. Any member may ask for the number of those in favour, the number of those against and the number of those abstaining to be recorded in the minutes.
- 4 A member may not change his/her vote once he/she has cast it and another member has been called upon to vote.
- 5 If a member arrives before the casting of votes has been commenced he/she is entitled to vote.
- 6 Immediately after a vote is taken any member may ask for it to be recorded in the minutes that he/she voted for or against the question, or that he/she abstained.
- 7 The Chairman, or other person presiding, will have a second and/or casting vote where votes for and against a proposal are equal. There shall be no restriction on the manner in which the casting vote is exercised.
- 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 will be struck off the list and a fresh vote taken, and so on until a clear majority of votes is given in favour of one person.
- 9 Where a vote is taken for the election of the Chairman of the Council and the current Chairman is present in the room and not seeking re-election, the current Chairman will preside over the election of a new Chairman.
- 10 Where the current Chairman is seeking re-election, he/she may not be present in the room when the election is taking place. He/she should arrange for another member to submit his / her nomination and to preside over the election.
- 11 Officers shall not call for nominations for the election of the Chairman.

### **13 APPOINTMENT OF COMMITTEES**

- 1 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.
- 2 The following committees shall be Standing Committees of the Council.
  - select committees as agreed by the Council
  - Development Control Committee
  - Regulatory and Audit Committee
  - Rights of Way Committee
  - Senior Appointments and Buckinghamshire Pay Committee
  - Pension Fund Committee
  - Health and Wellbeing Board
- 3 Apart from the Health and Wellbeing Board, the Council will appoint members of committees in accordance with the principles of political balance set out in section 15 of the Local Government and Housing Act 1989. The total number of seats available on all committees will be distributed among the political groups in proportion to their membership of the Council. Subject to this, the number of seats on each committee will then be distributed among the political groups in proportion to their membership of the Council and any unallocated seats shall be filled by Members who are not a member of any political group.
- 4 The Council is entitled to co-opt to committees appointees who are not elected members of the Council in accordance with its powers under the law. Co-optees are not entitled to vote on any matters before the committee unless otherwise provided elsewhere in this constitution or in the general law.
- 5 Any church representatives or governors shall be members of the appropriate Select Committee when sitting as an Education Select Committee.
- 6 Before the annual meeting in the year of election of members, the Monitoring Officer will consult with the retiring Chairman of the Council and Group Leaders on the size and membership of Committees and will report as appropriate to the annual meeting immediately following the election.
- 7 The Council will appoint to committees annually, and make appointments to allocated seats in accordance with the wishes of the appropriate Group Leaders (or from their nominated representative)
- 8 Upon nomination from the appropriate Group Leader (or their nominated representative for making committee appointments), the Monitoring Officer of the Council may appoint members to fill any committee vacancies that may arise.
- 9 The Monitoring Officer may also by delegated powers, vary the membership of a committee by appointing substitute members for a committee meeting on the nomination of a Group Leader.
- 10 Any nomination to a Committee, whether a permanent membership change or substitute nomination, must be received in writing by email from the relevant

Group Leader (or their nominated representative) to the relevant clerk of the meeting at least the day before the relevant meeting of the Committee.

- 12 If a Member has been substituted, he/she cannot be appointed Chairman or Vice-Chairman in his/her absence.

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

- 1 Meetings of the Council, the Cabinet and any committees shall be open to the public except when dealing with exempt or confidential information. The Council will give at least five clear day notice of any meeting by posting details. A detailed description of the rights of the public to information is contained in the Access to Information Standing Orders in part 4b of this Constitution.

- 2 The public may be excluded from the whole or part of a meeting of the Council, or any of its committees, on the ground that exempt information would be disclosed and the public interest in maintaining confidentiality is outweighed by the public interest in disclosure. Exempt information is defined in paragraph 10.4 of the Access to Information Standing Orders.

- 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 disclosure of which would be prohibited by law or by an order of the court.

- 4 The Monitoring Officer shall determine which Committee reports or parts of reports are unlikely to be taken in public and shall withhold such papers from public circulation in advance of the meeting.

- 5 A member who is not a member of a committee may attend a meeting of the committee to make a verbal statement on behalf of his/her constituents where an item under discussion directly affects the member's division. The member must obtain the prior consent of the Chairman of the meeting, which shall not be unreasonably withheld.

- 6 Where a committee has resolved to exclude the public from a meeting or part of a meeting on the grounds that exempt or confidential information is being considered, members who are not members of that committee will generally also be excluded from that meeting or part of the meeting. However, a member may attend the meeting and/or inspect any exempt or confidential documents relating to the business of the committee if he/she can demonstrate a "need to know".

- 7 A member's "need to know" arises when he/she requires the information in order to carry out properly his/her duties as a member. It may apply to information about matters affecting his/her electoral division or matters which relate to a Council body or informal working group to which he/she belongs. It does not arise where a member would simply like to know what is in a document or what may be said at a meeting. It also does not enable a member

to “rove through” a large number of files in search of information (sometimes known as “fishing for information”). Whether a need to know arises in a particular case will be a matter of fact and degree, to be decided in the light of all the circumstances of the request.

- 8 It is a general presumption that all reports, including those containing confidential or exempt information, will be available to select committees where they are relevant to that business to be conducted by that committee. This presumption may be dis-applied in exceptional circumstances.
- 9 In the event of a dispute, the Monitoring Officer will determine 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 or ulterior reasons, it would be appropriate to refuse access.

## **15 SUMMONS AND AGENDA PROCEDURE**

- 1 At least five clear working days before a meeting of the Council, Committee or Cabinet, a summons to attend the meeting in the name of the Managing Director, Service Head or relevant senior officer 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 Council, provided that want of service of the summons shall not affect the validity of the meeting.
- 2 No business may be transacted at a meeting of the Council which is not specified in the agenda and agenda pack with the meeting papers unless the Chairman of the Meeting agrees that the item should be considered as a matter of urgency, whereby a supplementary agenda pack with additional papers may be provided. The reason for the urgency shall be specified in the minutes.

## **16 INSPECTION OF DOCUMENTS**

- 1 Agendas of Council, Committee meetings and public Cabinet meetings and reports, except those marked “Not for Publication”, will be available for inspection on the County Council’s website and on request by the public at County Hall during normal office hours and at the major reference libraries in the County. A detailed description of the rights of the public to information is contained in the Access to Information Standing Orders in part 4b of this Constitution.
- 2 All documents which are open to public inspection will normally be available on the Council’s website at least five clear days before the relevant meeting. If it is not reasonably practicable to make a particular document available five days prior to the meeting, it will be made available as soon as possible thereafter.
- 3 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 confidential or exempt information.

- 5 Members of the Council who can satisfy the "need to know" test will be entitled to inspect papers in the possession of the Council not otherwise open to members. The "need to know" test is explained in Standing Order 14.
- 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 a prejudicial interest as defined in the Code of Conduct for Members.
- 7 The Monitoring Officer 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 legal privilege.
- 8 The Monitoring Officer will decide which documents cannot automatically be disclosed to members.
- 9 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 already been made available to the public or the press on behalf of the Council.
- 10 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.

## **17 INTEREST OF MEMBERS AND OFFICERS**

- 1 All members on accepting office shall declare that they will observe the Code of Conduct of Buckinghamshire County Council set out in part 5a of this Constitution. Members must familiarise themselves with the content of the Code of Conduct and adhere to it scrupulously. If a member has any uncertainties about the provisions of the Code of Conduct or about whether he/she has a Disclosable Personal Interest in a matter, he/she should consult the Monitoring Officer or Deputy Monitoring Officer.
- 2 Every member shall submit details of his/her interests to the Monitoring Officer who shall maintain a Register of Members' Interests as required by the Localism Act 2011. The Register shall be published on the Council's website and made available during normal office hours to the inspection of any member of the public. The Register will also record any dispensations granted against each Members' register entry.
- 3 The Managing Director or relevant senior officers 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 prejudicial interest in a contract, and the book shall be open during office hours to the personal inspection of any member of the Council.



## **18 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.

## **19 CANDIDATES FOR APPOINTMENT**

- 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.
- 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 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.
- 3 Candidates for any appointment to 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 from appointment and, if appointed, shall be liable to dismissal without notice.
- 4 When a relationship to a member of the Council is disclosed, the provisions of the Code of Conduct may apply.
- 5 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.

- 6 Where the Council proposes to appoint the Chief Executive to the Council, a Managing Director, the Monitoring Officer or the Chief Finance Officer, 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.
- 7 Where a post has been advertised as provided in paragraph (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; or
  - c where no qualified person has applied the Authority shall make further arrangements for advertisement in accordance with Standing Order 18(7)(b).
- 8 Every appointment of the Head of Paid Services must be confirmed by Council. The appointment of a Managing Director, the Monitoring Officer or the Chief Finance Officer shall be made by the Council's Senior Appointments and Bucks Pay Committee.

9

- 10 The action mentioned in paragraph 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 unless it is agreed by all Parties that this period should be extended.

## **20 PROCEDURES RELATING TO STANDING ORDERS**

- 1 Any Standing Order other than those governed by statutory requirements may be suspended by resolution of the Council. Any suspension may only apply to any business at the meeting of the Council during which the suspension is moved.
- 2 A motion to suspend a Standing Order or Orders may be moved without notice.
- 3 Any motion for a suspension shall state the specific Standing Order(s) which it is intending to suspend.
- 4 These Standing Orders may be added to, varied or revoked by giving notice under Standing Order 6.
- 5 A copy of the Council's Constitution containing these Standing Orders and of the statutory provisions which govern the procedure at meetings of the Council will be published on the Council's website and updated as changes are made.

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

## **21 PUBLICATION OF ADDITIONAL INFORMATION**

- 1 The Council shall make available on its Intranet site 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, though a record of such arrangements should be maintained by the proper officer.

- 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; and
  - b to inspect and copy documents and to be provided with documents.

- 4 The register maintained under paragraph (1) above, the list maintained under paragraph (2) above and the summary kept under paragraph (3) above shall be open to inspection by the public at the Council's offices during normal office hours.

## **22 POLICIES AND STRATEGIES**

- 1 In this Part:
- “executive” and “executive leader” have the same meaning as in Part II of the Local Government Act 2000; and
- “plan or strategy” and “working day” have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.
- 2 Where the executive of the authority has submitted a draft plan or strategy to the authority for its consideration and, following consideration of that draft plan or strategy, the authority has any objections to it, the authority must take the action set out in paragraph 3.

- 3 Before the Authority:
  - a amends the draft plan or strategy;
  - b approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
  - c adopts (with or without modification) the plan or strategy,

it must inform the executive leader of any objections which it has to the draft plan or strategy and must give to him/her instructions requiring the executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
- 4 Where the authority gives instructions in accordance with paragraph 3, it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may
  - a submit a revision of the draft plan or strategy as amended by the executive (the “revised draft plan or strategy”), with the executive’s reasons for any amendments made to the draft plan or strategy, to the authority for the authority’s consideration; or
  - b inform the authority of any disagreement that the executive has with any of the authority’s objections and the executive’s reasons for any such disagreement.
- 5 When the period specified by the authority, referred to in paragraph 4, has expired, the authority must, when
  - a amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;
  - b approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or
  - c adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the executive’s reasons for those amendments, any disagreement that the executive has with any of the authority’s objections and the executive’s reasons for that disagreement, which the executive leader submitted to the authority, or informed the authority of, within the period specified.
- 6 Subject to paragraph 10, where, before either before 8 February or in time for the District Councils in Buckinghamshire to comply with their statutory

obligations in any financial year, the authority's executive submits to the authority for its consideration in relation to the following financial year

- a estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
- b estimates of others amounts to be used for the purposes of such a calculation;
- c estimates of such a calculation; or
- d amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992,

and following consideration of those estimates or amounts the authority has any objections to them; it must take the action set out in paragraph 7.

7 Before the authority make a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 6(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the executive leader of any objections which it has to the executive's estimates or amounts and must give to him instructions requiring the executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.

8 Where the authority gives instructions in accordance with paragraph 7, it must specify a period of at least five working days beginning on the day after the date on which the executive leader receives the instructions on behalf of the executive within which the executive leader may

- a submit a revision of the estimates or amounts as amended by the executive ("revised estimates or amounts"), which have been reconsidered in accordance with the authority's requirements, with the executive's reasons for any amendments made to the estimates or amounts, to the authority for the authority's consideration; or
- b inform the authority of the disagreement that the executive has with any of the authority's objections and the executive's reasons for any such disagreement.

9 When the period specified by the authority, referred to in paragraph 8, has expired, the authority must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 6(a), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account

- a any amendments to the estimates or amounts that are included in any revised estimates or amounts;
- b the executive's reasons for those amendments;
- c any disagreement that the executive has with any of the authority's objections; and

d the executive's reasons for that disagreement,

which the executive leader submitted to the Authority, or informed the authority of, within the period specified.

10 Paragraph 6 to 9 shall not apply in relation to

a calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52 J, 52T or 52U of the Local Government Finance Act 1992; and

b amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

## 23 Employees

1 In this Part:

"The 1989 Act" means the Local Government and Housing Act 1989;

"The 2000 Act" means the Local Government Act 2000;

"Disciplinary action" has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

"Executive" and "executive leader" have the same meaning as in Part II of the 2000 Act;

"Member of staff" means a person appointed to or holding a paid office or employment under the authority; and

"Proper officer" means an officer appointed by the authority for the purposes of the provisions in this Part.

2 Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority's paid service or by an officer nominated by him.

3 The Council has resolved –

a The final decision on the appointment and dismissal of the Head of Paid service shall by resolution of full Council, as well as the dismissal of the Monitoring Officer and S151 officer;

b Before taking a vote on whether to approve the dismissal of the Head of Paid Service, Monitoring Officer and S151 Officer, Council must take into account in particular:

I. any advice, views or recommendations of the Panel;

II. the conclusions of any investigation into the proposed dismissal; and .

III. any representations from the statutory officer who is the subject of the proposed dismissal.

- c All other appointments, discipline and dismissal of senior officers shall be by the Senior Appointments and Buckinghamshire Pay Award Committee.
- 4 Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against:
- a the officer designated as the head of the authority's paid service;
  - b a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);
  - c a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
  - d a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
  - e a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).
- 5(1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an officer designated as the head of the authority's paid service, the authority must approve that appointment before an offer of appointments is made to him or, as the case may be, must approve that dismissal before notice of dismissal is given to him.
- 5(2) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph a, b, c or d of paragraph 3, at least one member of the executive must be a member of that committee or sub-committee.
- 6(1) In this paragraph, "appointor" means, in relation to the appointment of a person as officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.
- 6(2) An offer of an appointment as an officer referred to in sub-paragraph a, b, c or d of paragraph 3 must not be made by the appointor until:
- a the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;

- b the proper officer has notified every member of the executive of the authority of:
  - i the name of the person to whom the appointor wishes to make the offer;
  - ii any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
  - iii the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and
- c either
  - i the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointor that neither he/she nor any other member of the executive has any objection to the making of the offer;
  - ii the proper officer has notified the appointor that no objection was received by him within that period from the executive leader; or
  - iii the appointor is satisfied that any objection received from the executive leader within the period is not material or is not well-founded.

7(1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.

7(2) Notice of the dismissal of an officer referred to in sub-paragraph a, b, c or d of paragraph 3 must not be given by the dismissor until:

- a the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
- b the proper officer has notified every member of the executive of the authority of:
  - i the name of the person who the dismissor wishes to dismiss;
  - ii any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
  - iii the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and
- c either



- i the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that neither he/she nor any other member of the executive has any objection to the dismissal;
  - ii the proper officer has notified the dismissor that no objection was received by him within that period from the executive leader; or
  - iii the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well-founded.
- 8 Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by:
  - a another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
  - b a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

## **B Access to Information Standing Orders**

### **1 INTRODUCTION**

The Council is committed to the principles of transparency laid down in the Freedom of Information Act 2000. In accordance with the Act, it maintains a Publication Scheme approved by the Information Commissioner which is available on the Council's website. It is committed to:

- Promoting a positive attitude to dealing with requests for information
- Maintaining information in an orderly and efficient fashion and disposing of information that is no longer required.
- Increasing awareness and understanding of the implications of the Act, both amongst its employees and amongst members of the public.

These standing orders make provision for access to information relevant to matters set out in this Constitution. They do not affect any additional rights to information contained elsewhere in this Constitution or the law.

### **2 SCOPE**

These standing orders apply to all meetings of the Council, select committees, Local Committees, Joint Committees, and other Council Committees including the Health and Wellbeing Board and public meetings of the Cabinet (together called meetings).

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

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

Members of the public may attend, record, photograph, film and report on all meetings subject only to the exceptions in these standing orders.

Members of the public who wish to report or record public meetings are required to comply any Council guidance on the reporting and recording of meetings which may be issued on practical arrangements. The authority will not permit the recording or reporting of proceedings where the public are not allowed to attend the meeting or that part of the meeting by reason of the likely disclosure of exempt or confidential information, and such reporting and recording must be conducted in such a manner as not to disrupt the conduct of the authority's business.

It is recommended that members of the public who wish to record, photograph film and report on public meetings advise Council officers in advance of the meeting so that all necessary practical arrangement can be made.

### **4 NOTICES OF MEETING**

The Council will give at least five clear days' notice of any meeting by posting details of the meeting at County Hall Aylesbury Buckinghamshire and on the Council's website.

- The Council will normally hold its meeting in public unless the content of the meeting requires it to be held in private,
- If the Executive wishes to hold a meeting in private it will give 28 Days' notice of its intention to do so,
- After having given 28 clear days' notice of its intention to hold a meeting in private, the Council will give a further notice at least 5 clear working days before the meeting that the meeting will proceed in private. This Notice will be given by the Monitoring Officer (the Proper Officer) and will give the Council's reasons for meeting in private, details of the representations received that a private meeting should not take place and contain a statement of the Council's response,
- If the Council proposes to meet in private and 28 days clear notice of such a meeting has not been given on the Council's Forward Plan, the agreement of the Chairman of the appropriate Select Committee is required if the public are to be so excluded.

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

The Council will make copies of the agenda and reports open to the public available on the Council's website and available for inspection at its designated office at least five clear days before the meeting. If an item is added to the agenda later only in cases of urgency, the Monitoring Officer shall make each report available to the public as soon as the report is completed and sent to members, 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 Monitoring Officer thinks fit, copies of any other documents supplied to members in connection with an item;

to any person. The Council may charge to supply this information if it would be permitted to do so under its Charging Policy.

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

### **7.1 Access to Draft Minutes**

Draft minutes of a decision are only confirmed as a correct record of a decision when:

- a Approved as a correct record at the next convenient meeting of the body (Council, Committees and Sub Committees)

- b Signed as a correct record by the Proper Officer (Cabinet and Cabinet Committees)
- c Signed by the Cabinet Member who has taken the decision or by an officer alone.

The Council will prepare and make available on request, a draft decision notice, as soon as practicable after the decision has been made, but such draft minutes should not be relied on as a correct record until it they have been confirmed as such.

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 and 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 provide that such reports do not contain confidential or exempt information or, if they do the information disclosed is no longer confidential or exempt.

## **8 BACKGROUND PAPERS**

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

The Author of a Report 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 Access to Information Standing Order 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 four years after the date of the meeting one copy of each of the documents on the list of background papers, except in so far as they disclose exempt or confidential information.

**9 SUMMARY OF THE 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 an item at a meeting 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 reason of a Court Order or any enactment.

### 10.3 Exempt information – discretion to exclude public

The public may be excluded from an item at a meeting 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 a decision on an item at a 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 discussion of the item 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

Subject to paragraph 10.5 below, and to the test of the Public Interest set out in paragraph 10.6 below, information is exempt information where it falls within any of the following categories:

- 1 Information relating to an individual.
- 2 Information which is likely to reveal the identity of an individual.
- 3 Information relating to the financial or business affairs of any particular person (including the public authority holding the information), except where the information is required to be registered under certain prescribed statutes including the Companies Act 1985 and the Charities Act 1993.

“Financial or business affairs” includes contemplated, as well as past or current activities.

- 4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the Authority.

“Labour relations matter” means any matter which may be the subject of a trade dispute, or any dispute about any such matter (i.e. a matter

specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992.

- 5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- 6 Information which reveals that the Authority proposes:
  - a to give under any enactment a notice, under or by virtue of which requirements are to be imposed on a person; or
  - b to make an order or direction under any enactment.
- 7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

#### **10.5 Planning permission**

Information falling within any of the categories 1-7 in paragraph 10.4 is not thereby exempt if it relates to proposed development for which the local planning authority may grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

#### **10.6 Public interest test**

Information falling within any of categories 1-7 in paragraph 10.4, which is not prevented from being exempt because either:

- a it falls within category 3, and is required to be registered under the prescribed enactments; or
- b paragraph 10.5 applies to it

is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

#### **10.7 Freedom of Information Act 2000**

In compliance with the Freedom of Information Act 2000, the Council will respond to any requests for information. There is no charge for responding to requests for information other than 'disbursement' costs; however, a charge is made if it exceeds the Government's advisory fee level.

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

The Monitoring Officer may exclude access by the public to a report which, in his or her opinion, relates to an item during which, in accordance with Access to Information Standing Order 10, the meeting is likely not to be open to the public; or, as the case may be, was not open to the public. Such reports will be marked "Not for publication", together with the category of information likely to be disclosed.

Before the Public are excluded in accordance with this provision, the Council must have complied with the Notice provisions in Paragraph 4 above and Notice of the proposal to meeting in private will have been given by the Council's Proper Officer.

## **12 APPLICATION OF STANDING ORDERS TO THE CABINET**

Standing Orders 13 – 24 apply to the Cabinet. If the Cabinet meets to take a key decision then it must also comply with Standing Orders 1 – 11 unless Standing Order 15 (general exception) or Standing Order 16 (special urgency) apply. The Cabinet and individual Cabinet Members will also comply with the Protocol on Key Decision Making by the Cabinet and by Individual Cabinet Members attached in Part 4 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 the matter is to be decided, then it must also comply with Standing Orders 1 – 11 unless Standing Order 15 (general exception) or Standing Order 16 (special urgency) apply. A key decision is as defined in Article 13.3 of this Constitution. This requirement does not include meetings, the sole purpose of which is for officers to brief members.

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

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

- a at least 28 clear days notice has been published in connection with the matter in question (in Buckinghamshire this Notice will be given by means of the Forward Plan).
- b at least five clear days have elapsed since the publication of the notice of the decision, unless the decision taker has resolved that implementation of the decision is urgent in which case the decision can be implemented without delay.
- c where the decision is to be taken at a meeting of the Cabinet or a Committee, notice of the meeting has been given in accordance with Standing Order 4 (notice of meetings).

## **14 THE FORWARD PLAN**

The Leader will ensure that notice of all key decisions (by the Cabinet and by individual Cabinet Members) is given at least 28 days before they are due to be taken.

For ease the Council will list all key decisions once a month in a Forward Plan indicating which decisions the Cabinet anticipate that they will take during the next four months, together with any particularly significant Key Decisions which they anticipate that they will take within the next four to 12 months. Individual Cabinet Members will also prepare Forward Plans on the same basis. The Chief Executive may also include in the Forward Plan reference to such other



decisions, which are to be taken by the Council or any of its Committees or Sub-Committee or officers as he or she considers appropriate.

The Forward Plan shall include the following information in respect of each 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.
- h notice, if appropriate, that the Council intends to take a decision in private because the decision contains confidential or exempt information.

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 provided that notice under h above has been given. .

The Cabinet shall normally review and update the Forward Plan at least once in every calendar month, and shall make arrangements for the revised Forward Plan to be made available on its website.

## 15 **GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been advertised for a minimum of 28 days on the Council's website, then subject to Standing Order 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 possible for 28 clear days notice to be given.
- b the Proper Officer has informed the Chairman of the relevant Select Committee by Notice in writing of the proposal to take this decision and
- c the Monitoring Officer has made copies of that notice available to the public at the offices of the Council; and on the Council's website and

- d at least five clear days have elapsed since the Proper Officer complied with (a) and (b).

## 16 SPECIAL URGENCY

If by virtue of the date by which a decision must be taken Standing Order 15 (general exception) cannot be followed and the five clear days' notice of the decision cannot be given 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 Leader and the Chairman of the relevant Select Committee that the taking of the decision cannot be reasonably deferred.

Notice in writing of the application to the Chairman of the appropriate Select Committee must be published on the Council's website and copies made available to the public at the offices of the Council.

If a decision needed to be taken that has not had the required notice on the Forward Plan but gives five clear days' notice then the Select Committee needs to be informed.

If there is no Chairman of a relevant Select Committee, or if the Chairman of the relevant Select Committee is unable to act, then the agreement of the Chairman of the Council, or in their absence the Vice Chairman will suffice.

## 17 MAJOR EMERGENCIES

17.1 In a major emergency listed below, the Leader or Deputy Leader or in their absence the relevant Cabinet Member or, if appropriate, an officer (see Article 13.3) may take any immediate urgent decision required without consultation.

17.2 For the purposes of this Standing Order, a major emergency is any event or circumstance (happening with or without warning) that causes or threatens death or injury, disruption to the community, or damage to property or to the environment on such a scale that the effects cannot be dealt with by the emergency services, local authorities and other organisations as part of their normal, day-to-day activities.

17.3 In a major emergency, the Leader or Deputy Leader shall, as soon as practicable, appoint an emergency committee comprising Cabinet Members, local members for the area(s) most affected and the Chairman of the appropriate Select Committee. This committee may take decisions to deal with the major emergency until it is practicable for normal constitutional processes to resume.

## 18 REPORT TO COUNCIL

### 18.1 When a Select Committee can require a report

If a Select Committee believes that a decision has been taken which:

- a was not publicised to ensure that appropriate notice was given of the decision or

- b was the subject of the general exception procedure; or
- c was the subject of an agreement with a relevant Select Committee Chairman, or the Chairman/Vice Chairman of the Council under Standing Order 16; or
- d was taken during a major emergency in accordance with Standing Order 17;

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies setting out the reasons for such urgency. 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 Select Committee. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant Select Committee.

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

In any event the Leader will submit quarterly reports to the Council on the key decisions taken in the circumstances set out in Standing Order 16 (special urgency) and/or Standing Order 17 (major emergencies) 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 and the reasons for urgency.

## 19 **RECORD OF DECISIONS**

After any meeting of the Cabinet, the Monitoring Officer, 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 the date such a decision was made, a statement of the reasons for each decision and, where appropriate, any alternative options considered and rejected at that meeting. The Notice will also advise whether the Head of Paid Service agreed to make a dispensation where a conflict of interest was declared before the decision was taken.

Where an officer under delegated powers takes an executive decision, a written statement will be produced and published on the Council's internet site recording the reasons for this decision.

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

The Cabinet have decided that meetings of Cabinet shall be held in public even when not relating to matters which are key decisions.

Where a Cabinet Member or Officer takes a decision other than a Key decision he/she 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 a Select Committee, if requested to do so.

**21 DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET OR BY DEPUTY CABINET MEMBERS JOINTLY WITH MANAGING DIRECTORS AND SERVICE DIRECTORS (OR RELEVANT SENIOR OFFICERS)**

**21.1 Reports intended to be taken into account**

Except as referred to in Standing Order 17 where an individual member of the Cabinet or Deputy Cabinet Member 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 five clear days after the receipt of that report.

**21.2 Provision of copies of reports to select 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 the relevant Select 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.

**21.3 Record of individual decision**

As soon as reasonably practicable after any decision has been taken by an individual Member of the Cabinet or a Deputy Cabinet Member jointly with a Managing Director, Service Director or relevant senior officer after a decision which would, if taken by a Member, be an Executive decision or has been taken by an officer in the circumstances permitted under Article 13.3, 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 Standing Orders 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual members of the Cabinet, or to a decision taken by an officer in accordance with Article 13.3. This does not require the disclosure of exempt or confidential information, or of advice from a political assistant.

**22 SELECT COMMITTEES ACCESS TO DOCUMENTS**

**22.1 Rights to copies**

Subject to paragraph 22.2 below, a relevant Select Committee (including any 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 meeting of the Cabinet or its Committees;  
or
- b any decision taken by an individual Member of the Cabinet.

**22.2 Limit on rights**

A Select 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 except when this has been agreed by Cabinet or the 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.

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

### **23.1 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, except to the extent that it contains any exempt information as described in Standing Order 10.

### **23.2 Material relating to key decisions**

Five clear days before a meeting of the Council's executive, 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 Standing Order 22.2(a) or (b) above applies.

### **23.3 Nature of rights**

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

## **C Budget and Policy Framework Procedure Standing Orders**

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

- a Subject to the provisions of the Financial Regulations, the Cabinet, individual members of the Cabinet, delegated 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 the budget approved by full Council, then that decision may only be taken by the Council, subject to Standing Order 4 below.
- b If the Cabinet, individual members of the Cabinet, delegated 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 Standing Order 4 (urgent decisions outside the budget and policy framework) below shall apply.

### **3 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 Select 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 consent of the Chairman of the relevant Select Committee 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 Select Committee the consent of the Chairman of the Council

or, in his/her 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.

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

- a Where a Select Committee is of the opinion that a decision is, or if made would be, contrary to the policy framework, or contrary to the Council's budget, 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 made 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/or the Chief Finance Officer's report. It shall prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, or prepare a report to the Select 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 Select 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 Select 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 members in the normal way; or
  - ii amend the Council's budget or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all members 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 or Chief Finance Officer.



## **D Executive Standing Orders**

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

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

The Leader may decide how Executive Functions may be exercised. The Leader may provide for the Executive functions exercisable by the Cabinet to be discharged by:

- a the Cabinet as a whole;
- b a Cabinet committee;
- c a Deputy Cabinet Member jointly with an officer;
- d an individual member of the Cabinet;
- e an officer (subject to the Scheme of Delegation to Officers);
- f an area committee;
- g joint arrangements; or
- h 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 and to Cabinet members and officers 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 those Executive Functions which are to be discharged by Cabinet;
- c the extent of any authority delegated to Executive members individually as Portfolio holders, including details of the limitation on their authority;
- d the terms of reference and Constitution of such Executive committees as the Leader appoints and the names of Executive members appointed to them;
- e 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

- f changes to the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer or officers to whom the delegation is made.

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

- a Where the Cabinet, or an individual member of the Cabinet or Deputy Cabinet Member, 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 then 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 made the delegation.

### **1.4 The Council's Scheme of Delegation and Executive functions**

- a The Leader may amend the Scheme of Delegation to Cabinet Members relating to Executive functions at any time during the year. To do so, the Leader must give written notice to the Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, 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 Monitoring Officer 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 to the Constitution will be made by the Monitoring Officer.
- b 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 he/she should ensure that he/she does not influence the decision and the decision is taken by a Member who does not have such a conflict.
- b If every member of the Cabinet has a conflict of interest, consideration should be given to delegating the decision to an appropriate Managing Director, Director or relevant senior officer or to seek a dispensation.
- c Cabinet Members have a key role in commissioning services from delivery units which may be internally or externally run through a variety of service models. Where such a service is commissioned by a Cabinet Member from an external delivery unit, Cabinet Members should be mindful of potential conflicts of interest arising from also sitting on the board (or similar governance structure) of that delivery unit. This is because Cabinet Members also acting as company board directors (who under the Company Act 2006 have a legal duty to act in the best

interests of the company) may be unable to fully fulfil their role as an executive decision-maker in making commissioning decisions on the contract arrangements with that company or in their role in holding the external delivery unit to account. In such circumstances, Cabinet Members should seek advice from the Monitoring Officer prior to sitting on any external board (or similar governance arrangement) in order to fully consider any implications arising from potential conflicts of interest. The Regulatory & Audit committee may choose to consider such instances as periodically appropriate and/or as part of their annual governance statement.

- d 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 10 times a year at such dates and times as shall be:

- a determined by the Leader and notified by the Leader to the Monitoring Officer. ;
- b determined by the Director of Strategy and Policy where possible after consultation with the Leader (or in his/her 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 Director of Strategy and Policy where in his/her opinion, where possible after consultation with the 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 Director of Strategy and Policy of an alternative location for a particular meeting.

The Monitoring Officer 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 Standing Orders in Part 4 of the Constitution.

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

### 2.1 **Who presides?**

The Leader or, in his/her 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 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 member may attend any meeting of the Cabinet as a member of the public except:

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

A member 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 The Chief Executive and the Director for Strategy and Policy shall be entitled to attend the meeting. Other Managing Directors may attend at the request of the appropriate Cabinet Member.
- 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 as of right or otherwise when requested to do so by the person chairing the meeting.

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. A Cabinet Member can ask their Deputy Cabinet Member

to speak on their behalf, but Deputy Cabinet Members are not able to vote at Cabinet Meetings.

### 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 Director of Strategy and Policy 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 apologies;
- c declarations of interest, if any;
- d at the Leader's discretion, time may be allocated for elected Members to question Members of the Cabinet;
- e Statements by the Leader;
- f matters referred to the Cabinet (whether by a Select Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Select Committee Standing Orders or the Budget and Policy Framework Standing Orders set out in Part 4 of this Constitution;
- g consideration of reports from select committees; and
- h reports of Statutory Officers;
- i matters set out in the agenda for the meeting. The agenda, shall indicate which are key decisions and which are not in accordance with the Access to Information Standing Orders set out in Part 4 of this Constitution and (b) petitions referred to the Cabinet in accordance with the Council's Petitions Scheme, as set out in Part 4 of the 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 select 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 Director of Strategy and Policy and any relevant senior officer, including in all cases the Chief Finance Officer and the Monitoring Officer.

## 2.6 Who can put items on the Cabinet agenda?

At least five clear days before any meeting of the Cabinet (unless it is an urgent meeting), the Monitoring Officer shall deliver to Cabinet Members a summons giving the date, time and place of the meeting, the agenda and inviting their attendance.

The Monitoring Officer shall include on the agenda:

- a agenda items notified by the Leader (or in his/her absence the Deputy Leader) to the Director of Strategy and Policy;
- 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 Director of Strategy and Policy, where possible after consultation with the Leader (or in his/her 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 Monitoring Officer in a requisition signed by at least three members of the Cabinet
- f reports from Statutory Officers in respect of Executive functions.
- g while the Summons must be served formally on the Members, the Monitoring Officer may serve all reports and other documentation supporting the agenda to Members electronically.

## 2.7 Urgent Meeting

An urgent meeting of the Cabinet may be held without the five clear days' notice to discuss an urgent matter which falls within Rule 16 of the Access to Information Standing Orders.

### 3 CODES AND PROTOCOLS (Supporting Guidance to Standing Orders)

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

Subject to the following paragraph, no Key Decision shall be taken before the expiry of five clear days from publication of a written report which shall contain all or any of the matters listed below as appropriate.

The above requirements shall not apply in a case of:

- Special Urgency (i.e. a case to which Access to Information Standing Order 16 applies) where, in the view of those office-holders agreeing under that Standing Order to the use of the Special Urgency procedure, the risk of prejudice to the interests of the Council or to persons in its area if the decision is not taken before the expiry of five clear days is sufficiently serious that the decision should be taken before the expiry of that period; or
- Major Emergency (i.e. a case to which Access to Information Standing Order 17 applies).

In any case to which the above paragraph applies, a report of the kind referred to in this Protocol shall be published as soon as practicable before or after the decision has been taken.

The matters to which the first paragraph of this Protocol refers are as follows:

- 1 the officer or Member making the recommendation;
- 2 the person or body which will take the decision;
- 3 the issue to be decided;
- 4 the date on which the decision will be made;
- 5 the date by which representations may be made and to whom they should be addressed;
- 6 the timescale for implementation of the decision;
- 7 confirmation or otherwise that the issue falls within the current four month forward plan;
- 8 where the proposed decision is not included in the current Forward Plan, **and** it is not possible to give five clear days notice, whether the written agreement has been obtained of the Leader and Chairman of a/each relevant Select 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;
- 9 whether the report contains confidential or exempt information (that is, information which justifies the exclusion of the press and public);
- 10 the reasons for the recommendation and any other options;

- 11 any legal requirements;
- 12 any comments from the Director for Strategy and Policy;
- 13 any County Council policy relating to the issue;
- 14 any relevant national or regional guidance;
- 15 staffing, financial and all other resource implications;
- 16 any comments or recommendations from the relevant Select Committee or its Chairman;
- 17 any consultations undertaken, including district, town and parish councils and other organisations and responses received, if any;
- 18 implications for other County Council activities;
- 19 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);
- 20 any background papers referred to.

“Publication” means the publication of the report on the Council’s internet site and the dispatch of the report to all members of any or each relevant Select Committee, and the preparation of copies of the report such that the Monitoring Officer can make it available to any other member of the Council or to a member of the public on request.

When a politically contentious matter arises or when the Managing Director or Service head 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.



## **E Select Committee Standing Orders**

- 1 The role of select committees 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 exercise the right of every elected member to make a Councillor call for Action.
  - c 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
    - iv whether the function should cease to be discharged
  - d To call-in or review any decisions or proposed decisions of the Council, the Cabinet, a Member of the Cabinet, or (in the case of a decision which would be a key decision if taken by a Member) an Officer, and to recommend to the Council, the Cabinet, the Cabinet Member or the decision-taker, as appropriate:
    - 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 light of that decision to ensure proper or better implementation of decisions
    - iv whether any further action should be taken in the light of that decision to improve the manner or quality of decision-making for the future.

- e To consider
    - i 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.
    - ii the discharge of functions within its administrative area by any other public authority in the area
  - f To consider any matter referred to it by the Council or the Cabinet and recommend any appropriate action to the Council or the Cabinet accordingly. The following matters shall be referred to the Select Committee automatically:
    - i draft policies, plans and strategies which are recommended by the Cabinet to the Council for approval;
    - ii the draft Budget which is recommended to the Council by the Cabinet;
  - g In undertaking such reviews, the Select Committee will 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.
  - h To establish arrangements for any review of the performance of relevant external organisations which impact on the Council's functions and services and submit reports after comment as appropriate, by the Cabinet and external organisations, to the Council
2. The Select Committee with responsibility for Health will have the following additional functions:
- a to review and scrutinise any matter relating to the planning, provision and operation of Health Services in the area of the Council
  - b to review and scrutinise the impact of the Council's services and of key partnerships on the health of residents in the County.
  - c to respond to consultations from a responsible person on any proposal for a substantial development of Health Services in the area, or for a substantial variation in the provision of such service.

### **3. WHO MAY SIT ON SELECT COMMITTEES**

All members except members of the Cabinet may be members of Select Committee,

Deputy Cabinet Members may sit on select committees but may not scrutinise or review their areas of specialism in their portfolios.

### **4 CO-OPTTEES**

Select committees may have such co-optees as shall be decided by the Select Committee in question but, with the exception of co-opted members on the Select Committee dealing with education matters who may vote on education functions, will not be able to vote.

#### **Co-opted Members**

The Select Committee dealing with Health matters may decide whether or not it should co-opt District Council Members onto the Committee when considering Health issues and may also decide whether these co-optees may vote.

The Chairman will decide which agenda items constitute an educational or Health function.

### **5 EDUCATION REPRESENTATIVES**

The Select Committee with responsibilities for education functions when sitting as an Education Select Committee shall include in its membership the following representatives:

- a One Church of England Diocesan representative;
  - b One Roman Catholic Diocesan representative; and
  - c Three Parent Governor Representatives.
- (i) Educational Representatives may vote on any agenda item where the Committee is considering questions relating to any educational function which is the responsibility of the Council's Executive.
  - (ii) Educational Representatives may not vote on any agenda item where the Committee is considering matters other than those in (i) above.

### **6 MEETINGS OF THE SELECT COMMITTEES**

Each Select Committee should normally meet at least four times a year, although additional meetings may be called from time to time as and when appropriate. A Select Committee meeting may be called by the Chairman of the relevant Select Committee, by any three members of the Committee, or by the proper officer for scrutiny if he/she considers it necessary or appropriate.

## 7 **QUORUM**

The quorum for a Select Committee is one quarter of the total number of voting members of the Committee.

## 8 **WORK PROGRAMME**

All select committees will formulate an outline annual programme for their own work and update throughout the year accordingly

When agreeing a work programme, the select committees will take into account views, requests and referrals from:

- a. All Councillors
- b. The Cabinet
- c. Officers
- d. Any Co-Opted member
- e. Any External Bodies, Parties or Stakeholders
- f. Residents

Where either the Select Committee believes that a particular matter should be included in the four month Cabinet 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 in the Forward Plan remains with the Cabinet.

The Select Committee with responsibility for Health matters will positively and proactively scrutinise NHS functions in the Council area.

## 9 **AGENDA ITEMS**

Any member shall be entitled to give notice to the proper officer for scrutiny that they wish an item relevant to the functions of the Committee to be included on the agenda for discussion at the next available meeting of the Committee. On receipt of such a request, he/she will include the item 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. In the event of a disagreement the Chairman shall raise the matter at the next available Committee and the Committee shall decide.

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

If appropriate the select committees may also report their to outside partner organisations.

## 10 **POLICY REVIEW AND DEVELOPMENT**

- a The role of the select 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 Standing Orders.
- b In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, select committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- c select committees may hold reviews 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 SELECT COMMITTEES**

- a All reports from select committees will 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 will be made to avoid undue delay.
- b If a Select 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 Select Committee at the earliest opportunity and if necessary discuss the report and its recommendations with the Committee before reporting its views to the Council.
- d All representations, whether made in the form of a report, a letter, other written format or verbally, made by an Select Committee to a Cabinet Member in relation to the Cabinet Member's responsibilities, must be reported formally at Cabinet either orally or in writing when the relevant item is being discussed. All select committees should clearly identify that it is a formal representation to avoid confusion.

## 12 **ENSURING THAT SELECT COMMITTEE REPORTS ARE CONSIDERED BY THE CABINET (See 4.4 3 B)**

- a Once it has formed views or recommendations on matters which it has considered and dealt with itself, the Select Committee will prepare a report and will give the Cabinet Member with responsibility and the Chief Executive, an opportunity to see a draft report, as appropriate, in order to allow them to comment on emerging themes and recommendations. The Cabinet Members with responsibility and relevant officers will be

entitled to attend the meeting of the Select Committee at which the report is considered.

- b. Once a Select Committee 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 Select Committee. In such cases, the report of the Select Committee shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the Select Committee report within four weeks then the matter will be referred to Council for review, and the Monitoring Officer will call a Council meeting to consider the report and make a recommendation to the Cabinet
- c. The Select Committee will in any event have access to the Cabinet's timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from a Select Committee following a consideration of possible policy/service developments, the committee will be able to respond in the course of the Cabinet's consultation process in relation to any key decision.

### 13 RIGHTS OF SELECT COMMITTEE MEMBERS TO DOCUMENTS

- a In addition to their rights as Members, Members of the Select Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Standing Orders in Part 4 of this Constitution.
- b Nothing in this paragraph prevents more detailed liaison between the Cabinet and Select Committee as appropriate depending on the particular matter under consideration.

The following is a summary of the access to information available to Select Committee

A Select 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.

Select 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.

Select Committees

Select committees will also have access to background information from a range of sources including but not limited to:

- a Council plans, strategic and policies
- b The four month Forward Programme of work for the Cabinet
- c All documents listed on the Council's Policy Register
- d Business Unit plans
- e External Audit Management Letters
- f Internal and External Audit Plans and Reports
- g Legislation and Government guidance
- h Government Reports and National Studies
- i National performance and comparative information e.g. CIPFA statistics
- j Complaints
- k Community plans and processes
- l Cabinet or Cabinet Member 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 any of the select committees
- o Evidence from expert witnesses at the select committees' request
- p Copies of minutes and papers received by any internal Council advisory board or group.

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

- a Request the Monitoring Officer to make arrangements to enable him or her to inspect the documents, or
- b Make a request to the Chairman of the Select Committee, who may request the Monitoring Officer 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 RIGHTS OF ATTENDEES TO PAPERS**

- a. Any person required to attend a meeting of the Select Committee shall be entitled to see the public papers which have been made available to the Select Committee and wherever possible on the same timescale as for a member of the Select Committee including;
  - i. External Audit Management Letters
  - ii. Internal and External Audit Plans and Reports
  - iii. National performance and comparative information e.g. CIPFA statistics
  - iv. Research published by other organisations or commissioned by other Committees
- b. Anyone asked to speak, shall wherever possible, be given access to statements submitted by people from whom the Select Committee has already heard, but not those who have not yet given evidence.
- c. All speakers shall respect the confidentiality of all confidential or exempt information they receive.
- d. Except insofar as exempt information is contained in those papers submitted by speakers all such papers shall become public documents once the speakers have presented their evidence.

Speakers shall be entitled to request a copy of any draft minutes or other record taken of their contribution for comment. Should they feel that such record is not accurate, they shall be given the opportunity to make a written representation asking for the correction to be submitted to the next meeting of the Select Committee.

## **15 PROCEEDINGS**

- 15.1 The select committees will consider any business required to be conducted in accordance with the Access to Information Rules and the Select Committee Standing Orders and any other business otherwise set out on the agenda.
- 15.2 In conducting their business the Select Committee may:
  - a. Carry out in depth analysis of policy issues;
  - b. Receive briefings and presentations on issues under consideration;
  - c. Conduct research, community and other consultation particularly in the analysis of policy issues and possible options;
  - d. Consider and implement mechanisms to encourage and enhance community participation in the development of policy options;



- e. Hold inquiries, hold workshops and undertake site visits, conduct public surveys and hold public meetings;
- f. Invite advisors and assessors to assist them;
- g. Question members of the Cabinet and Deputies, relevant senior officers and, if appropriate, delivery unit representatives about their views on issues and proposals affecting the County Council's area; or 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, initiative or projects;
- h. 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;
- i. As part of any investigation, review and scrutinise the decisions made by, and performance of, the Cabinet and senior officer both in relation to individual decisions and over time;
- j. Question and gather evidence from any person (with their consent) and invite witnesses;
- k. The Select Committee with responsibility for Health scrutiny may call for information and explanations, questions and proposed plans from NHS providers, and invite Senior Managers to attend meetings and provide evidence.

15.3 In the conduct of its proceedings, the Select Committee will have regard to the following principles:

- a. Whilst conducting its business in a tenacious way, to do so at all times with respect, equity, fairness, dignity and with regard to the principles of natural justice.
- b. To ensure that all members will be given the opportunity to ask questions of attendees, and to contribute and speak.
- c. To strive to conduct its business in a consensual, open, responsible and transparent way across the political divides and to seek to avoid expressing views based purely on political considerations.
- d. To conduct business so as to maximise its efficiency.
- e. Not to seek to hold officers and non-councillors accountable for decisions taken as part of member processes.
- f. To recognise that any question of officer discipline which may arise, should be dealt with through the existing employment procedures.

## **16. MEMBERS AND OFFICERS GIVING ACCOUNT**

- a As well as reviewing documentation in fulfilling the scrutiny role a Select Committee may require the following to attend;
  - i any member of the Cabinet
  - ii any other elected or co-opted Member
  - iii any representative of an outside partner organisation
  - iv the Head of Paid Service, senior officer and/or delivery unit representative, if appropriate, to explain any matters within their remit.
  
- b Any Select Committee may Call-In, scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions including but not exclusively:-
  - i any particular decision or series of decisions;
  - ii the extent to which the actions taken implement Council policy; and/or
  - iii the performance of the parties referred to in 17 (a) above
  - iv the advice on which any decision should be based
  
- c Where any Member or Officer is required to attend a Select Committee under this provision, the Chairman of that Committee will inform the relevant support scrutiny officer. They shall inform the Member or Officer in writing giving at least five working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the 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.
  
- d Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Select 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
  
- e He/she may nominate another Officer or Member, who is able to speak on the topic to attend.

## **17 ATTENDANCE BY OTHERS**

A Select 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, relevant

stakeholders and Members and Officers from other parts of the public sector and shall invite such people to attend as required.

The Select Committee with responsibility for Health may listen to concerns raised by Health and Patient Groups and may require attendance at its meeting by representatives of any Health body in its area.

## **18 CALL-IN**

The call in procedure is a statutory right which can be applied to any decision which has been taken but not yet implemented (Section 21(3) LGA 2000). Call-In is a procedure whereby Members of the Council may question decisions taken by the Executive in exceptional circumstances and therefore may hold the Executive to account.

- a When a decision is a Key decision made by the Cabinet or an individual Member of the Cabinet, or a Non Key decision made by an officer with delegated authority, or any committee under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two days of being made. The Chairman of the appropriate Select Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision unless the decision taker has certified that the decision is urgent and to be implemented immediately.
- 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 either the decision maker has certified that the matter is urgent and requires implementation urgently or a call-in request has been received by, at the latest, 5.00pm on the third working day after the decision has been made. If a call-in request is received the decision will not be implemented until the call-in process is complete, unless the decision is urgent.
- c A decision which has been taken and implemented may still be reviewed by the select committees, but such a review will not delay the implementation of the decision.
- d A decision may only be called in once and a decision may not be called in where the substance of the decision has already been subjected to scrutiny by a Select Committee or where the Chief Finance Officer has certified that a delay in the implementation of a decision will result in significant additional cost to the Council.
- e Before a decision takes effect (unless the decision is urgent) any member may give notice of the intention to request the call in of any proposal by the Cabinet, the Cabinet Member or an Officer other than one taken under the urgent action procedure.
- f Once the fact that the Cabinet or a Cabinet Member or Officer is to consider an item is published, any Member of the relevant Select Committee may ask to see the papers to be considered (except insofar

as they contain confidential or exempt information) and take preliminary advice from officers supporting the Select Committee about the implications of the decision.

- g Any three Members must notify the Monitoring Officer within three working days of the publication of the proposal of an intention to request the Select Committee to examine the proposal and of any requirement for the attendance by a Cabinet Member or any officer.
- h A Select Committee shall discuss the request for a call-in at its next regular meeting or at a Special Meeting whichever is sooner provided that the required five days notice can be given.
  - i At the meeting where the Select Committee is considering the application for a call in it should first consider whether there is a case for the decision to be called in. If, following discussion, the Select Committee agrees that the matter should be called in it may proceed either to examine the decision at that meeting or adjourn to investigate the decision at another meeting. The appropriate decision taker may be invited to attend to explain the decision but does not have to participate in the discussion as to whether the decision should be called in.
- a) 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.
  - i) If, having considered the decision, the Select 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 he or she shall then reconsider within a further five working days, amending the decision or not, before adopting a final decision.
  - ii If the decision taker requires more time to consider, the Select Committee's recommendations the time may be extended by the Chairman of the Select Committee after agreement by one other member of the Committee.
  - iii If the decision taker is after reconsideration, not able to make changes to the decision in accordance with the Committee's concerns the decision taker shall write to the Committee setting out reason why the decision taker is unable to accede to the Select Committee concerns.
  - iv If following an objection to the decision, the Select 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 Select Committee meeting, or the expiry of that further five working day period, whichever is the earlier.

- v 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. 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.
  - vi 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.
- b) The member who has put the matter on the agenda may address the Committee on the matter.

## **19 REVIEW OF DECISIONS**

The proper officer for scrutiny shall arrange for a decision that has been taken and implemented to be reviewed by a Select Committee if so requested by the committee, and shall then notify the decision-taker of the review.

## **20 CALL-IN AND URGENCY**

- a The Call-in procedure is a statutory right which can be applied to any decision which has been taken but not yet implemented (Section 21(3) LGA 2000). If a Member requests that a decision should be called-in, a meeting should be immediately arranged but the required five days' notice must be given. During this time the decision should not be implemented, unless urgent, until there has been a Select Committee decision on whether the call-in should proceed. If following discussion the relevant Select Committee agrees that the call-in should proceed, the Committee may determine their response at that Meeting. If further investigation or information is required, the Cabinet or Cabinet member may agree to extend the time within which a final view may be expressed.
- b Key decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- c select committees may call in any decision that is taken under Rule 16 of the Access to Information Standing Orders if they are satisfied that the decision is not genuinely urgent.

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

## **21 PROCEDURE AT SELECT COMMITTEE MEETINGS**

- a Any power or duty assigned to the Chairman of the Committee relating to the conduct of a meeting may in the Chairman's absence be exercised by the person presiding at the meeting.
- b Select Committee 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 Select Committee; and
  - v the business otherwise set out on the agenda for the meeting.
- c Where the Select 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.
- d 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.

## **22 DISORDERLY CONDUCT**

- a If, in the opinion of the Chairman of a Committee, any Member of the Committee misbehaves at a meeting by persistently disregarding the ruling of the Chairman, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Committee, the Chairman or a Member may move not to hear the Member further. If the motion is seconded it shall be put to the vote without discussion.
- b If, in the opinion of the Chairman, the Member persistently misbehaves after such a motion has been carried, 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 Committee.

- c If a Member is required to leave a meeting under this Standing Order, the Member shall not be entitled to vote during the period of exclusion.
- d If a member of the public interrupts the proceedings at any meeting, the Chairman may issue a warning. If the interruption continues the Chairman may order the person's removal from the Committee meeting.
- e In case of general disturbance in any part of the Committee meeting venue the Chairman may order that part cleared. If the Chairman considers it necessary, he/she may adjourn or suspend the sitting of the Committee.

## **23 VOTING**

- a A decision is taken by a majority of those present and voting
- b Voting is generally by a show of hands.
- c A Committee Member may not change his/her vote once he/she has cast it and another Member has been called upon to vote.
- d If a Committee Member arrives before the casting of votes has been commenced he/she is entitled to vote.
- e Immediately after a vote is taken any Committee Member may ask for it to be recorded in the minutes that he/she voted for or against the question, or that he/she abstained.
- f The Chairman of the Committee, or other person presiding, shall have a second and/or casting vote where votes for and against a proposal are equal. There shall be no restriction on the manner in which the casting vote is exercised.
- g Where there are more than two persons nominated for any position to be filled by the Committee, and no person receives more than one half of the votes given, the name of the person having the least number of votes will be struck off the list and a fresh vote taken, and so on until a clear majority of votes is given in favour of one person.
- h The Chairman of a Select Committee shall be deemed to have retired from that position immediately before the start of a meeting at which a Chairman is to be elected.
- i Members of the Committee shall appoint one of their number to preside over the election of Chairman.
- j The Chairman of a Committee, once elected shall appoint the Vice Chairman of the Committee.
- k Officers shall not call for nominations for the election of the Chairman.

## **24 RULES OF DEBATE**

- a Subject to these Standing Orders and the Protocol on select committees attached to them, the Chairman or any other person presiding at a Committee meeting shall have all the powers necessary to ensure the orderly transaction of the meeting's business, including power to:
  - i apply any part of Council Standing Order 9 (Rules of Debate); or
  - ii invite any person present to speak.

## **25 RIGHTS OF ACCESS**

- a Meetings of select committees shall be open to the public except when dealing with exempt or confidential information. The Committee will give at least five clear days' notice of any meeting by posting details of the meeting at County Hall Aylesbury Buckinghamshire and on the Internet. A detailed description of the rights of the public to information is contained in the Access to Information Standing Orders in part 4b of this Constitution.
- b The public may be excluded from the whole or part of a meeting of any Select Committee on the ground that exempt information would be disclosed. Exempt information is defined in paragraph 10.4 of the Access to Information Standing Orders.
- c The public must be excluded from any meeting of any Committee when any information would be disclosed to them which
  - i has been provided by a government department on terms which forbid disclosure, or
  - ii would be prohibited by law or by an Order of the Court.
- d The Monitoring Officer shall determine which Committee Reports or parts of Reports are unlikely to be taken in public and shall withhold such papers from public circulation.
- e A member who is not a member of a Committee may attend a meeting of a Select Committee and speak. The Member must obtain either the consent of the Chairman of the meeting, which shall not be unreasonably withheld, or the agreement of the meeting which the Member wishes to attend.
- f Where a Committee has resolved to exclude the public from a meeting or part of a meeting on the grounds that exempt or confidential information is being considered, members who are not members of that Committee will generally also be excluded from that meeting or part of the meeting. However, a member is entitled to attend the meeting and/or inspect any exempt or confidential documents relating to the business of the Committee if he or she can demonstrate a "need to know".
- g A member's "need to know" arises when he/she requires the information in order to carry out properly his/her duties as a member. It may apply to



information about matters affecting his/her electoral division or matters which relate to a Council body or informal working group to which he/she belongs. It does not arise where a member would simply like to know what is in a document or what may be said at a meeting. It also does not enable a member to “rove through” a large number of files in search of information (sometimes known as “fishing for information”). Whether a need to know arises in a particular case will be a matter of fact and degree, to be decided in the light of all the circumstances of the request.

- h In the event of a dispute, the Monitoring Officer will determine 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 or ulterior reasons, it would be appropriate to refuse access.

## **26 SUMMONS AND AGENDA PROCEDURE**

- a At least five clear working days before a meeting of a Select Committee, a summons to attend the meeting in the name of the proper officer for member support 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 Committee, provided that want of service of the summons shall not affect the validity of the meeting. Documents supporting the agenda may be circulated to Members electronically.
- b Any additions or amendments to an agenda that has been served on members and/or any supplemental agenda must be approved by the proper officer for member support or the Chairman of the Committee. Approval will only be given where there is a good reason for the addition or amendment and where the need for it could not reasonably have been foreseen at the time when the agenda was compiled.
- c No business may be transacted at a meeting which is not specified in the agenda for the meeting unless the Chairman of the Committee agrees that the item should be considered as a matter of urgency. The reason for the urgency shall be specified in the minutes. Supplementary papers may be provided for urgent business upon the agreement of the Chairman.

## **27 MATTERS WITHIN THE REMIT OF MORE THAN ONE SELECT COMMITTEE**

Where a Select Committee conducts a review or scrutinises a matter which also falls (whether in whole or in part) within the remit of the other Select Committee, 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.

## **F Committee Standing Orders**

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## **1 SCOPE**

- 1 The Council will from time to time appoint such Committees as it considers appropriate for the discharge of its functions, in accordance with Council Standing Order 12 and Part 3 of this Constitution. 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.
- 2 The Committee Standing Orders apply to meetings of all Committees and Sub-Committees, with the exception of select committees and Sub-Committees, and Joint Committees and Sub-Committees.

## **2 ELECTION OF CHAIRMEN OF COMMITTEES**

- 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 will be elected.
- 3 No person shall hold the office of Chairman or Vice-Chairman unless he/she is a member of the Committee in question and is also a Member of the Council.
- 4 A Member of the Council can be voted to be a Chairman of a Committee in his/her absence, provided that he/she remains a member of that Committee, i.e. that the member has not been substituted for that meeting.

## **3 MEETINGS OF COMMITTEES**

- 1 Committees will hold ordinary meetings as necessary and appropriate for the discharge of their functions.
- 2 The Chairman of a Committee or the Chairman of the Council may summon a special meeting of a Committee. A special meeting will also be summoned on the request 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.
- 3 Subject to these Standing Orders and the general law, the Chairman of a Committee has the power to regulate the procedure of the Committee Meeting in such a manner as he/she considers appropriate for the effective discharge of the Committee's functions.
- 4 Any power or duty assigned to the Chairman of the Committee relating to the conduct of a meeting may in the Chairman's absence be exercised by the person presiding at the meeting.
- 5 The quorum for a Committee is one quarter of the total number of members of the Committee but shall not be less than three voting members.

- 6 If during any meeting of a Committee the number of members present does not form a quorum, then the Chairman of the Committee must adjourn the meeting and arrange a meeting for another date and time. If no date and time are fixed by the Chairman, any unfinished business before the Committee must be considered at the next ordinary meeting of the Committee.

#### **4 MINUTES OF MEETINGS**

- 1 The Minutes of a Committee Meeting will be submitted to the next ordinary meeting for approval as “a correct record”.
- 2 Minutes of any Committee Meeting that is open to the public will be published and available to all members and interested parties on request, on the basis that the minutes remain unconfirmed until the next meeting.
- 3 No motion or discussion will 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.
- 4 The Chairman will sign the minutes once their accuracy has been agreed.
- 5 Subject to proportionality rules, the Chairman of the Council, or in the absence of the Chairman the Vice Chairman of the Council, may be a member of all Council Committees ex officio.

#### **5 MOTIONS**

- 1 Any member of a Committee may propose a motion by giving reasonable notice of it. Notices of motion must be framed in appropriate language and must not be abusive, defamatory, frivolous or vexatious.
- 2 The following motions may be moved without notice:
  - a To appoint a Chairman for that meeting
  - b To amend the minutes
  - c To approve the minutes as a correct record
  - d To refer a Sub-Committee’s report or any item in it, or any other item, back to a Sub-Committee
  - e To appoint Sub-Committee Members if this arises from an item in the agenda of the meeting
  - f To adopt a report or recommendation of the Cabinet, another Committee, a Sub-Committee or an officer
  - g To take an action recommended in an officers’ report, or other report, submitted to the committee
  - h To amend a motion
  - i To withdraw a motion or amendment

- j To suspend any standing order capable of being suspended
- k To exclude the public
- l Not to hear a member further, or to remove a member from the meeting on the grounds of disorderly conduct
- m To amend the time limit for speeches
- n To proceed to the next business
- o To postpone consideration of a motion
- p To put a question to the vote (otherwise known as a motion “that the question be put”)
- q To adjourn the debate
- r To adjourn the meeting
- s To vary the order of business

## **6 RULES OF DEBATE**

- 1 Members must at all times show respect for the Chairman. Whenever the Chairman speaks during a debate the member then speaking and all other Members of the Committee shall be silent.
- 2 The Chairman's interpretation and application of these Standing Orders shall be final for the purposes of a particular Committee Meeting.
- 3 A member may raise a point of order or personal explanation:
  - a A point of order may only relate to an alleged breach of these Standing Orders or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken.
  - b 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.

The decision of the Chairman on the admissibility of a point of order or a personal explanation shall be final.

- 4 Where a member raises a point of order or a personal explanation, he or she shall be entitled to be heard immediately and the speaker shall give way.
- 5 Speeches shall be relevant to the question under discussion or to a point of order or to a personal explanation.
- 6 With the exception of speeches by the Chairman of the Committee, no speech shall exceed four minutes except with the consent of the Chairman.
- 7 A motion or amendment shall not be discussed or put to the meeting until it has been moved and seconded. Unless notice has been properly given or the motion is one which may be moved without notice under Standing Order 5, the motion shall be put in writing and handed to the Chairman before it is discussed

or put to the meeting. The Chairman's decision as to whether the motion may be proposed without due notice shall be final.

- 8 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.
- 9 A member may with the consent of his/her seconder and of the Committee, signified without discussion, alter his/her motion if the alteration is one which could be made as an amendment.
- 10 A motion or amendment may be withdrawn by the mover with the agreement of the seconder and the Committee, signified without discussion. No member shall debate a motion after the mover has asked permission to withdraw it unless such permission has been refused.
- 11 Any amendment must be relevant to the motion and must be either
  - a to leave out words
  - b to insert or add words.
  - c to leave out words and insert or add others.
- 12 An amendment may not be contrary to the motion before the Committee or have the effect of introducing a new proposal.
- 13 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.
- 14 If an amendment is rejected, a further amendment may be proposed on the original motion. 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.
- 15 The mover of a motion has a right to reply at the end of the debate on the motion. The original motion or the motion as amended shall then be put to the vote. No amendment shall be proposed on the motion after the mover of the motion has exercised his/her right of reply.
- 16 A member exercising a right of reply must not introduce any new matter.
- 17 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 to put the question to a vote
  - h not to hear a member further, or to remove a member from the meeting on the grounds of disorderly conduct
  - i to refer the subject of debate back to a sub-committee
  - j to exclude the public
  - k to amend the time limit for speeches
  - l to suspend any standing order capable of being suspended.
- 18 A member may move without comment at the conclusion of a speech of another member to proceed to the next business or to put the question to a vote or to adjourn the debate or to adjourn the meeting. If such a motion is seconded, 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 to put the question to a vote:
 

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 put to a vote 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, without giving the mover of the original motion the right of reply. If the motion is passed, consideration of the matter under discussion shall stand adjourned to the next ordinary meeting of the Committee.
  - d On a motion to adjourn the meeting:
 

A member may move at any time to adjourn the meeting. 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 to a vote. If the motion is carried the meeting shall stand adjourned with unfinished business held over to the next ordinary meeting of the Committee, unless an extraordinary meeting is called to deal with it.
- 19 If any question arises at a Committee Meeting concerning a particular person employed or formerly employed by the Council, and it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosure to members of the public of exempt information if

they were present during that item, the Chairman shall move a motion that shall immediately and without debate be put to the vote, to exclude the public under Section 100A(4) of the Local Government Act 1972.

## **7 DISORDERLY CONDUCT**

- 1 If, in the opinion of the Chairman, any member misbehaves at a Committee Meeting by persistently disregarding the ruling of the Chairman, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Committee, the Chairman or a Member may move not to hear the member further. If the motion is seconded it shall be put to the vote without discussion.
- 2 If, in the opinion of the Chairman, the member persistently misbehaves after such a motion has been carried, 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 committee.
- 3 If a member is required to leave a meeting under this Standing Order, the member is not entitled to vote during the period of exclusion.
- 4 If a member of the public interrupts the proceedings at any meeting, the Chairman may issue a warning. If the interruption continues the Chairman may order the person's removal from the Committee Meeting.
- 5 In case of general disturbance in any part of the Committee Meeting venue open to the public the Chairman may order that part cleared. If the Chairman considers it necessary, he/she may adjourn or suspend the sitting of the Committee.

## **8 VOTING**

- 1 Voting is generally by a show of hands, save that voting will be by a recorded vote when the Council is voting on budget proposals
- 2 A member may not change his/her vote once he/she has cast it and another member has been called upon to vote.
- 3 If a member arrives before the casting of votes has been commenced he/she is entitled to vote, unless the Committee is sitting in a quasi-judicial capacity (e.g. Development Control) when a member may not vote unless he/she has been present to hear all the evidence presented on an agenda item.
- 4 Immediately after a vote is taken any Member may ask for it to be recorded in the minutes that he/she voted for or against the question, or that he/she abstained.
- 5 The Chairman, or other person presiding, will have a second and/or casting vote where votes for and against a proposal are equal. There shall be no restriction on the manner in which the casting vote is exercised.
- 6 Where there are more than two persons nominated for any position to be filled by the Committee, and no person receives more than one half of the votes given, the name of the person having the least number of votes will be struck



off the list and a fresh vote taken, and so on until a clear majority of votes is given in favour of one person.

- 7 Where a vote is taken for the election of the Chairman of the Committee and the current Chairman is present in the room and not seeking re-election, the current Chairman will preside over the election of a new Chairman.
- 8 The Chairman of a Committee shall be deemed to have retired from that position immediately before the start of a meeting at which a Chairman is to be elected.
- 9 Members of the Committee shall appoint one of their number to preside over the election of Chairman.
- 10 The Chairman of a Committee, once elected shall appoint the Vice-Chairman of the Committee.
- 11 Officers shall not call for nominations for the election of the Chairman.
- 12 Any Committee may co-opt any additional persons who are not themselves elected Members of the County Council, but unless otherwise provided in this Constitution or by the application of law they will not be entitled to vote.

## **9 RIGHTS OF ACCESS TO COMMITTEE MEETINGS**

- 1 Meetings of committees shall be open to the public except where it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that exempt or confidential information would be disclosed to them. Committees will give at least five clear days notice of any meeting by posting details of the meeting at County Hall, Aylesbury, Buckinghamshire and on the internet. A detailed description of the rights of the public to information is contained in the Access to Information Standing Orders in part 4b of this Constitution.
- 2 The public may be excluded from the whole or part of a meeting of any Committee on the ground that exempt information would be likely to be disclosed. Exempt information is defined in paragraph 10.4 of the Access to Information Standing Orders.
- 3 The public must be excluded from any item at a meeting of any Committee 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 Monitoring Officer shall determine which Committee reports or papers, or parts of reports or papers are unlikely to be taken in public and shall withhold such papers from public circulation.
- 5 A Member who is not a Member of a Committee may attend a meeting of the Committee to make a statement on behalf of his/her constituents where an item under discussion directly affects the member's division. The Member must

obtain the prior consent of the Chairman of the meeting, which shall not be unreasonably withheld.

- 6 Where a Committee has resolved to exclude the public from a meeting or part of a meeting on the grounds that exempt or confidential information is being considered, members who are not members of that Committee will generally also be excluded from that meeting or part of the meeting. However, a Member may attend the meeting and/or inspect any exempt or confidential documents relating to the business of the committee if he or she can demonstrate a "need to know".
- 7 A Member's "need to know" arises when he/she requires the information in order to carry out properly his/her duties as a Member. It may apply to information about matters affecting his/her electoral division or matters which relate to a Council body or informal working group to which he/she belongs. It does not arise where a Member would simply like to know what is in a document or what may be said at a meeting. It also does not enable a Member to "rove through" a large number of files in search of information (sometimes known as "fishing for information"). Whether a need to know arises in a particular case will be a matter of fact and degree, to be decided in the light of all the circumstances of the request.
- 8 It is a general presumption that all reports, including those containing confidential or exempt information, will be available to Overview and Scrutiny Committees where they are relevant to that Committee's remit. This presumption may be dis-applied in exceptional circumstances.
- 9 In the event of a dispute, the Monitoring Officer will determine 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 or ulterior reasons, it would be appropriate to refuse access.

## **10 SUMMONS AND AGENDA PROCEDURE**

- 1 At least five clear working days before a meeting of a Committee a summons to attend the meeting in the name of the Monitoring Officer together with an agenda specifying the business to be transacted shall be published on the Council's internet site and may be delivered to the usual place of residence (or such other address as the Member may specify) of every Member of the Committee, provided that want of service of the summons shall not affect the validity of the meeting. Reports and documents supporting the agenda items may be circulated electronically to Members attending the meeting.
- 2 Any additions or amendments to an agenda that has been served on Members and/or any supplemental agenda must be approved by the proper and relevant officer for democratic services and the Chairman of the Committee. Approval will only be given where there is a good reason for the addition or amendment and where the need for it could not reasonably have been foreseen at the time when the agenda was compiled.
- 3 No business may be transacted at a meeting of a Committee which is not specified in the agenda or supplementary agenda for the meeting unless the Chairman of the Committee agrees that the item should be considered as a

matter of urgency. The reason for the urgency shall be specified in the minutes.

## **11 INSPECTION OF DOCUMENTS**

- 1 Agendas and reports relating to Committee Meetings, except those marked “Not for Publication”, will be available for inspection on request by the public on the Council’s internet site and at County Hall during normal office hours and at the major reference libraries in the County. A detailed description of the rights of the public to information is contained in the Access to Information Standing Orders in part 4b of this Constitution.
- 2 All documents which are open to public inspection, will normally be available at least five clear days before the relevant meeting. If it is not reasonably practicable to make a particular document available five days prior to the meeting, it will be made available as soon as possible thereafter.
- 3 Members of the public may submit comments in writing about any published report, within five days of its publication. Where practicable, such comments will be attached to the report.
- 4 Any document in the possession of the Council which relates to an item on the agenda of a meeting of a Committee shall be open to inspection by members of the Council, but this right of access does not extend to documents containing confidential information, nor to documents containing exempt information except in the following circumstances. A Member may inspect a document containing exempt information where (or to the extent that) the information in question:
  - a relates to the financial or business affairs of any particular person, including the authority holding the information, except to the extent that the information relates to any terms proposed, or to be proposed, by or to the authority in the course of negotiations for a contract; or
  - b reveals that the authority proposes to give a notice, or make an order or direction.
- 5 Members of the Council who can satisfy the "need to know" test will be entitled to inspect papers in the possession of the Council not otherwise open to members. The “need to know” test is explained in Committee Standing Order 7.
- 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 any Disclosable Personal Interest as defined in the Code of Conduct for Members.
- 7 The Monitoring Officer 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 legal privilege.
- 8 The Monitoring Officer will decide which documents cannot automatically be disclosed to members.

- 9 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 already been made available to the public or the press on behalf of the Council.
- 10 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, or would be likely to, prejudice the interests of the Council.

## **G Financial Regulations**

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## **FINANCIAL REGULATIONS**

### **INTRODUCTION**

#### **The Purpose of Financial Regulations**

These Financial Regulations are designed to provide a robust framework for managing the Council's financial affairs. The objective of this document in conjunction with others is to ensure that the Council:

- manages its available resources (which includes all resources – monetary, physical assets, human resources, etc) to ensure financial stability in both the short and medium term:
- in conjunction with key partners plans its finances effectively to deliver its strategic priorities:
- achieves value for money in the delivery of services and in the management of its asset base:
- complies with financial and external reporting requirements on a timely basis and meets the needs of stakeholders: and
- has a pro-active approach to managing its risks including partnership risks together with a sound system of internal control.

#### **The Status of Financial Regulations**

These Financial Regulations apply to all members and officers of the Council and anyone acting on its behalf.

The financial control framework can be seen as a hierarchy as set out below:

Financial Regulations	Approved by the County Council
Financial Instructions	Approved by the Director of Assurance
Financial Schemes of Delegation	Approved by Managing Directors and Director of Assurance.

Additionally, there is a separate scheme for maintained schools as required by the School Standards and Framework Act 1998.

The Director of Assurance is responsible for:

- reviewing Financial Regulations;
- the submission of any additions or changes to the full Council for approval;
- carrying out duties in accordance with s.151 Local Government Act 1972;
- reporting, where appropriate, breaches of the Financial Regulations to the Regulatory and Audit Committee, the Council and/or to the Cabinet.

#### **Further Assistance and Feedback**

Finance staff provide advice and support to service managers on all aspects of financial management and financial control. In particular, Managing Directors must seek advice if they are intending to create a new financial procedure, or amend an existing one.

The Director of Assurance welcomes feedback on the operation of Financial Regulations and Financial Instructions to ensure they remain relevant and effective.

The Corporate Finance Business Partner should be contacted if you have comments on the application or operation of particular regulations; also if further interpretation of regulations is required.



## **A: FINANCIAL MANAGEMENT RESPONSIBILITIES**

### **Importance of this area**

**Financial management includes all financial accountabilities relating to the running of the Council, including the requirements set out in the Operating Framework, supporting financial Strategies, Policies, Procedures and budget. The main areas of responsibility are set out below:**

#### **A1 Key Roles**

**A1.1** The role of key Council bodies and officers in respect of financial control processes is set out in Part 2 of the Constitution.

#### **A2 Other Financial Responsibilities**

**A2.1** The Director of Assurance shall determine the nature and format of all accounting procedures and financial records.

**A2.2** The Director of Assurance will ensure that accounting procedures reflect recommended professional practice, comply with appropriate accounting principles and legislative requirements. He/she will review accounting procedures as necessary in consultation with other Directors to ensure that the necessary information is available without duplication of records.

**A2.3** The Director of Assurance is responsible for:

- ensuring that the Annual Statement of Accounts is prepared by the statutory date in accordance with relevant legislation and accounting standards and that the accounts present a true and fair view of the financial position of the Council and its expenditure and income;
- liaising with External Audit on the completion of the Statement of Accounts and the arrangements for the audit of these;
- ensuring procedures are in place to provide adequate documentation to support the Statement of Accounts. This will include reconciliations with financial ledgers, copies of grant claims and other working papers which demonstrate the substantive basis for the data within the Statement of Accounts.

## **B: FINANCIAL PLANNING AND CONTROL**

### **Importance of this area**

**Financial planning enables the Council to deliver its priorities through the allocation of resources to services.**

- **The revenue budget provides an estimate of the annual income and expenditure requirements for all activities and sets out the financial implications of the Council's policies. It provides Directors with authority to incur expenditure and a basis on which to monitor the financial performance of the Council.**
- **Capital expenditure is an important element in the development of the Council's services since it represents major investment in new and improved assets.**

### **B1 The Financial Planning Process**

**B1.1** The Council's objective is to ensure that the financial and corporate planning processes are integrated, are risk assessed and managed and incorporate strategic planning for all other resources such as assets and human resources.

**B1.2** The key elements of financial planning are set out in the following documents and listed in the Council's Policy Register:

- The Strategic Plan
- The Medium Term Financial Plan, including the formal approval of the annual revenue budget and the Capital Programme
- The Capital Investment Strategy
- The Treasury Management Strategy
- The Asset Management Strategy
- The Property Asset Strategy

**B1.3** The Council involves external stakeholders and partners in the financial planning process in order to help shape and deliver its organisational and shared objectives.

**B1.4** The Council consults local people and communities, including the business community, on spending decisions and charging policies as appropriate.

### **B2 The Medium Term Financial Plan**

**B2.1** Annually each HQ/Managing Director shall review and develop his/her Medium Term Financial Plan (capital and revenue) as directed by Cabinet members. This is a statement of the resources required to deliver the planned activities over the business planning period. It should be developed in consultation with the Director of Assurance and in accordance with guidance prior to being submitted to the appropriate Cabinet Member(s), to Cabinet and full Council. Such forecasts should be developed as an integral part of the Council's overall business planning process.

**B2.2** The Director of Assurance will determine the format of the Medium Term Financial Plan and the timing of reports, subject to any overriding requirements of the Cabinet.

- B2.3** Each HQ/Managing Director shall include the financial effects of:
- all known commitments (part year and full year)
  - the impact of unavoidable growth, such as legislative requirement
  - efficiency savings
  - the scope for additional income generation
  - the delivery of Council priorities; and
  - any service reductions
- B2.4** The Director of Assurance is responsible for providing advice and support to Directors on the form of financial information to be included in the plans.
- B2.5** Directors are responsible for:
- the identification of risks that may impact on business objectives and assessment of the best ways to manage them;
  - contributing to the development of corporate and service targets and objectives and performance information;
  - ensuring that service plans are clearly aligned with budgets for the purpose of delivery of service priorities;
  - ensuring that targets identified within the service plans are included in service business plans and as performance management targets for the relevant staff.
  - Ensuring that budgets are robust and sufficient to deliver the stated priorities.

### **B3. The Annual Revenue Budget**

- B3.1** Revenue expenditure incurred against the revenue budget approved by Council will be subject to Regulation B7.
- B3.2** In the event that new un-ring-fenced revenue funding becomes available after the Annual Revenue Budget has been set by Council, approval for the use of that funding within the revenue budget and the incorporation into the Medium Term Financial Plan can be made by the Cabinet Member for Finance and Resources, following advice from the Director of Assurance, having regard to any statutory or non-statutory obligations imposed or implied by any conditions of award and after discussion with other relevant Cabinet Members and Managing Directors.
- B3.3** If in the opinion of the Director of Assurance and/or the Cabinet Member for Finance and Resources the decision on the use of new unring-fenced funding requires consideration by Cabinet or full Council, they may waive the rule in B3.2 and refer the matter as appropriate.

## **B4. The Capital Programme**

- B4.1** The Council's Capital Programme will be developed in accordance with the Council's Capital Investment Strategy and Financial Instructions. The strategy will ensure that capital investment is targeted to achieve best value and maximum effect on priorities, needs and outcomes for local communities.
- B4.2** full Council shall approve the Capital Programme annually and amendments to it during the financial year, subject to the provisions of B4.3 & B7.4.
- B4.3** In the event that new un-ring-fenced capital funding becomes available after the Annual Capital Programme has been set by Council, approval for the use of that funding within the capital programme and the incorporation into the Medium Term Financial Plan can be made by the Cabinet Member for Finance and Resources, following advice from the Director of Assurance, having regard to any statutory or non-statutory obligations imposed or implied by any conditions of award and after discussion with other relevant Cabinet Members and Managing Directors.
- B4.4** If in the opinion of the Director of Assurance and/or the Cabinet Member for Finance and Resources the decision on the use of new nonring-fenced funding requires consideration by Cabinet or full Council, they may waive the rule in B4.3 and refer the matter as appropriate.
- B4.5** The Capital Programme agreed annually by full Council provides in principle support for individual projects. However, the release of funds to facilitate each project is subject to an appropriate business case passing through the Capital Gateway process in line with Financial Instructions.
- B4.6** Managing Directors will ensure that financial plans support the efficient use of assets and are in line with the corporate Asset Management Strategy and where appropriate the Property Asset Strategy.
- B4.7** The Director of Assurance is responsible for advising on the setting of prudential indicators required by the CIPFA Prudential Code for Capital Finance in Local Authorities and ensuring that all matters necessary to be taken into account in setting the prudential indicators are reported to the Council.
- B4.8** The Director of Assurance is responsible for:
- procedures under which capital expenditure proposals are evaluated and appraised to ensure that value for money is being achieved and service and asset management objectives are met;
  - procedures for the corporate monitoring of external sources of capital funding; and
  - ensuring that expenditure treated as capital expenditure in the Statement of Accounts is in accordance with best accounting practice.
- B4.9** Managing Directors are responsible for:
- ensuring that capital proposals reflect agreed service plans;
  - capital proposals are prepared in accordance with guidance issued and are realistic in both financial and delivery terms;
  - ensuring that risks have been identified and assessed; and

- developing business cases and undertaking option appraisals in accordance with Financial Instructions.

**B4.10** In line with the Capital Investment Strategy, the Cabinet Member for Finance & Resources with advice from the Director of Assurance can approve a robust business cases for income generating assets. This may require additional prudential borrowing and/or the draw-down of reserves beyond that in the approved Medium Term Financial Plan. The Cabinet may approve such funding following advice from the Director of Assurance and subject to the constraints of the Prudential Indicators as set out in the Treasury Management Strategy. Any additional borrowing undertaken under this regulation will be reported by the Cabinet Member for Finance & Resources to full Council at the next available Council Meeting.

## **B5 The Treasury Management Strategy**

**B5.1** The Treasury Management Strategy, including the prudential indicators in line with the CIPFA code of practice, is agreed by Council prior to the start of each financial year. (**Financial Regulation C7**).

**B5.2** A report on performance against the strategy is provided to Council at the half year and year end stages.

## **B6 Financial Control**

**B6.1** Expenditure may only be incurred if it is within the budget approved by the Council, subject to the provisions of Financial Regulation B7 and for the purposes for which the budget was established. This is subject to any other requirements of the Cabinet or the Council.

**B6.2** HQ/Managing Directors must monitor income and expenditure against budgets for which they are responsible and provide forecast outturn information on a regular (at least quarterly) basis. The Director of Assurance will provide financial advice to assist Directors fulfil their responsibilities.

**B6.3** HQ/Managing Directors are responsible for ensuring that expenditure and income are correctly coded and that budget profiles are accurate. All expenditure, income and forecasts must be recorded on the Council's financial management system, as a minimum in summary form.

**B6.4** At the start of each financial year, the Director of Assurance will set out the budget monitoring process. It will include timescales and the responsibilities of all officers involved in the process. HQ/Managing Directors are responsible for ensuring that they meet the timescales so that prompt and accurate information can be provided to Members.

**B6.5** If net expenditure exceeds an approved budget for a project or service the HQ/Managing Director will as soon as possible report it to the relevant Cabinet Member(s) and Director of Assurance and take all appropriate mitigating action. This also applies if expenditure in excess of the approved budget is incurred due to an emergency.

## **B7 Virements**

### **B7.1 Virement**

#### **B7.1.1 Definition**

A virement is a movement of budget either within or between budget headings. A budget heading relates to an agreed division of a service, i.e. activity, project, service unit.

**B7.1.2** Virements may be necessary under a number of circumstances, for instance:

- where the organisation or management of services has been restructured;
- where the political portfolio priorities and objectives have changed;
- where significant budget pressures arise which can be offset by other budget underspends or contingencies;
- where income projections change, matched by changes in expenditure.

### **B7.2 Budget Adjustments**

#### **B7.2.1 Definition**

A budget adjustment is defined as:

- a budget movement required in order to better reflect in budget terms a policy decision agreed and documented in accordance with the Council's Constitution; or
- A budget movement over which the Council has no control, for example where statutorily or through the requirements of Government grant conditions, the Council is obliged to make a budget adjustment; or
- A budget movement required to correct an error, i.e. where the budget showing in the financial management system does not match the Budget agreed by Council.
- A budget movement required to reflect an allocation from Corporate Contingency in line with Financial Instructions.

**B7.2.2** For the avoidance of doubt, any budget movement which does not meet the definition in B7.2.1 (or where there is uncertainty about whether the movement meets the definition), will be deemed to be a virement and Regulations B7.3 & B7.4 will apply.

**B7.2.3** A budget adjustment can be implemented by the Director of Assurance without need for further approval via the virement provisions in Regulations B7.3 and B7.4.

## **B7.3 Revenue Virements**

**B7.3.1** The approval of the Cabinet and the Director of Assurance is necessary in advance if virements:

- result in an addition to commitments in future years beyond any agreed allocations; or
- in the opinion of the Director of Assurance, require approval by Cabinet

**B7.3.2** Subject to the overriding provision of B7.3.1 above, formal approval of the relevant Cabinet Member(s) and the Director of Assurance is necessary in advance if virements:

- are between political portfolios or Business Units for revenue budgets; or
- in the opinion of the Director of Assurance, require approval by Cabinet Member(s).

**B7.3.3** The relevant HQ/Managing Director can approve revenue budget virements, in agreement with their Cabinet Member(s) and the Director of Assurance and subject to the overriding provisions above (B7.3.1 and B7.3.2).

**B7.3.4** HQ/Managing Directors are encouraged to minimise the number of virements through effective budget profiling and management.

## **B7.4 Capital Virements**

**B7.4.1** Approval by the Cabinet Member for Finance & Resources and the Director of Assurance, in consultation with the relevant Cabinet Member(s) is necessary in advance, if virements:

- involve a change to the approved use of resources detailed in the Capital Programme;
- result in an addition to the Capital Programme in the current or future years;
- result in a movement between capital “project blocks”. A project block being a block of schemes approved for entry into the Capital Programme;

or

- in the opinion of the Cabinet Member for Finance & Resources and/or the Director of Assurance, require approval by the Cabinet Member for Finance and Resources.

**B7.4.2** The relevant Managing Director, following discussion with the relevant Cabinet Member(s) is responsible for the splitting of an approved project block and can approve capital virements within an approved project block, provided the approved allocation for the block remains unchanged, subject to the overriding provisions above.

**B7.4.3** Managing Directors are encouraged to minimise the number of virements through effective budget profiling and management.

## **B8 Year End Balances/ Carry Forwards**

**B8.1** The provision for carrying forward of year end balances is set out below, but is subject to the overriding needs of the Council, as advised by the Director of Assurance.

### **B8.2 Revenue**

**B8.2.1** All revenue budget overspending subject to Cabinet approval will be carried forward to the following year on a Business Unit basis. It will be for Cabinet Members to decide what action needs to be taken to remove the deficit position within a minimum of three years.

**B8.2.2** All revenue budget underspends will be carried forward to an ear-marked reserve on a Business Unit basis. However, the Council as body corporate requires from each Business Unit a share of 25% of any annual revenue

surplus achieved prior to any transfers to earmarked reserves, subject to any legal constraints. The 25% share will be returned to the General Fund.

**B8.2.3** Cabinet Members shall decide how any retained surpluses are deployed in subsequent financial years to support the delivery of BU Plans.

**B8.2.4** Any variation to the above regulations must be agreed by Cabinet based on the Outturn report.

### **B8.3** Capital

**B8.3.1** Managing Directors will annually report the outturn of expenditure on individual schemes within the Capital Programme for each financial year.

**B8.3.2** Underspends on schemes/projects/blocks must be returned to the overall capital funds available. Slippage of capital spends on projects within the overall project allocation will be carried forward between financial years.

**B8.3.3** Overspends on capital budgets must be managed within the capital approvals for the Business Unit approved capital programme within year or future years. If overspends cannot be managed within approvals then the Business Unit must make a revenue virement to provide an additional revenue contribution to capital (see Regulation B7.4), or apply for a supplementary capital approval from full Council.

## **B9** **Maintenance of Reserves**

### **B9.1** Definition

Reserves are monies set aside in one year's accounts, which can be spent in later years, for future policy purposes or to cover contingencies. Some types of reserve (earmarked) can only be spent if the conditions which created them are met.

**B9.2** The Director of Assurance is responsible for advising the Council on a prudent level of reserves for the Council as part of the annual budget setting process. The advice provided will have regard to the assessment of the financial risks facing the Council.

**B9.3** The Medium Term Financial Plan should ensure the Council achieves or maintains the recommended level of reserves.

**B9.4** Requests for earmarked reserves are subject to the approval of the Director of Assurance, who will provide advice and guidance on the setting up and maintenance of such reserves,

## **B10** **Contingent Liabilities**

### **B10.1** Definition

A contingent liability arises where an event has taken place that gives rise to a possible financial obligation, the existence of which will only be confirmed by the occurrence of uncertain future events or where a provision would otherwise be made but either it is not probable that an outflow of resources will be required or the amount of the obligation cannot be measured reliably.



**B10.2** The Director of Assurance is responsible for reviewing at least annually together with HQ/Managing Directors the existing contingent liabilities and ensuring that a balance sheet provision is made where necessary in accordance with accounting standards.

**B10.3** HQ/Managing Directors are responsible for:

- reviewing at least annually his/her activities for contingent liabilities;
- informing the Director of Assurance of any new contingent liabilities and of any changes in the circumstances in relation to existing contingent liabilities.

## **B11 Pension Fund Strategy**

**B11.1** The Members of the Pension Fund Committee are responsible for approval of the Pension Fund Strategy, having taken appropriate professional advice.

## **B12 Trading Accounts**

### **B12.1** Definition

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

- on the income side, charges to users;
- on the expenditure side, the cost of providing the service including overheads.

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

**B12.2** The approval of the Director of Assurance is required before the establishment of a new trading account. All trading accounts will be operated in accordance with guidance provided by the Director of Assurance.

**B12.3** Only trading accounts agreed by the Director of Assurance will qualify for:

- the specific trading account carry forward rules; and
- for the relaxation of normal virement rules (Regulation B7)

**B12.4** Annual surpluses and deficits will be reported in the Council's annual Statement of Accounts. In the case of surpluses on trading accounts, up to 3% of the trading account gross expenditure can be carried forward. This will be taken into account when calculating any cumulative deficit on a trading account.

**B12.5** The Director of Assurance is responsible for the maintenance of records within the financial management system to allow monitoring of in-year and cumulative surpluses and deficits achieved.

**B12.6** Each Managing Director operating a formal trading account is responsible for:

- the recovery of any cumulative deficit within the two subsequent financial years;
- submitting monthly budget monitoring statements including a forecast for the full financial year as agreed by the Director of Assurance to the appropriate Cabinet Member(s);

- submitting before the end of the financial year to the appropriate Cabinet Member(s) a draft trading account for the next financial year which has been prepared in consultation with the Director of Assurance.

## **C: RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **Importance of this area**

**It is fundamental that robust, integrated systems are in place and maintained for the identification and evaluation of all significant strategic and operational risks to the Council. It is essential that those responsible for the planning and delivery of services proactively participate in this.**

### **C1 Risk Management & Insurance**

- C1.1** The Regulatory and Audit Committee is responsible for approving on an annual basis the Council's Risk Management Strategy. The Regulatory and Audit Committee will review the effectiveness of the strategy to ensure that corporate business risks are being identified and effectively managed by the Executive.
- C1.2** Reports to support strategic policy decisions and initiation documents for all major projects will require a risk assessment including a sustainability impact appraisal.
- C1.3** HQ/Managing Directors are required to comply with the Risk Management Strategy.
- C1.4** HQ/Managing Directors are also required to ensure that:
- procedures to ensure assessment of all risks are operating effectively within their services and that their risk register(s) and management action plans are regularly updated;
  - managers are aware which risks they are responsible for managing and receive the relevant information;
  - an ongoing monitoring process is in place to review the effectiveness of risk reduction strategies;
  - prompt notification is given to the Principal Insurance Officer of all new risks, including financial, property, equipment or vehicles, which may require to be insured and of any new activities or changes, including contractual or partnership risks, which may impact upon the Council's existing risk profile, in accordance with financial instructions.

### **C2 Internal Control**

Internal Control relates to the systems of control implemented by management to help ensure achievement of the Council's objectives in a way that ensures economical, efficient and effective use of resources. In addition, the systems of control ensure that the Council's assets are kept secure and interests are protected.

- C2.1** The Accounts and Audit Regulations 2006 require every local authority to conduct a review at least once a year of the effectiveness of its system of internal control and shall publish an Annual Governance Statement, prepared in accordance with proper practices. The Council has delegated this responsibility to the "Responsible Financial Officer" (the Director of Assurance).
- C2.2** HQ/Managing Directors are responsible for ensuring effective systems of internal control exist within their area of responsibility. These arrangements must ensure compliance with all relevant statutes and regulations and other

relevant statements of best practice. The Director of Assurance is responsible for advising on effective systems of internal control.

**C2.3** It is the responsibility of HQ/Managing Directors to establish arrangements for ensuring a sound internal financial control within his/her area of responsibility in order to:

- manage its risks;
- achieve continuous improvement, economy, efficiency and effectiveness;
- achieve their financial and operational performance targets.

**C2.4** As part of his/her responsibility for sound systems of internal financial control, HQ/Managing Directors will:

- ensure compliance with Council policy, Standing Orders for Contracts, Financial Regulations, Financial Instructions & procedures, Codes of Conduct and any statutory requirements;
- provide assurances for the Annual Governance Statement that financial and operational control processes are in place in order to achieve objectives and manage significant risks;
- have a business continuity plan in place which is reviewed and tested on a regular basis; and
- maintain up-to-date documented procedures for key systems.

### **C3 Audit Requirements**

The Accounts and Audit Regulations 2006 require every local authority to maintain an adequate and effective internal audit. The following regulations apply:

**C3.1** The Internal Audit team have authority to enter any premises or land used by the Council at any time and have access to all Council correspondence, documents, books, property or other records related to Council business. The Director of Assurance shall be entitled to receive explanation as he/she considers necessary to establish the correctness of any matter under examination.

**C3.2** The Internal Audit Team will comply with standards outlined in the CIPFA Code of Practice for Internal Audit in Local Government (2006) and the Auditing Practices Board of the Consultative Committee of Accountancy Bodies.

**C3.3** The Accounts and Audit Regulations 2006 require that at least once a year a review should be conducted of the effectiveness of the system of internal audit.

**C3.4** The Chief Internal Auditor, or Director of Assurance, or Director of Strategy and Policy, should be notified immediately of any financial irregularities or suspected irregularities, or any circumstances which may suggest the possibility of irregularities in any of the Council's functions. Any investigation should be undertaken in accordance with the Council's Anti-Fraud & Corruption Strategy (which incorporates the Fraud Response Plan) and the Whistle Blowing Policy.

**C3.5** The basic duties of the external auditor are governed by Section 15 of the Local Government Finance Act 1982, as amended by Section 5 of the Audit Commission Act 1998.

**C3.6** The Council may be subject to audit, inspection or investigation by external bodies such as HM Revenues and Customs, who have statutory rights of access.

#### **C4 Separation of Duties**

Financial procedures must be undertaken whenever possible using different members of staff to undertake different parts of a sequence of operations in order to ensure that no one individual authorises the whole of one transaction. Where possible at least two, if not three people should be involved in parts of the operation.

#### **C5 Retention of Records**

Accounting and other related records including contract documentation must be retained for periods which comply with all relevant legislation and any funding requirements, and in accordance with the Council's Retention Schedule.

#### **C6 Prevention of Fraud and Corruption**

**C6.1** The Chief Internal Auditor is responsible for the maintenance of the Council's Anti-Fraud and Corruption Strategy. The Director of Strategy and Policy together with the Chief Internal Auditor are jointly responsible for the maintenance of the Council's Whistle blowing Policy.

**C6.2** It is the responsibility of every Council employee, member and external stakeholder (e.g. suppliers, contractors, service providers, agencies, and partner Councils) with whom the Council deals:

- to act with integrity at all times;
- to comply with legal requirements, rules, procedures and good practice to minimise the risk of fraud; and
- to report suspected fraud, corruption or other irregularity in accordance with these Financial Regulations, the Whistle Blowing Procedure and the Anti-Fraud and Corruption Strategy.

**C6.3** Managing Directors and all Directors in the Council's Headquarters must follow the Council's Anti-Fraud Corruption Strategy which provides detailed guidance in relation to dealing with irregularities and suspected fraud.

**C6.4** The Council's counter fraud arrangements and performance will be assessed against professional guidance, best practice and the findings of internal reviews. HQ/Managing Directors are responsible for strengthening systems and procedures in response.

**C6.5** Each HQ/Managing Director shall take steps to minimise the risks of financial irregularities occurring. In addition they will review and monitor compliance with codes and procedures, and report any material findings in accordance with Regulation C3.4. Findings of a less significant nature should be reported as part of the Annual Governance Statement self-assessments.

## **C7 Investments and Treasury Management**

- C7.1** The Director of Assurance is responsible for the arrangements for managing the Council's cash flow, its borrowing activities and its lending activities, in accordance with policies agreed by the Council. This regulation places a duty on the Director of Assurance to keep these arrangements under review. Any loan proposals, whether borrowing, or lending, must be submitted to the Director of Assurance at an early stage. No loan arrangements may be entered into on behalf of the Council, without the prior written consent of the Director of Assurance.
- C7.2** The Director of Assurance shall undertake Treasury Management activities in accordance with the CIPFA Code of Practice on Treasury Management in the Public Services.
- C7.3** The Director of Assurance will submit an Annual Investment Strategy for approval by the Council on at least an annual basis.
- C7.4** The Director of Assurance shall maintain the Treasury Management Practices document setting out the framework for Treasury Management within the Council.

## **C8 Security of Council Property**

- C8.1** The Director of Assurance will maintain an up-to-date register of land and buildings owned by the Council.
- C8.2** The Director of Assurance will maintain an up-to-date record of infrastructure assets owned by the Council.

## **C9 Assets**

- C9.1** HQ/Managing Directors will ensure that there are comprehensive records and information on assets, which support the Council's Property Asset Strategy and decision making on investment and disinvestment.
- C9.2** HQ/Managing Directors will ensure that within their areas of responsibility the assets are properly maintained and are securely held.
- C9.3** HQ/Managing Directors should only enter into lease agreements in accordance with procedures defined in Financial Instructions.
- C9.4** HQ/Managing Directors must ensure that contingency plans for the security of assets and for continuity of service in the event of disaster or systems failure have been established and that these plans have been tested.

## **D: SYSTEMS AND PROCEDURES**

### **Importance of this area**

**Sound systems and procedures are essential to an effective framework of accountability and control.**

#### **D1 General**

- D1.1** The Director of Assurance is responsible for the form of accounts and supporting financial records.
- D1.2** Managing Directors and all Directors in the Council's Headquarters are responsible for the proper operation of financial processes in their own departments, and for ensuring they comply with these Financial Regulations and any Financial Instructions, guidance or procedures provided by the Director of Assurance.
- D1.3** Managing Directors and all Directors in the Council's Headquarters must also ensure that staff are aware of their responsibilities under freedom of information legislation.

#### **D2 Systems**

- D2.1** The Managing Director (Business Enterprise & Shared Services) is responsible for the operation of the Council's accounting systems according to the requirements of the Director of Assurance.
- D2.2** Any proposed changes by Managing Directors and all Directors in the Council's Headquarters to the existing financial systems or the implementation of new systems must be approved by the Director of Assurance prior to any new developments or changes.
- D2.3** The Managing Director (Business Enterprise and Shared Services) is responsible for ensuring that IT systems are managed to provide reliable information with controlled and secure access, to support decision making.
- D2.4** Managing Directors and all Directors in the Council's Headquarters must ensure that where appropriate, computer and other systems are registered in compliance with data protection legislation.
- D2.5** Information is an asset and all staff are responsible for ensuring compliance with the Corporate Information Security Policy.

#### **D3 Procurement**

- D3.1** Managing Directors and all Directors in the Council's Headquarters must ensure that the Council obtains value for money from procurement and that it is in compliance with the Council's Contract Standing Orders.
- D3.2** Managing Directors and all Directors in the Council's Headquarters should also ensure continuous effective contract management, in accordance with the

Contract Management Framework, in order to deliver ongoing efficiency savings and to ensure continued high quality service provision.

**D3.3** Managing Directors and all Directors in the Council's Headquarters must ensure that all key contract information is entered onto the Council's Contract Management Register.

**D3.4** The Director of Assurance must ensure that electronic purchasing processes incorporate security and integrity for electronic transactions and must approve the introduction of such systems.

#### **D4 Payroll**

**D4.1** The Managing Director (Business Enterprise and Shared Services), with the exception of schools using alternative payroll providers, is responsible for:

- arranging and controlling secure and reliable payment on the due date of salaries, compensation payments or other emoluments and expenses in accordance with documented procedures;
- making arrangements for recording and for the accurate and timely payment of PAYE Taxes, National Insurance and all other statutory and non-statutory payroll deductions;
- ensuring the accurate and timely production of statutory returns to the HMRC, particularly in respect of the financial year-end and the declaration of employee taxable benefits.

**D4.2** The Managing Directors and all Directors in the Council's Headquarters are responsible for ensuring that:

- all appointments are made in accordance with the Council's Framework for Managing People and the Council's policies and procedures;
- adequate budget provision exists for:
  - all appointments of employees;
  - all permanent and temporary variations in relation to staff employment;
  - all engagement of self-employed persons.

#### **D5 Income & Banking**

**D5.1** The Director of Assurance is responsible for ensuring adequate systems are available, and are maintained, for the recording of all income received by, and due to the Council.

**D5.2** Managing Directors and all Directors in the Council's Headquarters must ensure that all income due to the Council is identified, and charged for correctly and on a timely basis. They must also have regard to the Council's Charging Policy in reviewing existing and implementing new charging arrangements.

**D5.3** Managing Directors and all Directors in the Council's Headquarters must also ensure that all income due to the Council is invoiced correctly, collected, receipted and banked in a timely manner in accordance with the Council's Debt Management Strategy.

#### **D6 Creditors and Debtors**



**D6.1** The Director of Assurance is responsible for ensuring the operation and maintenance of effective systems for the payment of creditors and the collection of monies from debtors across the range of Council Services.

## **D7 Taxation**

**D7.1** The Director of Assurance is responsible for:

- with the exception of PAYE (as above), maintaining the Council's tax records, making tax payments, receiving tax credits and submitting tax returns by their due date;
- advising Managing Directors and all Directors in the Council's Headquarters on all taxation issues that affect the Council in the light of relevant legislation as it applies and guidance issued by appropriate organisations;
- Managing Directors and all Directors in the Council's Headquarters are responsible for consulting with and seeking advice from the Director of Assurance on the potential tax implications of any new initiatives for the delivery of Council services.

## **E: EXTERNAL ARRANGEMENTS**

### **Importance of this area**

The Council has a leadership role within the community, bringing together contributions from the various stakeholders, maximising funding opportunities and promoting the economic, social and environmental well-being of the area.

This may involve the establishment of partnership agreements, joint ventures, community transfer of assets, pooled budgets, externally funded projects or local authority companies. It is necessary to ensure in the interests of good governance that the responsibilities, obligations and commitment for such arrangements are properly managed and accounted for.

### **E1 Voluntary Funds**

The Council does not own voluntary funds. However, it is reasonable that contributors to these funds do not distinguish between them and official monies. Therefore, it is appropriate that standards of accounting and propriety are the same as those for official funds.

- E1.1** A voluntary fund is any fund which, although not officially owned by the Council, is controlled or administered solely, or in part, by an employee by reason of his or her employment by the Council. The fund is set up for a specific purpose but generated by funds independent of the Council's official resources.
- E1.2** Employees of the Council who maintain voluntary funds as part of their duties must inform the Director of Assurance of the purpose and nature of all voluntary funds. The accounts must be audited annually by a competent, independent person and be submitted with an audit report to the appropriate body within 6 months of the accounting year end. The Director of Assurance is entitled to verify that this has been done and to carry out such checks on the accounts as he/she considers appropriate.
- E1.3** Voluntary funds must be operated in accordance with any guidance notes issued by the Director of Assurance. The Council accepts no liability for non-compliance with Financial Regulations, Financial Instructions and current legislation.

### **E2 Trust Funds**

The Council does not own trust funds. Trust funds have a formal legal status governed by a Deed of Trust. Employees and Members acting as trustees must ensure that they are conversant with the requirements of the Trust Deed and the law and comply fully with them.

- E2.1** All employees acting as trustees by virtue of their official position must ensure that accounts are audited as required by law and submitted annually to the appropriate body. The Director of Assurance is entitled to verify that this has been done.
- E2.2** Trustees must comply with accounting standards and procedures laid down in the Charities Act 2006 and in regulations issued by the Charity Commission.

### **E3 Partnerships, Joint Ventures, Pooled Budgets, External Funding, Work for Third Parties and Companies**

**E3.1** Where Council Services are to be delivered through a contractual arrangement using Council systems or through shared services by an integrated workforce, detailed financial procedures and Financial Instructions must be prepared and agreed in advance of the contract start by the HQ/Managing Director and the Director of Assurance, that comply with accounting standards, ensure proper financial stewardship and are consistent with the principles of financial management as set out in these Financial Regulations.

**E3.2** Once approved the financial procedures and Financial Instructions referred to in E3.1 above, will form part of the Council's Regulatory Framework and compliance must be a contractual obligation.

#### **E3.3 *Partnerships, Joint Ventures and Pooled Budgets***

**E3.3.1** The Cabinet is responsible for approving the Council's participation in all significant partnerships / joint working arrangements (including pooled budget arrangements) with other local public, private, voluntary and community sector organisations.

**E3.3.2** Managing Directors and all Directors in the Council's Headquarters following advice provided by the Director of Assurance should advise the Cabinet on the key elements of arrangements for significant partnerships/ joint working arrangements as follows:

- scheme appraisal for financial viability;
- risk appraisal;
- governance arrangements;
- resourcing, including taxation issues;
- audit requirements;
- carry forward arrangements.

**E3.3.3** Managing Directors and all Directors in the Council's Headquarters are also responsible for:

- seeking advice from the Director of Assurance and Director of Strategy and Policy at an early stage;
- ensuring that the approval of the Cabinet is obtained before any negotiations are concluded;
- ensuring that all agreements and arrangements are properly documented;
- where third parties are intended to occupy in full or in part Council property that a licence or lease is entered into prior to occupation;
- providing information to the Director of Assurance required for the Council's Statement of Accounts.

### **E3.4** *External Funding*

**E3.4.1** The Director of Assurance must be consulted on the financial and governance implications of all projects involving funding from external sources e.g. Lottery grants etc.

**E3.4.2** Managing Directors and all Directors in the Council's Headquarters must ensure that:

- all funding received from external organisations or associated parties is properly recorded in the Council's accounts;
- key conditions of funding and any statutory requirements are met;
- anymatch-funding requirements and future liabilities are given due consideration prior to entering into long term agreements.

### **E3.5** *Work for Third Parties*

**E3.5.1** Managing Directors and all Directors in the Council's Headquarters should ensure that:

- proposals should be costed properly before an agreement is reached to do work for a third party;
- a formal contract or a memorandum of understanding is drawn up prior to any work commencing;
- where third parties are intended to occupy in full or in part Council property that a licence or lease is entered into prior to occupation.

### **E3.6** *Local Authority Companies*

**E3.6.1** Managing Directors and all Directors in the Council's Headquarters must ensure that:

- at an early stage and prior to taking an interest in a company on behalf of the Council (e.g. membership, shareholding or directorship), advice is sought from the Head of Legal Services and the Director of Assurance;
- any clauses required by the Head of Legal Services and / or the Director of Assurance to safeguard the Council's position are included in the company's Memorandum and Articles of Association;
- the approval of the Cabinet is obtained before any negotiations are concluded;
- all agreements and arrangements are properly documented;
- information is provided to the Director of Assurance as required.

**E3.6.2** Managing Directors and all Directors in the Council's Headquarters must ensure that:

- effective governance arrangements are in place including arrangements for exit if necessary;
- risk management processes are in place to identify and assess all known risks;
- business continuity plans are in place and reviewed and tested on a regular basis.

**E3.6.3** The Managing Directors and all Directors in the Council's Headquarters should advise the Cabinet on the following key elements:

- scheme appraisal for financial viability;
- risk appraisal;
- governance arrangements;
- resourcing, including taxation issues;
- audit requirements;
- carry forward arrangements.

## **H Standing Orders relating to Contracts**

1. Introduction
2. Basic Principles
3. Responsibilities of Officers
4. Partnerships
5. Exemptions
6. Requirements for all Contracts
7. Requirements to Ensure Competition
8. Short-listing Suppliers and Pre-Qualification Requirements
9. Creation and Maintenance of an Approved List
10. Invitations to Tender/Quotations
11. Evaluation Criteria and Evaluation of Tenders
12. Submission, Receipt and Opening of Tenders/Quotations
13. Clarification Procedures
14. Award of Contract
15. Sealing a Contract
16. Commencement of Contracts
17. Post Contract Monitoring
18. Changes to Contracts
19. Contract Extensions
20. Termination of Contract
21. Technical Amendments
22. Land and Property
23. Asset Disposals (other than Land or Property)

## **1. Introduction**

- 1.1 As a public sector organisation it is important that we, as a Council, comply with all relevant legislation, are open and transparent and ensure value for money is demonstrated through a competitive environment for all business opportunities, and that ongoing robust supplier management is in place to ensure ongoing value for money is achieved.
- 1.2 The purpose of these Orders, which are part of the Council's Constitution, is to provide clarity as to the requirements for commercial decisions in order to safeguard the Council from potential claims which put into question the integrity of the Council and its staff.
- 1.3 These Orders should be read in conjunction with other policy or procedure documentation.
- 1.4 The Chief Financial Officer and the Monitoring Officer are joint custodians of these Orders and are responsible for keeping them under review. This includes giving advice on their implementation and interpretation.

## **2. Basic Principles**

- 2.1 These Orders apply to all Council contracts with the exception of employment contracts.
- 2.2 They are required by law and failure by an Officer to comply may result in disciplinary action being taken against them.
- 2.3 They lay down the minimum requirements. A more detailed procedure may be appropriate for a particular contract.
- 2.4 A contract includes the following:
  - any contract for goods, works or services, including disposals;
  - any order for goods, works or services;
  - a grant given or received by the Council;
  - a contract managed on behalf of the Council by a third party;
  - a contract appointing consultants;
  - any partnership arrangement;
  - any commercial agreement;
  - contracts relating to the disposal or purchase of land and buildings.
- 2.5 Purchasing and disposal procedures must:
  - achieve best value for public money spent;
  - be consistent with the highest standards of integrity;
  - ensure fairness in allocating public contracts;
  - comply with legal requirements;
  - ensure that non-commercial considerations do not influence any contracting decision;



- support the Council's corporate and service aims and policies;
- comply with the Council's Operating Framework and associated policies
- comply with Financial Regulations, Risk and Assurance and requirements;
- be able to demonstrate that the Council's interests have not been prejudiced or exposed to undue or unmanaged risks.

2.6 The Council will use its standard e-Sourcing system for all competitive tendering activities and for quotations valued between £5k and EU tendering thresholds in line with contract management procedures. The Council's eSourcing System is an online solution for managing the administration of the procurement process. .

### **3. Responsibilities of Officers**

#### 3.1 Officers:

- Officers responsible for purchasing and disposal must comply with these Standing Orders relating to Contracts, the Financial Regulations, and the Code of Conduct together with all UK and European Community legal requirements;
- Officers must comply with the instructions issued by HQ and/or the Procurement Team in relation to commercial and contracting activities;
- Officers must use any relevant Corporate Contract which is already in place;
- Officers must keep the records to show a clearly documented audit trail as set out in instructions issued by HQ and/or the Procurement Team. The Officer has a duty to produce such records when requested to do so by the S151 Officer / Monitoring Officer, or their representative;
- Officers must ensure that agents and consultants acting on their behalf comply with the requirements referred to in Standing Order 3.1(a) above. Such agents or consultants must not make any decision as to whether to award a contract or who a contract should be awarded to;
- Officers must take all necessary legal, financial and professional advice;

#### 3.2 HQ / Managing Directors

Managing Directors must:

- have authority to continue in accordance with the Scheme of Delegation for decision making;
- ensure that there is full budgetary provision for the contract and that the sources of funding are fully detailed before starting the contract process;
- maintain an up to date financial scheme of delegation in accordance with requirements as set out by the S151 Officer, defining the Officers who have been given the necessary authority to perform the responsibilities set out in 14.2 and 15.2;
- ensure that Officers comply with these Standing Orders relating to Contracts;
- ensure that each contract has a named contract manager;

- (f) ensure that all contract documentation including any variations is kept in the contract management system.

#### **4. External Delivery Units**

- 4.1 External Delivery Units include partnerships and services run by non-council employees through a variety of entities such as a Local Authority Trading Company, Mutual, Social Enterprise, Joint Venture, Charitable Company and other arms-length organisations or any similar arrangements established by the Council to deliver services.
- 4.2 Officers considering an external delivery unit arrangement must, at the earliest opportunity, obtain professional advice from the Monitoring Officer, Head of Legal Services, Chief Finance Officer and the Procurement Team. They will advise on the partnership options available to ensure a workable partnership including appropriate governance arrangements, prior to proposals being put forward for Cabinet decision

#### **5. Exemptions**

- 5.1 Exemptions are subject to the requirements set out in this Order and the Exemption Procedure. An exemption allows a contract to be placed by direct negotiation with one or more suppliers rather than in accordance with **Standing Order 7**.
- 5.2 Exemptions under this Order cannot be granted if EU Regulations apply. There may be some circumstances in which it may prove impossible to fully comply with the Regulations; however these should be unusual or exceptional in nature and should not be as a result of a failure to plan for a situation that could have been anticipated, such as an existing contract end date or a new service requirement. In such circumstances officers are required to seek advice from the Procurement Team or Legal Services in the first instance and to notify the Monitoring Officer of a potential failure to comply. The Monitoring Officer, in consultation with the Chief Finance Officer, will consider on a case by case basis what action is to be taken in relation to the potential breach.

##### **Contracts with a value below EU thresholds:**

- 5.3 A Managing Director may seek an exemption from one or more Orders from:
  - 5.3.1 the Cabinet or Portfolio Holder acting under delegated powers; or
  - 5.3.2 the Chief Executive acting under delegated powers.
- 5.4 In order to request an exemption the Managing Director must submit to relevant Cabinet Member or Chief Executive a completed exemption report having sought advice from the S151 Officer. For the exemption to be granted it must comply with all of the following points:
  - 5.4.1 the reasons why the exemption is being requested and which Order(s) the exemption is being requested from;
  - 5.4.2 the process which is intended to be followed instead;
  - 5.4.3 a financial and commercial appraisal and recommendation from the S151 Officer;

5.4.4 a legal appraisal from the Group Solicitor.

5.5 In cases of emergency, a Managing Director may verbally authorise and record in writing an exemption from one or more Orders for supplies, services or works provided that:

- the emergency was brought about by events which were not reasonably foreseeable by, or attributable in any way to, the Council (e.g. flood); and
- if the supplies, services or works are not received immediately, there is a significant risk of:
  - danger to life; or
  - damage to property; or
  - a major impact on the Council or its service users.

5.5.1 In such cases only supplies, services or works necessary or appropriate to safeguard the Council's position or to protect life and property can be procured before formal approval is obtained.

5.5.2 Managing Directors must, at the earliest opportunity, inform the S151 Officer and Group Solicitor of the action taken in dealing with the emergency. Managing Directors must also submit a report to the Cabinet Member that details the circumstances of and justifications for granting exemptions made in accordance with these Orders.

5.6 The Procurement Team will maintain a register of exemptions on behalf of the S151 Officer.

## **6. Requirements for all Contracts**

6.1 Every contract must be in writing and must clearly state:-

- the goods, works or services to be provided;
- the agreed programme of delivery;
- the price and terms of payment;
- all other terms that are agreed;
- exit procedures, for when the contract comes to its natural end; and
- termination procedures for early termination of the contract including when the contractor has not fulfilled his contractual obligations.

6.2 Every contract must comply with Financial Regulations and instructions issued by HQ and/or the Procurement Team, including EU Procurement Regulations, where necessary.

## **7. Requirements to Ensure Competition**

7.1 Where the total value of the contract is less than EU thresholds as set out in 7.2 below, Officers may identify potential bidders using the most cost-effective and reasonable methods. This may include searching for registered suppliers via the eSourcing System, catalogues, business directories etc. Additionally, Officers may use an existing Framework Agreement providing the Council is

legally entitled to use it. Officers are encouraged to consider the use of local SME's when selecting potential suppliers.

7.2 Where the estimated value of a contract is:

**Less than £25,000:**

A minimum of one written quotation is required. This can be a written confirmation by an Officer of an oral quotation. The aim of the Officer responsible for the contract shall be to obtain the best value for money for the Council. Use of the eSourcing System is recommended but not in all cases, but is required for all contracts over £5,000 in order to meet the transparency requirements.

**Between £25,000 and EU thresholds:**

A minimum of three written quotations must be requested for:

Supplies: EU limit applies (£172,514 net of VAT w.e.f. January 2014)

Services: EU limit applies (£172,514 net of VAT w.e.f. January 2014)

The procurement of 'Works' contracts under these Orders will be subject to the Supplies and Services tender threshold (£172,514 net of VAT w.e.f. January 2014).

The aim of the Officer responsible for the contract shall be to obtain the best value for money for the Council. Quotations must be sought using the eSourcing System.

Regardless of financial thresholds, Business Units and HQ will be required to demonstrate the procurement principles of "non-discrimination, equal treatment of suppliers, transparency, mutual recognition and proportionality" remain. This is in line with UK legislation in relation to value for money in public procurement as well as those requirements defined in the EU Directive on Public Contracts.

**Over the EU Procurement thresholds:**

Contracts must be advertised according to EU Procurement Regulations (further instructions can be found on the Council intranet pages. The exception to this is where it is proposed to use suitable Framework Agreement which the Council is legally entitled to use. In any instance the Officer responsible for the contract must before starting the contract process obtain advice from an Officer in both the Procurement Team and Legal Services.

**8. Short-listing Suppliers and Pre-Qualification Requirements**

8.1 Where the total value of the contract is less than the thresholds in Section 7.2, Officers must follow the guidance issued by the Procurement Team.

8.2 Where the value of the contract is over EU thresholds pre-qualification requirements must use the standard format in line with the Public Contracts Regulations.

- 8.3 Where approved lists are used, the Officer and the relevant Managing Director may undertake the short-listing in accordance with the relevant criteria as stated when the approved list was advertised.

## **9. Creation and Maintenance of an Approved List**

- 9.1 As an alternative to advertising contracts, Officers may use approved lists to select tenderers. However, approved lists cannot be used where the total value of the contract exceeds the EU procurement threshold.
- 9.2 When the list is first created, and every three years afterwards, an advertisement must be placed on the Council's website at least one appropriate journal and Contract Finder. The relevant Business Unit is required to publicise the Council's intention to create an approved list using the e-Sourcing System.
- 9.3 Potential bidders for the list must be asked to provide details, which will enable the Council to:
- (a) ensure that they are financially stable;
  - (b) ensure that they have appropriate technical ability to undertake the sort of contract they wish to be considered for;
  - (c) check their health and safety record;
  - (d) check that there have been no breaches of money laundering and bribery regulations.
- 9.4 The list will be the responsibility of the appropriate Managing Director.
- 9.5 An accredited government scheme subject to approval by the Procurement Team is also considered to be an approved list for the purpose of these Standing Orders relating to Contracts.

## **10. Invitations to Tender/Quotations**

- 10.1 All invitations to tender and quote must:
- clearly specify the goods, services or works that are required. The specification must describe the requirements in sufficient detail to ensure the submission of competitive bids which may easily be compared;
  - not disadvantage suppliers in favour of a particular supplier;
  - specify the award procedure on which tenders/quotes will be evaluated;
  - state that the contract will be on the Council's conditions of contract which must be enclosed with the invitation to tender;
  - include a requirement for suppliers to complete fully and sign all tender documents;
  - state that the Council is not bound to accept any quotation or tender;
- be issued with the same information at the same time and subject to the same terms. Any additional information or amendments to the specification and documents must be provided to the bidders on the same basis.

## **11. Evaluation Criteria and Evaluation of Quotes or Tenders**

- 11.1 Officers must ensure that the evaluation criteria on which quotes or tenders are to be assessed takes into consideration all factors relevant to the requirement.
- 11.2 Officers must ensure that technical/financial evaluation is conducted by suitably qualified Officer's and in accordance with the published evaluation criteria.
- 11.3 The arithmetic in compliant quotes or tenders must be checked. If arithmetical or clerical errors are found they should be notified to the tenderer. The tenderer will be requested to confirm the correct figures/wording or withdraw its tender.
- 11.4 Quotes or Tenders must be compared against the pre-tender estimate within the signed-off business case. All differentials must be considered. For tendered prices where the value exceeds thresholds set out in Section 7.1 and where the differential is more than 20% above or below the pre-tender estimate must be reported to the Managing Director and the S151 Officer for a decision.
- 11.5 Confidentiality of tenders/quotations and the identity of tenderers must be maintained at all times. Information about one tenderer's response must not be given to another tenderer.
- 11.6 In situations whereby one part of the Council is tendering for a contract with another part of the Council, there must be a clear division between the two parties, with no advantage ensuing for the internal tenderer.
- 11.7 Officers who are responsible for evaluating the quotes or tenders should complete and sign a tender evaluation report recording the details of the tenders and the process for selecting the successful tenderer. This process should be completed by someone other than the person who is going to sign the contract.
- 11.8 Authorisation to award the contract must be given in writing by an Officer who has written delegated authority to do so.

## **12. Submission, Receipt and Opening of Tenders/Quotations**

- 12.1 Bidders invited to bid must be given adequate time in which to submit a quotation or tender. Unless the EU Procurement Regulations apply at least four weeks must be allowed for submission of tenders.
- 12.2 Invitations to Quote and Invitations to Tender must be issued and received by electronic means using the corporate e-Sourcing system in accordance with paragraph 2.6.
- 12.3 Tenders and quotations submitted in the corporate e-Sourcing System will not be considered until the deadline for receipt has lapsed. Tenders will not be accessible until Legal & Democratic Services have removed the secure seal on the electronic tender box.

## **13. Clarification Procedures**

- 13.1 After the quote or tender opening, it may become apparent that one or more of the potential contractors that have submitted bids have misinterpreted the specification. If it is clear that this is a result of an error or ambiguity in the specification, the responsible Officer must consult the Procurement Team and

the Group Solicitor as to whether all the contractors should be provided with revised specifications and given the opportunity to revise their tender.

- 13.2 No material changes must be made to the proposed arrangements and terms and conditions post-tender.

**14. Award of Contract**

- 14.1 Contracts may only be awarded by the Council if the process followed fully complies with these Orders and Financial Regulations.

- 14.2 Tenders may be evaluated and recommended for acceptance by the following Officers:

**Goods and Services and Works:**

<b>Contract value £</b>	<b>Acceptance by</b>
Less than EU thresholds as defined in 7.2	Authorised Officer in accordance with the Business Unit's Financial Scheme of Delegation
Above the EU thresholds (the Services and Supplies EU threshold applies also to Works in these orders)	Managing Director and S151 Officer

- 14.3 Where a key decision is required to authorise the creation of a contract the contract must not be awarded unless the Council's decision procedure has been fully complied with. This order applies even if a key decision was not required at the outset prior to commencing procurement,

**15. Sealing a Contract**

*Contracts which are not Call-Off Contracts:*

- 15.1 Contracts let under EU Procurement Regulations may only be signed after the mandatory standstill period has elapsed without a challenge from an unsuccessful tenderer.

- 15.2 Contracts may only be signed by Authorised Officers with delegated powers in accordance with the table below:

<b>Contract value £</b>	<b>Signed by</b>
Less than £25,000	Authorised Officer in accordance with their written delegated contract limits under the Business Unit's Financial Scheme of Delegation



£25,000 but not exceeding the EU thresholds (the Services and Supplies Threshold applies also to Works in these orders)	Two Authorised Officers in accordance with their written delegated contract limits under the Business Unit's Financial Scheme of Delegation
Above the EU thresholds (the Services and Supplies Threshold applies also to Works in these orders) and £500,000	Managing Director and Director of Assurance (S151 Officer)
Above £500,000	Monitoring Officer, Head of Legal Services, Group Solicitor or Senior Solicitor under seal

- 15.3 Any Contract (irrelevant of value) requiring the additional limitation of 12 years rather than 6 years for court proceedings in the event of a default must be sealed as a deed by the Group Solicitor. This is particularly relevant to construction contracts in the case of latent defects.

*Call-Off Contracts:*

- 15.4 *Council Framework Agreement with no new terms:* where a Call-Off contract is entered into under a Framework Agreement which has been set-up by the Council and no new terms are being introduced (e.g. under mini-competition) the resulting Call-Off contract does not have to signed or sealed (unless required in accordance with the terms of the Framework Agreement).
- 15.5 *Council Framework Agreement with new terms:* where a Call-Off contract is entered into under a Framework Agreement which has been set up by the Council and new terms have been introduced (e.g. following a mini-competition), the resulting Call-Off contract must be signed or sealed as set out in Order 15.2 unless otherwise advised by the Procurement Team or the Group Solicitor.
- 15.6 *Third Party Framework Agreements:* where a Call-Off contract is entered into under a Framework Agreement which has been set up by a third party, the resulting Call-Off contract must be signed or sealed in accordance with Order 15.2 of these Orders unless otherwise advised by the Procurement Team or the Group Solicitor.

**16. Commencement of Contracts**

- 16.1 No supply of goods, services or works, unless otherwise approved by the Group Solicitor, must commence until all contract documentation is duly completed except:
- 16.1.1 in cases of emergency falling under Order 5.6 in which case the contract must be completed at the earliest opportunity;
- 16.1.2 where there has been a tender for works (but not goods or services) and the contract price only holds for a limited period or there is some other circumstance beyond the Council's control delaying completion of the formal contract documentation. In such circumstances a contract may be formed by letter (which details all the provisions of the contract and is signed in accordance with the Order 15). Formal

contract documentation must be completed at earliest opportunity and signed or sealed as appropriate depending on its value. Advice from the Group Solicitor in drafting the letter must be obtained. This procedure must not be used if there are any outstanding or unresolved contract provisions unless this is agreed by the Group Solicitor.

## **17. Post Contract Monitoring**

- 17.1 Throughout the duration of a contract, the designated Contract Manager must monitor the contract/contractor in line of the Operating Framework and Contract Management Framework. Business Units will ensure that the contract management system is kept up to date and holds all of the required information, as set out in procedures on contracts and contract management practice.
- 17.2 Officers must seek advice from the Procurement Team and Legal Services if significant non-compliance or performance issues occur during the life of the contract.

## **18. Changes to Contracts**

- 18.1 Before any changes can be implemented it is important to understand the implications of the proposed change and that any change is not in breach of the EU Procurement Regulations.
- 18.2 Where provided for in the contract the change control procedure must be followed.
- 18.3 Changes to contracts falls into one of two categories:

### **Operational changes will:**

- not increase the costs incurred by either party, or will only do so to an immaterial extent i.e. up to an amount that could be fixed by the parties;
- not impact the scope of the contract;
- not impact or require amendments to the terms of the contract;
- not affect the risk profile of either contracting party.

### **Contractual changes include:**

- new service obligations;
  - anything impacting existing pricing;
  - anything requiring new pricing;
  - anything impacting on the scope of the contract;
  - anything impacting or requiring amendments to the terms of the contract;
  - anything impacting the risk profile of either contracting party.
- 18.4 Advice must be sought from the Procurement Team and the Group Solicitor when considering contractual changes to contracts.

## **19. Contract Extensions**

- 19.1 Subject to the application of the EU Procurement Regulations, where an Officer wishes to exercise an option to extend a contract an options appraisal must first be undertaken to assess the benefits against other courses of action.
- 19.2 The Officer must ensure that appropriate Business Unit or other technical and financial officers are involved in appraising extension options.
  - 19.2.1 If the original value of the contract plus the value of the extension exceeds £100,000 (as set out in 8.2) the Officer must first seek advice from the relevant Cabinet Member.

## **20. Termination of Contract**

- 20.1 An Officer shall not terminate a contract over EU thresholds (as defined in 7.2) prior to its expiry date without first obtaining advice from the Procurement Team and Legal Services.

## **21. Technical Amendments**

- 21.1 The S151 Officer has the authority to make technical amendments when necessary, to ensure that these Standing Orders relating to Contracts remain consistent with legislation, the Council's organisation and structure and generally with best practice. These amendments shall be subject to consultation with the Monitoring Officer, the Chief Internal Auditor and the Chairman of the Regulatory and Audit Committee.

## **22. Land and Property**

- 22.1 This Standing Order relates to the acquisition and disposal of land and property including leases which are for a fixed term of more than seven years.
- 22.2 All valuations and negotiations shall be the responsibility of the Head of Asset Management. Anyone undertaking the negotiations on his/her behalf must have appropriate written delegation and must be a qualified Member of the Royal Institution of Chartered Surveyors or equivalent professional competence.
- 22.3 All valuations prepared for the purpose of a transaction must be accompanied by evidence of the values or comparable properties in the locality, or if possible evidence of recent, similar transactions carried out the Council.

### **Acquisitions:**

- 22.4 No purchase of land or property (freehold or leasehold) may be made without the prior approval of an Officer delegated to do so by the Council's Financial Scheme of Delegation. In order to do this the information detailed below must be provided for this Officer:
  - (a) a complete description of the land or property that is being considered for purchase,
  - (b) the reason for the purchase,

- (c) any information that may affect the value of the property or land, including structural and environmental reports,
- (d) the proposed purchase price or rental value together with evidence of the prices for similar properties in the location, and
- (e) any other terms and conditions.

The Officer must retain all of this evidence for six financial years after the acquisition has been completed.

**Disposals:**

22.5 Land and buildings owned by the Council shall not be disposed of without the prior approval of an Officer delegated to do so by the Council's Financial Scheme of Delegation. If the estimated value (combined value where more than one property is to be disposed of) of the property is greater than £500,000, a decision on the sale will need to be made by Members through the key decision process.

22.6 Whichever authority is being sought, the following information must be provided:

- (a) a complete description of all the land and/or property to be included in the disposal;
- (b) confirmation from the Head of Monitoring Officer that the title of the land and/or property is owned by the Council;
- (c) the reason for the sale and any restrictions which this may impose;
- (d) a report on any information which is held by the Council in the previous use of the land which may affect its value (e.g. if the site were contaminated);
- (e) the estimated value of the land and/or property;
- (f) recommendations on the following:
  - (i) issues that need to be resolved before marketing the land and/or property can commence;
  - (ii) the preferred method of disposal (private treaty/public auction/formal tender);
  - (iii) the title to be transferred;
  - (iv) steps that need to be undertaken to maximise the value of the asset prior to disposal e.g. planning applications;
  - (iv) the minimum price that the Council is prepared to receive together with an asking price.

22.7 Where it has been decided that the disposal of the land and/or property will be by formal tender, Standing Order 7 above relating to tenders shall be applied.

### **23. Asset Disposals (other than Land or Property)**

- (a) A check should be made to determine whether there is a corporate policy or contract for the disposal of the stock (e.g. IT equipment should be disposed of through the IT Section). If a policy or contract is in place, this should be used.
- (b) Office equipment and furniture should first be advertised on the “Office Equipment” section of the Intranet, and communicated to Schools and other establishments of the County Council. Where this method of disposal is unsuccessful, the goods may be sold according to the paragraphs below.
- (c) Where the estimated value of the goods is no more than £2,500 the disposal can be authorised by the Service Director. If the estimated value is more than £2,500 then the Managing Director needs to approve the disposal.
- (d) Disposal must be either by public auction or by obtaining three quotes from suitable contractors.
- (e) The Officer responsible for the disposal must ensure that the Council is receiving value for money, and that the contractor used is reputable. Evidence of this must be retained by the responsible Officer.

# **I Officer Employment Standing Orders**

## **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 Council Standing Order 19, to state in writing whether they are the parent, grandparent, husband, wife or partner, child, stepchild, stepfather or stepmother, adopted child, grandchild, brother, sister, son-in-law or daughter-in-law, uncle, aunt, nephew or niece or close personal friend of an existing member or senior officer, or of the partner of any such person.
- ii No candidate so related to a member or an officer will be appointed without the authority of the relevant Managing Director or an officer nominated by him/her.

### **b Seeking support for appointment.**

- i The Council will disqualify any applicant who directly or indirectly seeks the support of any member for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- ii No member 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.
- iii However this 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

## **2 Recruitment of Head of Paid Service, Managing Directors and Statutory Officers**

Where the Council proposes to appoint a Head of Paid Service, a Managing Director or a Statutory Officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

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

### 3 **Appointment of Head of Paid Service, Managing Directors and Statutory Officers**

The Senior Appointments and Bucks Pay Award Committee will appoint to these posts.

### 4 **Other Appointments**

The appointment of officers below Managing Director (except statutory officers) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by members.

### 5 **Disciplinary Action**

a **Suspension.** In accordance with Council Standing Order 19, the Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended whilst an investigation takes place into alleged gross misconduct. That suspension will be on full pay.

b

c Members will not be involved in disciplinary action against any officer below Managing Director (except in the case of the statutory officers) other than where such involvement is necessary for any related investigation or inquiry. The Council's disciplinary, capability, redundancy and grievance procedures, as adopted from time to time, may allow a right of appeal or representation to members in respect of action which has been taken.

### 6 **Dismissal**

Members will not be involved in the dismissal of any officer other than the Chief Executive, Managing Directors or the Statutory Officers.

A final decision to dismiss the three statutory officers – Head of Paid Service, the Monitoring Officer and S151 Officer shall only be taken by Council.

Before the taking of a vote at a meeting to consider whether or not to approve a proposal to dismiss the Chief Executive, the Monitoring Officer or the S151 Officer the Council must take into account, in particular;

a) any advice, views or recommendations of the Senior Appointments and Buckinghamshire Pay Award Committee

b) the conclusions of any investigation into the proposed dismissal; and

c) any representations from the relevant officer

## J **Land and Property Standing Orders**

1.1 These Land and Property Standing Orders shall apply to all service areas of the County Council.

- 1.2 Each relevant officer is responsible for the observance of these Standing Orders within his or her service area, and for the training of staff to enable them to comply with these Regulations.
- 1.3 All reports to Committees, Cabinet Members or the Cabinet, or for consideration beforehand by senior officers, which concern or may concern the creation, acquisition, disposal or modification of any legal or other interest in the land or building, shall contain an appraisal agreed with the proper officer for property setting out the implications in terms of property rights and interests arising from the proposals contained within the report.
- 1.4 Officers shall, wherever practicable, seek the approval of the proper officer for property to any such proposals at a consultative stage prior to the preparation of the report for submission to Members.
- 1.5 With reference to the Corporate Landlord, all property assets (land and buildings) to be held for the corporate good, managed by the proper officer for property on behalf of the Council, regardless or not if they are declared "surplus". All property management acquisition and disposals should be negotiated by the relevant business unit.



## **PART 5 - CODES AND PROTOCOLS**

### **A Member Code of Conduct**

A1 Principles of Public Life

### **A2 Declarations of Pecuniary Interests (DPIs)**

A3 Gifts and Hospitality

A4 Responsibilities of Non-Executive Office Holders

### **B Protocol on Member Gifts and Hospitality C Declaration of Interests**

**Pro-Forma**

### **D Protocol on Member Standard Allegations**

**E Protocol on Member/Officer Relations**

**F Planning and Lobbying**

**G Officer Code of Conduct**

## A Member Code of Conduct

The Member Code of Conduct comprises:

- Principles of Public Life
- Declarations of Pecuniary Interest
- Gifts and Hospitality, and
- Responsibilities for Office Holders

### A1 Principles of Public Life

When acting in your capacity as a Member of Buckinghamshire County Council, you must show regard to the following principles of public life: **Selflessness; Integrity; Objectivity; Accountability; Openness; Honesty; Leadership.**

In practice this will mean:

1. **Promoting and supporting high standards of conduct** by embodying the principles of public life and leading by example.
2. **Acting solely in the public interest** by never using your position to give any advantage, or cause disadvantage to a person; or gain any financial or other material benefits for yourself, your family, friends or associates.
3. **Not compromising yourself and the County Council** by taking care to avoid financial or other obligations that individuals or organisations might use to try and influence how you perform your official duties.
4. **Making decisions based on merit** when considering public appointments, awarding contracts or putting individuals forwards for rewards and benefits.
5. **Fully co-operating with the County Council's scrutiny functions** to be publicly accountable for your actions and protect the reputation of the Council as a whole.
6. **Giving reasons for the decisions and actions you and the County Council take** in an open and honest way.
7. **Making sure that County Council resources are used appropriately** by not using them for political purposes yourself, or allowing people you have authorised to use equipment to do so. This will mean having regard for the County Council's various acceptable usage policies and any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
8. **Taking all necessary steps to resolve personal conflicts of interest** by declaring and registering your pecuniary and non-pecuniary interests using methods the County Council has provided, as well as removing yourself from positions of influence when an interest is apparent.

## **A2 Registering Disclosable Pecuniary and non-Pecuniary Interests (DPIs)**

Members and Co-opted Members must register the DPIs of their husband or wife, civil partner or any person that they are living with as husband or wife or civil partner, as if they are their own interests, when they know about them.

As defined in regulations made by the Secretary of State, pecuniary interests are set out in the attached document.

1. You must register your DPIs with the Monitoring Officer within 28 days of being elected or appointed to office.
2. You must register your DPIs within 28 days of the Council's Code of Conduct being adopted.
3. You must notify the Monitoring Officer of any changes in your DPIs within 28 days of becoming aware of them.
4. You must declare any un-registered DPIs at any meeting of the authority at which you are present, where a relevant matter is being considered.
5. You must register any DPIs declared at a meeting, within 28 days of the disclosing it.

You should register any suspected 'sensitive' interests with the Monitoring Officer, who will decide if they are 'sensitive' and if they should go on the public Register of Interests. 'Sensitive' interests are those which you suspect could lead to yourself or a connected person being subject to violence or intimidation.

You should be aware that not disclosing DPIs without a reasonable excuse is a criminal offence and could lead to investigation by the Police and your referral to the Director of Public Prosecutions.

### **The Effect of DPIs on Participation**

1. Dispensations can be granted in accordance with Section 33 Localism Act 2011
2. Unless a dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest.
3. Unless a dispensation has been granted, you must withdraw from the room or chamber when a meeting discusses and votes on any matter in which you have a DPI.

### A3 Gifts and Hospitality

The County Council requires Members to register any gifts and hospitality worth £25 or more they have received with the Monitoring Officer. Members must:

- register any gifts and hospitality with the Monitoring Officer within 28 days of being elected or appointed to office.

register any gifts and hospitality within 28 days of the Authority's Code of Conduct being adopted.

register any gifts and hospitality with the Monitoring Officer within 28 days of receiving them.

declare any gifts and hospitality at any meeting of the authority at which they are present, where a relevant matter is being considered.

register any gifts and hospitality declared at a meeting, within 28 days of disclosing it.

Detailed guidance on how Members should register interests including gifts is set out in the protocol set out in a following section of the Constitution

## **A4 Responsibilities for Non-Executive Office Holders**

The key positions on the Council and the responsibilities of the Leader, Deputy Leader, and Cabinet Members are set out in Part 3 of the Constitution.

This section sets out the key non-executive roles for the Chairman, Vice-Chairman of the Council, Chairman of a Select Committee and Chairman of a Standing Committee.

### **CHAIRMAN OF THE COUNCIL**

Responsibilities:

- 1 To preside over all meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community.
- 2 To chair major consultation meetings organised by the Council.
- 3 To set an example of the standard of conduct to be expected from all Members.
- 4 To help represent the Council in the community and in discussions with regional, national, European and international organisations and others.
- 5 To respond to correspondence received on behalf of the Council and to initiate correspondence on behalf of the Council as appropriate.
- 6 To attend functions appropriate to the position of Chairman of the Council.
- 7 To act as host to visiting royalty, civic dignitaries and other important visitors.
- 8 To host major receptions and other functions.
- 9 To promote public interest in the Council's activities.
- 10 To ensure that if he or she is unable to attend any event, that the Vice-Chairman of Council attends if possible.
- 11 To maintain regular contact with all Members, community representatives and other local partners and to take account of their views.
- 12 To undertake relevant training and development in order to keep up to date with new developments and practices.

## **VICE-CHAIRMAN OF THE COUNCIL**

### Responsibilities:

- 1 To support and assist the Chairman of the Council in the ceremonial business of the Council.
- 2 To chair meetings of the Council or major consultation meetings organised by the Council in the absence of the Chairman.
- 3 To assist the Chairman in setting the standard of conduct to be expected from all Members.
- 4 To help represent the Council in the community and in discussions with regional, national, European and international organisations and others.
- 5 To attend functions appropriate to the position of Chairman of the Council if requested to do so by the Chairman.
- 6 To assist the Chairman of the Council in hosting major receptions and other functions as necessary.
- 7 In the absence of the Chairman of the Council, to act as host to visiting royalty, civic dignitaries and other important visitors.
- 8 Wherever possible, to attend any event that the Chairman of the Council is unable to attend.
- 9 To promote public interest in the Council's activities.
- 10 To assist the Chairman of the Council in maintaining regular contact with all Members, community representatives and other local partners and to take account of their views.
- 11 To undertake relevant training and development in order to keep up to date with new developments and practices.

## **CHAIRMAN OF A SELECT COMMITTEE**

### Responsibilities:

- 1 To be the Chairman of the (named) Select Committee.
- 2 To keep the Vice-Chairman of the Committee adequately briefed on all relevant issues.
- 3 To develop and maintain a working knowledge of the practices, procedures, services and functions which fall within the Committee's terms of reference.
- 4 Within the overall remit determined by the Council, to be responsible for the preparation of an annual programme of work areas, drawn up in consultation with the Cabinet and senior Officers, designed to enable the Committee to discharge its statutory overview and scrutiny powers in holding decision-makers to account and improving outcomes for Buckinghamshire through investigating issues and making reports and recommendations for change..
- 5 To maintain regular contact with all Members, Officers, community representatives and local partner organisations to inform effective scrutiny of policies, strategies, budgets and performance as appropriate.
- 6 To lead the consideration of any draft policy proposals, which may be referred to the Committee by the Cabinet and which the Select Committee wishes to review.
- 7 To develop effective communication with the appropriate Cabinet Member(s) responsible for those service areas within the Committee's remit.
- 8 To be fully aware of the Cabinet Forward Plan and to ensure that the Committee is able to consider all relevant issues within the timescale set by the Council.
- 9 To take a lead role in scrutinising policy decisions taken by the Cabinet, and Officer decisions taken under delegated powers, within his/her Committee's terms of reference.
- 10 To meet regularly with relevant senior Officers of the Council to ensure the receipt of appropriate independent advice to inform effective scrutiny.
- 11 To ensure the Committee is able to give effective advice to the Cabinet as required, within the framework of policies set by the Council and the Cabinet.
- 12 To undertake such meetings as may be necessary for the effective and efficient functioning of the Committee within its terms of reference.
- 13 To liaise with the Chairman of other select committees in order to ensure effective co-ordination of the scrutiny function and to avoid duplication of effort and unnecessary proliferation of meetings.
- 14 To undertake relevant training and development that may be necessary for the effective discharge of the above responsibilities.

## **CHAIRMAN OF (NAMED) STANDING COMMITTEE**

### Responsibilities:

- 1 To chair meetings of the Committee.
- 2 To keep the Vice-Chairman of the Committee adequately briefed on all relevant issues.
- 3 To ensure that all matters before the Committee are investigated in accordance with current legislation and the principles and policies of the Council currently in force.
- 4 To develop and maintain a working knowledge of the practices, procedures, services and functions which fall within the Committee's terms of reference.
- 5 To maintain regular contact with all members to ensure that the Committee is aware of any issues which may be relevant to its work.
- 6 To meet regularly with the relevant senior Officers to ensure the receipt of appropriate independent advice.
- 7 To undertake such other meetings as may be necessary for the effective and efficient functioning of the Committee within its terms of reference.
- 8 To undertake relevant training and development that may be necessary for the effective discharge of the above responsibilities.



## B Protocol on Gifts and Hospitality

The acceptance of gifts and hospitality by Members is not merely an administrative issue. It reflects directly upon the perception of Members and of the authority as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position.

The law on the acceptance of gifts and hospitality is set out in the Bribery Act 2010. These requirements are then supplemented by the procedures which have been adopted by this authority, to provide a clear set of rules for the protection of both Councillors and the authority. Acceptance of a gift or hospitality in breach of the Protocol, or failure to declare receipt of such a gift or hospitality, can lead to disqualification from holding any public office for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to 10 years' imprisonment.

This Protocol sets out:

- I. the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality;
- II. a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it;
- III. a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the authority.

This Protocol does not apply to the acceptance of any facilities or hospitality which may be provided to you by this authority.

### I. General Principles

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles:

*i Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor*

As a Councillor, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer (declination to offer what might otherwise be offered) of any inducement or reward for discharging those duties in a particular manner.

The Bribery Act 2010 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing or forbearing to do anything in respect of any matter or transaction in which the authority is concerned, you commit a criminal offence carrying a maximum term of imprisonment of seven years.

Further, the authority's Code of Conduct for Members provides that you must act in the public interest, serving the authority and the whole community, rather than acting in the interests of any particular individual

or section of the community, and that it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including yourself.

- ii You should only accept a gift or hospitality if there is a commensurate benefit to the authority.*

The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the authority which would not have been available but for the acceptance of that gift or hospitality.

Acceptance of hospitality can confer an advantage on the authority, such as an opportunity to progress the business of the authority expeditiously through a working lunch, or to canvass the interests of the authority and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the authority is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.

As set out above, the authority's code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the authority, would be a breach of the Code.

- iii Never accept a gift or hospitality if acceptance might be open to misinterpretation*

The appearance of impropriety can be just as damaging to the authority and to you as a Councillor as actual impropriety. The authority's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the authority favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:

- i occasions when the authority is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.
- ii determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination,
- iii funding decisions, when the authority is determining a grant application by any person or organisation.

### **B.1 Never accept a gift or hospitality which puts you under an improper obligation**

Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the authority.

### **B.2 Never solicit a gift or hospitality**

You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Councillor unless the acceptance of that gift or hospitality would be permitted under this Protocol. You should also take care to avoid giving any indication that you might be open to such any improper offer.

### **B.3 Consent Regimes**

General consent provisions

For clarity, the authority has agreed that you may accept gifts and hospitality in the following circumstances:

- i civic hospitality provided by another public authority;
- ii modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits;
- iii tickets for sporting, cultural and entertainment events which are sponsored by the authority;
- iv small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise;
- v a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party with whom you have done business on behalf of the authority if you meet accidentally in a public house, cafe or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable;
- vi a modest working lunch in the course of a meeting in the offices of a party (or premises hired by that party) with whom the authority has an existing business connection where this is required in order to facilitate the conduct of that business.

Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must be of a modest nature;

- vii modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to the authority;
- viii Hospitality received in the course of an external visit or meeting which has been duly authorised by the authority. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction to make it clear that any such hospitality for Councillors and officers is to be no more than commensurate with the nature of the visit;
- ix other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Councillor deals with the gift strictly in accordance with the following procedure: The Councillor must, as soon as practicable after the receipt of the gift, pass it to the proper officer for legal matters together with a written statement identifying the information set out in Paragraphs 2(b) below. The Secretary will then write to the person or organisation making the gift, thanking them on your behalf for the gift and informing them that you have donated the gift to be shared by colleagues or disposed of for charity.

#### Special consent provisions

If you wish to accept any gift or hospitality which is in accordance with the General Principles set out in Paragraph 1, but is not within any of the general consents set out in Paragraph 2(a), you may only do so if you have previously obtained specific consent in accordance with the following procedure:

You must make an application in writing to the Monitoring Officer, setting out:

- i the nature and your estimate of the market value of the gift or hospitality
- ii who the invitation or offer has been made by or on behalf of
- iii the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the authority in which they have been involved
- iv any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the authority

- v any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper

You must not accept the gift or hospitality until you have received the appropriate consent.

The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the authority's accounts for the relevant year. But note that this does not relieve you of the obligation to register the receipt of gifts and hospitality in accordance with Paragraph 3, below.

#### **B.4 Reporting Gifts or Hospitality**

Where you accept any gift or hospitality which you estimate to have a market value or cost of provision of £50 or greater, you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information set out in Paragraphs 2(b) above. A form for this purpose is attached to this Protocol, but you can send the same information by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the authority's accounts for the year in question.

Even if the value of the gift or hospitality is less than £50, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

#### **B.5 Gifts to the Authority**

Gifts to the authority may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the authority. You should not solicit any such gift on behalf of the authority except where the authority has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements. If you receive such an offer on behalf of the authority, you must first consider whether it is appropriate for the authority to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the authority under any improper obligation, whether there is a real benefit to the authority which would outweigh any dis-benefits). If you do not have delegated authority to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the authority. If you have any concerns about the motives of the person or organisation

making the offer, or whether it would be proper for the authority to accept the gift, you should consult the Monitoring Officer directly.

## **B.6 Definitions of a Gift or Hospitality**

“Gift or hospitality” includes any:

- i the free gift of any goods or services
- ii the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public
- iii the opportunity to obtain any goods or services which are not available to the general public
- iv the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

References to the “value” or “cost” of any gift or hospitality are references to the higher of:

- i your estimate of the cost to the person or organisation of providing the gift or consideration
- ii the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.



## C Register of Members' Interests Pro-forma

### NOTICE OF DISCLOSURE OF PECUNIARY AND OTHER INTERESTS

I, xxxxxxx a Member of Buckinghamshire County Council, have set out below the Disclosable Pecuniary Interests which I am required to declare further to the provisions of the Localism Act 2011 and The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. I have put 'none' where either I have no such interests under any heading or I am unaware of such an interest.

### PART A

#### DISCLOSABLE PECUNIARY INTERESTS

Members must register the interests of their husband or wife, civil partner or any person that they are living with as husband or wife or civil partner, as if they are their own interests, when they know about them.

#### 1. EMPLOYMENT, OFFICE, TRADE, PROFESSION OR VOCATION

*Any work carried out for profit or gain.*

Member	Spouse, civic partner or equivalent

#### 2. SPONSORSHIP

*Payments or other financial benefits provided in respect of expenses incurred in carrying out your duties as a Member, or towards your election expenses, from organisations other than Buckinghamshire County Council in the last 12 months*

Member	Spouse, civic partner or equivalent

#### 3. CONTRACTS

*Contracts (which have not yet been fully discharged) for the provision of goods, services or the execution of works made between the Council and you, or the persons referred to below, or a body in which you or they have a beneficial interest*

Member	Spouse, civic partner or equivalent

#### 4. LAND

*Any land within the Council's area in which you, or the persons referred to below, have a beneficial interest. For example, your home, and any other land that you own*

Member	Spouse, civic partner or equivalent

#### 5. LICENCES



Licences (held alone or jointly with others) to occupy land in the Council's area for a month or longer

Member	Spouse, civic partner or equivalent

## 6. CORPORATE TENANCIES

Tenancies where the landlord is Buckinghamshire County Council and the tenant is a body in which you or the persons referred to below have a beneficial interest

Member	Spouse, civic partner or equivalent

## 7. SECURITIES

Details of any beneficial interest in securities of a body with a place of business or land within the Council's area where either:

- a) the total value of your securities are more than £25,000 or one hundredth of the total issued share capital of that body; or
- b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or the persons referred to below, has a beneficial interest exceeds one hundredth of the total issued share capital of that class

Member	Spouse, civic partner or equivalent

## PART B NON-STATUTORY INTERESTS

Members are asked to voluntarily register any other interests, for example appointments to public, charitable and other external bodies. Please note these are not Disclosable Pecuniary Interests)

## 8. OTHER INTERESTS

Member

## PART C GIFTS AND HOSPITALITY

Members are required to register any gifts and hospitality worth £25 or more provided to them or the persons referred to above in their capacity as a Councillor.

### 9. GIFTS AND HOSPITALITY

Date	Person/organisation making offer	Details of Gift etc	Accepted/declined	Value (if over £25)

### 10. DECLARATION

I recognise that it may be an offence under the Localism Act 2011 to:-

- 1) omit information that ought to be given in the Notice;
- 2) provide information that is materially false or misleading;
- 3) fail to provide further information in order to bring up to date information given in this Notice and/or declare a Disclosable Pecuniary Interest that I acquired after the date of this notice and am obliged to declare under the provisions of Section 31(2) of the Localism Act 2011;

I also acknowledge that it may be a breach of the Code of Conduct to:-

- 1) omit information that ought to be given in this Notice;
- 2) provide information that is materially false or misleading;
- 3) fail to provide written notification to the Monitoring Officer of any change in my interests contained in this Notice within 28 days of my becoming aware of such change of circumstances.

I understand that under Section 29 of the Localism Act 2011 there is a legal requirement for the Register of Members' Interests to be published on the internet.

Signed..... Dated.....

When completed, please return this form to the Monitoring Officer.

Received: .....  
Monitoring Officer – Buckinghamshire County Council

Dated: .....

## Explanatory Notes

1. You need to fill in, sign and return this notice to the Monitoring Officer within 28 days of being elected or appointed to office.

2. You need to fill in, sign and return this notice to the Monitoring Officer within 28 days of the Authority's Code of Conduct being adopted.

3. You need to write to the Monitoring Officer to let them know about any changes in your interests within 28 days of becoming aware of them.

4. Your Disclosable Pecuniary Interests (DPIs) include those of your husband, wife, civil partner or person you are living with as husband, wife or civil partner.

5. You need to inform the Monitoring Officer in writing within 28 days of receiving any gifts or hospitality worth £25 or more in your capacity as a Member.

6. You need to be aware that the Localism Act 2011 created criminal offences in relation to the disclosure of pecuniary interests. It is now a criminal offence to:

- a) not register a DPI you are aware of within 28 days of election or re-election;
- b) debate or vote in a meeting where you have a registered or unregistered DPI;
- c) not declare an unregistered DPI you become aware of at a meeting;
- d) not inform the Monitoring Officer in writing of a previously unregistered DPI declared at a meeting;
- e) give false or misleading information about any registration or be reckless as to its accuracy;
- f) take any steps or actions on a matter in which you have a DPI other than referring it elsewhere.

7. You need to be aware that not disclosing DPIs without a reasonable excuse could lead to investigations by the Police and your referral to the Director of Public Prosecutions. Conviction of an offence could result in a £5,000 fine.

## **D Protocol on Standards Allegations on Members' Conduct**

### **1. Context**

The Council is committed to promoting and maintaining high standards of conduct amongst its Members and has adopted a Code of Conduct setting out the conduct it expects of its Members as they carry out that role.

These are the Council's arrangements for dealing with any complaint it receives, alleging that an elected Member of Buckinghamshire County Council has failed to comply with its Code of Conduct. These arrangements will form the basis for investigating and deciding any such complaints.

The Council will appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on any allegation which it has decided should be investigated. The Council may also seek the view of the Independent Person at any other stage it chooses and a Member against whom an allegation has been made can also consult the Independent Person.

### **2. The Code of Conduct**

A copy of the Council's Code of Conduct for Members is set out above. It is also available for inspection on the Council's website and on request from Member Services.

The Code applies to Members when they go about the work of the Council or their role as a Member. The Council will not investigate complaints relating to a Member's private life.

### **3. Making a complaint**

If you wish to make a complaint about the behaviour of a Buckinghamshire County Councillor, please write or email to –

The Monitoring Officer  
Buckinghamshire County Council  
County Hall  
Walton Street  
Aylesbury

Or email [monitoringofficer@buckscc.gov.uk](mailto:monitoringofficer@buckscc.gov.uk)

The Monitoring Officer is the member of the Council's staff who has responsibility for administering the system in respect of complaints about member conduct.

Only written complaints will be investigated. In order to ensure that we have all the information needed to process a complaint, complaints should be sent on the complaint form which is available from the Council's website or on request from Member Services.

The Council will require a name and a contact address or email address to acknowledge receipt of the complaint and keep the complainant informed of its progress. The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so. Only in very exceptional cases will the Council be able to progress a complaint to an investigation without disclosing the identity of the complainant to the Member.

The Monitoring Officer will acknowledge receipt of the complaint within 2 working days of receiving it, and will keep the complainant informed of the progress of the complaint.

#### **4. Communication with the Member concerned**

The Monitoring Officer will always notify the subject member of receipt of a complaint unless one of the following circumstances apply:

- The complaint discloses activity which may be of a criminal nature, in which case the Monitoring Officer shall consult the local police before deciding on any further action;
- There are exceptional circumstances – such as fear of tampering with evidence or intimidation – which means that a subject member may not be immediately notified. In these circumstances, the Monitoring Officer must consult with an independent person before reaching such a decision.

The Monitoring Officer will disclose the name of the complainant to the Member unless specifically asked to withhold it.

#### **5. How a complaint is resolved**

##### **A) Initial Assessment of Complaint**

The Monitoring Officer will review every complaint received and carry out an initial assessment.

Where necessary to reach an initial decision, the Monitoring Officer may invite comments from the Member and/or request further information from the complainant. The Monitoring Officer also has discretion at this stage to invite comments from any other person or body s/he thinks necessary. The Monitoring Officer may decide to consult the Independent Person if s/he considers it appropriate.

Possible actions available to the Monitoring Officer:

- Where the Monitoring Officer is of the view that the complaint, if proven, would not amount to a breach of the Members Code of Conduct, s/he will not progress the matter further. If the complaint is primarily about a corporate decision or a service complaint, it will be referred for handling under the Council's general complaints procedure. If a complaint appears to be trivial, malicious or politically motivated, it is unlikely that any further action will be warranted.

- Whilst the complaint, if proven, could amount to a breach of the Members Code of Conduct, the Monitoring Officer may take the view that it would not be proportionate for any further action to be taken, bearing in mind the penalties available to the Council, or that action would not serve any public benefit. In such circumstances, the Monitoring Officer could decide that no further action will be taken.
- Seek to resolve the matter through informal resolution. This may involve asking the Member to deal directly with the complainant to resolve the matter, or the Monitoring Officer taking such action to conciliate or mediate the complaint as may be appropriate; or
- Prepare a brief report of the facts to the Group Leader of the Member's political party. The report would comprise findings of fact but would not make any recommendations about appropriate next steps. The Group Leader (or a person appointed by the Group Leader) would have the option of offering to resolve the complaint on an informal basis.

Once the initial assessment is complete, the MO will write to the complainant to inform them of his/her decision and give reasons for it. This response should take place within a maximum of 15 working days of receipt of the complaint.

## B) Investigation

If the Monitoring Officer decides that a complaint merits formal investigation, taking into consideration the seriousness of the complaint and the sanctions available to the Council, s/he may appoint an Investigating Officer (IO) to produce an independent report. This may be a senior member of the Council's staff or an external investigator. Any decision to appoint an IO should only be taken after discussion with the appropriate Group Leader.

The IO will decide whether to speak to the Member concerned, the complainant and to any other witnesses and may collect written evidence, such as correspondence, or minutes of meetings. The Member who is subject to the complaint can request the view of an Independent Person. This should be an Independent Person not involved in the decision to investigate the complaint.

After concluding the investigation, the IO will produce a draft report with conclusions that will be circulated in confidence to the complainant and the Member for comment. Both will have the opportunity to identify elements within the report that they disagree with and believe require further consideration.

After taking any comments into account, the IO will send a final report to the MO stating agreed facts; facts not agreed and corresponding conflicting evidence; and a conclusion as to if there has been a breach in the Code.

## C) Consideration of Independent Investigation

The Monitoring Officer will send a copy of the report to the Group Leader and the Independent Person and seek their views on whether to refer the complaint to a sub-committee of SABPAC. The Group Leader will take the final decision. Possible steps include:

- The MO can ask the IO to reconsider their report if not satisfied the investigation was conducted properly.
- If the report concluded that there was no evidence of misconduct, the Monitoring Officer may write to the parties to say that the investigation has concluded and that no further action will be taken.
- If the report concluded that there is evidence of a breach of the Code, the Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, s/he will consult with the Independent Person, the Group Leader and the Complainant and seek to agree a fair resolution. If resolved, the Monitoring Officer will report the matter to Regulatory & Audit Committee but take no further action.
- If the report concluded that there is evidence of a breach of the Code, and the Group Leader agrees that a hearing is appropriate, the Monitoring Officer may arrange for the SABPAC sub-committee to hold a meeting, within three months of the Investigator's final report being issued, so that it can take a decision on the complaint.

## E) Hearing

The Monitoring Officer would make available to the Sub-Committee the Investigation report, and where possible, a list of issues to be determined which has been agreed by both parties. The Sub-Committee would have discretion to decide whether to take

evidence in writing or in person from the complainant and the subject member and whether or not to take evidence from other parties at any consideration.

When giving evidence in person to the Sub-Committee, the complainant and the subject member could bring along a friend/lay person to support them. The subject member also has the right to consult an Independent Person not involved in the proceedings about any aspect of the case.

Where a member is found by the Sub-Committee to be in breach of the Code of Conduct, the Sub-Committee could, if they so decided, pass a resolution of censure or make recommendations to the relevant Group Leader/Political Group or to the full Council about any other action to be taken.

All decisions following a hearing should be published on the council's website; subject to the right of a subject Member to request non-publication in any case where there is a finding that the Code of Conduct has not been breached. All informal resolutions will be reported by the Monitoring officer to the Council's Regulatory and Audit Committee annually.

At any time during the consideration of a matter the Monitoring officer, after consultation with the appropriate Group leader, may decide that it is not proportionate, bearing in mind the sanctions available

## **6. Appeals**

There is no right of appeal for the complainant or for the member against a decision of the Monitoring Officer or of the SABPAC Sub-Committee. However a Member may require that a further Member Conduct meeting reviews any sanction imposed at a hearing.

Where a complainant concludes that the authority has failed to deal properly with a complaint they may make a complaint to the Local Government Ombudsman



### Explanatory Notes

- **Definition of an allegation of misconduct against Councillors:** a complaint made against a Member of the Council *alleging that they have broken the Council's Code of Conduct for Members*. Complaints can be made by anyone.
- **Monitoring Officer:** a senior officer with a statutory responsibility for maintaining the Members' Register of Interests, and a non-statutory responsibility to administer the Council's complaints procedures against Councillors.
- **Independent Person:** an Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by the County Council.
- **The Investigating Officer:** this role can be taken on by a senior officer or external person.

## **E Protocol on Member/Officer Relations**

### **INTRODUCTION**

- 1.1 A good relationship between Members and Officers is characterised by mutual respect and trust, and is essential to the successful working of the organisation. Member and Officers speak to each other openly and honestly. Nothing in this Protocol is intended to change this relationship.
- 1.2 The purpose of this Protocol is to help Members and Officers perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. The Protocol also gives guidance on what to do on the rare occasions when things go wrong. Responsibility for the operation of this Protocol lies with the Chief Executive of the Council and the Monitoring Officer.
- 1.3 The Protocol must be read and operated in the context of all relevant legislation, national and local Codes of Conduct, the Council's Operating Framework, and other supporting procedures such as the Complaints and Whistleblowing procedures, commissioning and procedure for confidential reporting.

### **2.1 Roles of Elected Members and Officers**

The respective roles of elected Members and Officers can be summarised as follows:

Elected Members and Officers are servants of the public and they are indispensable to one another. Their responsibilities are distinct. Elected

Members are responsible to the electorate and set policy and direction. Officers are responsible to the Council. An Officer's job is to give advice to the Council, and to carry out the Council's work under the direction and control of the Council, the Executive, and relevant committees, etc.

Mutual respect and co-operation between Members and Officers is essential to good local government.

## 2.2 **Elected Members**

Elected Members have the following main areas of responsibility:

- contributing to determining the policy of the Council and giving it leadership,
- monitoring and reviewing the performance of the Council in implementing that policy and delivering services,
- representing the Council in their local areas and externally,
- acting on behalf of their constituents.

All Elected Members should respect the impartiality of Officers' information and advice, must not ask them to undertake work of a party political nature, or to do anything that would put them in difficulty in the event of a change in the political composition of the Council.

Elected Members should recognise that no Officer should be expected to give political advice, and those that are in 'politically restricted' posts are specifically debarred from engaging in active political work.

When dealing with Council business, Members should be mindful of the provisions relating to interests in the Local Code of Conduct, and avoid involvement in matters that could be deemed to be breaches of these provisions. Members should also be aware of legislative constraints on their behaviour. For example, they should not visit certain Council establishments without the appropriate checks having been completed.

## 2.3 **Members of the Executive and Chairmen**

Members of the Executive and Chairmen and Vice Chairmen of Committees, Boards, Panels etc. have additional responsibilities and their relationships with Officers may be different from, and more complex than those of Members without those responsibilities.

## 2.4 **Officers**

An Officer's role is:

- to give advice and information to all Members on an impartial basis and
- to implement the policies determined by the authority, provided the policies are within the law.

In all advice, including reports, it is the responsibility of the Officer to express his/her own objective advice in a professional manner, and make recommendations based on these. An Officer may report the views of individual Members on an issue. If the Member wishes to express a view contrary to the recommendation, he/she must not pressure the Officer to make a recommendation contrary to the Officer's professional view.

Certain Officers e.g. Chief Executive of the Council, Monitoring Officer and Chief Finance Officer (Section 151 Officer) have responsibilities in law over and above their obligations to the Council and to individual Members. These obligations should be respected. These Officers must not be obstructed in the discharge of these responsibilities, and/or be victimised for discharging these responsibilities.

### **3 Expectations**

#### **3.1 Members can expect from Officers:**

- a A commitment to the Council as a whole, and not to any political group
- b A working partnership
- c An understanding of and support for respective roles, workloads and pressures
- d Timely response to enquiries and complaints
- e Objective advice, not influenced by political views or preference, which does not compromise the political neutrality of Officers
- f Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold
- g Awareness of and sensitivity to the political environment
- h Respect, courtesy and dignified behaviour appropriate to the occasion
- i Training and development in order to carry out their role effectively
- j A high level of integrity and confidentiality, appropriate to the situation
- k Not to have Officers' personal issues raised with them outside the agreed procedures
- l That they will not attempt to influence improperly any Member to advance Officers' personal interests, those of others, or influence improperly a decision
- m At all times compliance with the Code of Conduct for Officers
- n Support for the role of elected Members as the local representatives of the Council, within any scheme of support for Members, which may be approved by the authority.

3.1.2 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the division or divisions affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the divisional Members should be notified at the outset of the exercise.

3.1.3 Correspondence between an individual Member and an Officer should not be copied by the Officer to any other Member without that Members' consent. Officers should not be copied into political group correspondence.

3.2 Officers can expect from Members:

- a A working partnership
- b An understanding of and support for respective roles, workloads and pressures
- c Leadership and direction
- d Respect, courtesy and dignified behaviour appropriate to the occasion
- e A high level of integrity and appropriate confidentiality, appropriate to the situation
- f Not to be subject to intimidation or bullying
- g Not to have Members' personal issues raised with them outside the agreed procedures
- h Not attempt to influence improperly any Officer to advance their personal interests, or those of others, or influence improperly a decision
- i That Members will at all times comply with the Council's local Code of Conduct for Members
- j Members not to comment adversely on the conduct or capability of an individual Council employee at meetings held in public

3.3 Limitations upon behaviour

The distinct roles of Members and Officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- a Close personal relationships between Members and Officers can confuse these separate roles and get in the way of the proper discharge of the Council's functions, not least in creating the perception in others that a particular Member or Officer may secure advantageous treatment. Where close personal relationships do exist it is necessary to ensure that confidential knowledge is respected and not discussed inappropriately.
- b The need to maintain the separate roles means that there are limits to the matters on which Officers should be expected to give advice.

Officers are unlikely to be able to give advice on personal matters and should not give advice on party political matters.

- c Relationships with particular individuals or party groups should not be such as to give cause for suspicion that an Officer favours that Member or group above others. The issue of Officer attendance and advice to political groups is specifically covered below.

## **4 Political Groups**

4.1 The operation of political groups is now an integral feature of local government, and such political groups have an important part to play in the development of policy and the political management of the Council. It is in the interests of the Council to support an effective operation of political groups, but the operation of political groups can pose particular difficulties in terms of the impartiality of Officers.

### **4.2 Officer Attendance**

- a Any political group may request the Statutory Officers, Managing Directors, Service head, or relevant senior officers to attend a meeting of the group to advise on any particular matter relating to the Council.
- b An Officer may decline a request to attend if he/she is of the opinion that the particular issue is of such a political nature that it would be inappropriate to attend.
- c Officers' advice to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the Council. Advice will not deal with any political implications of the matter or any option, and Officers will not make any political recommendation to a political group.
- d Where an Officer attends a political group, the Chief Executive of the Council will advise all other groups that the Officer has attended and the subject upon which he/she has advised, and ensure that other groups are afforded the same opportunity.
- e Where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee or Sub-Committee where the matter in question is concerned.
- f Officers will respect the confidentiality of any lawful matter, which they hear in the course of attending a political group meeting.

## **5 When Things go Wrong**

From time to time the relationship between Members and Officers may break down or become strained. If this is the case, matters may be resolved informally, or through conciliation by an appropriate senior manager or Member. It is hoped that most issues will be dealt with informally where possible.

a. Procedure for Officers

Before an Officer commences formal proceedings such as the Grievance Procedure, he/she should consider raising their concerns about the relationship with a given Member with the Leader or Deputy Leader of the Council. Officers also have recourse to the Grievance Procedure, Whistleblowing, or to the Council's Monitoring Officer, as appropriate to the circumstances. Should a grievance or complaint be upheld, the matter will be referred to the Chief Executive, who, having advised the Leader of the Council and the appropriate group leader, will decide on the course of action to be taken. Such action could include limiting a member's access to named Officers only or limiting access to Council offices.

b. Procedure for Members

Prior to a Member approaching the relevant senior officer, the Member should consider discussing the issue with the Deputy Leader of the Council or another appropriate Officer. In the event that a Member remains dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with an appropriate senior officer. Where the Officer concerned is a senior officer, the matter should be raised with the appropriate Managing Director. Where the Officer concerned is a Managing Director, the matter should be raised with the Chief Executive. Where the employee concerned is the Chief Executive, the matter should be raised with a Managing Director. If the matter cannot be resolved informally, it may be necessary to invoke the Council's Disciplinary Procedure.

## **F Buckinghamshire County Council Local Code of Conduct for Elected Members and Officers Involved in the Consideration of Planning Matters**

### **Interpretation of this Code**

- 1 a "Member" means an elected member of Buckinghamshire County Council.
- b "Committee" means any Committee or sub-committee of the County Council which determines any planning matter or is involved with a decision relating to any planning matter.
- c "Planning matter" means any matter in relation to which a decision is to be taken by a Committee of an officer under delegated powers under the Planning Acts and which is defined as a Council function under the Constitution.
- d "The Planning Acts" means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990 and the Planning (Consequential Provisions) Act 1990 and any subordinate legislation made thereunder and any subsequent legislation and consolidating acts.

- e “Council development” means any development proposed by the County Council which requires planning permission.
- f “The Member Codes” means the County Council Code of Conduct for Members included in the County Council’s Constitution and including any protocols included in the Constitution.
- g The meaning of Pecuniary Interest and Non\_ Pecuniary Interest shall have the meaning given in the Member’s Code of Conduct set out in the Constitution.
- h “The Officer Code” means the County Council code of conduct for Officers of the County Council included in the County Council’s Constitution.
- i “Person” includes body corporate or unincorporate.

**General**

- 2 All Members involved in reaching decisions on planning matters or consulted regarding planning applications to be decided by officers shall declare that they will be bound by this Code.
- 3 This code is supplementary to the provisions of the Member Codes and the Officer Code and is to be read in conjunction with both the aforementioned codes.
- 4 All Members involved in reaching a decision on any planning matter shall act at all times in accordance with the Member Codes, in addition to the terms of this Code. All Officers involved in reaching a decision on any planning matter shall act at all times in accordance with the Officer Code, in addition to the terms of this Code.
- 5 If in any decision on a planning matter an inconsistency arises between this Code and the Member Codes or the Officer Code, the issue shall be determined in accordance with this Code, except where to do so would be inconsistent with a statutory provision contained in one of those codes.
- 6 The purpose of this Code, in conjunction with the Officer and Member Codes, is to ensure that planning decisions are made openly, fairly, impartially, with sound judgment and for justifiable reasons. Any Member who considers they are unable to act in accordance with these aims shall not sit on a Committee. Any officer who considers they are unable to act in accordance with these aims shall not be involved in the determination of any planning matter.
- 7 A Member shall not form a final view on any planning matter until it is debated at a Committee meeting. Any Member who is unable to act in this manner shall not sit on a Committee.

**Declarations of Interest**

Before either speaking or voting, Members of a Committee shall declare any Pecuniary Interest or Non-Pecuniary Interest in any matter under discussion in accordance with the terms of the Member’s Code of Conduct.

9

10 Members who are unsure whether an interest should be declared shall seek advice from the Monitoring Officer. The final decision on the status of any interest shall remain with that Member.

11 Members who have been involved within the County Council in promoting any Council development (e.g. relevant Cabinet Members) which is brought before a Committee as a planning matter shall consider whether they are unable in the circumstances to take a fair view of the development in question. If they are unable to reach such a decision, they shall abstain from further involvement in the planning matter and remove themselves from the room.

12 Officers shall maintain their professional integrity and avoid becoming associated with any person interested in any planning matter



## **Lobbying of Councillors/Members' Procedures**

- 13 Members may, in accordance with the following rules, accept lobbying from persons interested in a planning matter.
- 14 When being lobbied, a Member shall not express an opinion which might be taken by the public as indicating that they have already made up their mind on an issue before they have heard all the evidence and arguments.
- 15 Members may listen to any views expressed by any person interested in a planning matter. However, the Member should not comment or express an opinion on those views, or on any other aspect of the planning matter, unless it is to:
  - a give procedural advice, where he/she feels competent to do so;
  - b suggest that those doing the lobbying write to the Head of Spatial Planning so that their views could be reflected in any relevant Committee Report.
- 16 Members **can form a view** on any Planning Matter. In any circumstance covered by paragraph 15 a Member shall always indicate that any final decision will rest with the Committee and that he/she will not reach a final decision on the planning matter until it is determined at that Committee.
- 17 Before either speaking or voting at the Committee, a Member shall declare any significant contact between themselves and any person interested in a decision on any planning matter. Further, they shall declare any information which has been passed to them which is relevant to the deliberations of the Committee.
- 18 All Members shall avoid belonging to any pressure group actively campaigning for or against any decision on a planning matter and organising campaigns for or against any such decision. If a Member has joined such a group or has assisted or been involved in the organisation of any such campaign, the Member shall declare such at the meeting and not vote on the application in question, or similar proposal. In such circumstances, the Member will be entitled to make representations to the Committee in the manner dealt with at paragraphs 24 - 31. If the member has been involved in their capacity as local member, this should be declared to the Committee.
- 19 Members should avoid meeting alone with any applicant (or any agent or representative of an applicant) seeking a determination of the Council on any planning matter. In particular, no such meeting should take place at the applicant's premises or the site which is the subject of the application.
- 20 Members shall not lobby colleagues of any Committee or put pressure on officers to support a particular viewpoint or to make a particular recommendation concerning a planning matter.
- 21 Members shall not give any indication of how they might vote on a planning matter in advance of a Committee meeting.

- 22 Political groups within the Committee are entitled to meet prior to a Committee meeting. Meetings of such groups shall not be used to agree how Members shall vote or decide on any planning matter.

### **Written Representations on Planning Applications**

- 23 Any written representations in support of or against any proposal must be received at least one clear working day in advance of the relevant meeting. The Committee shall not disregard any representations received less than one working day before the date of the meeting if the Committee have had adequate time to consider the contents of such representations. If the Committee have not had adequate time to deal with such comments the Committee may, in its discretion, defer consideration of the planning matter to enable them to consider the representation or may determine the planning matter without regard to such representation.

### **Representations at a Committee Meeting**

- 24 The Committee shall, subject to rules and procedures to be subsequently agreed by the Development Control Committee, allow a person who is interested in any planning matter to speak at any Development Control Committee meeting at which that planning matter is being considered.

### **Officers Reports**

- 25 Officer reports shall be accurate and include:
- a a fair and reasonable - summary of objections and representations received and the views of consultees;
  - b a clear exposition of the development plan policies relevant to the planning matter;
  - c any relevant planning history;
  - d a technical appraisal of the issues which supports the recommendation.
  - e a clear recommendation;
  - f any other relevant information.
- 26 Late information should be presented by an oral update or supported by written documentation. The content of any oral update or further written documentation submitted shall be carefully minuted.
- 27 If the officer recommendation is contrary to the development plan, the material considerations justifying an exception shall be clearly stated.

### **Briefings**

- 28 The Chairman and Vice-Chairman of the Committee shall attend a briefing with officers prior to Committee only for the purpose of enabling such members to effectively govern the Committee meeting.

### **Committee Procedure**

- 29 The Committee shall have the right to defer consideration of any planning matter at its discretion.

### **Minuting of Reasons for Refusal or Granting Permission**

- 30 The Monitoring Officer shall ensure that the detailed reasons for refusal or grant of any planning matter shall be recorded in the minutes of the meeting.
- 31 The minutes relating to a planning matter which is determined in accordance with an officer's recommendation shall refer to the officer's report and any additional supporting information.
- 32 If the Committee is minded to reach a decision contrary to the recommendation contained in an officer report, or if it appears to a relevant officer that it might do so, the relevant officer shall be given the opportunity to explain the implications of any such decision. **The Committee is required in such circumstances to give reasons for not agreeing to the officer recommendations.**

### **Contact between Officers and Applicants and Other Interested Persons**

- 33 Planning officers may discuss with any applicant who is seeking a decision on any planning matter or with any other person interested in any such planning matter, the content of such application. Any comments or views expressed by an officer shall be limited to:
- a procedural matters
  - b seeking clarification of the applicant's intentions
  - c advice on any relevant policies or other material considerations that the Committee may need to address.
- 34 The officer shall make clear to such persons at the outset of any discussions that the views expressed by the officer cannot bind the County Council in any future decision. Officers taking part in such discussions shall make it clear to the other party where the ultimate decision will be taken.
- 35 Advice given by an Officer should be consistent with the Development Plan and other material considerations.
- 36 Officers shall ensure that any advice given is neither partial nor seen to be.
- 37 A written note shall be made of such discussions, whether undertaken by way of a meeting or a telephone conversation, and placed on file and, where the Officer considers that the meeting may be contentious in the future, a follow-up letter should be sent which confirms the content of the discussion. Any similar letter received from a person present at the discussion shall be responded to. All such documents shall be placed on the public record for that planning matter, unless confidential information is disclosed.

### **Training for Members**

- 38 Unless the Committee agrees otherwise, before a Member votes as a member of any Committee, the Member shall have received and be certified by the Head of Spatial Planning as having received such basic training in planning law, procedure and policy as the County Council shall provide.
- 39 Any Member of a Committee shall obtain refresher training in planning law, policy and procedure after the Member has sat on a Committee for a full year and before the Member reaches any further decisions on any planning matter.

### **Applications Submitted by Members or Officers, Applications in Which They Have an Interest and the County Council's Own Development**

- 40 Any Member who acts as an agent for any person pursuing a decision of the Council in any planning matter shall play no part in the decision-making process.
- 41 Any Member or officer who has a personal or professional interest in the outcome of any planning matter which falls to the County Council to determine shall play no part in the determination of such matter.
- 42 Applications falling within either of the above categories shall be determined by the Committee and not by officers acting under delegated powers.
- 43 All applications falling within the above categories shall be reported to the County Council's Monitoring Officer. The Monitoring Officer shall record how the application was processed.
- 44 Any application made by the County Council for the determination of any planning matter shall be treated in the same manner as those submitted by any other person and, in particular, members responsible for promoting County Council developments should not lobby Development Control Committee members for a particular outcome.

### **Site Visits**

- 45 In respect of planning applications, formal site visits shall be held where:
- An application raises significant Local Interest, or
  - An application raises issues which are difficult to visualise from plans, photographs other supporting material and written reports, or
  - The Local Member or the member of an affected ward shows significant cause for a site visit to be made, and
  - The Chairman (or Vice Chairman) of the Development Committee, in consultation with the Head of Spatial Planning (or nominated representative) considers that there would be significant benefit for members in viewing a site for themselves.
- 46 A record should be kept of why a site visit is called and the names of the members attending. Site visits should be the exception rather than the routine as they can potentially cause delay and additional cost.

- 47 The following site visit practice shall apply:
- Formal site visits may be attended by members of the Development Control Committee (or substitutes) and the local member for the site in question.
  - Members shall be accompanied by a planning officer.
  - Such visits should be for viewing purposes only for members to place the application in its locational context, including, for example, the potential impact on any sensitive landscape, or to familiarise themselves with application details.
  - Unless there are overriding safety considerations, members should not be accompanied by, nor entertain any discussions with, or submissions or representations from, either applicants or their agents or third party representatives.
  - In exceptional circumstances, technical consultees e.g. highways engineer or archaeologist, may attend site visits.
- 48 The Committee shall not make any formal decision at the site visit and no Member shall reach a final decision on the planning matter to which the site visit relates on the site visit or before final consideration of the matter by the full Committee.

### **Confidentiality**

- 49 Members and officers shall not disclose confidential information which is prejudicial to the Council's interests, or its role as the local planning authority, and Members and officers shall not use such information for personal advantage.

### **Gifts and Hospitality**

- 50 Officers and Members shall not accept gifts or rewards or favours and, wherever possible, shall not accept, hospitality from any person interested in a determination on any planning matter.
- 51 If the acceptance of hospitality is unavoidable, the officer or Members should ensure it is of the minimal level and declare its receipt to the Council's Monitoring Officer. It will be for the officer or the Members to establish that the acceptance of hospitality was unavoidable.
- 52 The Officer or Member shall record with the Monitoring Officer any offer of any gifts or hospitality, whether accepted or not, and by whom such offer was made.

### **Public Meetings**

- 53 When an Officer or Member attends a public meeting or other event at which an applicant, or other person interested in a planning matter, expresses views in relation to an application, the Officer or Member shall make no comment on the merits of the matter or on any aspect of it, other than, if appropriate, to declare their interest as a Committee member and, exceptionally, to mention any aspect of the Council's policies that might be relevant to the application, if to do so might help clarify the issues to be presented to the meeting.

## **G Officers' Code of Conduct**

### **General**

- 1 The public is entitled to demand conduct of the highest standard from a local government employee. Employees will maintain conduct of the highest standard such that public confidence in their integrity is sustained. Public confidence in an employee's integrity would be shaken if there were the least suspicion, however ill-founded, that he/she could in any way be influenced by improper motives.
- 2 An employee's off-duty hours are his/her personal concern but the employee should not subordinate his/her duty to private interests nor put himself/herself in a position where duty and private interests conflict, or where public confidence in the conduct of the Council's business would be weakened.
- 3 Employees must not communicate the proceedings of any confidential meeting or the contents of any confidential document to the public unless required by law or expressly authorised to do so.
- 4 If an employee is aware that a contract in which he/she has a prejudicial interest, has been, or is proposed to be, entered into by the Authority, he/she must inform their Managing Director or relevant senior officer in writing. Where a Managing Director or Director has an interest in a contract, they shall inform the Chief Executive. If the Chief Executive has an interest in a contract, he/she shall inform the Monitoring Officer. (Attention is drawn to the provisions of the Local Government Act 1972, Sections 95 and 117).
- 5 Information concerning an employee's private affairs will not be supplied to any person outside the Council unless the consent of the employee is obtained first.
- 6 Any duty of confidentiality that an employee has in respect of their employment with the Council does not affect an individual's right under the Public Interest Disclosure Act 1998 to disclose certain information in a prescribed manner.
- 7 The Council believes that an employee should report any significant concern they may have about any aspect of service provision, or the conduct of employees, or members of the Council, or others acting on behalf of the Council without fear of victimisation. To enable employees to address such concerns the Council has developed a Whistleblowing Policy, which incorporates the provisions of the Public Interest Disclosures Act 1998. A copy of this policy is available on the Council's Intranet.

### **Politically Restricted Posts**

- 8 Under the Local Government and Housing Act 1989, a number of the Council's posts are politically restricted. Individual employees will be notified by their Director if their post is affected but in general the restriction applies to all posts that have a close working relationship with the elected members of the Council. The restrictions currently apply to:
  - i Candidates for public elected office (other than a parish or community council).

- ii Holding office in a political party.
  - iii Canvassing at elections.
  - iv Speaking or writing publicly (including producing artistic work) in a way that appears to be intended to affect public support for a political party.
- 9 There is an opportunity to appeal against designation as a Politically Restricted Post holder. Details are available from the Monitoring Officer.

### **Disciplinary Rules and Procedures**

- 10 Where misconduct of any nature is suspected or identified, including breaches of statutory requirements and Council policy, disciplinary action will be taken in accordance with the Council's Disciplinary Procedure, a copy of which can be obtained from the proper officer for Human Resources.
- 11 There is a separate Disciplinary Procedure for employees whose appointment is made by the Senior Appointments and Bucks Pay Award Committee. This procedure takes account of the Local Authorities (Standing Orders) Regulations 1992 made under the Local Government and Housing Act 1989. A copy of the procedure can be obtained from the proper officer for Human Resources.
- 12 The Disciplinary Procedure also sets out an employee's appeal rights in respect of disciplinary action.
- 13 School-based staff should refer to the School's Disciplinary Procedure.

### **Commercial Practices, Gifts and Hospitality**

- 14 Employees should never use their office for personal gain and should seek to uphold and enhance the standing of the Council by:
- a maintaining a high standard of integrity in all business relationships;
  - b fostering the highest possible standards of professional competence amongst those for whom they are responsible;
  - c declaring any conflicts of interest and taking appropriate action and advice wherever significant conflicts of interest preclude proper discharge of duties;
  - d complying both with the letter and the spirit of:
    - i the law;
    - ii the Council's Standing Orders and Financial Regulations and Instructions;
    - iii the Operating Framework and all Council Strategies, Policies and Procedures as listed in the Council's Policy Register, this includes all Human Resources Policies and Procedures in relation to gifts, hospitality, transactions, and commercially valuable information

- iv the Conditions of Service of Employees of the Council.
  - e rejecting any business practice which might reasonably be deemed improper.
- 15 The following guidelines express the obligations of employees which exist in legislation or are expressed or implied conditions of appointment, further details are set out in relevant Human Resources Procedures in the Employee Handbook.

### **Gifts**

#### *Gifts by way of Inducement or Reward*

- 16 The Bribery Act 2010 prohibit individuals from soliciting or receiving any gift or consideration of any kind from contractors or their agents, or from any organisations, firms or individuals with whom they are brought into contact by reason of their official duties, as an inducement or reward for:
- a doing or refraining from doing anything in their official capacity; or
  - b showing favour or disfavour to any person or firm in their official capacity.
- 17 The Bribery Act 2010 automatically assumes that gifts or considerations are corrupt and where public sector contracts are concerned it is for the individual to prove otherwise. Because of this, it is good practice for individuals and managers to keep a simple record of any instances which might later be open to misinterpretation, e.g. the return of an unsolicited gift or offers of excessive hospitality etc.
- 18 It should be noted that offers of inducements of gifts include promotions such as:
- a competitions where entries are based on the Council purchasing items or services as a qualification;
  - b other free gifts associated with the placing of orders; and
  - c gifts based on attendance at exhibitions or seminars on behalf of the Council.
- 19 For example, free gifts based on the collection of coupons or vouchers from the packaging of items purchased with Council funds would not be acceptable unless the gifts were clearly applicable to the establishment or the Council and not the individual.

#### **Casual Gifts**

- 20 Although casual gifts offered by contractors or others, for example at Christmas time, may not be in any way connected with the performance of duties so as to constitute any offence under the Bribery Act 2010, such offers should be



politely but firmly declined and the relevant senior officer informed. The only gifts which may be accepted are calendars, diaries and other simple items of office equipment of modest value, and then only if they bear the company's name or insignia. In any case of doubt, the relevant senior officer should be informed. In the case of Director, the Managing Director should be informed.

### **Hospitality**

- 21 The utmost discretion should be exercised in accepting offers of hospitality from contractors, potential contractors or their representatives, or from other organisations or individuals involved in commerce. Whether hospitality can suitably be accepted depends on the nature and on the circumstances. A precise rule cannot be laid down. Generally speaking all hospitality, including reciprocal hospitality, should be such as would be seen to be reasonable and appropriate in the circumstances. Those in contact with contractors etc should be on their guard against accepting hospitality which might later lay them open to allegations of a lack of independence and impartiality. In all cases of doubt advice should be sought from the Managing Director or relevant senior officer. Where a Director or senior officer is personally involved, he or she should inform the Managing Director.
- 22 Hospitality which is at an appropriate low level as part of a sales demonstration or technical instruction is acceptable, although significant "prizes" or overnight hospitality would not be.
- 23 Purely social or sport-connected functions which have no instructional or professional content are not acceptable. This covers events held outside contractual hours of work e.g. during holidays or at weekends as well as in work-time.
- 24 Directors and relevant senior officers should maintain a record of all gifts or hospitality offered to or received by them and their staff. Managing Directors and the Chief Executive should register such instances with the Monitoring Officer.

### **Private Transactions**

- 25 Those having official dealings with contractors and other suppliers of goods or services should avoid transacting any kind of private business with them by any means other than normal commercial channels. No favour or preference as regards price or otherwise which is not generally available should be sought or accepted. For example, Cash and Carry Cards obtained for the Council or establishment must not be used for private purchases.
- 26 The purchase of goods or services for private purposes through County Council funds or using official order forms, Council headed paper or any other formal County Council documentation is not acceptable, even if the individual reimburses the Council.

## **Transactions between Employees and the Council**

- 27 Because of the allegations that can so easily be made, sales and purchases of goods and services between employees and the Council should, as a matter of principle, be avoided. If there are special reasons for departing from this basic rule in a particular case, then the prior approval of the Director should be obtained and the Council's Standing Orders as to Contracts should be adhered to strictly. In all such cases Service Directors or relevant senior officers will particularly wish to ensure that the terms of any arrangement are, and are seen to be, established in open competition and represent the best terms available for the Council.
- 28 If it comes to the knowledge of any employee that a contract in which he/she has any personal or prejudicial interest, whether direct or indirect, has been or is proposed to be entered into by the Council, he or she should, as soon as practicable, give notice in writing to the Director or relevant senior officer. Where a Director is involved, the Managing Director should be informed. A record of interests should be made in a register maintained in accordance with the "Guidance notes" issued by the Chief Finance Officer.
- 29 If an employee is uncertain about a particular circumstance he/she should seek further advice from his/her Director or relevant senior officer.
- 30 A Council employee should declare to their Director or relevant senior officer a potential conflict of interest if they or their spouse are employed by or have a financial interest (such as directorships or significant shareholding) in an organisation having or potentially having a contract with the Council.
- 31 In certain circumstances employees may be asked to sign a declaration not to disclose information obtained as a result of their employment prior to terminating their employment with the Council. This might apply, for example, to an employee previously negotiating a contract with a company which he/she subsequently joins.
- 32 Where a decision is to be made concerning a purchase or sale involving an employee, it must be seen to be the case that no favour or advantage accrues to the employee. The individual concerned must take no part in the discussion or decision on the issue.
- 33 However well-intentioned they may be, offers, for example to carry out services such as minor repairs or decorations or to supply goods at "discount" or "nominal" charge by employees or "friends" of the organisation, should always be subjected to the competitive tests and procedures outlined above.

## **Protection of Commercially Valuable Information**

- 34 The following provisions should be observed:
- a Prices offered to the Council must, in no circumstances, be disclosed to anyone outside the Council;
  - b If it is necessary to discuss a contract or tender with any firm, extreme care should be taken to avoid disclosing any information which would be regarded as confidential and commercially sensitive, e.g. the position of

a firm in the order of tendering, a budget for the purchase or information of a technical nature received from another firm;

- c Those with access to commercially valuable information must be particularly careful not to reveal this information to suppliers' representatives who may try to obtain information about prices paid to their competitors under Council contracts.

#### **Action in the Event of Breaches**

- 35 A breach of the provisions of the Bribery Act 2010 renders those involved liable to possible prosecution and dismissal. A breach of this Code by an employee will also result in disciplinary action being taken including the possibility of dismissal. The Chief Finance Officer must be informed of any suspected breach.



## PART 6 - MEMBERS' SCHEME OF ALLOWANCES

### Scheme of Allowances

#### Introduction

- 1 This Scheme is governed by the Local Authorities (Members' Allowances) England Regulations 2003.
- 2 Elected Members of the Buckinghamshire County Council may claim basic allowances, special responsibility allowances, travelling and subsistence allowances for approved duties specified in this scheme. Appointed (non-elected) Members may claim travelling and subsistence allowances for approved duties specified in this scheme.
- 3 The phrase "total estimated allowances" means the total amounts estimated by the Head of Finance to be payable under this scheme for the payment of basic allowances and special responsibility allowances during the relevant financial year.
- 4 "Year" means the 12 months ending with 31 March.
- 5 The Scheme has four Schedules which are available on the Internet under a separate link.

Schedule 1 Special Responsibility Allowances

Schedule 2 Payment of Travelling and Subsistence Allowances

Schedule 3 Duties Excluded from the Allowances Scheme

Schedule 4 Rates of Allowances

[http://www.buckscc.gov.uk/bcc/constitution/members\\_scheme\\_of\\_allowances.page](http://www.buckscc.gov.uk/bcc/constitution/members_scheme_of_allowances.page)

#### Creation and Amendment of the Scheme

- 6 This scheme came into effect on 11 June 2001 and is reviewed regularly by the Independent Remuneration Panel. The schedules set out above are reviewed regularly by this Panel and updated accordingly in line with the overall provisions set out in this document (The Constitution) which set out the overarching rules on the Scheme of Delegations.
- 7 For changes in basic allowances, special responsibility allowances and financial loss allowances, new rates shall be payable from the date the amendment takes effect, in accordance with the Regulations.
- 8 The County Council shall be responsible for amending the scheme, having regard to the recommendations of the Independent Remuneration Panel.

### **Basic Allowances**

- 9 The Authority shall pay equally to each Member of the Authority a basic allowance of an amount specified in Schedule 4.
- 10 Where the term of office of a Member begins or ends in the course of a financial year entitlement will be apportioned in accordance with the Regulations.
- 11 Basic Allowances are subject to tax and national insurance deductions.

### **Special Responsibility Allowances**

- 12 The Authority shall pay each year to the Members of the Authority who are office holders and have special responsibilities by reason of the office(s) they hold, special responsibility allowances in accordance with Schedule 1.
- 13 Where a Member takes up or relinquishes any post that carries a special responsibility allowance in the course of a financial year the entitlement will be apportioned in accordance with the Regulations.
- 14 One or more of the following categories of special responsibilities in relation to the Authority must be met before special responsibility allowances may be paid:-
  - a Acting as leader or deputy leader of a political group within the Authority;
  - b Presiding at meetings of Cabinet, or a Committee, or Sub-Committee of the Authority; or a Joint Committee of the Authority and one or more other Authorities or a Sub-Committee of such Joint Authority;
  - c Representing the Authority at meetings of or arranged by any other body;
  - d Membership of a Committee or a Sub-Committee of the Authority which meets with exceptional frequency or for exceptionally long periods;
  - e Acting as the spokesman of a political group on a Committee or Sub-Committee of the Authority;
  - f Such other activities in relation to the discharge of the Authority's functions as require of the member an amount of time and effort equal to or greater than would be required on any one of the activities in a to c above.
- 15 Special responsibility allowances are subject to tax and national insurance deductions. Only one special responsibility allowance per member is payable.

### **Approved Duties**

- 16 Allowances are only payable to Elected Members of the Authority for the following approved duties:

- a Attendance at a meeting of the Council;
- b Attendance at a meeting of the Cabinet, any Committee/Sub-Committee, or Local Committee of the Council;
- c Attendance at a meeting of any section, panel, working party or other meeting authorised by the Authority or a Committee or Sub-Committee of the Authority or a Joint Committee of the Authority and one or more other authorities to which the member has been specifically appointed provided that it is a meeting to which Members of at least two political groups have been invited.
- d Attendance at a meeting of an association of authorities of which this Authority is a Member and to which the Member has been appointed by the Authority to represent the Council.
- e Attendance at ad hoc meetings with other authorities, organisations or bodies authorised by a Committee or Sub-Committee of the Authority, or the Monitoring Officer on the advice of the relevant Chairman and Vice-Chairman if this is not practicable.
- f Attendance at briefing meetings to which members of at least two political groups have been invited authorised by a Committee or Sub-Committee of the Authority, or the Monitoring Officer on the advice of the relevant Chairman and Vice-Chairman if this is not practicable.
- g Attendance at seminars and conferences arranged by the Council, a Committee or Sub-Committee of the Authority, or the Monitoring Officer on the advice of the relevant Chairman and Vice-Chairman if this is not practicable, with respect to any of its functions.
- h Attendance at specific visits arranged by the Council, a Committee or Sub-Committee of the Authority, or the Monitoring Officer on the advice of the relevant Chairman and Vice-Chairman if this is not practicable, with respect to any of its functions and where not all those Members attending are from one political party.
- i Attendance at a meeting of the bodies or authorities upon which the Member has been appointed by the Authority or a Committee or Sub-Committee of the Authority to represent the Council. (See Schedule 2)
- j Attendance while tender documents are opened in pursuance of any Standing Orders requiring a member or members to be present.
- k Attendance in connection with the discharge of any function of the Authority conferred by or under any enactment and empowering or requiring the Authority to inspect or authorise the inspection of premises.

### **Dependant Carer's Allowance**

- 17 The Carer's Allowance is open to all Members who are the main carers of dependant relatives. The Allowance will be paid where a Member requires care

provision for a dependant relative or partner to enable that Member to perform any of the approved duties as set out in the Members' Scheme of Allowances.

18 Dependants are defined as:

- Children aged 14 or less
- Relatives and partners requiring a carer to be in attendance

19 A Carer is defined as:

- Anyone over the age of 16 who is not part of the Member's household

20 The Allowance is payable for the length of the qualifying duty plus up to one hour each side to cater for travelling time.

21 The Allowance is reimbursement of actual costs incurred up to a maximum rate of £6 per hour.

22 All claims for Dependant Carer's Allowance must be submitted on the approved expenses claim form within two calendar months of the date on which the duty qualifying for payment is carried out. Receipts or contract details should be provided wherever possible.

## **Travelling and Subsistence Allowances**

### *General Provisions*

23 The term "Member" for the purpose of travelling and subsistence allowances applies to any person who is a Member of the County Council, or who is a Member of any Committee, Sub-Committee or Panel of the County Council, and so includes appointed Non-Elected Members of those bodies. The payment of these allowances is dependent upon the performance of an "approved duty" which is an attendance as a Member at a meeting of the County Council or of any other event approved by the body for the purpose of, or in connection with, the discharge of the functions of the body, or of any of its Committees or Sub-Committees in connection with an approved duty.

24 The rates for travel and subsistence allowances are specified in Schedule 4.

### **Allowances are Maxima**

25 The scales for all allowances are maxima and there is no obligation on any Member to claim any or all of the allowances.

26 A Member shall give notice in writing to the Monitoring Officer that he/she elects to forego any part of his entitlement to an allowance under the scheme.

### **Social Functions and Occasions**

27 Elected Members on occasions are invited or feel it necessary to attend functions or occasions which have a social element. No allowances are paid to Members of the Council on these occasions unless the Member is undertaking the performance of a positive duty and one of significant size, e.g. making a speech or distributing prizes when travel and subsistence allowances may be



paid. Merely to attend because the Member is interested or represents people in the district is insufficient to justify payment of any allowances.

### **Conference Expenses**

- 28 If attendance at a conference has been approved by the Authority, conference expenses which are obligatory and outside the control of the Member, will be paid in advance on request or will be reimbursed. These expenses will include the conference fee. The actual cost of accommodation, meals and the like, will only be met or reimbursed if it is part of the inclusive charge for the conference or it is a requirement of the conference or its organisers that the Member should stay at a particular hotel.
- 29 Travel and subsistence allowances are payable where appropriate.

### **Telephones**

- 30 Elected Members of the Council may claim the quarterly cost of the rental of a telephone and a contribution of up to £25 per quarter towards the cost of official calls.
- 31 Where a telephone has been installed for both business and private use and the rental is being reimbursed by the County Council, the payment will be liable to both income tax and national insurance contributions.
- 32 The contribution of up to £25 per quarter towards the cost of official calls is treated by the Inland Revenue and the Department of Social Security as a "round sum allowance". This is an allowance paid whether or not expenditure is actually incurred for business purposes and as such the payment will also be liable to income tax and national insurance contributions. If, however, Members identify the cost of business calls actually made then this element will not be subject to such contributions. In this case an itemised statement will be required showing each business call made and the cost, together with the telephone bill, in order to satisfy the requirements for "set off" by the government agencies.
- 33 Mobile phones are provided for senior office holders if required, with the cost of supply, rental and business calls being met by the Authority.

### **Avoidance of Duplication**

- 34 A claim for an allowance under the scheme or an allowance under any provision in sections 173 to 176 of the 1972 Act shall include, or be accompanied by, a statement signed by the claimant that no other claim has been, or will be made in respect of the matter to which the claim relates, including a claim to other Authorities.

### **Records of Payments**

- 35 Records of payments made to Members are available for inspection free of charge by any local government elector of the County.
- 36 A person entitled to inspect a record may make a copy of any part of it.

- 37 Details of total payments made to each Member for basic allowance, special responsibility allowance and Dependant Carer's Allowance shall be published as soon as practicable after the end of the year to which they relate.

## Claim Forms

- 38 All information requested on the claim form must be provided, including details of start and finish times, journeys made and meetings attended. (It is always advisable for members to make contemporaneous notes in their diary to assist in the completion of claims).
- 39 Claims for expenses should only be made when actually incurred, i.e. rail/bus, taxis, and hotel accommodation. Receipts should be provided.
- 40 Claims for the same expenses (mileage, travel and subsistence etc) must not be made from more than one body (see examples below for detailed guidance where meetings of more than one authority are being attended on the same day).
- 41 Claim forms should be completed and submitted to the Legal and Democratic Services Division, promptly and within seven working days after the end of each calendar month.
- 42 Payments for all allowances will be paid monthly in arrears on the submission of a claim form.



## CONSTITUTION GLOSSARY

*This glossary sets out the key terms used in the Council's Constitution.*

### A

**Annual Governance Statement** – This is a public statement which reviews the Council's compliance with its own governance arrangements and includes how that assessment has been made and how any identified weaknesses will be addressed.

**Annual Statement of Accounts** – See Statement of Accounts

**Anti-Fraud and Corruption Strategy** – This document aims to protect the Council's valuable resources by setting out the expectations and practices to avoid the loss of such resources.

**Asset Management Strategy** – This document sets out the approaches the Council will take to maximising the value it extracts from its fixed assets, such as property, roads and technology.

**Assurance** - This term refers to both the team of officers in HQ and the wider concept of assurance in providing a positive check that something is in place or been done.

**Approved Supplier List** - A list of suppliers that have met certain specified criteria to allow them to provide particular goods and services.

### B

**Budget** – the financial plan which sets out how the Council intends to finance its intended outcomes (defined by the Strategic Plan). The budget is agreed by full Council every February. It also acts to hold budget managers accountable for delivering the outcomes within the approved level of resources.

**Budget Adjustment** – A particular type of budget movement that is permitted either by prior decision, or by legal requirement.

**Business Unit (BUs)** - There are four Council BUs comprising teams of Council employees led by a Managing Director who will be accountable for the delivery of specific outcomes set out in BU Plans. A range of services will be under the remit of a Business Unit. The Business Unit may deliver outcomes through providing services directly through an in-house Delivery Unit or through contracting others or a combination of both.

### C

**Cabinet** – the Cabinet (also known as the Executive) is the strategic decision-making body of the Council. Cabinet is made up of a maximum of 10 elected

Members. The Cabinet is led by the Leader of the Council who can choose up to 9 other the other Cabinet Members to be responsible for specific 'portfolios'. Cabinet Members are sometimes referred to as 'Portfolio Holders'.

**Cabinet Member** – a Cabinet Member is a member of the decision-making Cabinet. Cabinet Members take decisions and are responsible for specific portfolios (for example Transport).

**Capital Investment Strategy** – The medium to long term plan which sets out the needs, rationale and approach the Council will take to investment in its asset base.

**Capital Programme** - The part of the Medium Term Financial Plan which sets out the capital projects approved by Council over a medium term multi-year period.

**Chairman of the Council** – the Chairman of the Council chairs the full Council meetings (which is Buckinghamshire is the 49 elected Members of the Council). In addition to chairing Council meetings, the chairman undertakes a range of civic and ceremonial duties. The Chairmen of the Council is a member of the non-executive and is assisted in their work by a Vice-Chairman.

**Chief Executive** – the Chief Executive is the local authority's most senior officer (employee) and is responsible for the management and direction of the Council's officers. The Chief Executive is accountable to the Leader of the Council, Cabinet and the Council as a whole, and line manages the Council's Managing Directors. The Chief Executive is designated as the Head of Paid Service.

**Chief Finance Officer** – Each local authority is required to appoint a Chief Finance Officer (CFO) by Section 151 of the Local Government Act. The CFO is the local authority's senior finance officer responsible for managing the Council's financial affairs and advising it elected members and officers on such matters. A major role of the Chief Finance Officer is to ensure that the Council produces a balanced budget each year. A Chief Finance Officer has to be a qualified accountant.

**Code of Conduct** – See standing orders of the Constitution which sets out the Council's Code of Conducts in relation to the conduct of Members and Officers.

**Commercial Agreement** – this means an agreement in which goods, services or other tasks are undertaken for some form of consideration typically monetary. This is also a type of contract.

**Commissioning** - Commissioning is the strategic activity of reconciling needs with available resources. It is the process of specifying, securing, monitoring services and commissioning / decommissioning to meet people's needs at a strategic level.

**Committee** - Within the Council this usually refers to a formal group whose remit and terms of reference are set out in the Council's Constitution.

**Constitution** –This document sets out the Council's overarching rules on how the organisation is run in line with legal requirements and matters of local choice as determined by Council.

**Contingent Liability** - A liability which may be incurred by the Council dependent upon a future uncertain event, e.g. a court case.

**Contract** - This means an agreement which:

- may be oral, written, partly oral and partly written or implied from conduct between the Council and another person;
- gives rise to obligations which are enforceable or recognised by law (i.e. legally binding); and
- commits the Council to paying or doing something;

and, where the context requires, a reference to a contract means a contract to which the Orders apply and a "**Call-Off Contract**" means an order made/call-off contract entered into under a Framework Agreement.

**Contract Management** - The process of ensuring the contract results in the benefits and outcomes envisaged and that the advantages secured during the tendering phase are realised and improved through further proactive performance management during its term.

**Contract Management System** - the IT system and associated processes used to support supplier management, providing visibility and a single view of all Council contracts. It is the Council's contract register.

**Contract Standing Orders** - The part of the Constitution that sets out the procedures to be followed when seeking to establish a contract with an external supplier. **Contractors**—Within the Council the term 'supplier' is normally used and means the same thing (see supplier definition).

**Council** – see full Council

County Council – The legal entity of Buckinghamshire County Council

**Councillors** – see Members

**Council Tax** – The income collected from local residents based on banded property values and which funds a significant proportion of Council services.

## D

**Debt Management Strategy** - this document sets out the approach the Council takes to managing sums of money it is owed arising from a range of different circumstances.

**Decisions** - Decisions are the choices and agreements on issues. The Council's Constitution sets out the rules on how formal council decisions are taken in line with statute. The Constitution includes a process for recording and publishing decisions to support public accountability on issues of significance.

**Delivery Unit** - A Delivery Unit is the front-line of service delivery, managed and commissioned by Business Units. Business Units may commission a variety of Delivery Units operating different models (e.g. Trust, community, external organisation or in-house service provision).

## E

**Elected Members** – Elected Members (often referred to as Members or Councillors) are the elected representatives (voted for every four years in County Council election) that make up the full Council. Currently there are 49 elected members. Members are accountable to the residents of their electoral division but are responsible for making decisions for the whole of the county. Elected Members do not have to represent a political party but most of them do at present.

**Executive** – see Cabinet

**EU Procurement Regulations** - means the Agreement on Government Procurement (GPA) entered into under the auspices of the World Trade Organisation; the European Community Treaty (EU Treaty) and any relevant regulations, directives or decisions of the European Community; any Acts of Parliament or statutory instruments implementing the aforementioned for the time being in force in the United Kingdom; and any relevant judgements of the European Court of Justice or UK courts.

**External Auditors** – the independent body appointed to review the Council's financial and management arrangements to provide the public with confidence that the accounts are fairly stated and that the Council offers good value for money.

**External Delivery Unit** - May be referred to as an 'alternative delivery vehicle'. These may include a range of delivery models such as a Local Authority Trading Company, Mutual, Social Enterprise, Joint Venture, Charitable Company, partnership or any arms-length arrangement to deliver services for the Council. A contract or agreement is in place for external delivery units.

## F

**Financial Regulations** – the Part of the Constitution that sets out how the Council will manage its financial affairs.



**Framework** - This is a term used in different ways to refer to the way that the Council operates for example the 'policy framework'; 'governance framework'; and 'commissioning framework'. It often refers to a suite of documents related to the same topic area but with different content and status.

**Framework Agreement** - This means a contract with a supplier(s) which establishes the terms and conditions under which Call-off Contracts can be made during the length of the Framework Agreement.

**Full Council** - Council (often referred to as full Council) refers specifically to the 49 elected members who make up the Council. More generally, the Council refers to the whole organisation of the local authority (i.e. both elected members and officers). full Council is chaired by the Chairman of the Council and takes decisions on the Strategic Plan and Budget.

## H

**Head of Paid Service** –This is a statutory officer with overall responsibility for the employment of staff in the Council (currently the Chief Executive).

**Headquarters (HQ)** - This is the Council's Headquarters. It is designed to be lean and provide lead advice to Cabinet on running the business. There are three functional areas within the HQ—Assurance, Strategy & Policy and Enterprise.

## I

**Internal Audit** - provides an independent and objective opinion to the organisation on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control.

**Internal Control** - The various means by which management ensures that what happens in practice is in line with what was intended to happen.

## L

**Leader of the Council** – The leader of the Council's largest political group (the controlling group) automatically is the Leader of the Council. The Leader of the Council can choose up to 9 other elected members from the Council to form a Cabinet to take decisions on behalf of the full Council. Currently BCC has a Cabinet of 8 members.

**Legislation** – Legislation is national law made by Parliament and takes the form of Acts of Parliament and statutory regulations.

## M

**Managing Directors** - Managing Directors are the most senior officers who run Business Units. Managing Directors are line managed by the Chief Executive and are accountable to Cabinet and Members.

**Medium Term Financial Plan** - This document sets out the Council's Budget (revenue and capital) over a period of more than one year. It is linked to the priorities and outcomes set in the Strategic Plan and Business Unit Plans.

**Members** - see Elected Members

**Monitoring Officer** - the Monitoring Officer is the statutory officer responsible for the good governance of the local authority, in particular the Constitution, how decisions are made, and the conduct of members and officers.

## **N**

**Non-Executive** - The non-executive is all the elected Members who are not on the Cabinet (the Executive).

## **O**

**Officers** – Officers are the paid employees (staff) working for the Council.

**Operating Framework** - This document sets out how Council employees based in the HQ and BUs will work together to achieve a one Council approach, including the distinct accountabilities and responsibilities of HQ and BUs.

**Overview and Scrutiny** – see Select committees

## **P**

**PAYE** – Pay As You Earn – the scheme which deducts tax directly from an employee's salary and passes this over to Her Majesty's Revenues & Customs.

**Pension Fund Strategy** – The document which sets out the approach to the investment of the Pension Fund

**Policy** - A document which sets out a set of principles that explains how strategic objectives are to be achieved and must be followed by all Council employees.

**Policy Framework** - This refers to all Council strategies, policies set out on the Council's single policy register.

**Procedure** – A document which sets out detailed operational information on how to implement strategies/policies, for example a process which must be followed.

**Procurement** - Procurement is the business management function that ensures identification, sourcing, access and management of the external resources that an organisation needs or may need to fulfil its strategic objectives. Procurement exists to explore supply market opportunities and to

implement resourcing strategies that deliver the best possible supply outcome to the organisation, its stakeholders and customers.

**Proper officer** – a term used to refer to the Authority's lead officer for a function whom is delegated to carry out this function in accordance with the Council's Scheme of Delegations.

**Portfolio holder** – see Cabinet Member

**Prudential Indicators** - The set of measures required by the code of practice for treasury management that ensures that the council's capital plans are prudent, affordable and sustainable.

## R

**Regulatory and Audit Committee** – The formal committee of the Council charged with considering matters relating to the Council's Constitution, Accounts, Risk Management and Governance arrangements.

**Reserves** – Sums set aside on the Council's balance sheet. The Council has both general reserves and earmarked reserves set aside for specific purposes.

## S

**Section 151 Officer** – This is the statutory officer responsible for organisational assurance on the Council's Financial Management (also known as the Chief Financial Officer).

**Select committees** – select committees comprise members of the non-executive and perform the Council's statutory overview and scrutiny functions. Select committees provide an independent check and challenge to decision-makers. At Bucks they do this through undertaking inquiries and making recommendations for improvements.

**Small and Medium Size Enterprises (SMEs)** - means businesses defined according to the number of employees they have and their financial position as to turnover/balance sheet: Micro-businesses are those with 0-9 employees with <€2m turnover and <€2m balance sheet total; small businesses have 0-49 employees and <€10m turnover and <€10m balance sheet total; medium-sized businesses have 50-249 and employees <€50m turnover and <€43m balance sheet total.

**Standing Committee** – Council Committees which are set up with no time limitation on their existence.

**Statement of Accounts** – the document, required by the Accounts and Audit Regulations, which sets out the Council's financial position at 31st March and income & expenditure for a given financial year.

**Strategy** - Sets out what the Council is aiming to achieve through a vision, set of aims, and medium to long term objectives and must be followed.

**Strategic Plan** - The highest level planning document of the Council, which sets out its key objectives and priorities.

**Suppliers** - Any parties that enter into a contract with the Council.

## **T**

**Third parties** - see Suppliers.

**Trading Account** – Services which are funded by generating income from internal and external sources

**Treasury Management Strategy** - The document which sets out the Council's approach to the management of cash, borrowing and lending/investments and the management of risks associated with that.

## **V**

**Virement** - a movement of budget from one budget heading to another.