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**SOUTH BUCKS**  
District Council

## Council (SBDC)

**Tuesday, 27 February 2018 at 6.00 pm**

**Council Chamber, Capswood, Oxford Road, Denham**

### **SUPPLEMENTARY AGENDA NO1**

Item

17. Review of the Council's Constitution

*Appendix: Constitution (Pages 3-322)*

**Note:** All reports will be updated orally at the meeting if appropriate and may be supplemented by additional reports at the Chairman's discretion.

**Membership: To all Members of the Council (SBDC)**

**Date of next meeting – Wednesday, 16 May 2018**

#### **Audio/Visual Recording of Meetings**

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**PART A**  
**THE FRAMEWORK OF THE CONSTITUTION**

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## 1. An Overview

South Bucks District Council operates in accordance with an agreed Constitution which sets out how decisions are made, who makes these decisions and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. In the event of any conflict between the Constitution and legislation, the legislation will prevail.

The Council is committed to providing effective Community Leadership which is open to the public and this Part of the Constitution sets out the framework for achieving and delivering this commitment. More detailed procedures, rules and codes of practice are provided in Parts B and C of the Constitution.

## ~~2. Duty to Monitor the Constitution~~

~~The Chief Executive will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.~~

~~The Chief Executive should be aware of the strengths and weaknesses of the Constitution adopted by the Council and should make recommendations for ways in which it could be amended in order better to achieve the purposes set out below. In undertaking this task the Chief Executive 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 authorities, or national examples of best practice.~~

## 3. Review and Changes to the Constitution

### 3.1 Duty to Monitor and Review the Constitution

The Council will constitute a Committee (called the Governance and Electoral Arrangements Committee) who will be responsible for monitoring and reviewing the operation of the Constitution and making recommendations to full Council on any proposed changes

### 3.2 Approval of Change to and within the Constitution

All cChanges to the Constitution will ~~only~~ be approved by the Full Council following consideration of the report and recommendations of the Governance and Electoral Arrangements Committee in relation thereto, with the exception of the following which may be made by the Monitoring Officer; taking into account advice from the Chief Executive.

- Changes to ~~reflect~~give effect to any decisions of the Council has made
- Changes in the law
- Minor amendments such as to correct errors; and
- To ensure the Constitution is maintained up to date.

Any change shall be communicated to all members.

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### **3.23 Change from a Leader and Cabinet ~~structure 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 an ~~elected Mayor and Cabinet structure~~ ~~Mayoral form of Executive~~, it can only be implemented after being approved in a local referendum.

## **4. Suspension, Interpretation and Publication of the Constitution**

The Council Procedural Rules set out in Part 2 of this Constitution may be suspended by the Full Council to the extent permitted within those rules and the law. A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out below.

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 set out below.

The Chief Executive will make available an electronic or printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.

The ~~Head of Legal and Democratic Services~~ ~~Chief Executive~~ will ensure the ~~Constitution is at copies~~ ~~are~~ available for inspection at ~~the Council Offices~~, and ~~as a free download from the Council's website, can be purchased by members of the local press and the public on payment of a fee to cover the cost of printing.~~

## **5. Purpose of the Constitution**

The purpose of the Constitution is to:

- Enable the Council to provide clear leadership to the community in partnership with residents, businesses and other organisations;
- Support the active involvement of citizens in the process of local authority decision-making;
- Enable Councillors to represent their constituents more effectively;
- Enable decisions to be taken efficiently and effectively;
- Create a powerful and effective means of holding decision-makers to public account;
- Ensure that no one will review or scrutinise a decision in which they were directly involved;
- Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- Provide a means of improving the delivery of services to the community.

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.

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## **6. How the Council Operates**

The Council is composed of Councillors elected every four years by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Commission for England approved by the Secretary of State. The current scheme for the election of 28 Councillors from 12 Wards was approved by the Secretary of State in January 2015 with implementation from the District elections in May 2015. Only registered voters of the District or those living or working there are eligible to hold the office of Councillor.

Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Once elected and before they can carry out their duties, Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake these duties. A copy of the Members Code of Conduct is included in Part 3 of this Constitution. Councillors are also required to observe at all times the Protocol on Member/Officer Relations also set out in Part 3 of this Constitution.

### **6.1 The Role of Councillors**

The key roles and functions of Councillors are to:

- Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- Contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making;
- Effectively represent the interests of their ward and of individual constituents;
- Respond to constituents' enquiries and representations, fairly and impartially;
- Participate in the governance and management of the Council; and
- Maintain the highest standards of conduct and ethics.

### **6.2 The Rights and Duties of Councillors**

Councillors have the following rights and duties when carrying out the above roles and functions:

- Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- Councillors will not make public information which is confidential or exempt (as defined in the Access to Information Rules in Part 2 of this Constitution) without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.

### **6.3 Allowances**

Councillors are entitled to receive allowances in accordance with the Members Allowances Scheme set out in Part 4 of this Constitution.

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#### 6.4 How Decisions Are Made and the Decision Making Structure

The chart in Part 7 of the Constitution shows the structures that make decisions and which collectively make up the decision-making process of the Council. The Council at its Annual Meeting appoints the Standing Committees which currently are:

- Planning Committee
- Licensing Committee
- [Personnel Committee](#)
- Overview and Scrutiny Committee
- [Audit and Standards Committee](#)
- [Governance and Electoral Arrangements Committee](#)

In addition to these Standing Committees the Council appoints the following Joint Committees:

- Chiltern and South Bucks Joint Committee
- [Joint Staffing Appointments and Implementation Committee](#)
- Evreham Sports Centre Management Committee

Members of the Cabinet are appointed by the Leader of the Council who is elected for a four year term at the Annual Meeting of the Council held after the District Elections.

These Standing/Joint Committees may set up Sub-Committees.

The Council, Cabinet and Committees can also delegate decisions to officers (see Part 5 of this Constitution).

#### 6.5 Political Balance

Seats on committees are allocated to Political Groups in proportion to their seats on the Council as explained in the Rules on Political Balance set out in Part 2 of this Constitution.

#### 6.6 Requirements ~~for To Be Met In~~ Making Decisions

Decisions made by these Committees, the Council, the Cabinet and any Sub-Committees, will be in accordance with the following rules set out in full in Part 2 of this Constitution:

- Council – Council Procedure Rules
- Cabinet – Cabinet Procedure Rules
- Overview and Scrutiny Committee – Overview and Scrutiny Procedure Rules.

#### 6.7 Principles of Decision Making

In the general public interest and specifically to guard against the possibility of successful legal challenge, decisions made by the Council, Committees, the Cabinet or by individual Cabinet Members, will demonstrate adherence to the following principles:

- That the decision is within the powers of the Council;
- That all relevant matters were fully taken into account in reaching decisions;

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- Proportionality - that in any decision the action [iswas](#) proportionate to the desired outcome;
- That Council Procedure Rules, Financial Procedure Rules, Contracts Procedure Rules and Access to Information Rules were complied with;
- That the decision has taken into account the provisions of the Human Rights Act;
- That the decision was taken with due consultation with, and the appropriate professional advice from all relevant officers;
- That any member concerned considered whether he/she had any declarable interest in the particular item and if necessary made a declaration of interest;
- That any scheme of delegation under which a decision is made had been complied with;
- That the process of decision making is [conducted](#) in an open and transparent manner;
- That the decision is clear in terms of its aims and desired outcomes;
- That the decision was taken in accordance with Council's aims and strategies;
- That the decision was properly recorded and published within the appropriate timescale, together with declarations of interest and background papers.

## **6.8 Decision Making By Council Bodies Acting As Tribunals**

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

## **7. Meetings of the Council, Standing/Joint Committees and the Cabinet**

### **7.1 Notice of Meetings and Access to Agenda Papers**

Apart from the Planning Committee, which meets monthly, the decision-making structures meet on a quarterly basis and the dates and times are given in a Calendar of Meetings posted on the Council's website. Meetings are held at the Council Offices, Capswood, Oxford Road, Denham, UB9 4LH, with a start time of 6pm unless the agenda indicates otherwise.

Copies of the agenda and reports due to be considered together with any background papers are made available on the Council's website five clear working days before the meeting and copies are available for inspection at the Council Offices. Copies will also be available at the meeting.

### **7.2 Attendance and Speaking at Meetings**

Members of the public may attend meetings except when confidential or exempt matters (as explained in the Access to Information Rules in Part 2 of this Constitution) are being considered. Any person attending a meeting may report on it using any communication method including photograph, filming, audio-recording, social media on the internet to publish, post or otherwise share the result of their report. A protocol for recording is set out at in Part 3 of this Constitution. Hereafter that part of a meeting open to the public will be referred to as the "open part of the meeting" with that part when confidential or exempt matters are likely to be considered being called the "closed part of the meeting".

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Public speaking is allowed at the Council, the Planning Committee and at Licensing Sub Committee hearings under certain circumstance but is not permitted at other Standing/Joint Committees and the Cabinet. Any Councillor may attend any meeting of the Cabinet but there is no right for non-Cabinet members to speak.

A Councillor who is not a member of a committee or sub-committee may attend any meeting and may speak (but not vote), at the discretion of the Chairman of the committee or sub-committee. A Councillor who is not a member of Planning Committee shall have the right to address the Committee on any application. Such address shall be limited to a total speaking time by non-members of not more than 5 minutes on each application.

### 7.3 Minutes of Meetings

The decisions taken at meetings are recorded in minutes which are published on the website.

### 7.4 Types of Decision

The Constitution recognises three types of decision as follows:

- 1) Decisions reserved to Council. Decisions ~~which relating to the functions below~~ will be made by the Council and not delegated are listed at 8.1.2 below.
- 2) Key and non-key decisions by the Cabinet, and non-key decisions by the Individual Portfolio Holders.
- 3) All other decisions taken by the Council or on its behalf and not included in (1) or (2) above.

### 7.5 Key Decisions

A key decision is defined by Regulation 8 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 to comprise any decision which is likely to:

- Result in expenditure or the making of savings which are significant, having regard to the budget for the function or service to which the decision relates; or
- Be significant in its effect on persons living or working in an area comprising two or more wards in the district.

Key decisions will only be taken in accordance with the requirements of the Cabinet Procedure Rules set out in Part 2 of this Constitution and will also be subject to the requirements of the Access to Information Procedure Rules, the Budget and Policy Framework Procedure Rules and the Overview and Scrutiny Procedure Rules all of which are set out in Part 2 of this Constitution.

For the purpose of the Regulation, the Council has defined a key decision as a decision which:

- 1) Has an income or expenditure effect of £50,000 or more.
- 2) Is likely to have a significant effect on more than one ward.

Excluded from (1) above are contracts for and expenditure on repairs, maintenance and improvements works within budget provision and approved policy where the contract or expenditure has either been properly and specifically approved by or on behalf of the Cabinet or

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by an Officer acting under delegated powers, except where Contract Standing Orders require the Cabinet itself to authorise acceptance of a tender and such acceptance has not previously been authorised or delegated by the Cabinet.

## 8. The Roles and Functions of the Decision Making Structures

The following sections describe the roles and responsibilities of the structures that make up the decision-making process.

### 8.1 The Council

#### 8.1.1 Membership

The Council comprises 28 members.

The quorum for a meeting of the Council shall be 7 members.

#### 8.1.2 Functions and responsibilities

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget and Council Tax each year. The Council appoints at its Annual meeting the Chairman and Vice-Chairman together with members of Standing/Joint Committees and Panels. The Council also appoints representatives onto Outside Bodies.

The Council as a decision making body is responsible for all those matters for the time being specified as functions not to be the responsibility of an authority's executive/cabinet in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as [amended from time to time](#) ~~and any other regulations amending, modifying and/or expanding same~~ and include:

- The functions of imposing any conditions, limitation or other restriction on an approval, consent, licence, permission or registration granted in the exercise of any of those functions and determining any other terms to which any such approval, consent, licence, permission or registration is subject.
- The function of determining whether and in what matter to enforce any failure to comply with an approval, consent, licence, permission or registration granted; any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject or any other contravention in relation to a matter with regard to which the function of determining an application, for approval, consent, licence permission or registration.
- The function of amending, modifying or varying any such approval, consent, licence, permission or registration or any condition, limitation or term to which it is subject or revoking any such approval, consent, licence, permission or registration.

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The Standing/Joint Committees referred to above are appointed by the Council to discharge these functions and duties (which cannot be delegated to the Cabinet) but only the Council can exercise the following functions:

- 1) Approving, adopting or amending the Constitution.
- 2) Approving, adopting or amending the Policy Framework or the Budget.
- 3) Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 2 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to/or not wholly in accordance with the Policy Framework and/or the Budget.
- 4) Appointing the Leader.
- 5) Agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them.
- 6) Appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council.
- 7) Adopting an allowances scheme as set out in Part 4 of this Constitution.
- 8) Changing the name of the District or conferring the title of honorary alderman.
- 9) Confirming the appointment of the Head of Paid Service, the Section 151 Officer ~~and~~ the Council's Monitoring Officer [and the Independent Person appointed under section 28 of the Localism Act 2011.](#)
- 10) Making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.
- 11) All local choice functions set out under the Cabinet which the Council decides should be undertaken by itself rather than the Cabinet.
- 12) Functions in relation to Full Council as specified in Schedule 1 to the Functions Regulations (set out in Part 5 of this Constitution) unless otherwise delegated:
  - a) Health and Safety at work
  - b) Elections
  - c) Name and status of areas and individuals.
  - d) Powers to make amend revoke or re-enact byelaws.
  - e) Power to promote or oppose local or personal bills.
  - f) Functions relating to pensions etc.
  - g) Miscellaneous functions (other than those e.g. Tree Preservation and Hedgerows delegated to the Planning Committee).
  - h) Approval of the Housing Strategy Statement and the proposed capital programme in connection with the Housing Investment Programme bid.
  - i) The appointment of any individual to a joint committee of two or more authorities and committee or sub-committee of such a body and the revocation of such an appointment.
- 13) All other matters which, by law, must be reserved to Council.

#### 8.1.3 Policy Framework and Budget

In connection with (2) above, the Policy Framework and Budget have the following meanings:

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- 1) Policy Framework – The policy framework means the following plans and strategies:
- a) [Chiltern and South Bucks Joint Sustainable Community Strategy](#)
  - b) [Chiltern and South Bucks Joint Business Plan](#)
  - c) [Corporate Plan](#)
  - ce) Plans and strategies which together comprise the [Local Development Plan](#), ~~/ the Local Development Framework and/Local Development Scheme but excluding supplementary planning documents~~
  - e) [South Bucks Community and Wellbeing Plan](#)~~Safety Annual Partnership Plan~~
  - f) ~~Community Cohesion Plan~~
  - g) ~~Contracts Procedure Rules, Financial Procedure Rules~~
  - h) Asset Management Plan;
  - i) [Buckinghamshire Tenancy Strategy](#)
  - j) Treasury Management Strategy
  - k) Medium Term Financial Strategy
  - l) [Joint Anti-Fraud and Corruption Policy](#)
  - m) ~~Joint Whistleblowing Policy~~
  - n) Housing Strategies and policies ~~comprising the (e.g. Housing Framework including the, Homelessness Strategy and Temporary Accommodation Strategy, Private Sector Housing Strategy and policy documents - Financial Assistance Policy, Empty Homes Policy, Home Energy Conservation Act Strategy, Choice Based Lettings Scheme, Local Lettings Policy)~~
  - o) [Corporate Enforcement Policy](#) ~~Food Service Delivery Plan~~
  - p) ~~Health and Safety Enforcement Plan~~
  - q) Statement of Principles under the Gambling Act 2005
  - r) Licensing Policy – under the Licensing Act 2003
  - s) Joint Waste Strategy [for Buckinghamshire](#)
  - t) [Car Parking Strategy](#)
  - u) [IT Strategy](#)
  - v) [Council's Annual Report](#)
  - w) Taxi and Private Hire Licensing Policy
  - x) [Chiltern and South Bucks Economic Development Strategy](#)

And any other plans and/or strategies which the Council may from time to time decide should be adopted or approved by the Council.

- 2) Budget – The budget includes the allocation of financial resources to different functions, services and projects, established or proposed contingency funds, ~~the council tax base~~, setting the council tax and decisions relating to the control of the Council's investment ~~policies~~, borrowing requirement, ~~and capital expenditure~~, ~~the control of its -~~ [Full Council will decide the Council's overall revenue budget and overall capital budget, capital or revenue expenditure and the setting of virement limits.](#)

#### 8.1.4 Types of Council meeting

There are three types of Council meeting:

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- The annual meeting
- Ordinary meetings of the Council
- Extraordinary meetings

Meetings are conducted in accordance with the Council Procedure Rules set out in Part 2 of the Constitution.

#### 8.1.5 Role and responsibilities of the Chairman of the Council

The Chairman of the Council is elected annually at the Annual Meeting. The Chairman and in his/her absence, the Vice-Chairman has the following roles and responsibilities:

- 1) To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary.
- 2) To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community.
- 3) To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet members and Committee Chairmen to account.
- 4) To promote public involvement in the Council's activities.
- 5) To act as the Council's first citizen, promote the Council as a whole and attend such civic and ceremonial functions as the Council and he/she may decide.

## 8.2 The Cabinet

The quorum for a meeting of the Cabinet or a Committee of the Cabinet shall be ~~three~~ and must include either the Leader or the Deputy Leader.

#### 8.2.1 Functions and responsibilities

The Cabinet is responsible for the Executive Functions as set out below and will ensure that they maintain, review and update as necessary the proper arrangements for the discharge of those functions – which may include, subject to any statutory limitations and/or requirements – the allocation of specific functions to the Cabinet (being a meeting of all members of the Cabinet), to individual members of the Cabinet (including the Leader), to an officer, to another authority or to a Joint Committee – and may be made subject to the requirements for prior consultation or not (ie. without prior consultation with a PAG) – but must include arrangements in accordance with the Access to Information Procedure Rules and the Openness of Local Government Bodies Regulations 2014 for notification of a decision by an individual member to, and recording of decisions by, officers including proper officers.

The Cabinet will exercise all the local authority functions which are not the responsibility of any other part of the local authority by law (Schedule 1 to the Functions Regulations) or under this Constitution. All functions are to be the responsibility of the Cabinet acting

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collectively unless they have been delegated to an individual portfolio holder or to an officer.

Functions include but are not limited to the following:

- 1) Proposing Budget to Council.
- 2) Proposing Policy Framework to Council.
- 3) To consider and determine applications made for grants, initial subscriptions, donations, community development funding, arts, grants and grant aid for village halls under the scheme and within the approved budget.
- 4) Authority to submit planning applications for development by the Council under the Town and Country Planning General Regulations 1992.
- 5) Authority to approve select list of tenderers and appointment of Consultants in connection with Cabinet functions in accordance with the Contract Procedure Rules and when within budget.
- ~~6) Authority to consider and decide action re Mortgage arrears.~~
- ~~7) Making Demolition and Closing Orders unless special circumstances warranted otherwise.~~
- ~~8) Rent (Agriculture) Act 1976 – authority to deal with cases referred to the Council.~~
- ~~9) To co-ordinate and report on the implementation of the Council's Environmental Strategy.~~
- 10) Authority to prosecute under various Acts, Byelaws and Regulations under the functions of the Cabinet.
- 11) Control of unauthorised encampments – Criminal Justice and Public Order Act 1994.
- 12) Authority to commence proceedings for breach of contracts, tenancy agreements and leases and where proceedings would promote or protect the interests of the inhabitants of the District ~~tenancy agreements and for eviction.~~
- 13) ~~Authority to take proceedings for rent arrears or other breaches of shared ownership leases.~~
- ~~14) Authority for proceedings for contravention of the Council's byelaws in respect of swimming pools.~~
- ~~15) To exercise reciprocal arrangements with other authorities in relation to food and drugs.~~
- 16) Building Control functions.
- ~~17) Decision as to opposition to proposed public transport fare increases and adjustment of timetables.~~
- ~~18) To consider on a continuing basis all matters relating to bus services within the Council's policy laid down from time to time and if necessary to report thereon to Buckinghamshire County Council as the authority responsible for public transport matters.~~
- 19) Financial Management. Overall strategic management of audit together with any probity or fraud issues, as set out below notwithstanding the role of the Audit Committee in relation to (d), (e), (f) and (g):
  - a) Examination of the accounts including the power to look at individual documents, accounts, etc.
  - b) Adequacy and effectiveness of the Council's systems of internal financial control.

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- c) Adequacy, effectiveness and timeliness of financial statements and related information provided to Councillors and the Public.
  - d) Compliance with financial regulations.
  - e) Reviewing audit plans and reports, both internal and external, and advising on appointment and replacement of internal and external auditors.
  - f) Reviewing the adequacy and effectiveness of the resources allocated to internal audit and its performance.
  - g) Reviewing the adequacy and effectiveness of the Council's policies and procedures in relation to financial probity and fraud and participating where necessary in the investigation of allegations of such fraud and failures.
  - h) With regard to the Council's investments to:
    - Appoint a Fund Manager(s) and to set terms of appointment.
    - Establish performance criteria for each fund operated by the Council.
    - Review the performance of all investment funds operated by the Council and to amend performance criteria as necessary.
- 20) Responsibility for Local Choice Functions relevant to South Bucks District Council (Schedule 2 to Functions Regulations unless otherwise exercised by the Council).
- a) Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1.
  - b) The determination of an appeal against any decision made by or on behalf of the authority ~~including hearing and deciding appeals against benefits determinations and Council Tax benefits.~~
  - ~~e) The conducting of best value reviews in accordance with the provisions of any order for the time being having effect under Section 5 (best value reviews) of the Local Government Act 1999.~~
  - d) Any function relating to contaminated land, control of pollution and air quality management including the service of notices and making of orders – Environmental Protection Act 1990.
  - ~~e) The discharge of any function relating to the control of pollution or the management of air quality Pollution Prevention and Control Act 1999, Part 9V of the Environment Act 1995, Part 9 of the Environmental Protection Act 1990 and the Clean Air Act 1993.~~
  - f) ~~The service of an abatement notice in respect of a statutory nuisance – Section 80(1) Environmental Protection Act 1990.~~
  - ~~g) The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority area – Section 8 Noise and Statutory Nuisance Act 1993.~~
  - h) All functions relating to~~The inspection of the authority's area to detect any~~ statutory nuisances under – Section 79 Environmental Protection Act 1990.
  - i) ~~The investigation of any complaint as to the existence of a statutory nuisance – Section 79 Environmental Protection Act 1990.~~
  - j) The obtaining of information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.
  - k) The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
  - l) The appointment of any individual:

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- To any office other than an office in which he is employed by the authority.
  - To any body other than:
    - The authority
    - A joint committee of two or more authorities
    - To any committee or sub-committee of such a body, and the revocation of any such appointment
- m) The making of agreements with other local authorities for the placing of staff at the disposal of those other local authorities.

### 8.2.2 Election of Leader

The Leader is elected at the Annual Meeting following the District Elections for a term of four years ending on the day of the post-election Annual Meeting in May 2019 unless any of the conditions set out below are met:

- Resigns from the office of Leader
- Resigns from the Council
- ~~Is suspended from being a Councillor under Part 3 of the Local Government Act 2000~~
- Is removed from office by a resolution of the Council; or
- Is otherwise disqualified from holding the office of Councillor

Where the Leader ceases to hold office other than by the normal expiry of their term of appointment, the Council shall appoint a replacement to hold office until the date of the next post election Annual Meeting of the Council.

### 8.2.3 Appointment of Cabinet Members

Members of the Cabinet, including the Deputy Leader, are appointed by the Leader and hold office for a term of four years unless they:

- Resign from the office of Cabinet member
- Resign from the Council
- 3) ~~Are suspended from being a Councillor under Part 3 of the Local Government Act 2000~~
- Are removed from office by written notice to that effect from the Leader, (who shall immediately give notice of the removal to the Chief Executive with details of their replacement)
- Are otherwise disqualified from holding the office of Council

Where a member of the Cabinet ceases to hold office other than by the normal expiry of their term of appointment, the Leader shall appoint a replacement to hold office until the end of the current term of office of Cabinet members.

### 8.2.4 Cabinet Portfolios

The Leader will appoint the Cabinet Members each of whom has a range of responsibilities and special interest areas allocated to them by the Leader known as Portfolios. The number

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of Cabinet members and their portfolios may be changed at any time and it is customary although not required to report such changes to the Council for information. When major decisions are to be made these will be discussed with council officers at a meeting of the Cabinet which will generally be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework (as defined above), this must be referred to the Council as a whole to approve.

#### 8.2.5 The 28 Day Notice

In accordance with Regulations, the Council is required to make available on its website at least 28 Days before the meeting of the Cabinet a document indicating the key decisions that are likely to be made at the meeting.

#### 8.2.6 Meetings

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 2 of this Constitution.

#### 8.2.7 Policy Advisory Groups

To assist them in their role each Cabinet member (other than the Leader) establishes a Policy Advisory Group. Although not part of the formal decision-making process these PAGs provide advice to the Portfolio Holder and Cabinet before a decision is made on a particular issue.

These Groups support the Cabinet Member and involve other members in the work of the Cabinet and provide opportunities for members to acquire experience of executive decision making. Each PAG will comprise at least one member of the Overview and Scrutiny Committee thus strengthening the relation between the executive and scrutiny functions.

Although PAG meetings are included in the Calendar of Meetings they may be called by the Cabinet Member at any time as required and maybe attended by any member of the Council, who may speak with the consent of the Cabinet Member. Meetings are not open to the public but the agenda and reports (other than those containing exempt information) are posted on the website. The 28 Day Notice referred to above includes information on when an issue is due to be considered at a PAG prior to submission to the meeting of Cabinet.

The proceedings and role of PAGs are in accordance with Cabinet Procedure Rules set out in Part 2 and the Protocol for the Operation of PAGs in Part 3 of this Constitution.

#### 8.2.8 Delegation of Cabinet functions to Portfolio Holders and Officers

The Cabinet has agreed a scheme for the delegation of non-key decisions to individual portfolio holders as set out in Part 5. Authority has also been delegated to Officers to carry out a number of executive functions as set out in the Scheme of Delegation to Officers in Part 5 of this Constitution.

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### 8.3 Overview and Scrutiny Committee

#### 8.3.1 Membership

The Committee comprises 8 members.

The quorum for a meeting of the Committee shall be ~~32~~ members.

#### 8.3.2 Legal role

The Overview and Scrutiny Committee is appointed by the Council to discharge the functions conferred by Section 21 of the Local Government Act 2000 and regulations under Section 32 of that Act. The Committee consists of a Chairman and one Vice-Chairman and in total comprises eight Councillors appointed by the Council in accordance with the political balance rules. These members will also be members of a PAG thus adding strength to the policy development and scrutiny role.

The Committee advises, reports and makes recommendations to the Cabinet and the Council as a whole on its policies, budget and service delivery. This Committee also monitors the decisions of the Cabinet. Subject to the urgency rules, it can 'call-in' a decision which has been made by the Cabinet or Portfolio Holders but not yet implemented. This enables the Committee to consider whether the decision is appropriate. It may recommend that the Cabinet or Portfolio Holder reconsiders the decision. It may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

#### 8.3.3 Functions and responsibilities

The Committee has the following functions:

- To review and scrutinise the decisions made by and the performance of the Cabinet and the Council (including the Farnham Park Trust), both in relation to individual decisions and over a period of time.
- To review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and individual service areas and/or as required in relation to responses to/evidence for the Comprehensive Area Assessment.
- To undertake value for money reviews of services or key partnerships, which may be at the request of the Cabinet or Council or identified as part of the Committee's own work programme.
- To review and/or scrutinise the performance of other public bodies in the area as appropriate including participation in joint scrutiny arrangements or work across Buckinghamshire with other local authorities/partners - and to invite input from others as necessary.
- To have the right to question and gather evidence from any member of the Cabinet and Senior Officers (defined as Head of Service and above) about their decisions, performance and any other matter which is properly the remit of the Committee.

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- If appropriate to co-opt individuals from outside the Council to attend the Committee for particular purposes, although these individuals will not have voting rights.
- To make recommendations to the Cabinet and/or Council arising from the scrutiny process.
- To have the power to make reports or recommendations to the Cabinet and/or the Council on any matter which affects the Authority's area or the inhabitants of that area.
- If requested to do so by the Council or the Cabinet, consider other issues including policy development.
- To receive and investigate non-excluded local government matters as referred to in Section 21A (1) (c) of the Local Government Act 2000 (as amended) raised by a member of the Council who is not a member of the Overview and Scrutiny Committee.
- To exercise the function of the Council's Crime and Disorder Committee as required by the Police and Justice Act 2006 and to receive and investigate matters concerning any local crime and disorder matter as defined by Section 19(11) of the Police and Justice Act 2006 – which are raised by a member of the Council who is not a member of the Overview and Scrutiny Committee.
- To respond to petitions in particular hear evidence from senior officers.

#### 8.3.4 Meetings

The Committee conducts its proceedings in accordance with the Overview and Scrutiny procedure rules set out in Part 2 of this Constitution and relevant legislation including but not limited to the Local Government Act 2000 as amended and the Police and Justice Act 2006 as amended. These rules set out in more detail the call-in procedure referred to above.

## 8.4 Planning Committee

### 8.4.1 Membership

The Planning Committee comprises 12 members.

The quorum for a meeting of the Committee shall be 6 members.

### 8.4.2 Use of substitutes

The Council will allow the same number of substitutes in respect of each political group as the seats that group holds ~~ordinary seats~~ on the Committee in accordance with the political proportionality rules.

Substitute members will have all the powers and duties of any ordinary member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

Substitute members may attend meetings in that capacity only:

- To take the place of the ordinary member for whom they are the named substitute.

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- Where the ordinary member will be absent for the whole of the meeting.
- After notifying Democratic Services before the commencement of the meeting of the substitution they have arranged with their named substitute.

#### 8.4.3 Functions and powers

The Planning Committee is responsible for the following functions and powers:

- 1) Planning and Conservation. Functions relating to town and country planning and development control as specified in Schedule 1 and the matters specified in Regulation 2(2), (3) and (4) in relation thereto of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as varied from time to time (the Functions Regulations). The Schedule is included in Part 5 of this Constitution.
- 2) Trees and Hedgerows. Powers relating to the preservation of trees and the protection of important hedgerows as specified in Schedule 1, and the matters specified in Regulation 2(2), (3) and (4) in relation thereto of the Functions Regulations.
- 3) The following powers are also exercised as agents for Bucks County Council: Responsibility for administering all Tree Preservation Orders made by the County Council prior to the 13 January 1981 including any consents granted in respect of such Orders. [Planning & Development Committee - 22 June 1988 - Minute 101].

#### 8.4.4 Public speaking at meetings

The Committee has adopted a protocol for public speaking at meetings and a Procedure for Confirming Tree Preservation Orders when objections are received both of which are included in Part 3 which also contains Guidance for all Members on Planning matters.

## 8.5 Licensing Committee

#### 8.5.1 Membership

The Licensing Committee comprises 12 members.

The quorum for a meeting of the Committee shall be 3 members.

#### 8.5.2 Functions and responsibilities

The Licensing Committee is responsible for functions relating to licensing and registration as specified in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as set out in Part 5 and the matters specified in Regulation 2(2), (3) and (4) in relation thereto of the Functions Regulations, as amended from time to time. The Committee is also responsible:

- For determining applications for betting track licences.
- To determine hearing of the cancellation or refusal of registrations under the Vehicle (Crimes) Act 2001.

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- To determine and set all fees relating to the function of licensing of Hackney Carriages and private hire vehicles including consideration of any representations thereon or objections thereto.

### 8.5.3 Licensing Sub Committee

The Committee has set up a Sub-Committee (comprising three members of the Committee) to carry out responsibilities and functions in relation to the Licensing Act 2003 and the Gambling Act 2005 and to hold hearings where required for the renewal, granting, refusing or revocation of Private Hire and Hackney Carriage Licences. Also responsible for functions introduced by the Mobile Homes Act and the licensing of sex establishments. The functions and responsibilities of the Sub Committee are described in more detail in Part 5 of the Constitution.

The procedure followed by the Sub-Committee for these Hearings is set out in Part 3 of this Constitution. A Guidance Note for members when determining applications or representing objectors in connection with applications pursuant to the Licensing Act 2003 is also set out in Part 3.

## 8.6 **Audit and Standards Committee**

### 8.6.1 Membership

The Audit [and Standards](#) Committee comprises 6 members.

The quorum for a meeting of the Committee shall be 2 members.

### 8.6.2 Functions

The Audit Committee's function is to:

- Provide independent assurance of the adequacy of the internal controls and assurance mechanisms of the Council and to approve its financial accounts.
- Promote and maintain high standards within the Council – members and co-opted members.
- Consider breaches of the adopted District Code of Conduct or Codes of Conduct of any and all Parish Councils in the South Bucks District.

The Audit Committee is responsible for overseeing compliance with the Code of Corporate Governance adopted by the Council to ensure that business is conducted in accordance with the law and proper standards. The Code, which is included in Part 3 of the Constitution, demonstrates how the Council will achieve good governance.

### 8.6.3 Remit

The Committee's remit is:

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- To consider the effectiveness of the authority's risk management arrangements, the control environment and associated anti-fraud and anti-corruption arrangements.
- To seek assurances that action is being taken on risk-related issues identified by auditors and inspectors.
- To review and approve the authority's assurance statements, including the Statement on Internal Control, on behalf of the authority.
- To approve, but not direct, internal audit's strategy, plan and monitor performance.
- To review the main issues arising from the internal audit reports and seek assurance that action has been taken where necessary.
- To receive the annual report of the internal audit service.
- To consider the reports of the external audit service and inspection agencies, and monitor management action in response to issues raised.
- To ensure that there are effective relationships between external and internal audit, inspection agencies, other relevant bodies, and that the value of the audit process is actively promoted.
- To review the charitable accounts on behalf of the Farnham Charitable Trust.
- To review on a regular basis the Code of Conduct for Members and also for Officers and to monitor the effect of implementation of the Codes of Conduct.
- To develop a procedure for dealing with complaints concerning non-compliance with the District Code of Conduct and the Code of Conduct adopted by any Parish/Town Council.
- To receive complaints and thereafter consider, review, investigate, conduct hearings and impose sanctions as may be required.
- To promote on an active basis the highest standards of ethical conduct by Councillors and Officers.
- To ensure training and guidance is provided to Councillors, including assisting Parishes to train their own Councillors, on all aspects of Codes of Conduct and adherence to ethical standards for Councillors.
- To consider and grant dispensations from the Code of Conduct adopted by the Council and where a District Councillor is also a member of a Parish/Town Councillor the Code of Conduct adopted by that Parish/Town Council.
- To establish a Hearings Sub-Committee – terms of reference, membership, quorum and frequency of meetings as set out below.

#### 8.6.4 Shared Independent Persons

The Monitoring Officer is authorised to use Independent Persons appointed by any other local authority [and who have been approved by Full Council for this purpose](#) in the event of a vacancy/non-availability or conflict of interest of the South Bucks District appointed Independent Persons as and when required. The view of the Independent Person must be sought and taken into account before ~~the Committee~~ makes a decision on an allegation ~~that has been~~ ~~it has decided to~~ investigated. ~~A~~ view must also be sought by the Council's Monitoring Officer and the Chairman/Vice-Chairman of the Council's Audit [and Standards](#) Committee as to whether a complaint should be referred for investigation in the first instance.

### 8.7 Hearings Sub-Committee

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### 8.7.1 Terms of Reference

The Hearings Sub-Committee is established to consider reports following investigations that a member of the District or any Town/Parish within South Bucks District is alleged to have failed to comply with the respective Councils Code of Conduct.

Where a matter has been referred for investigation under the adopted Member Complaints procedure to:

- 1) Conduct a hearing in relation to an allegation that a member failed to comply with the authority's Code of Conduct or with the Code of Conduct of any Town/Parish Council within South Bucks District taking into account the investigator's report and the view of the duly appointed Independent Person/s and make one of the following findings in relation thereto:
  - a) That the member who was the subject of the hearing had not failed to comply with the Code of Conduct of the authority concerned and that no further action be taken.
  - b) That the member who was the subject of the hearing had failed to comply with the Code of Conduct of the authority concerned but that no action needs to be taken in respect of the matter(s) which were considered at the hearing.
  - c) That the member who was the subject of the hearing had failed to comply with the Code of Conduct of the authority concerned and that one or more of the following sanctions should be imposed:
    - Report to Council.
    - Formal letter to subject councillor.
    - Formal censure by motion.
    - Recommendation to Leader/Group Leader or Town/Parish Council as applicable that member is removed from Special Responsibilities – i.e. Cabinet/Committees/Outside Bodies.
    - Press release or other publicity.
- 2) Refer the matter for consideration at a full Audit [and Standards](#) Committee.

### 8.7.2 Membership

Three elected members of the Council - membership to be drawn from within the whole Audit [and Standards](#) Committee subject to member availability – to include the Chairman or Vice-Chairman [\(if appointed\)](#) where possible taking account of previous involvement in the complaints procedure, availability and/or interests.

### 8.7.3 Quorum

The quorum for a meeting of the Sub-Committee shall be three members.

### 8.7.4 Frequency of meetings

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Delegated authority has been given to the Monitoring Officer to call a Hearings Sub-Committee to meet as and when required to enable it to undertake a hearing within three months of receipt of an investigator's report.

## **8.8 Personnel Committee**

### **8.8 Governance and Electoral Arrangements**

#### 8.8.1 Membership

The [Governance and Electoral Arrangements](#) Committee comprises 6 members.

The quorum for a meeting of the Committee shall be 3- members.

#### 8.8.2 Functions and responsibilities

The functions and responsibilities of the Committee are:

- 1) [To monitor and keep under review the operation of the Council's constitution and political management arrangements.](#)
- 2) [To deal with election and electoral matters.](#)
- 3) [To exercise functions in relation to parishes, parish meetings and parish councils including changing the name of a parish.](#)
- 4) [To take any necessary action to enable recommendations to be made in respect of the matters listed at 8.8.3 below](#)
- 5) [To make, amend or revoke byelaws.](#)
- 6) [To deal where legally permissible with any matter including the authorisation of legal proceedings which requires a decision of the Council and which cannot reasonably be dealt with within the normal cycle of meetings \(see also Note below\)](#)
- 7) [To deal with any matter which, by virtue of the Local Authorities \(Functions and Responsibilities\) \(England\) Regulations from time to time in force or any other statutory provisions cannot be the responsibility of the Cabinet and does not fall within the terms of reference of any other committee or within the Scheme of Officer Delegations](#)

#### 8.8.3 Matters reserved to Full Council

Approval of:

- a) [Proposals to change the District's warding arrangements](#)
- b) [Final recommendations from a Parish Review](#)
- c) [Proposals to change the name or boundaries of the District](#)
- d) [The promotion of, or opposition of, national, local or private bills](#)
- e) [Changes to the Constitution](#)

#### **NOTE:**

[The Chief Executive or his/her nominee or the Head of Legal and Democratic Services, after consultation with the Chairman of the Committee must certify the reasons for urgency in](#)

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[respect of each item under paragraph 6 above. Reports to the Committee must also specify the reason for the urgency.](#)

## 8.9 Joint Committees and joint arrangements with other Authorities

### 8.9.1 Enabling Powers

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

### 8.9.2 Joint arrangements across the County

~~1) [Waste Committee for Buckinghamshire](#)~~

1) [The Chiltern, South Bucks and Wycombe Joint Waste Collections Committee](#)

A joint committee established by [Chiltern District Council, South Bucks District Council and Wycombe District Council](#) ("the Councils") to consider reports from officers and advise the respective Cabinets of the Councils concerning the management of waste collections, recycling collections and street cleansing services and related services in the Councils' administrative areas.

#### Membership, Chairmanship and Quorum

|                                   |  |
|-----------------------------------|--|
| Number of Members                 | <a href="#">6 – an executive member from each Council with responsibility for waste management and one further member from each Council</a>  |
| Substitute Members Permitted      | <a href="#">Executive Members have the right to appoint deputies by giving notice to that effect to the Secretary to the Joint Committee</a>   |
| Political Balance Rules apply?    | <a href="#">No</a>   |
| Appointments/Removals from Office | <a href="#">By resolution of the Cabinet/Executive of the participating Councils</a>   |
| Term of Appointment               | <a href="#">In respect of a member who is a Cabinet/Executive member, from the date of appointment to the date that they cease to hold office as a Cabinet/Executive member or cease to have portfolio responsibilities for waste related functions. For all other members their term shall begin on the date of appointment and continue for the term notified to the Secretary to the Joint Committee by the</a> |

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|  |  |
|--|--|
|  | <a href="#">appointing participating Council (being not less than 24 months in duration)</a>   |
| Restrictions on Membership                     | <a href="#">One appointee from each participating Council must be the Cabinet/Executive member with portfolio responsibility for waste related functions and the second appointee should be a non-Cabinet/Executive member. Non-Cabinet/Executive members should not be a member of an Overview and Scrutiny Committee whose terms of reference include the review and scrutiny of municipal waste management functions.</a>                       |
| Restrictions on Chairmanship/Vice-Chairmanship | <a href="#">Appointments shall be for a maximum period of 2 years. The chairmanship and vice chairmanship shall rotate between the Councils</a>  |
| Restrictions on Voting                         | <a href="#">All members of the Joint Committee (or in their absence their duly appointed deputies, provided the deputy is also a Cabinet/Executive members) shall have the right to speak and vote PREOVIDED THAT members of Chiltern and Wycombe shall not have a right to vote in respect of the Biffa contract and members of South Bucks shall not have a right to vote in respect of the Serco contract. The Chairman has a casting vote.</a> |
| Quorum   | <a href="#">3 – provide that an executive member from each Council is present</a>  |
| No. of ordinary meetings per Council year      | <a href="#">Minimum of 3</a>   |

#### Terms of Reference

To exercise the following duties and powers in relation [to management and procurement of waste collection, recycling collection and street cleansing services and related services \(but only to the extent unanimously delegated to it by the participating Councils in accordance with the terms of the Constitution of the Joint Committee\)](#):

- 1) [overall responsibility for the management and monitoring of contract/s for waste collection, recycling collection and street cleansing services and related services;](#)
- 2) [agreeing any changes to the scope of the management of such contracts;](#)
- 3) [making decision on day to day operational issues, including approval of relevant expenditure;](#)

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- 4) [recommending the Waste Service Manager's service plan and budget to the Councils;](#)
- 5) [ensuring that the collective objectives of the Councils in relation to waste services are realised and implemented as agreed between them from time to time ;](#)
- 6) [providing a forum for the resolution of any disputes between the Councils in connection with the management of the Serco and Biffa Contracts;](#)
- 7) [overseeing the procurement, implementation and management of any replacement contracts in the future](#)
- 8) [exercising any other functions in relation to municipal waste management from time to time delegated to it](#)

#### Delegations

Provided the participating Councils unanimously agree to the exercise by the Joint Committee of any function or activity falling within these Terms of Reference such function or activity is fully delegated.

#### Joint Working Principles

- 1) [Each Council will co-operate with and give reasonable assistance to each other to provide information and inputs efficiently and economically as is required to successfully develop and operate their municipal waste management functions](#)
- 2) [Each Council will ensure that its Council Representative complies with the principles of the Project in order to achieve the Objectives set out below](#)
- 3) [Each Council will provide to the Joint Waste Collection Committee or any auditor appointed by the Joint Waste Collection Committee any information that is required in respect of any audit or inspections carried out in relation to the Services](#)
- 4) [The Councils will work together to overcome any conflicts between the various other contracts dealing with recycle](#)
- 5) [The Councils are committed to making the strategic planning and development of the Services as transparent as possible to each other and the public as a whole](#)
- 6) [The Councils recognise the importance of consultation and liaison on issues concerning the Services and commit themselves to the principle of consultation in the widest sense, both with themselves and the community, on any significant issue that will impact upon those receiving waste related services within the Councils' administrative areas](#)
- 7) [In the event of any retendering , each Council agrees to disclose such information relating to the Services as may be reasonably required for the purpose of conducting a due diligence exercise to any proposed new contractor, its advisers and lenders](#)
- 8) [The Councils agree that communications and media output will be in line with the Joint Communications Strategy as reviewed and agreed from time to time](#)

#### Objectives

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[9\) The District Councils are members of the Waste Partnership for Buckinghamshire which include Buckinghamshire County Council. The overarching 'vision' of the Partnership is to facilitate the effective planning and delivery of municipal waste management functions and services in Buckinghamshire](#)

[10\) The Councils will use innovative solutions to:](#)

- [\(a\) meet or exceed local and national waste recycling targets](#)
- [\(b\) offer the highest standards of customer satisfaction](#)
- [\(c\) meet or exceed environmental/sustainability standards](#)
- [\(d\) keep costs to the local authorities to a minimum](#)
- [\(e\) deliver appropriate customer contact arrangements to support the Services](#)

8.9.3 Joint arrangements with Bucks County Council

1) Evreham Sports Centre Management Committee

Set up in conjunction with Bucks County Council under Section 101 of the Local Government Act 1972 the terms of reference as amended at the meeting of the Management Committee on 26 October 2010 are as follows:

Terms of Reference

- 1) The Contributing Authorities shall set up a Management Committee which shall be known as the Evreham Sports Centre Management Committee ("the Management Committee").
- 2) The Management Committee shall consist of four members who shall each be appointed for a period of one year from 1st June each year and shall consist of:
  - a) Two person appointed by the County Council who shall be elected members of the County Council; and
  - b) Two persons appointed by the District Council who shall be elected members of the District Council.
  - c) And any person so appointed who thereafter ceases to be an elected member of the Authority by whom he was appointed shall also at the same time cease to be a Member of the Management Committee (in which circumstances the relevant Authority shall as soon as possible elect a replacement member to serve on the Management Committee until the following 31st May).
- 3) For each Member of the Management Committee appointed by the Contributing Authorities pursuant to paragraph 2 of this Constitution there shall be appointed a deputy representative who shall be permitted to act as a substitute for the Member for whom he or she is the deputy at any meeting of the Management Committee.
- 4) The quorum of the Management Committee shall be two and shall include at least one member from each of the Contributing Authorities.
- 5) Each Member shall have one vote and in the case of an equality of votes the Chairman of the Management Committee shall have a second or casting vote.

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- 6) The County Council's Chief Education Officer or his representative and the District Council's Director of Services and Director of Resources or their respective representatives may attend Management Committee meetings but shall have no voting rights. The Management Committee may invite any other person to attend meetings for the purpose of giving information or opinion but such a person shall have no voting rights.
- 7) The Management Committee may appoint such officers as it may deem necessary to provide secretarial, financial and other services at the meetings of the Management Committee. The cost of the services of such officers appointed to provide such services shall be a charge to the collection account kept in accordance with clause 7(b) of this Agreement.
- 8) The Management Committee shall meet once in each year prior to the October/November meeting of the District Council's Healthy Communities PAG.
- 9) The Management Committee shall exercise the following functions:
  - a) To ensure that proper use is made of the Facilities for recreational, social and educational activities and that due regard is had to the main purposes for which the Facilities were or will be constructed.
  - b) To determine the overall policy for the use of the Facilities by individuals, groups and organisations.
  - c) To ensure the publicising within the local community of the objectives and policies governing the use of the Facilities.
  - d) To authorise in advance the purchase of items of equipment in connection with the use of the Facilities of a value equal to or greater than Five Thousand Pounds.
  - e) To fix charges for the use of the Facilities or any part or parts thereof.
  - f) To set priorities on the types of bookings for the use of the Facilities and to assist with the settlement of any dispute between the various organisations using the Facilities.
  - g) To determine and if appropriate vary the times at which the Facilities shall be available for community use.
  - h) To submit for approval by each of the Contributing Authorities (as appropriate) details of any matters which involve either (i) a major formation of policy or principle which would affect the use of resources by the County Council or the District Council; or (ii) a major departure from policy or principle.
- 10) In addition to its independent functions under Paragraph 9 of this Constitution the Management Committee shall exercise the following further functions through the District Council:
  - a) To ensure that proper accounts of income and expenditure are kept and that a copy of such accounts is sent to each of the Contributing Authorities as soon as possible after 31st March in each year.
  - b) To introduce and maintain proper financial controls in accordance with local authority accounting practice.
  - c) To ensure that annual estimates of expenditure for the year are prepared and sent to each of the contributing Authorities for

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- approval by not later than 31st October in each year for the financial year commencing on the next following 1st April.
- d) To ensure that any requirement for supplementary estimates of expenditure for the year are referred to each of the Contributing Authorities for approval.
  - e) To ensure the payment of all outgoings in connection with the management of the Facilities.
  - f) To ensure that all monies received in respect of the use of the Facilities are properly accounted for.
  - g) The process of appointment of such staff as are necessary to operate the Facilities and the exercise of the functions listed in this paragraph shall at all times be in accordance with the Standing Orders and Financial Regulations of the District Council.
- 11) All gross expenditure connected with the use of the Facilities shall be borne equally by the Contributing Authorities.
  - 12) No variation of the Constitution of the Management Committee shall be made without the prior approval of the County Council and the District Council.

#### 8.9.4 Joint arrangements with Chiltern District Council

##### Background

As a result of the decision by both Chiltern and South Bucks District Councils to enter into an Inter Authority Agreement in January 2012 to establish Joint Arrangements to work together to share a Joint Chief executive and a Joint Senior Management Team and then to examine the opportunities for further savings by the joining together of services, assets, officer posts and officer teams the following two Joint Committee have been set up with the terms of reference as described:

- 1) Chiltern and South Bucks Joint Committee (JC)

##### Membership

6 Cabinet members from each Authority. Quorum - at least 3 three elected members from each Authority.

##### Function

A Joint Executive Committee whose prime purpose is to drive forward and oversee the Joint Arrangements between Chiltern and South Bucks.

The primary functions of the JC are as follows:

- Upon careful consideration of the relevant Business Case, to make Joint Decisions on behalf of each Authority within its terms of reference.
- To hear and resolve any disputes which have not already been resolved by the Joint Chief Executive.

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- Oversee the progress and achievement of Stage One and Stage Two of the Joint Arrangements.
- Make any necessary recommendations to each Authority.
- Receive reports from the Joint Chief Executive and Joint Senior Management Team once appointed.
- Consider the Business Cases for Joint Service Proposals.

#### Responsibilities

To achieve the overall aim, the JC shall (as part of its responsibilities):

- Oversee the development and subsequent delivery of a business case for the creation of a single senior management team (Chief Executive, Directors and Heads of Service) to serve the districts of Chiltern and South Bucks and present conclusions and recommendations to the Authorities both initially and on an ongoing basis.
- Understand the benefits gained and lessons learned from other similar successful and also failed attempts to integrate District Councils and present the findings to the Authorities.
- Recommend a mechanism/formula for the allocation of associated costs and efficiencies across the two organisations.
- Detail the risks, dependencies and resource and policy implications to the Authorities of taking this step and recommend any mitigating actions.
- Propose a communications plan to inform elected members, staff and managers in the Authorities, the media and (where and when appropriate) to residents in the relevant Districts.
- Subsequently, consider the next stages of delivering efficiencies through service integration, make any necessary recommendations on the future governance of that process and if requested identify suitable services and a timetable for integration and report accordingly.

#### Remit

The specific responsibilities of the JC are:

- To review frequently (and at least on an annual basis as required by this Agreement) the operation of the Inter Authority Agreement between the Authorities and the overall delivery of the Joint Arrangements by the Authorities;
- To consider Business Cases setting out the detail of a Joint Service Proposal;
- To make Joint Decisions on behalf of each Authority following careful consideration of the relevant Business Case. Joint Decisions include:
  - Apportionment of the costs of the Joint Arrangements (using the methodology set out at Clause 8 of the Inter Authority Agreement)
  - Arrangements for the overall structure and resourcing of the Joint Arrangements
  - Agreement on the annual budget for the Joint Arrangements

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- Consideration and resolution of any matters disputed between the Authorities
- Approval of any external advisors before appointment by an Authority
- To make recommendations to each Authority in respect of Joint Decisions and on the overall way forward for the Joint Arrangements.
- To establish and monitor appropriate performance indicators for Joint Arrangements including financial and service delivery indicators.
- To consider and address any concerns about the Inter Authority Agreement or about the Joint Arrangements in general raised by each Authority.
- To ensure that members of each Authority are regularly updated on the operation and progress of the Joint Arrangements.
- The JC may from time to time create limited task and finish groups of Members of each authority (Member Working Groups) to advise the JC on specific issues. The JC shall determine the membership of each Member Working Group and the terms on which each Member Working Group carries out its responsibilities.

#### Amendments to the Terms of Reference of the Joint Committee

The Authorities may amend the terms of reference and/or membership of the JC from time to time. Any such amendment shall be agreed in writing by each Authority by reference back to each full Council, taking into account any recommendation from the JC.

#### Delegations

All matters necessary to enable the JC to carry out its functions and remit save for any 'Reserved Decisions' as defined in the Inter Authority Agreement.

#### Meetings

As and when necessary – minimum 5 times per year unless otherwise unanimously agreed. Venue to alternate between the two authority's offices and the Leader of the host authority will chair each meeting. A member of staff of the host authority will provide the secretarial support to each meeting.

#### Standing Orders

Rules 5, 6, 12, 13, 16 (save for Rule 16(2) - the Chairman shall not have a casting vote), 17, 18, 19, 20 and 21 of the South Bucks District Council Procedure Rules shall apply to the meetings of the JC – and which for the avoidance of doubt are the same as Rules 5, 6, 11, 12, 14 (save for Rule 14(2) - the Chairman shall not have a casting vote), 15, 16, 17, 18 and 19 of the Chiltern District Council, or in so far as they include additional provisions or more generous provisions i.e. time limits on speeches, the additional and more generous rules shall so apply.

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2) ~~Joint Appointments and Implementation Committee(JAIC)~~

2) Joint Staffing Committee (JSC)

Membership, Chairmanship and Quorum

|   |   |
|---|---|
| <u>Number of Members</u>                              | <u>Six from each of the participating Councils</u>  |
| <u>Substitute Members Permitted</u>                   | <u>Yes if allowed under the participating Councils Constitutions'</u>   |
| <u>Political Balance Rules Apply?</u>                 | <u>Yes</u>  |
| <u>Appointments/Removals from Office</u>              | <u>By a resolution of the participating Councils</u>  |
| <u>Restrictions on Membership</u>                     | <u>The membership will include Cabinet Leader and one other cabinet member from each Council</u>  |
| <u>Restrictions on Chairmanship/Vice-Chairmanship</u> | <u>The JSC shall elect co-Chairman at their first meeting in each municipal year. The Chairmanship of the Committee shall alternate between the Councils each meeting</u> |
| <u>Quorum</u>   | <u>Two from each Council</u>  |
| <u>Number of Ordinary Meetings per Council Year</u>   | <u>Ad hoc as and when required</u>  |
| <u>Venue</u>  | <u>Venue to alternate between the participating Councils' offices</u>   |

Terms of Reference

Pursuant to the provisions of Sections 101 and 102 of the Local Government Act 1972 and to the extent that Executive functions are involved then Section 9EB of the Local Government Act 2000 and the Local Authorities (Arrangements for the Discharge of Functions) Regulations 2012 are relevant, the JSC is authorised to exercise the following powers and functions of the participating Councils:

- a) the selection and appointment of the Joint Senior Management Team subject to reference back to the relevant Full Council meetings of any decision which statutorily required such approval
- b) to make recommendations to each Council on the appointment of the Head of Paid Service
- c) all matters relating to the joint employment of the joint workforce, including appointment of staff and terms and conditions of employment
- d) to consider any issues raised by UNISON relevant to staff representation within the context of the Recognition and Procedural Agreement.

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- e) to deal with any other staffing related implementation matters referred to it by the Joint Committee or by the Councils not otherwise delegated to officers
- f) to be responsible for grievance and disciplinary proceedings in respect of the Head of Paid Service, Monitoring Officer and Chief Finance Officer.
- g) to deal with any other statutory duties of the Councils relating to joint employment arrangements of staff not otherwise delegated to officers
- h) to establish a standing Sub Committee to deal with any matters relating to the appointment of staff and terms and conditions of employment that apply specifically to Chiltern District Council and are not covered by a) to g) above

#### Venue for Meetings

The venue for meeting of the JSC shall normally alternate between the Councils' offices

#### Amendments to the Terms of Reference (Functions and Remit)

The Councils may amend the terms of reference and/or membership of the JSC from time to time. Any such amendment shall be agreed in writing by reference back to each full Council, taking into account any recommendation from the JSC

#### Application of Procedure Rules

Rules 5, 6, 12, 13, 16 (save for Rule 16(2) the Chairman shall not have a casting vote), 17, 18, 19, 20 and 21 of the South Bucks District Council Procedure Rules shall apply to the meetings of the JSC, and which for the avoidance of doubt are the same as Rules 5, 6, 11, 12, 14 (save for Rule 14(2), the Chairman shall not have a casting vote), 15, 16, 17, 18 and 19 of Chiltern District Council or in so far as they include additional provisions or more generous provisions i.e. time limits on speeches, the additional and more generous rules shall so apply

#### Staffing Sub Committee

The Sub-Committees will have the following roles and functions:

- a) the exercise of powers and functions concerning staff appointments and terms and conditions of employment that relate specifically to South Bucks District Council not otherwise delegated to officers;
- b) the Sub-Committee will not discuss matters which go to the JSC

The Sub-Committee will comprise all the South Bucks District Council members of the JSC

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## 8.10 Partnership Working

The Council is committed to working in partnership with other organisations to ensure that the services they provide are to the benefit of residents in the District and partnership arrangements include:

- Chiltern and South Bucks Strategic Partnership
- Health and Well Being Board
- Safeguarding Board
- Buckinghamshire Thames Valley Local Enterprise Partnership
- Buckinghamshire and Milton Keynes Natural Environment Partnership

## 8.11 The Management Structure

### 8.11.1 Role and responsibilities of Officers

The Council employs 'officers' to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. All officers have a duty to comply with the Code of Conduct for Employees and a Code of Practice governs the relationships between officers and members of the Council both of which are set out in Part 3 of this Constitution.

### 8.11.2 Joint management arrangements with Chiltern District Council

In February 2012, the Council agreed (pursuant to Section 113 LGA 1972) a joint senior management structure with Chiltern District Council which involves sharing a Chief Executive, Director of Services and Director of Resources, and Heads of Service. Each Council retains its own sovereignty, i.e. its own Council Constitution and its own elected members.

### 8.11.3 Appointments

The appointment of the Head of Paid Service and Strategic Directors together with any Political Assistant posts which may from time to time exist is the responsibility of the [Joint Staffing Committee](#) ~~Appointments Panel set up by the Council to carry out these tasks~~. In the case of the Head of Paid Service, the recommendation must be made to the full Council which will make the appointment.

In the case of all other staff, the responsibility for appointment falls to the Head of Paid Service or their nominee. The recruitment, selection and dismissal of Officers will comply with the Officer Employment rules set out in Part 2 of this Constitution.

### 8.11.4 Designated appointments

The following Officers have been appointed to the designated appointments indicated:

- Head of Paid Service - the Chief Executive (and also the Chief Executive will be the

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Electoral Registration Officer and the Returning Officer for District and Parish elections in South Bucks).

- Chief Finance Officer - the Director of Resources.
- Monitoring Officer - the Head of Legal and Democratic Services.

All references in the Constitution to the Chief Executive, Head of Paid Service, Electoral Registration Officer and Returning Officer shall apply to the Joint Chief Executive when acting in those roles for the Council jointly with Chiltern District Council.

#### Duties of the Head of Paid Service

The Head of Paid Service is responsible for determining and publicising the description of the overall departmental Officer structure of the Council, showing the management arrangements and the deployment of Officers.

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

The Head of Paid Service shall not also hold the role of Monitoring Officer.

#### Duties of the Monitoring Officer

The Monitoring Officer has the responsibility to:

- Maintain and amend the Constitution as necessary, subject to the approval of the Council.
- After consultation with the Head of Paid Service and the Chief Finance Officer, report to the full Council or to the Cabinet (the latter in relation to a Cabinet function) if he/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 if implementation has not already occurred, until the Monitoring Officer's report has been considered.
- Provide support to the Audit [and Standards](#) Committee in order to contribute to the promotion and maintenance of high standards of conduct.
- Receive and act upon complaints received and referred by the Audit [and Standards](#) Committee and to conduct or cause to be conducted investigations into allegations and arrange and hold hearings of the Audit [and Standards](#) Committee as required.
- Ensure that decisions of the Cabinet or of individual members of the Cabinet, together with the reasons for those decisions and the relevant Officer reports and background papers, are made publicly available in accordance with the Access to Information Rules set out in Part 2 of this Constitution.
- Advise whether decisions of Cabinet or individual members of Cabinet are within the approved budget and policy framework of the Council and will carry out this role in consultation with the Head of Paid Service and the Chief Finance Officer as necessary.

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- Provide advice to all Councillors on the scope and powers and authority to take decisions, maladministration issues, financial impropriety, probity and budget policy framework matters.

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

#### Duties of the Chief Finance Officer

The Chief Finance Officer is responsible for:

- Reporting, following consultation with the Head of Paid Service and Monitoring Officer, to the full Council or to the Cabinet (the latter in relation to a Cabinet function) and the Council's Auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.
- The administration of the financial affairs of the Council.
- Contributing to the corporate management of the Council, in particular through the provision of professional financial advice.
- Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and also supporting and advising Councillors and Officers in their respective roles.
- Providing financial information to the media, members of the public and the community.

The Council is responsible for providing the Monitoring Officer and Chief Finance Officer with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

### **8.12 Delegation to Officers**

The decision-making structures referred to above may delegate their powers and duties to officers to discharge and the Scheme of Delegation of Powers to Officers is set out in Part 5 of this Constitution.

### **8.13 Appointment of Proper Officers**

The Council appoints Proper Officers to carry out certain statutory functions as set out in the Scheme of Officer Delegations included in Part 5 of this Constitution.

## **9. The Public**

### **9.1 Rights of the Public**

The decisions the Council makes impact on the well-being of residents and the Constitution recognises that the public have a number of rights including the following:

- To vote if their name appears on the electoral roll for the District.

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- To attend meetings of the Council, its Standing/Joint Committees and the Cabinet, except where confidential or exempt information is likely to be disclosed and to make a recording of the open part of the meeting having regard to the protocol set out in Part 3 of this Constitution.
- To inspect the Cabinet's 28 Days' Notice to ascertain when key decisions are likely to be made.
- To have access to agendas, reports and background papers in relation to meetings which are open to the public, except where confidential or exempt information is being discussed.
- To inspect the Council's accounts at the designated times and make views known to the external auditor.
- To be consulted about the Council's plans and strategies, including the [Joint Sustainable Community Strategy Plan](#), [Corporate Plan](#), the Community [and Well Being Plan](#) [Safety Partnership Strategy](#) and the Local Development Plan.
- To be invited to contribute to the work of the Overview and Scrutiny Committee.
- To Petition to request a referendum of a mayoral form of executive, if their name is on the electoral roll.
- To Inspect this Constitution and [download](#) obtain a copy [free of charge from the Council's website](#) on [payment of an appropriate charge](#).
- To Petition the Council on a matter in accordance with the Petition Scheme set out at Part 3 of this Constitution.
- To complain to the Council about any of its services in accordance with the complaints procedure, which shall be freely available to them on request.
- To complain to the Local Government Ombudsman if they think the Council is responsible for maladministration or injustice, but only after they have followed the Council's complaints procedure.
- To complain to the Council's Monitoring Officer if they consider that a Councillor has not followed the Council's Code of Conduct for Members.

## 9.2 Responsibilities of the Public

Members of the Public also have responsibilities. They must not be violent, abusive or threatening to Officers of the Council or to Councillors. They must not wilfully harm or damage things owned by the Council, Councillors or Officers. They must obey the procedural directions of the Chairman of any Committee or Council or Cabinet meeting, if attending that meeting.

## 10. Financial Management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 2 of this Constitution.

## 11. Contracts

Every contract made by the Council will comply with the Contracts Procedures Rules set out in Part 2 of this Constitution.

## 12. Legal Proceedings

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The Head of Legal and Democratic Services is authorised to institute, conduct, defend, participate in, or compromise, any legal proceedings whether civil or criminal, in any case where such action is necessary to give effect to a decision of the Council or any part of it (including one made in accordance with the Scheme of Delegations to Officers set out in Part 5 of this Constitution), or, following consultation with the Chairman of the Council or the Cabinet Leader, in any case where he/she considers that such action is necessary to protect the Council's interests

The Head of Legal and Democratic Services can authorise Legal Officers of Bucks County Council, Aylesbury Vale District Council, Wycombe District Council and/or South Bucks District Council to prosecute/defend various legal actions in the Magistrates/Crown Court on behalf of the Council

~~The Head of Democratic and 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 the Head of Legal and Democratic Services considers that such action is necessary to protect the Council's interests.~~

### 13. Authentication of Documents

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

Any contract ~~with a value exceeding £10,000~~ entered into on behalf of the Council in the course of the discharge of a Cabinet function shall be made in writing and where it meets or exceeds the financial limits in the Contracts Procedure Rules which require Contracts to be under seal, shall be made under the Common Seal of the Council.

### 14. Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal and Democratic Services. A decision of the Council or one of its Committees or the Cabinet or in accordance with the Scheme of Delegation will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal and Democratic Services should be sealed. The affixing of the Common Seal will be attested by the Director of Resources or in his/her absence another Director or the Chief Executive, Chairman of the Council or some other Councillor authorised by him/her and by the Director of Resources or some other officer authorised by him/her.

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.

Contracts or Agreements entered into other than by Letter of Acceptance, Official Order or affixing of the Common Seal of the Council will be signed for and on behalf of the Council by a Director and/or the Head of Legal and Democratic Services. A Principal Solicitor may be a co-signatory in the absence of the Head of Legal and Democratic Services. Any Contracts or Agreements so signed will be recorded in a Register maintained by the Head of Finance for that purpose.

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**PART B**  
**SECTION A: Political Balance Rules**



Sections 15-17 of the Local Government and Housing Act 1989 ("the Act") requires the Council to follow rules to secure the political balance on Committees, Sub-Committees and Groups as explained below.

## **1. What does the Act seek to achieve?**

Members of this Authority have chosen to divide themselves into political groups for the purposes of the Act and the Council is under a duty to review the allocation of seats between the respective groups on Committees. These reviews must have regard to certain principles aimed at avoiding one party committees, giving the majority group a majority of seats on each Committee and achieving pro rata allocations according to the strengths of the groups on the Council. Committees are in turn required to review the allocation of seats on their Sub-Committees having regard to the same principles.

The results of a review must be implemented as soon as practicable and must give effect to each group's wishes as to which of their Members are to sit on which Committee/Sub-Committees. A group's wishes must similarly be followed in terminating a Member's appointment.

## **2. What is a political group?**

Political groups for the purposes of the Act should not be confused with political parties. A group is constituted when two or more Members deliver to the Chief Executive a signed written request (signed by all of them) that they wish to be treated as a political group. The request has to state the name by which the group is to be known and has to name one Member as its leader.

Other Members who did not sign the original request may become a Member of an existing political group. Alternatively, at least two Members may decide to form their own group.

## **3. When must reviews take place?**

Reviews must take place as soon as practicable after each of the following occurs:

- Members first divide into political groups.
- The annual meeting of the Council and Members are divided into political groups at the time of the meeting.
- When the Chief Executive receives a written request in respect of the formation of a new group, a Member to join an existing group or from a newly elected Member within one month of election.

## **4. How are the rules applied?**

The formula for determining entitlement to seats is complicated. The number of seats on the main Committees which are allocated to a political group must bear the same proportion to the total of all the seats on those Committees as is borne by the number of Members of that group to the total membership of the Council.

## 5. What about Members not in a political group?

In such cases the calculations may provide that a proportion of seats on each Committee are not allocated to any political group equal to the proportion of Council Members who do not belong to any group. The Council or the parent Committee in the case of Sub-Committees, make appointments to these seats. To safeguard non-political group members only such non-group members may be appointed to these seats.

## 6. Can alternative arrangements be approved?

The Council in carrying out any review may decide unanimously (this means without any Members voting against the proposal) that they wish to adopt arrangements other than those required by the Act. Committees can also decide to make alternative arrangements for Sub-Committees with the unanimous agreement of their Members.

## 7. What is the allocation of seats?

The number of seats that will need to be allocated at Annual Council is shown below and although there is no statutory requirement the Council's Protocol for the operation of Policy Advisory Groups (PAGs) requires these Groups also to be politically balanced.

Whenever a review of the allocation of seats is required the Chief Executive will prepare a report showing what the allocation of seats would in his/her opinion best meet the requirements of Section 15(5) of the 1989 Act.

## 8. Seats to be allocated

Audit and Standards Committee - 6  
Licensing Committee – 12  
Overview and Scrutiny Committee – 8  
Joint Staffing Personnel Committee - 6  
Planning Committee – 12  
Governance and Electoral Arrangements Committee - 6

Plus seats on the PAGs.

**PART B**  
**SECTION B: Council Procedure Rules**

# 1. Annual Meeting of the Council

## 1.1 Timing and Business

The annual meeting of the Council shall be held:

- a) In a year when there is an ordinary election of Councillors, on the eighth day after the retirement of Councillors or on such other day within twenty-one days immediately following the retirement of the outgoing councillors, as the Council may fix.
- b) In any other year, on such day in the month of April or May as the Council may fix.

The order of business at the annual meeting will be:

- a) To elect a person to preside if either the Chairman or Vice-Chairman is not present;
- ~~b) To deal with any item of business required by law to be transacted before any other item; Chairman and appoint a Vice-Chairman.~~
- ~~c) To elect the Chairman of the Council for the forthcoming year; If the Chairman and Vice-Chairman are absent, to choose a person to preside such person not being a member of the Cabinet.~~
- ~~d) To appoint the Vice-Chairman of the Council for the forthcoming year;~~
- ~~e) To receive any apologies for absence;~~
- ~~f) To approve the minutes of the last meeting;:-~~
- ~~g) To receive any declaration of interest from members;~~
- ~~h) To receive any announcements from the Chairman and/or Head of the Paid Service;:-~~
- ~~e) To receive any apologies for absence.~~
- ~~i) To elect a Leader of the Council (unless the Leader has further year(s) of unexpired term of office);:-~~
- ~~j) To receive the names of Members of the Cabinet appointed by the Leader, the allocation of responsibilities to Cabinet Members and appointments to outside organisations carrying out cabinet functions;:-~~
- ~~h) To deal with any business required by statute.~~
- ~~k) To establish at least one Overview & Scrutiny Committee and such regulatory and other committees and sub-committees as the Council considers appropriate to deal with matters which by law or by this Constitution are neither cabinet functions or reserved to full Council; receive any reports from statutory officers of the Council.~~
- ~~l) To determine the size and terms of reference of the committees and sub-committees referred to in paragraph k) above;~~
- ~~m) To determine the allocation of seats to political groups in accordance with political balance rules;~~
- ~~n) To receive nominations of councillors to serve on each Committee and appoint the members thereto;~~
- ~~o) To receive nominations of councillors to serve on outside bodies and appoint to those bodies except where appointment to any such body is by law or by this Constitution exercisable by the Cabinet;~~
- ~~p) To approve a programme of ordinary meetings of the Council for the forthcoming year (if not already agreed);~~
- ~~j) To consider petitions if any.~~
- ~~k) To answer questions asked under Rules 9 and 10.~~
- ~~l) To dispose of business (if any) remaining from the last meeting.~~

- ~~m) — To consider reports of the Cabinet, the Leader and/or Cabinet Members.~~
- ~~n) — To consider reports of the Committees of the Council.~~
- ~~o) — To consider notices of motion in the order in which they have been received.~~
- ~~qp) To consider any other items of business set out in the summons convening the meeting specified in the agenda.~~

## 1.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council will establish and appoint Members to Committees and Groups in accordance with the political balance rules.

Seats on Committees shall be distributed among the political groups in proportion to their membership on the Council. Before the annual meeting of the Council, and at any other time that a review of the allocation of seats is required, the Head of Legal and Democratic Services~~Director of Resources~~ shall consult Group Leaders on the membership of Committees and report to the annual or next following meeting of the Council. Such consultations and report determine the allocation to the different political groups and recommend such appointments to give effect to the wishes of the political groups.

## 1.3 Appointment of Chairman and Vice- Chairman of Committees and Sub-Committees

The Council shall adjourn its annual meeting to enable every committee to appoint a chairman and vice-chairman who shall hold office until the next annual meeting. The Chairman of the Council or in his/her absence the Vice-Chairman of the Council shall preside at the first meeting for the purpose of appointing a chairman

Every sub-committee shall at their first meeting after the annual meeting of the Council, appoint a chairman and vice-chairman who shall hold office until the first meetings following the annual meeting of the Council. The chairman of the appointing committee or in his/her absence the vice-chairman of that committee shall preside at the first meeting for the purpose of appointing a chairman.

If a chairman or vice-chairman are absent from a meeting a chairman for that particular occasion shall be appointed.

The Chairman, vice-chairman or other person presiding may in exceptional circumstances vacate the chair if they feel that to speak on a particular issue would not be compatible with their role as chairman of the meeting. In such circumstances the member concerned may remain in the meetings and participate in the debate. The vice-chairman shall preside or, if necessary another member shall be appointed to take the chair for this particular item.

~~At the conclusion of the Annual Meeting the Standing Committees will meet to elect their Chairmen and Vice-Chairmen for the Municipal Year and appoint to sub-committees if appropriate.~~

~~The Council will appoint members to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable by the Cabinet.~~

## 2. Ordinary Meetings

Ordinary meetings of the Council will take place in accordance with a programme to be fixed by the Council. Ordinary meetings will:

- a) Elect a person to preside if the Chairman and Vice-Chairman are not present;:-
- ~~b) Deal with any item required by statute to be dealt with before any other item;~~
- ~~c) Receive a presentation from a relevant individual or organisation including Thames Valley Police, as applicable and agreed in advance of the meeting by the Chairman, on a subject area relevant to the work of the Council or pertinent to a current issue for the Council.~~
- ~~de) Receive any apologies for absence;:-~~
- ~~ee) Approve the minutes of the last meeting;:-~~
- ~~fe) Receive any declarations of interest from members;:-~~
- ~~ge) Receive any announcements from the Chairman, Leader, Cabinet members ~~of the Cabinet~~ or the Head of the Paid Service;:-~~
- ~~h) Dispose of any business carried over from a previous meeting;~~
- ~~f) Fill any vacancies on Committees and Outside Bodies;.~~
- ~~i) To receive and consider reports and recommendations from the Committees of the Council in date order of the meeting. A full minute pack to be made available separately for members' information~~
- ~~j) To receive and consider reports and recommendations from the Cabinet and receive questions and answers on any of those reports and recommendations in accordance with Rule 9.1 of these Procedural Rules~~  
~~Receive answers to questions of which written notice has been given under Rules 9 and 10 from members of the Council and members of the public.~~
- ~~kh) Receive and consider any reports from the Cabinet and/or Leader, Cabinet Portfolio holder or Chairman of a Committee and receive questions and answers on any of those reports in accordance with Procedure Rule 9.1 and receive questions and answers on any of those reports.~~
- ~~li) Receive answers from the Cabinet Leader, Cabinet Portfolio holders or Chairman of a Committee to questions from members of the Council and members of the public of which written notice has been given under Procedure Rule 9.2 or 10. ~~to questions of which written notice has been given under Rules 9 and 10 from members of the Council and members of the public.~~ Receive reports from the Council's committees and receive questions and answers on any of those reports.~~
- ~~mj) To receive petitions and/or deputations from members of the public with the opportunity for members to ask questions of clarification at the discretion of the Chairman~~
- ~~n) Receive any -reports about, and any-, questions and answers relating to, -on the business of any joint arrangements ~~and~~ external organisations.~~
- ~~oi) Consider motions.~~
- ~~pi) Consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Chairman of the Overview and Scrutiny Committee .~~

### 3. Extraordinary Meetings

#### 3.1 Calling Extraordinary Meetings

Those listed below may request the Director of Resources to call a Council meetings in addition to ~~an~~ Ordinary ~~M~~meetings:

- a) The Council by resolution;:-
- b) The Chairman of the Council;:-

- c) The Leader
- d) The Monitoring Officer or Chief Finance Officer.
- ed) Any five members of the Council if they have signed a requisition presented to the Chairman of the Council (and copied to the Chief Executive) and the Chairman~~he/she~~ has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

### 3.2 Business

An extraordinary meeting of the Council shall be limited to a single of business notice of which shall be given in the summons for the meeting~~consider only such item of business as may be specified in the request for the meeting.~~

## 4. Changes in Membership of Committees and Sub-Committees

### 4.1 Casual Vacancies

The Chief Executive or such deputy appointment by him/her shall:

- a) Determine after consultation with the Group Leaders the allocation of seats to groups when there is a change in political composition during the term of the Council
- b) Make and terminate the appointments to committee and sub-committees to reflect the wishes of the political group or party which is entitled to the seats

### 4.2 Temporary Changes

Temporary changes may be made to the membership of committees as follows:

- a) the Democratic & Electoral Services Manager or other officer he/she authorises shall agree temporary changes to membership of Committees submitted by Group Leaders, their deputies or other nominated representative;
- b) the Democratic & Electoral Services Manager is notified in writing or electronic form by 10 am on the day of the meeting;
- c) the change applies to the entire meeting;
- d) the notification will specify whether the change is for a particular meeting or for a period, the dates for which must be given. The maximum period that can apply to a temporary change is 3 months;
- e) temporary changes may be made to Planning Committee and Licensing Committee provided that the replacement members have received the mandatory training relevant to the Committee's functions;
- f) temporary changes may be made to Joint Staffing Committee provided that where the committee is dealing with a particular staff appointment or issue the change is applicable to the whole period that the committee is dealing with that appointment or issue.

These rules do not apply to Licensing Sub-Committee

### 4.3 Powers and Duties

Temporary members will have all the powers of any ordinary member of the committee/sub-committee but will not be able to exercise any special duties exercisable by the person they are replacing.

## 5. Time and Place of Meetings

The time and place of every Ordinary or Extraordinary meeting will be determined by the Head of Legal and Democratic Services meetings will be determined by the Council and notified in the summons ~~sent by the Director of Resources.~~

## 6. Notice of and Summons to Meetings

The Head of Legal and Democratic Services~~Director of Resources~~ will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Head of Legal and Democratic Services~~Director of Resources~~ will send a summons to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

## 7. Chairman of Meeting

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to committee, sub-committee and panel meetings, references to the Chairman also include the Chairman of committees, sub-committees and panels.

## 8. Quorum

The quorum of a meeting will be one quarter of the whole number of members of the Council or the quorum as specified in the particular committee or sub-committee's terms of reference. If the meeting does not have a quorum at the time stated in the summons for it to begin the Chairman will wait up to 15 minutes (or in exceptional circumstances such longer time as the Chairman shall specify) to establish if the meeting has become quorate. If it has not, or if at any time during a ~~During any~~ meeting ~~if~~ the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

### ~~7.1 — Quorum of Committees~~

~~The quorum for a Committee is one quarter of the whole number of the Committee but shall not be less than two voting members. The quorum for Planning Committee shall be one half of the number of the Committee.~~

## 9. Duration of Meeting

Unless the majority of members present vote for the meeting to continue, any meeting that has lasted for 4 hours will adjourn immediately. Remaining business will be considered at a time and



date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## 10. Questions by Members

### 10.1 On Reports of the Cabinet or Committees

A member of the Council may ask the Leader, Cabinet Portfolio holder, Chairman of a Committee or Panel any question without notice upon an item of the report of the Cabinet, a Committee or a Panel when that item is being received or under consideration by the Council.

### 10.2 Questions on notice at Full Council

Subject to Rule 10.3, a member of the Council may ask:

- The Chairman;
- The Leader;
- A Cabinet Portfolio holder; or
- The Chairman of any Committee.

A question on any matter in relation to which the Council has powers or duties or which affects the District.

The period set aside for answering questions will not exceed 15 minutes.

### 10.3 Notice of Questions

A member may only ask a question under Rule 10.2 if:

- a) They have submitted their question in writing to the Democratic and Electoral Services Services Manager~~Director of Resources~~ at least ~~threetwo~~ clear days before the Council meeting (this excludes the day of receipt, the day of the meeting, bank holidays, Saturdays and Sundays); or
- b) The question relates to urgent business matters, the ~~y have the~~ consent of the Chairman or Member to whom the question is to be put has been received in advance or is given at the meeting and the content of the question has been given to the Democratic and Electoral Services Manager ~~is received by the Director of Resources by~~ by not later than 12 noon on the day of the meeting.

### 10.4 Response

An answer may take the form of:

- a) A direct oral answer;
- b) Where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- c) Where the reply cannot conveniently be given orally, a written answer delivered-circulated later to the questioner.

## 10.5 Supplementary Question

A member asking a question under Rule 10.2 may ask one supplementary question without notice of the member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

## 11. Questions by the Public

### 11.1 General

Members of the public may ask questions of the Chairman, Leader of the Council, Portfolio holders or Chairman of Committees at ordinary meetings of the Council during a period of up to 15 minutes during a period set aside for the purpose.

### 11.2 Order of Questions

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

### 11.3 Notice of Questions

A question may only be asked if a member of public has submitted their question in writing to the Democratic and Electoral Services Manager ~~Director of Resources~~ at least ~~three~~ two clear days before the Council meeting (this excludes the day of receipt, the day of the meeting, bank holidays, Saturdays and Sundays). Each question must give the name and address of the questioner.

The Chairman, in consultation with the Democratic and Electoral Services Manager ~~Director of Resources~~, will select the Member to provide the reply.

### 11.4 Number of Questions

At any one meeting no person may submit more than 3 questions and no more than 3 such questions may be asked on behalf of one organisation.

### 11.5 Scope of Questions

The Democratic and Electoral Services Manager ~~in consultation with the Head of Legal and Democratic Services~~ ~~Director of Resources~~ may reject a question if it:

- Is not about a matter for which the local authority has a responsibility or which affects the District;
- Is defamatory, frivolous or offensive;
- Is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- Relates to any existing or proposed application, permission, licence, consent, benefit, grant or enforcement action; or
- Requires the disclosure of confidential or exempt information.

## 11.6 Asking the Question at the Meeting

The Chairman will invite the questioner to put the question to the Member the Chairman has selected to make the reply. If a questioner who has submitted a written question is unable to be present, they may ask the Chairman to put the question on their behalf. The Chairman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

## 11.7 Written Answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the member to whom it was to be put, will be dealt with by a written answer.

## 11.8 Discussion

Unless the Chairman decides otherwise, no discussion will take place on any question.

# 12. Motions with Notice

## 12.1 Notice

Except for motions which can be moved without notice under Rule 13, written notice of every motion, signed by at least 2 members, must be submitted to the [Democratic and Electoral Services Manager](#)~~Director of Resources~~ at least 7 clear days before the date of the meeting (excluding the day of receipt, the day of the meeting, bank holidays, Saturdays and Sundays). The [Democratic and Electoral Services Manager](#)~~Director of Resources~~ will date and file each notice of motion received. The file is to be open to public inspection.

## 12.2 Motion set out in Agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

## 12.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the District [or part of it](#).

## 12.4 Reference of Motion to Cabinet or Committee

Motions for which notice has been given under 12.1 shall, upon being moved and seconded, stand referred to the Cabinet, a Committee or Panel as the Council may determine for consideration and report, unless the Chairman considers it convenient and conducive to the dispatch of business to allow the motion to be dealt with at the meeting at which it is brought forward. Where a motion stands referred, the mover shall not speak until the report on the motion comes before the Council. The Cabinet, Committee or Panel shall report back to the next ordinary meeting of the Council or

such other meeting as it may advise, and the report shall advise the Council whether or not the motion should be adopted or give such other advice as is appropriate.

### **13. Motions without Notice**

The following motions may be moved without notice:

- a) To appoint a chairman of the meeting at which the motion is moved;
- b) In relation to the accuracy of the minutes;
- c) To change the order of business in the agenda;
- d) To refer something to an appropriate body or individual;
- e) To appoint a committee or member arising from an item on the summons for the meeting;
- f) To receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- g) To withdraw a motion;
- h) To amend a motion;
- i) To hold a recorded vote or ballot;
- j) To proceed to the next business;
- k) That the question be now put;
- l) To adjourn a debate;
- m) To adjourn a meeting;
- n) That the meeting continue beyond 4 hours in duration – see Rule 8;
- o) To extend the time limit for questions or speeches;
- p) To suspend a particular council procedure rule;
- q) To exclude the public and press in accordance with the Access to Information Rules;
- r) To not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 21.4; and
- s) To give the consent of the Council where its consent is required by this Constitution.

### **14. Rules of Debate**

#### **14.1 No Speeches until Motion Seconded**

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

#### **14.2 Right to Require Motion in Writing**

Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him/her before it is discussed.

#### **14.3 Secunder's Speech**

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

#### **14.4 Content and length of Speeches**

Speeches must be directed to the motion under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes.

#### **14.5 When a Member may speak again**

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- a) To speak once on an amendment moved by another member;
- b) To move a further amendment if the motion has been amended since he/she last spoke;
- c) If his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- d) In exercise of a right of reply;
- e) On a point of order; and
- f) By way of personal explanation.

#### **14.6 Amendments to Motions**

- a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) To refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) To leave out words;
  - (iii) To leave out words and insert or add others; or
  - (iv) To insert or add words.
 As long as the effect of (b) to (d) is not to negate the motion.
- b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- c) If an amendment is not carried, other amendments to the original motion may be moved.
- d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- e) After an amendment has been carried, the chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### **14.7 Alteration of Motion**

- a) A member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- b) A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- c) Only alterations which could be made as an amendment may be made.

#### **14.8 Withdrawal of Motion**

A member may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### **14.9 Right of Reply**

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

#### **14.10 Motions which may be moved during Debate**

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

- a) To withdraw a motion;
- b) To amend a motion;
- c) To proceed to the next business;
- d) That the question be now put;
- e) To adjourn a debate;
- f) To adjourn a meeting;
- g) That the meeting continue beyond 4 hours in duration – (Rule 8 above refers);
- h) To exclude the public and press in accordance with the Access to Information Rules; and
- i) To not hear further a member named under Rule 20.3 or to exclude them from the meeting under Rule 20.4.

#### **14.11 Closure Motions**

- a) A member may move, without comment, the following motions at the end of a speech of another member:
  - (i) To proceed to the next business;
  - (ii) That the question be now put;
  - (iii) To adjourn a debate; or
  - (iv) To adjourn a meeting.
- b) If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- c) If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed

on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### **14.12 Point of Order**

A member may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.

#### **14.13 Personal Explanation**

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

### **15. Themed Debate**

The Agenda for an ordinary meeting of the Council may contain an item for consideration of a particular theme or subject on any matter within the Council's powers or duties or which affects the District. The Chairman may move that the Council Rules of Procedure be suspended (in accordance with Rule 21 - Suspension and Amendment of Council Procedure Rules) to enable a speaker (who need not be a Member of the Council) to address the Council on the theme or subject, and to deal with questions or comments either from Members of the Council or from the public.

### **16. Previous decision and motions**

#### **16.1 Motion to rescind a previous decision**

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

#### **16.2 Motion similar to one previously rejected**

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

### **17. Voting**

#### **17.1 Majority**

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

#### **17.2 Chairman's Casting Vote**

If there are equal numbers of votes for and against, the chairman will have a second or casting vote. There will be no restriction on how the chairman chooses to exercise a casting vote.

### **17.3 Show of hands**

Unless a recorded vote is demanded under Rules 17.4, the Chairman will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

### **17.4 Recorded Vote**

If one-quarter of the members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

In accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 a recorded vote will be taken when the Council makes a calculation of the budget requirement or issues a Council tax precept under relevant sections of the Local Government Finance Act 1992.

### **17.5 Right to require individual vote to be recorded**

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

### **17.6 Voting on Appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

## **18. Minutes**

### **18.1 Signing the Minutes**

The Chairman will sign the minutes of the proceedings at the next suitable meeting. As soon as the minutes have been read, or taken as read, the Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy, and any question of their accuracy shall be raised by moving a formal amendment to the minutes.

### **18.2 No Requirement to sign minutes of previous meeting at Extraordinary Meeting**

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



### 18.3 Form of Minutes

Minutes will contain all motions and amendments received ~~in accordance with Rule 11~~ in the exact form and order the Chairman put them.

## 19. Record of Attendance

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

## 20. Attendance by the public

### 20.1 Exclusion of the public

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part B of this Constitution or Rule 20.3 (Disturbance by Public).

### 20.2 Recording of proceedings

Audio recording and text based communication shall be allowed at meetings which are open to the public, whether carried out by a member of the public, a representative of the media or a councillor. Members of the public and the press may film, photograph or audio record the proceedings of any part of meetings which is open to the press and public for simultaneous or subsequent broadcast or publication via social media, the internet or other publication. When carrying out reporting activities they must remain in their seat and not disrupt the proceedings. The Chairman may limit the number of mobile electronic devices in use at any time if there is any interference with the Council's own audio and/or visual equipment. Such devices should always be set to their silent or vibrate mode. The Chairman may halt any recording if it is causing disruption. Filming or photography during proceedings shall only take place with the prior agreement of the Chairman who shall announce any arrangements which have been agreed at the start of the meeting.

### 20.3 Removal of member of the public

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

### 20.4 Clearance of part of meeting room

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

## 21. Members' Conduct

### 21.1 Standing to speak

When a member speaks at full Council they must stand and address the meeting through the Chairman. If more than one member stands, the chairman will ask one to speak and the others must sit. Other members must remain seated whilst a member is speaking unless they wish to make a point of order or a point of personal explanation.

### **21.2 Chairman standing**

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

### **21.3 Member not to be heard further**

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

### **21.4 Member to leave the meeting**

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

### **21.5 General Disturbance**

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

### **21.6 Disclosable Pecuniary Interests**

Members who have a Disclosable Pecuniary Interest in any item of business being considered at a meeting of the Council, its Committees, Sub-Committees, Joint Committees, Cabinet and/or Policy Advisory Groups, must leave the room or chamber including the public gallery during the whole of the consideration of that item except where a member is permitted to remain as a result of the grant of a dispensation.

## **22. Suspension and Amendment of Council Procedure Rules**

### **22.1 Suspension**

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

### **22.2 Amendment**

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

## **23. Application to Committees and Sub-Committees**

All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the Cabinet. Only Rules 4–9, 13–14, 16–18, 20–23 (but not Rule 21.1) apply to meetings of committees and sub-committees. The application of these rules to the Chiltern and South Bucks Joint Committee / Joint Staffing Committee are set out in their respective terms of reference set out in Part A of the Constitution.

A member who is not a member of a committee or sub-committee may attend any meeting and may speak (but not vote), at the discretion of the Chairman of the committee or sub-committee. A member who is not a member of Planning Committee shall have the right to address the Committee on any application. Such address shall be limited to a total speaking time by non-members of not more than 5 minutes on each application.

## **24. Petitions**

To receive and debate as necessary Petitions received in accordance with the adopted Petition Scheme in Part C of the Constitution.

**PART B**  
**SECTION C: Cabinet Procedure Rules**

## 1. Role and Composition

- 1.1 The Cabinet is responsible for the discharge of all functions allocated to it by the Council in accordance with the Local Government Act 2000 Section 13 and subsequent legislation and regulations. The arrangements for the discharge of those functions will be as laid out by the Council from time to time and in the absence of such arrangements, the Leader will decide how they are to be exercised.
- 1.2 The current allocation of responsibilities is set out in Part A of this Constitution.
- 1.3 At the Annual Meeting of the Council, the Leader will present a report containing the following information regarding the discharge of Cabinet functions in the forthcoming year:
- a) The names of the Councillors he has appointed to the Cabinet.
  - b) The extent of any authority delegated to Cabinet Members individually as Portfolio Holders, including details of the limitation on their authority.
  - c) The terms of reference and Constitution of any Cabinet Committees the Leader appoints and the names of the Members appointed to them.
  - d) The nature and extent of any delegation to Officers, with details of limits on those delegations and the title of the Officer to whom the delegation is made.
  - e) The nature and extent of any delegation of a Cabinet function to any other authority, or any joint arrangements including names of the Cabinet Members appointed to serve under those arrangements.

## 2. Appointments

### 2.1 Appointment of Leader

The Leader shall be a Councillor elected to that office by a majority of the Council. The Leader will hold office for a term of four years to the annual general meeting after the district elections unless he/she:

- a) Resigns from the office of Leader;
- b) Resigns from the Council;
- ~~c) Is suspended from being a Councillor under Part 3 of the Local Government Act 2000;~~
- d) Is removed from office by a resolution of the Council; or
- e) Is otherwise disqualified from holding the office of Councillor.

Where the Leader ceases to hold office other than by the normal expiry of their term of appointment, the Council shall appoint a replacement to hold office until the date of the next post election Annual Meeting of the Council.

### 2.2 Appointment of Cabinet Members

With regard to appointment of Cabinet Members, Councillors serving on the Cabinet shall be appointed by the Leader.

Members of the Cabinet shall hold office for a term of four years unless they:

- a) Resign from the office of Cabinet member;
- b) Resign from the Council;
- ~~c) Are suspended from being a Councillor under Part 3 of the Local Government Act 2000;~~
- d) Are removed from office by written notice to that effect from the Leader, (who shall immediately give notice of the removal to the Chief Executive with details of their replacement); or
- e) Are otherwise disqualified from holding the office of Councillor.

Where a member of the Cabinet ceases to hold office other than by the normal expiry of their term of appointment, the Leader shall appoint a replacement to hold office until the end of the current term of office of Cabinet members.

### 2.3 Appointment of Deputy Leader

There will be a Deputy Leader who will be chosen by the Leader from the Cabinet. The term of the Deputy Leader shall be as for the Leader, but it will be open to the Leader to revoke the appointment and appoint a new Deputy at any time.

## 3. Decisions of the Cabinet

3.1 Decisions will be made either by:

- a) The Cabinet as a whole;
- b) By individual Portfolio Holders or the Leader acting within the delegations of authority to them set out in Part E of this Constitution;
- c) By an Officer acting under delegated powers, the Scheme of Delegation for Officers being set out in Part E of this Constitution;
- d) By joint arrangements; or
- e) By another Local Authority under delegation; ~~or~~
- ~~f) By an individual member limited to the exercise of a specific function in the ward for which the member is elected.~~

Where the Cabinet is collectively responsible for a Cabinet function, they may in turn delegate that function to an Officer or to joint arrangements, but the delegation of the function will not prevent the discharge of that function by the Cabinet.

## 4. Conflicts of Interest

4.1 If a conflict of interest arises during the consideration of any matter which is a Cabinet Function, it will be dealt with in accordance with the Code of Conduct for Members set out in Part C of this Constitution.

4.2 If during the exercise of a Cabinet function that has been delegated to a Committee or to an Officer a conflict of interest arises, then the function will in the first instance be exercised instead by the body or person by whom the delegation was made or otherwise in accordance with the Code of Conduct for Members, set out in Part C of this Constitution.

## 5. Meetings of the Cabinet

- 5.1 The Cabinet will normally meet on a quarterly cycle, at such dates and times as shall be determined by the Leader and notified to the Council.
- 5.2 The Cabinet shall meet at the Council Offices, Oxford Road, Denham, or at such other location as the Leader may from time to time determine.
- 5.3 All meetings of the Cabinet shall be in public in accordance with the Council's Access to Information Procedure Rules, set out in Part B of this Constitution.
- 5.4 The quorum for a meeting of the Cabinet or a Committee of the Cabinet shall be ~~threetwo~~ and must include either the Leader or the Deputy Leader.
- 5.5 Substitutes are not permitted for Cabinet Members, but the absence of a Cabinet Member shall not prevent consideration and determination of any matter. If a matter is delegated to a Cabinet Member, it may be referred by that Cabinet Member to the Cabinet for decision.
- 5.6 Any Councillor may attend any meeting of the Cabinet, but there is no right for non-Cabinet members to speak at Cabinet meetings.
- 5.7 The Statutory Officers of the Council shall have the right to attend any meeting of the Cabinet and shall be entitled to speak on issues affecting their statutory responsibilities.

## 6. Conduct of Meetings

- 6.1 At each meeting of the Cabinet, the following business will be conducted:
  - a) Consideration of the minutes of the last meeting.
  - b) Declarations of interest, if any.
  - c) Matters referred to the Cabinet (whether by the Overview and Scrutiny Committee or by the Council) for reconsideration in accordance with the provisions of the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part B of this Constitution.
  - d) Consideration of reports from the Overview and Scrutiny Committee.
  - e) The Cabinet Forward Plan
  - f) Reports from Statutory Officers in respect of their functions.
  - g) The items of business set out in the agenda for the meeting.
- 6.2 The items of business set out in the Cabinet 28 Day Notice and in the agenda will indicate those which are likely to result in a Key Decision being made, with a Key Decision being defined as a decision which:
  - a) Has an income or expenditure effect of £50,000 or more subject to the exclusion as set out in full in Part A; or
  - b) Is likely to have a significant effect on more than one ward.
- 6.3 The Cabinet 28 Day Notice will also indicate the non – Key Decisions Portfolio Holders are likely to make having regard to the advice they receive from their respective Policy Advisory

Group, the dates of meetings of which will also be included in the 28 Day Notice. The Scheme of Delegation to Portfolio Holders is set out in Part E of this Constitution and the role of Policy Advisory Groups is explained in a Protocol in Part C. Decisions made by Portfolio Holders will be reported to Cabinet for information.

- 6.4 The placing of items on the agenda will be decided by the Leader and the Proper Officer will comply with the Leader's requests in this respect. The Leader may also place any matter on the agenda for any meeting of the Cabinet, even where authority has been delegated by the Cabinet to another body, Officer or Portfolio Holder. Where a matter falls within the terms of reference of a Committee or Sub-Committee, then matters relating to the remit of those Committees or sub-Committees may not be placed on the agenda.
- 6.5 Matters referred by the Overview and Scrutiny Committee, the Council itself or by a Statutory Officer if falling within their Statutory Responsibilities shall also be placed on the agenda by the Proper Officer, in consultation with the Leader.



## **PART 2**

### **SECTION D: Overview and Scrutiny Procedure Rules**

## 1. Application of Rules

These rules apply to the Overview and Scrutiny Committee and to any of its Sub-Committees or Panels.

## 2. Composition and Terms of Reference

These are described in Part 1 of this Constitution.

## 3. Work Programme and Agenda Items

- 3.1 The Overview and Scrutiny Committee and where appropriate its sub-Committees and Panels, will be responsible for setting their own work programme. That work programme will be published annually to the Council and will incorporate consultation with the Cabinet on any issues the Cabinet and any Committee may wish to request the Overview and Scrutiny Committee to consider.
- 3.2 Any Member of the Committee or of its Sub-Committees and Panels shall be entitled to give notice to the Proper Officer if they wish an item relevant to the functions and remit to be included on the agenda for the next available meeting.
- 3.3 Any Member of the Council who is not a member of the Overview and Scrutiny Committee may give written notice to the Proper Officer that they would like the Committee to consider any particular item for inclusion in their work programme. The Overview and Scrutiny Committee will then decide whether to include that item.
- 3.4 Where the Cabinet or Council request an area of the Council's activity to be reviewed, the Overview and Scrutiny Committee will adjust their work programme to the extent necessary to carry out that review and report back to either the Cabinet or the Council in written form.

## 4. Call-ins

- 4.1 Any five Members of the Council who are not members of the Cabinet may, by written notice to the Democratic and Electoral Services Manager~~Proper Officer~~, require that a key or non-key decision of the Cabinet, Portfolio Holder or a key decision of an Officer not be implemented until it has been considered by the Overview and Scrutiny Committee. The call-in procedure is a statutory right – Section 21(3) Local Government Act 2000. Such written notice must be given within five working days of the electronic mail dissemination of the relevant Cabinet minutes or Portfolio Holder/Officer decision notice. The validity of the call-in notice will be determined by the Democratic and Electoral Services Manager in consultation with the Head of Legal and Democratic Services~~Proper Officer~~ as a preliminary issue.

Where a valid notice of call-in has been received, the Democratic and Electoral Services Manager ~~Proper Officer~~ shall convene an extraordinary meeting of the Overview and Scrutiny Committee as soon as possible but in any event within 15 working days of receipt of the call-in request unless an ordinary meeting is scheduled to take place within that period – in which case the subject matter of the call-in request will be added to that agenda

and taken as an urgent item as necessary. The [Democratic and Electoral Services Manager](#)~~Proper Officer~~ will notify the Cabinet and any other Members and Officers of the call-in and the date on which it will be considered.

Unless implementation of the decision is considered urgent – see paragraph 4.2 until the matter has been considered by the Overview and Scrutiny Committee, and unless the Overview and Scrutiny Committee resolve that it is content with the decision, the decision the subject of the Call-In Request may not be implemented before the decision making body or person has reconsidered the decision having regard to the views of the Overview and Scrutiny Committee.

The call-in request will be discussed by the Overview and Scrutiny Committee. The Members who requested the call-in will be invited to attend to explain the ground/s for the request - and the appropriate decision maker will also be invited to attend the meeting.

The Overview and Scrutiny Committee can then make one of the following 2 decisions:

- a) Over-rule the call-in and allow the earlier decision to stand and implementation to proceed.
- b) Remit the matter back to the decision-making body or decision maker for reconsideration at the next appropriate meeting if applicable – with an explanation of the Committees concerns and any specific considerations that need to be taken into account on re-consideration.

If the decision-making body or decision maker requires more time to consider the Committees recommendations, the Chairman of the Overview and Scrutiny Committee can agree to such request after consultation with the members of the Committee.

If after reconsideration the decision maker does not consider any changes should be made to the earlier decision, then the decision maker shall recommend accordingly to Cabinet setting out the reasons why no changes are considered necessary – or where the decision maker was the Cabinet – it shall notify the Council of its decision.

The call-in procedures will not apply where the decision is taken by the full Council on the basis of a recommendation - and shall not apply where the decision is urgent.

A decision can only be called in once, unless the original decision is substantially amended other than in accordance with the Committee recommendation.

## **4.2 In the Case of Urgency**

In the case of urgent implementation, the procedure shall be that the Leader and the relevant Portfolio Holder(s) /Officer will obtain the written agreement of the Chairman of the Overview and Scrutiny Committee (or suitable alternate in his/her absence) that implementation of the decision is genuinely urgent. The Portfolio Holder/Officer must then make the decision in consultation with the Leader. If the decision is one that falls to the Cabinet as a whole, then the same procedure must be followed but the final decision will be made by the Cabinet.

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

Note: The urgency procedure set out above is separate from the urgency procedure under The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 to (i) include a key decision on the 28 Day Notice which has already been published; and (ii) to enable the Cabinet to make a key decision when compliance with (i) is impracticable - see paragraph 17 of Access to Information Procedure Rules in Part B of this constitution for procedure.

## 5. The Conduct of Meetings

5.1 The Overview and Scrutiny Committee and any sub-Committees and Panels shall consider the following business in the following order:

- a) Minutes of the last meeting.
- b) Any declarations of interest.
- c) Any response from the Cabinet to a previously forwarded report.
- d) The business otherwise set out in the agenda for meeting.

5.2 When the Overview and Scrutiny Committee or one of its Sub-Committees or Panels is conducting a review or investigation, it shall have the right to documents and other information as described in the Access to Information Procedure Rules set out in Part B of this Constitution.

5.3 The Overview and Scrutiny Committee or any of its Sub-Committees or Panels (in relation to matters falling within their terms of reference) may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. It may require the Leader and any member of the Cabinet, the Head of Paid Service and any Director or Head of Service to attend before it to explain, in matters in relation to their remit, the following:

- a) Any particular decision or series of decisions and the reasons for them.
- b) The extent to which any action or lack of action affects the Council and/or implements Council policy.
- c) Performance and outcomes in relation to the areas under their control.

It is the duty of those persons to attend if required, but such attendance will follow written notice from the [Democratic and Electoral Services Manager](#)~~Proper Officer~~, who will give at least seven days notice in writing or by electronic mail of the meeting at which he/she is required to attend. The notice will indicate the nature of the item and whether there is a requirement to produce any papers or other background information, or whether a report is required.

If, exceptionally, the relevant Member or Officer is unable to attend on the required date, an alternative date may be arranged by mutual agreement, but this must take place within a maximum of six weeks of the date of the original request.

5.4 The Overview and Scrutiny Committee or its Sub-Committees and Panels may invite persons other than those set out above to give evidence, including individuals from outside

the Council or from other organisations. There is no requirement on these individuals to attend.

If there is a wish for Officers below Head of Service to give evidence, then that attendance shall be at agreement of the Head of Paid Service or the relevant Director.

- 5.5 The Overview and Scrutiny Committee may require information from and for:
- a) Any person to attend from any partner authority designated in Section 104 of the Local Government and Public Involvement in Health Act 2007 – as amended from time to time; or
  - b) Any officer or employee of a responsible authority or a co-operating person or body as defined by section 5 of the Crime and Disorder Act 1988 in relation the scrutiny of a crime and disorder function.
- 5.6 A member who has raised a matter referred to the Overview and Scrutiny Committee may attend the meeting of the Overview and Scrutiny Committee where the matter is discussed unless the matter to be discussed includes confidential or exempt information. The Overview and Scrutiny Committee will in any event notify the relevant member of its decision and the reasons for it - subject the exclusion of confidential or exempt information.
- 5.7 In relation to scrutiny of a crime and disorder function – additional members may be co-opted if they are an employee, officer or member of a responsible authority or co-operating person or body – and shall only be able to vote if the Overview and Scrutiny Committee so permit.
- 5.8 Where the Overview and Scrutiny Committee completes its consideration of a matter it will:
- a) Decide whether to make any recommendations to Cabinet/Council/publish its report
  - b) With regard to CCfA matter – report/make recommendations in accordance with the Local Government Act 2000 as amended
  - c) In relation to a crime and disorder matter – comply with the reporting requirements under the Police and Justice Act 2006 – as amended.
- 5.9 The Overview and Scrutiny Committee will receive and consider petitions – in particular hearing evidence from Senior Officers in relation to petitions received – as set out in the adopted Petition Scheme in Part C.

**PART B**  
**SECTION E: Access to Information Procedure Rules**

## **1. Scope**

These rules apply to all meetings of the Council, Overview and Scrutiny Committee, area committees (if any), regulatory committees and meetings of the Cabinet (together called meetings). The rules do not apply to Policy Advisory Groups (PAGs) or any other Advisory Groups.

Any documentation which is being referred to as being posted or made available means “made available at the Council Offices, Capswood, Oxford Road, Denham, and on the Council’s website”.

## **2. Additional Rights To Information**

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

## **3. Rights To Attend Meetings**

Members of the public may attend all meetings and in accordance with The Openness of Local Government Bodies Regulations 2014 (hereafter referred to as the Openness Regulations 2014) may report on the meeting and use any communications method, including the internet, to publish, post or otherwise share the results of the reporting activities, subject only to the exceptions in these rules.

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

The Council will give at least five clear (working) days notice of any meeting by posting details of the meeting.

## **5. Notice of Private Meetings**

- 5.1 The Council will give at least 28 clear calendar days’ notice of its intention to hold a meeting of the Cabinet in private by posting a notice. The notice must include a statement of the reasons for the meeting to be held in private.
- 5.2 At least five clear (working) days before a private meeting of the Cabinet, the Council will post a further notice of its intention to hold a meeting in private. The notice must include a statement of the reasons for the meeting to be held in private and details of any representations received about why the meeting should be open to the public and a statement of its responses to any such representations.
- 5.3 Where the date by which the meeting must be held makes compliance with regulation 5 of the Executive Procedure Rules 2012 impracticable and is therefore not included in 28 clear calendar days’ notice, the meeting may only be held in private where the decision-making body has obtained agreement from:
  - (a) the chairman of the relevant overview and scrutiny committee; or
  - (b) if there is no such person, or if the chairman of the relevant overview and scrutiny committee is unable to act, the chairman of the relevant local authority; or

- (c) where there is no chairman of either the relevant overview and scrutiny committee or of the relevant local authority, the vice-chairman of the relevant local authority

## 6. Access to Agenda and Reports before the Meeting

The Council will make copies of the agenda and reports, which are open to the public, available for inspection at least five clear (working) days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. That item will only be considered at the meeting if the Chairman agrees that it is urgent with the reasons for the urgency set out in the minutes of that meeting. Where a report is prepared after the summons has been sent, it will be made available to the public as soon as the report is completed and sent to councillors.

## 7. Supply of Copies

The Council will make available 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 Democratic and Electoral Services Manager~~Proper Officer~~ thinks fit, copies of any other documents supplied to councillors in connection with an item.

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

## 8. Access to Agenda and Minutes after the Meeting

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

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

## 9. Background Papers

### 9.1 List of Background Papers

Every report considered at a meeting will set out a list of those documents (called background papers) relating to the subject matter of the report which:

- a) Disclose any facts or matters on which the report or an important part of the report is based; and
- b) Have been relied on to a material extent in preparing the report; excluding any published works or those which disclose exempt or confidential information (as defined in Rule 10).



## 9.2 Public Inspection of Background Papers

In accordance with The Openness Regulations 2014 the Council will make available for public inspection copies of any background papers, for six years after the date of the meeting.

## 10. Summary of Public's Rights

A written summary of the public's rights to attend meetings and to inspect and copy documents, as set out in these Rules, must be kept at and available to the public. These Rules constitute the written summary.

## 11. Exclusion of Access by the Public to Meetings

### 11.1 Confidential Information and Exempt Information – Requirement to Exclude Public

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

The meeting which the public may attend will be referred to as the "public part of the meeting" with "private part of the meeting" referring to that part where confidential information or exempt information is likely to be disclosed.

### 11.2 Meaning of Confidential Information

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

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

### 11.3 Meaning of Exempt Information

Exempt information means information falling within any of the categories set out in the Table below, subject to the qualifications and interpretations in Parts 2 and 3 of Schedule 12A to the Local Government Act 1972 (as amended).

| Category |  |
|----------|--|
| 1.       | Information relating to any individual.  |
| 2.       | Information which is likely to reveal the identity of any individual.  |
| 3.       | Information relating to the financial or business affairs of any particular person (including the authority holding that information).                                       |
| 4.       | Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the |

|    |  |
|----|--|
|    | authority or a Minister of the Crown and employees of, or office holders under, the authority.   |
| 5. | Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.  |
| 6. | Information which reveals that the authority proposes: <ul style="list-style-type: none"> <li>a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>b) To make an order or direction under any enactment.</li> </ul> |
| 7. | Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.  |

The following qualifications to exempt information apply:

| Qualifications |   |
|----------------|---|
| 1.             | Information falling within category 3 above is not exempt information if it is required to be registered under: <ul style="list-style-type: none"> <li>a) the Companies Act 1985;</li> <li>b) the Friendly Societies Act 1974;</li> <li>c) the Friendly Societies Act 1992;</li> <li>d) the Industrial and Provident Societies Acts 1965 to 1978;</li> <li>e) the Building Societies Act 1986;</li> <li>f) the Charities Act 1993.</li> </ul> |
| 2.             | Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.   |
| 3.             | Information which: <ul style="list-style-type: none"> <li>a) Falls within any of categories 1 to 7 above; and</li> <li>b) Is not prevented from being exempt by virtue of qualifications 1 or 2 above.</li> </ul> <p>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.</p>                         |

For interpretation see Part 3 of Schedule 12A of the Local Government Act 1972 (as amended).

#### 11.4 Public Interest Test

In respect of all categories there is a public interest test asking whether it would benefit the public more to withhold the information than to release it. Every copy of a report of which the whole or part is not available for public inspection must be marked "Not for Publication" and must contain a description of the exempt information in terms of the categories. There is an inherent public interest in access to information held by public bodies and factors favouring disclosure include:

- a) Promoting accountability for public expenditure;
- b) Allowing individuals to understand decisions and being able to question those decisions;
- c) Promoting public order, Health and Safety;

- d) Enabling people to become informed and able to participate in public debate; and
- e) Where the disclosure of information assists the applicant to enforce their rights under the European Convention on human rights.

The exemptions provide the list of factors against disclosure. If disclosure would affect these matters adversely, then it is relevant to weigh the possible harm against the positive benefits of openness.

## 12. Exclusion of Access by the Public to Reports

The Council may, if the ~~Democratic and Electoral Services Manager~~~~Proper Officer~~ thinks fit, exclude access by the public to reports which in his/~~or~~ her opinion relate to items during which, in accordance with Rule 11, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## 13. Application of Rules to the Cabinet

When the Cabinet meets it must comply with Rules 1-12 unless Rule 16 (general exception) or Rule 17 (special urgency) apply. In addition, the Cabinet must also comply with Rules 14 – 22, as set out below. This requirement does not include meetings, whose sole purpose is for officers to brief members.

## 14. Procedure Before Taking Key Decisions - The 28 Day Notice

A key decision is as defined in the Cabinet Procedure Rules (see Part B of this Constitution).

In accordance with the Executive Arrangements Regulations 2012 subject to Rule 16 (general exception) and Rule 17 (special urgency), a key decision may not be taken unless:

- a) A document (called here 28 Day Notice) has been made available at least 28 clear days (which includes weekends and public holidays) before the decision is made. The following information will be included:
  - The matter in respect of which the decision is to be made;
  - Where the decision taker/maker is the Cabinet, Portfolio Holder or an Officer, their name and title and where the decision-maker is a decision-making body its name and a list of its members;
  - The date on which or the period within which the decision is to be made;
  - A list of documents to be submitted to the decision maker or decision-making body;
  - The procedure for requesting details of those documents;
  - A statement of the reasons for the why the item will be held in private (if appropriate and the category being used to exempt the information);
  - The identity of the principal groups whom the decision taker proposes to consult before taking the decision;
  - The means by which any such consultation is proposed to be undertaken;
  - The steps any person might take who wishes to make representations to the decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and

- b) At least five clear working days have elapsed since the publication of the 28 Day Notice; and
- c) Where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

## **15. The 28 Day Notice**

The Leader will prepare a 28 Day Notice which in addition to listing all Key Decisions the Cabinet is expected to make during the next 28 days, will also list the non-Key Decisions that Portfolio Holders are expected to make during the same period following advice from their Policy Advisory Groups. The dates of PAG meetings will also be listed in the 28 Day Notice. It will also list any key decisions that officers are expected to make.

## **16. General Exception**

If a matter which is likely to be a key decision has not been included in the published 28 Day Notice and notice of the meeting has not been published, then the decision may still be taken provided:

- a) The Chairman of Overview and Scrutiny Committee (or if there is no such person, each member of the Overview and Scrutiny Committee) has been informed in writing in accordance with Regulation 10 of the Executive Procedure Rules 2012.
- b) The Proper Officer has made available the Regulation 10 Notice for inspection by the public and published it on the Council's website. Such notice to include why compliance was not met.
- c) After five clear days have elapsed following the day on which the Proper officer made available the notice referred to in sub paragraph (b).

## **17. Special Urgency**

If the date by which a key decision must be made makes compliance with Regulation 10 of the Executive Procedure Rules 2012 impracticable and it is therefore not included in a published agenda, then in accordance with Regulation 11 a decision may be made provided that the decision is urgent and cannot be reasonably deferred and agreement has been obtained from:

- a) The Chairman of the Overview and Scrutiny Committee; or
- b) If there is no such person or if the Chairman of the Overview and Scrutiny Committee is unable to act, the Chairman of the Council;
- c) Where there is no Chairman of either the Overview and Scrutiny Committee or of the Council, the Vice-Chairman of the Council.

Regulation 11 Notice will be published on the website.

## 18. Report to Council

### 18.1 When the Overview and Scrutiny Committee can require a Report

In accordance with Regulation 18 of the Executive Arrangements 2012, if the Overview and Scrutiny Committee thinks that a key decision has been taken which was not:

1. included in the 28 Day Notice; or
2. the subject of the general exception procedure; or
3. the subject of the urgency procedures;

The Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, and the communication of that request rests with the [Democratic and Electoral Services Manager](#)~~Proper Officer~~, who shall require such a report on behalf of the Committee when so requested by the Committee.

### 18.2 The Cabinet's Report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council setting out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision, the reasons for that opinion. If the next meeting of the Council is within 14 calendar days of receipt of the written notice, or the resolution of the Committee, then the report may be submitted to the meeting after that.

### 18.3 Quarterly Reports on Special Urgency

The Leader will submit quarterly reports to the Council on the Cabinet decisions taken in the circumstances set out in Rule 17 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

## 19. Record of Decisions

After any meeting of the Cabinet, the Council or Committees of the Council, whether held in public or private, the [Democratic and Electoral Services Manager](#)~~Proper 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 a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

## 20. Decisions by Individual Members of the Cabinet

### 20.1 Consultation with Policy Advisory Group

Individual members of the Cabinet will be able to make decisions on matters delegated to them by the Cabinet (as set out in the Scheme of Delegation included in Part E of the Constitution), after consultation with a Policy Advisory Group in accordance with the Protocol for the operation of Policy Advisory Groups (PAGs) as set out in Part C of this Constitution. Unless they contain

confidential or exempt information the reports taken into account in making the decision will be published on the Council's website.

## 20.2 Provision of Copies of Reports to Overview and Scrutiny Committee

Reports provided to an individual decision maker with the agenda for the meeting of the PAG will also be provided for the Chairman of the Overview and Scrutiny Committee at the same time.

## 20.3 Recording of Cabinet Decisions Made by Cabinet Portfolio Holders and Officers

As soon as reasonably practicable (within a maximum of two working days), after a Cabinet decision has been taken by an individual member of the Cabinet or by an officer of the Council he/she will prepare, or instruct the ~~Democratic and Electoral Services Manager~~~~Proper Officer~~ to prepare, a written statement of the decision to include:

- a) A record of the decision including the date it was made;
- b) A record of the reasons for the decision;
- c) Details of any alternative options considered and rejected when making the decision;
- d) A record of any conflict of interest declared by any Cabinet member who was consulted when making the decision; and
- e) In respect of any declared conflict of interest, a note of dispensation granted by the ~~Monitoring Officer~~~~relevant local authority's Head of Paid Service~~.

The statement, together with any report considered by the person making the decision, will be made available for inspection by members of the public at the Council's Offices and on the Council's website.

The provisions of Rules 8 and 9 (inspection of documents after meetings) will also apply to the making of decisions by individual members of Cabinet. This does not require the disclosure of exempt or confidential information or advice from an officer.

## 20.4 Recording Decisions Made By Officers and Availability of Background Papers

As soon as reasonably practicable after an officer has made a decision that would otherwise have been made by a committee, sub-committee or a joint committee but has been delegated to that officer either:

- a) Under a specific express authorisation; or
- b) Under the a general authorisation to officers to take such a decision and the effect of the decision is to:
  - (i) Grant a permission or licence;
  - (ii) Affect the rights of an individual; or
  - (iii) Award a contract with a value of over £50,000 or incur expenditure over £50,000.

He/she will prepare a written record of that decision to include:

- a) The date it was made;
- b) A record of the reasons for the decision;
- c) Details of any alternative options considered and rejected ; and

- d) A record of any conflict of interest declared by any member who was consulted when making the decision.

Note: If the decision would have otherwise been taken by the Cabinet and:

- a) Has as an expenditure or income effect of over £50,000; or
- b) Significantly affects more than one ward.

Then the decision is to be treated as a Key Decision and can only be taken if Rule 14 has been followed.

Such a record is not required when the information referred to in (a) and (b) is already required to be produced in accordance with any other statutory requirement (such as Planning/Licensing Decision Notices). Nor is there a requirement to disclose confidential or exempt information.

The written record, together with any background papers, must be made available for inspection by members of the public. The written record must be kept available for a period of six years from the date the decision was made with the background papers remaining available for four years again from the date the decision was made.

## **21. Overview and Scrutiny Committee Access to Documents**

### **21.1 Rights to Copies**

Subject to Rule 21.2, a member of the Overview and Scrutiny Committee (including its sub-committees) will be entitled to receive within 10 working days of the request being made to the Cabinet copies of any document which is in the possession or control of the Cabinet and which contains material relating to:

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

### **21.2 Limit on Rights**

The Member of the Overview and Scrutiny Committee will not be entitled to:

- a) Any document that is in draft form;
- b) Any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- c) The advice of a political adviser.

Where the Cabinet determines that a member of Overview and Scrutiny Committee is not entitled to a copy of the document they have requested it must provide the Committee with a written statement setting out its reasons for that decision. (Regulation 17 - The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012)

## 22. Additional Rights of Access for Members

### 22.1 Material Relating to Previous Business

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet and contains material relating to any business previously transacted at a private meeting unless either (a) or (b) below applies.

- a) It appears to the Democratic and Electoral Services Manager~~Proper Officer~~ it contains exempt information; or
- b) It contains the advice of a political adviser.

However, the document is required to be open to inspection if the information is of a description falling within:

- a) Paragraph 3 of exempt information, being information relating to the financial or business affairs of any particular person (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) Paragraph 6 of exempt information, being information which reveals that the authority proposes to give notice by virtue of which requirements are imposed on a person or make an order or direction.

### 22.2 Material Relating to Key Decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet which relates to any key decision unless paragraph 22.1 (a) or (b) above applies.

### 22.3 Nature of Rights

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



**PART B**  
**SECTION F: Budget and Policy Framework Procedure**  
**Rules**

## 1. The Framework for Executive Decisions

The Council will be responsible for the adoption of its budget and policy framework and once a budget or a policy framework is in place, it will be the responsibility of the Cabinet to implement it.

## 2. Process for Developing the Framework

The process by which the budget and policy framework shall be developed is as set out below and is in accordance with The Local Authorities (Standing Orders) (England) Regulations 2001.

- 2.1 The Cabinet will publicise (by including in 28 Day Notice) a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The Chairman of the Overview and Scrutiny Committee will also be notified. The consultation period shall in each instance be not less than 6 weeks.
- 2.2 At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If the Overview and Scrutiny Committee wishes to respond to the Cabinet in that consultation process then it may do so. During the consultation period the Cabinet can also refer the matter to a Policy Advisory Group or commission a specially convened Policy Advisory Group for this purpose. The Policy Advisory Group will have the power to investigate and/or research the proposal and can report with recommendations before the end of the consultation period. The Cabinet will take any response from the Overview and Scrutiny Committee and any Policy Advisory Group into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect all comments made and the Cabinet's response.
- 2.3 Once the Cabinet has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the Council for decision.
- 2.4 If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision and must take the actions as set out in paragraphs (2.6 to 2.13) below.
- 2.5 The decision will be publicised in accordance with Rule 19 of The Access to Information Procedure Rules (see Part B of this Constitution) and a copy shall be given to the Leader.
- 2.6 Before the Council:
  - a) Amends a 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.
  - c) Adopts (with or without modification) a plan or strategy.It must inform the Cabinet leader of any objections which it has to the draft plan or strategy and must give to him/her instructions requiring the Cabinet to reconsider, in the light of those objections, the draft plan or strategy submitted to it.
- 2.7 Where the Council gives instructions in accordance with paragraph 2.6, it must specify a period of at least five working days beginning on the day after the date on which the

Cabinet leader receives the instructions on behalf of the Cabinet within which the Cabinet leader may:

- a) Submit a revision of the draft plan or strategy as amended by the Cabinet with the Cabinet's reasons for any amendments made to the draft plan or strategy, to the Council for the Council's consideration.
- b) Inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.

2.8 When the period specified by the Council, referred to in paragraph 2.7 has expired, the Council must, when:

- a) Amending the draft plan or strategy or 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
  - 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 Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement, which the Cabinet leader submitted to the Council, or informed the Council of, within the period specified.

2.9 Subject to paragraph 2.13 where, before the 8 February in any financial year the Council's Cabinet submits to the Council 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 section 32 to 37 or 43 to 49, of the Local Government Finance Act 1992.
- b) Estimates of other amounts to be used for the purposes of such a calculation.
- c) Estimates of such a calculation.
- 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 Council has any objections to them, it must take the action set out in paragraph 2.10.

2.10 Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 2.9, or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Cabinet leader of any objections which it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

2.11 Where the Council gives instructions in accordance with paragraph 2.10, it must specify a period of at least five working days beginning on the day after the date on which the Cabinet leader receives the instructions on behalf of the Cabinet within which the Cabinet leader may:

- a) Submit a revision of the estimates or amounts as amended by the Cabinet, which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or

- b) Inform the Council of any disagreement that the Cabinet has with any of the Council's objections and Cabinet's reasons for any such disagreement.
- 2.12 When the period specified by the Council referred to in paragraph 2.11 has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 2.9, 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 Cabinet's reasons for those amendments;
  - c) Any disagreement that the Cabinet has with any of the authority's objections; and
  - d) The Cabinet's reasons for that disagreement.
- Which the Cabinet leader submitted to the Council, or informed the Council of, within the period specified.
- 2.13 Paragraphs 2.9 to 2.12 shall not apply in relation to:
- a) Calculations or substitute calculations which a Council is required to make in accordance with section 52I, 52J, 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.
- (Provisions whereby a duty is imposed on the designated billing/precept authority).
- 2.14 An in-principle decision will automatically become effective after the expiry of the time period specified in accordance paragraphs 2.7 or 2.11 unless the Leader informs the proper officer in writing within that period of any revisions or disagreement to the proposals and provides reasons why.
- 2.15 The Council will be required to meet to consider the Leader's written submission within 21 working days.
- The Council may:
- a) Approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
  - b) Approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.
- 2.16 The decision shall then be made public in accordance with Rule 19 of The Access to Information Procedure Rules (see Part B of this Constitution), and shall be implemented immediately.
- 2.17 In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with the Financial Procedure Rules (see Part B of the Constitution). Any other changes to the policy and budgetary framework are reserved to the Council.

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

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

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

- 4.1 The Cabinet, an individual member of the Cabinet or officers, (or any joint arrangements) discharging Cabinet functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
- a) If it is not practical to convene a quorate meeting of the full Council; and
  - b) If the Chairman of the Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

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

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

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

- 5.1 Where the Overview and Scrutiny Committee is of the opinion that a Cabinet decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget or is not otherwise authorised by the terms of this Constitution, then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.

- 5.2 In respect of decisions which are executive decisions, the Monitoring Officer's report and/or the Chief Financial Officer's report shall be to the Cabinet and the Overview and Scrutiny Committee with a copy to every member of Council. In the event that the Monitoring Officer and/or the Chief Finance Officer conclude that the decision is or would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Committee may refer the matter to Council. In such cases, if the decision has yet to be made or has been made but not yet implemented no further action shall 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 of the Overview and Scrutiny Committee. At this meeting it will receive a report of the decision or proposals from the Cabinet and the Overview and Scrutiny Committee, and the advice of the Monitoring Officer and/or the Chief Finance Officer. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take and prepare its report to Council. The Council may either:
- a) Endorse a decision or proposal of the Cabinet decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
  - b) Amend the Council's financial regulations or policy concerned to encompass the decision or proposal of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
  - c) Where the Council accepts that the decision or proposal is contrary to the policy framework or contrary to or not wholly in accordance with the budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the monitoring officer/chief financial officer.

**PART B**  
**SECTION G: Officer Employment Procedure Rules**

**These Rules incorporate the provisions of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).**

## **1. Recruitment and Appointment**

### **Declarations**

- 1.1 The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council, or of the partner of such persons.
- 1.2 No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him/her.

### **Seeking Support for Appointments**

- 1.3 The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- 1.4 No Councillor will seek support for any person for any appointment with the Council. Any breach of this provision will be referred to the Audit and Standards Committee

## **2. Recruitment of Head of Paid Service and Chief Officers**

- 2.1 Where the Council proposes to appoint a Head of Paid Service or other Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:
  - 1) draw up a statement specifying the duties of the Officer concerned and any qualifications or qualities to be sought in the person to be appointed; and
  - 2) make suitable 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
  - 3) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.
- 2.2 For the purposes of these Rules a "Chief Officer" means a Director, statutory section 151 officer, statutory monitoring officer and Head of Service.

## **3. Appointment of Head of Paid Service and Chief Officers**

- 3.1 The full Council will appoint the Head of Paid Service on recommendation from the Joint Staffing Committee (JSC).
- 3.2 The JSC will appoint Chief Officers.



- 3.3 An offer of employment as the Head of Paid Service or a Chief Officer shall only be made following compliance with the following procedure:
- a) JSC has notified the HR Manager of the name of the person to whom it is proposed to make the office and any other particulars JSC considers are relevant to the appointment.
  - b) The HR Manager has notified every member of the Cabinet of:
    - (i) The name of the person to whom it is proposed to make the offer.
    - (ii) Any other particulars relevant to the appointment which have been notified to the HR Manager.
    - (iii) The period within which any objections to the making of the offer is to be made to the HR Manager by the Leader on behalf of the Cabinet.
  - c) And either:
    - (i) The Leader has within the period specified in the notice under paragraph 3.3b) above notified the JSC that neither he/she or any other member of the Cabinet has any objection to the making of the offer
    - (ii) The HR Manager has notified JSIC that no objection was received by him/her within that period from the Leader; or
    - (iii) The JSC is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

## 4. Other Appointments

### Officers below Heads of Service

- 4.1 Appointment of officers below Heads of Service (other than an Assistant to Political Group) is the responsibility of the Head of Paid Service or relevant Director or other officer nominated by him.

### Assistants to Political Groups

- 4.2 Appointment of an Assistant to a Political Group shall be made in accordance with the wishes of that Political Group.

## 5. Appointment to be on Merit

All appointments (other than as an Assistant to a Political Group) shall be made on merit irrespective of race, ethnicity, gender, or religious or political beliefs or affiliations;

## 6. Disciplinary Action

### 6.1 Disciplinary Action against the Head of Paid Service, statutory Chief Finance Officer and statutory Monitoring Officer

- 6.1.1 Disciplinary action against the Head of Paid Service, statutory Chief Finance Officer and Monitoring Officer will be in accordance with the Council's agreed Disciplinary Policy and Procedures except that disciplinary actions in the form of the issue of a notice of dismissal can only be taken in compliance with paragraphs 6.2.2 and 6.3.1 below.
- 6.1.2 The Head of Paid Service, Chief Finance Officer or Monitoring Officer may not be dismissed by the Council unless the following procedure is complied with:
- a) The Independent Persons (IPs) appointed under section 28(7) of the Localism Act 2011 by the Council and by Chiltern District Council are invited to be considered for appointment to a Joint Panel (the Panel) established by the JSC for the purpose of advising the council on matter relating to the dismissal of statutory officers, with a view to appointing at least two such persons to the Panel.
  - b) The Council must appoint to the Panel such relevant IPs who have accepted an invitation in accordance with the following priority order:
    - (i) An IP who is an local government elector in the Council's area or the area of Chiltern District Council.
    - (ii) Any other IP.
    - (iii) An IP who has been appointed by another council or councils.
  - c) The Council is not required to appoint more than two IPs but may do so.
  - d) The Panel must be appointed at least 20 working days before a meeting of Full Council to consider whether or not to approve a proposal to dismiss the Head of Paid Service, Chief Finance Officer or Monitoring Officer.
  - e) Before the taking of a vote on whether or not to approve such a dismissal the Full 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 relevant officer.
  - f) Any remuneration, allowances or fees paid by the Council to an IP appointed to the Panel must not be exceed the level of remuneration, allowances or fees paid to that IP in respect of the person's role as IP under the Localism Act 2011.

## **6.2 Dismissal of Head of Paid Service and Chief Officers**

- 6.2.1 Subject to Rule 6.2 above, the Council may not give notice of dismissal of the Head of Paid Service, Chief Finance Officer, Monitoring Officer or Chief Officer until:
- a) The Panel or Head of Paid Services as appropriate has notified the HR Manager of the name of the person to whom it is proposed to dismiss and any other particulars the Panel or Head of Paid Service considers are relevant to the dismissal;

- b) The HR Manager has notified every member of the Cabinet of:
  - (i) The name of the person to whom it is proposed to dismiss;
  - (ii) Any other particulars relevant to the dismissal which have been notified to the HR Manager;
  - (iii) The period within which any objections to the dismissal is to be made to the HR Manager by Leader on behalf of the Cabinet.
  
- c) And either:
  - (i) The Leader has within the period specified in the notice under paragraph 6.3.1 b) above notified the Panel that neither he/she or any other member of the Cabinet has any objection to the dismissal;
  - (ii) The HR Manager has notified the Panel that no objection was received by him/her within that period from the Leader; or
  - (iii) The Panel is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

### **6.3 Role of Councillors**

Councillors will not be involved in disciplinary action (including dismissal) against any Officer below Heads of Service, other than as a member of an Appeals Panel, except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

### **6.4 Disciplinary Action against Directors and Heads of Service**

Disciplinary action against Directors and Heads of Service (other than the Chief Finance Officer and Monitoring Officer) will be in accordance with the Council's agreed Disciplinary Policy and Procedures. In addition, disciplinary action in the form of the issue of notice of dismissal can only be taken following compliance with paragraph 6.3.1 above.

### **6.5 Disciplinary Action against Officers below Heads of Service**

Disciplinary action in relation to Officers below Heads of Service will be in accordance with the Council's agreed Disciplinary Policy and Procedures.

# **PART 2**

## **SECTION H: Financial Procedure Rules**

**Chiltern District Council  
and  
South Bucks District Council**

**FINANCIAL PROCEDURE  
RULES**

**September 2016**

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## **BACKGROUND AND INTRODUCTION**

1. To conduct its business efficiently a local authority needs to ensure that it has sound financial management policies in place and that they are adhered to. Part of this process is the establishment of Financial Procedure Rules that set out the financial policies of the authority. These rules link with other rules and procedures forming part of the Council's Constitution.
2. These Financial Procedure Rules relate to both Chiltern District Council and South Bucks District Council.
3. This version will apply from 22 July 2015 and supersedes all previous financial regulations, procedure rules and instructions.
4. It should be remembered that these Financial Procedure Rules aim to achieve financial propriety across all the Council rather than to act as a barrier to action for Officers and Members. Assistance to ensure compliance with these rules and further guidance can be obtained from the Finance Team.
5. Should any breach of the Financial Procedure Rules come to light it must be reported immediately to the Director of Resources.

## **STATUS OF FINANCIAL PROCEDURE RULES**

6. Financial Procedure Rules provide the framework for managing the Council's financial affairs and are approved by full Council. They apply to every Member and Officer of both Councils and anyone acting on their behalf and to any Joint Committee or other body for which either Council is the Lead Authority. Where reference is made in these procedure rules to the role and responsibilities of the Cabinet this will be taken to include, where appropriate, the relevant Joint Committee or other body.
7. The Financial Procedure Rules identify the financial accountabilities and responsibilities of full Council, Cabinet, Overview and Scrutiny Committee Members, the Audit Committee, the Head of Paid Service, the Monitoring Officer, the Chief Financial Officer and other senior officers.
8. The Director of Resources is responsible for maintaining a continuous review of the Financial Procedure Rules. Any additions or amendments to these rules will be submitted by the Director of Resources to the Audit Committee for consideration. The Audit Committee will recommend any additions or amendments to full Council for approval and adoption.
9. Any Member who fails to comply with Financial Procedure Rules may be the subject of a report, by the Chief Executive or Director of Resources to the appropriate Committee. Any Officer who fails to comply with Financial Procedure Rules may be subject to action under the Councils' disciplinary procedures.
10. Any reference in the Financial Procedure Rules to writing will include electronic methods of communication such as e-mail provided that a permanent record is kept of the communication.
11. Any reference in the Financial Procedure Rules to authorisation or approval will include either manual signature or electronic authorisation in a form approved by the Director of Resources.



12. In the event of issues of interpretation or non-compliance remaining unresolved by the officers concerned, the Cabinet will be the final arbiter.

## **WAIVING OF FINANCIAL PROCEDURE RULES**

### **General**

13. Any proposed waiving of Financial Procedure Rules must be the subject of a report from the Director or Head of Service concerned, in consultation with the Director of Resources, to the full Council or, if the proposed waiver is in connection with the discharge of a Cabinet function, to the Cabinet.

### **In the Event of an Emergency**

14. Where expenditure is incurred in direct support of a major emergency, direct action in connection with the Enforcement of Planning Control or other appropriate incident be it internal or external to the Council, Financial Procedure Rules may be waived where it is impractical or inappropriate to invoke them.
15. The Chief Executive or in his/her absence, a Director or any two Heads of Service, has authority under such an emergency situation to authorise the waiving of Financial Procedure Rules.
16. All such emergency events will be reported to the first available meeting of full Council or, if the waiver was in connection with the discharge of a Cabinet function, to the first available meeting of the Cabinet following the event.

## A FINANCIAL MANAGEMENT

### Why is this important?

All Officers and Members have a duty to abide by the highest standards of probity in dealing with financial issues on behalf of the Authority. This is achieved by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

### A1 MEMBER AND OFFICER RESPONSIBILITIES

#### Full Council

17. The full Council is responsible for adopting the Council's Constitution and Members' Code of Conduct and for approving the policy framework and budget within which the Cabinet operates. It is also responsible for approving and monitoring compliance with the Council's overall framework of accountability and control which is set out in the Constitution.
18. Full Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated by and decisions taken by the Council and its committees. These delegations and details of who has responsibility for which decisions are set out in the Constitution.

#### Cabinet

19. Cabinet is responsible for proposing the policy framework and budget to full Council, and for discharging Cabinet functions in accordance with the policy framework and budget.
20. Cabinet decisions can be delegated to a committee of the Cabinet, an individual Cabinet Member, an Officer or a Joint Committee.
21. The Cabinet is responsible for establishing protocols to ensure that individual Cabinet Members consult with relevant officers before taking a decision within his/her delegated authority. In doing so, the individual Cabinet Member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

#### Overview and Scrutiny Committee(s)

22. The Overview and Scrutiny Committee(s) are responsible for scrutinising Cabinet decisions before or after they have been implemented and for holding the Cabinet to account. These Committees are also responsible for making recommendations on future policy options and reviewing the general policy and service delivery of the Council.

#### Audit Committee

23. The Audit Committee reports to the full Council. It has right of access to all the information it considers necessary and can consult directly with internal and external auditors.
24. The Audit Committee is responsible for reviewing the external auditor's reports, the external auditor's annual audit letter and internal audit's annual report and may make recommendations for appropriate further action.

25. The Audit Committee is responsible for monitoring the delivery of both external audit and internal audit plans and any additional audit work undertaken during the year. In addition, the committee may consider the outcomes of any fraud investigations and the action taken.
26. The Audit Committee may also initiate reviews of the adequacy of financial procedures and internal controls, including the adequacy of the internal audit function, and recommend to the Cabinet future policy options; as part of these reviews, Directors and/or Heads of Service may be required to account to the Committee for their actions.

### **Officer Responsibilities**

27. Various statutory duties have been invested in Council appointments and are detailed in the Council's Constitution:
  - The Chief Executive holds the statutory duties of the Head of Paid Service.
  - The Head of Legal & Democratic Services holds the statutory duties of the Monitoring Officer.
  - The Director of Resources holds the statutory duties of the Chief Finance Officer.

### **Head of Paid Service**

28. The Chief Executive, as Head of Paid Service, is responsible for the corporate and overall strategic management of the Council. He/she must report to and provide information to the Cabinet, full Council, Overview and Scrutiny Committee(s) and other Committees. He/she is also responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation. The Chief Executive is also responsible, together with the Head of Legal and Democratic Services as Monitoring Officer, for the system of record keeping in relation to all the full Council's decisions.

### **Monitoring Officer**

29. The Head of Legal and Democratic Services is the designated Monitoring Officer for the Council and is responsible for promoting and maintaining high standards of financial conduct. He/she is also responsible for reporting any actual or potential breaches of the law or maladministration to full Council and/or to the Cabinet, and for ensuring that procedures for recording and reporting key decisions are operating effectively.
30. The Monitoring Officer must ensure that:
  - Cabinet decisions and the reasons for them are made public
  - Council Members are aware of decisions made by the Cabinet and of those made by officers who have delegated executive responsibility.
31. The Monitoring Officer is also responsible for:
  - advising all Members and Officers about who has authority to take a particular decision
  - advising full Council or Cabinet about whether a decision is likely to be considered contrary to, or not wholly in accordance with, the policy framework

- advising (together with the Director of Resources) full Council or Cabinet about whether a decision is likely to be considered contrary to, or not wholly in accordance with, the budget.
- maintaining an up to date Constitution.

### **Director of Resources**

32. The Director of Resources has statutory duties in relation to financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from Section 151 of the Local Government Act 1972, the Local Government Act 1988, the Local Government and Housing Act 1989 and the Accounts and Audit Regulations 2011.
33. The Director of Resources will act as the financial advisor to full Council and Cabinet, subject to the specific delegation of responsibility to Directors and/or Heads of Service for the proper management of their services.
34. The responsibilities of the Director of Resources under Section 151 of the Local Government Act 1972 are:
  - Advising on corporate risk profiling and management, including safeguarding assets, risk avoidance and insurance.
  - Advising on effective systems of internal control.
  - Ensuring that there is an effective system of internal financial control, including anti-fraud controls.
  - Advising on anti-fraud and anti-corruption strategies and measures.
  - Preparing statutory and other accounts and associated grant claims.
  - Ensuring there is an effective internal audit function and assisting management in providing effective arrangements for financial scrutiny.
  - Securing effective systems of financial administration.
  - Securing effective arrangements for treasury management, pensions and trust funds.
  - Ensuring a prudential financial framework is in place.
  - Ensuring that financial management arrangements are in line with broad policy objectives and the authority's overall management.
35. Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer (Director of Resources) to report to the full Council, Cabinet and the External Auditor if the Authority or one of its Officers:
  - Has made, or is about to make, a decision which involves incurring unlawful expenditure.
  - Has taken, or is about to undertake, an unlawful action which has resulted or would result in a loss or deficiency to the Authority.
  - Is about to make an unlawful entry in the authority's accounts.

36. Section 114 also requires the Section 151 Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under Section 114 personally. The Head of Finance is the designated officer for this purpose.
37. The Act also requires the Council to provide the Section 151 officer with sufficient staff, accommodation and other resources – including legal advice where it is necessary to carry out duties under Section 114.
38. The Director of Resources is responsible for maintaining a continuous review of the Financial Procedure Rules and for submitting any additions or changes necessary to full Council for approval.
39. The Director of Resources is responsible for reporting, where appropriate, breaches in Financial Procedure Rules to the full Council and/or the Cabinet.

### **Directors and Heads of Service**

40. Directors and Heads of Service are responsible for ensuring that all their staff are aware of the existence and content of the Council's Financial Procedure Rules and that they understand and comply with them.
41. It is the responsibility of Directors and Heads of Service to consult with the Director of Resources and seek approval on any matter liable to materially affect the Authority's finances before any commitment is incurred.
42. It is the responsibility of Directors and Heads of Service to ensure that all Council, Cabinet or other committee reports contain a section that provides Members with an accurate description of the financial implications of the subject of the report, including whether the expenditure can be met within existing budgets. Reports must be circulated in advance to the Director of Resources or nominated representative. The Director of Resources or nominated representative must sign off all reports that have material financial implications that he/she agrees the financial implications section of the report.

## **A2 DELEGATION AND AUTHORISATION**

43. Directors and Heads of Service are responsible for ensuring that a proper scheme of delegation is established within their service areas which operates effectively, identifying staff authorised to act on the Directors' or Heads of Services' behalf in respect of payments, income collection and placing orders within the limits of their authority.
44. Directors and Heads of Service will provide the Head of Finance with a certified Authorised Signatory List detailing those officers, together with specimen signatures, within their respective service areas authorised to certify various documents or transactions. Such lists will be updated and amended as required and any changes notified to the Head of Finance without delay. All lists will be reviewed annually, or as otherwise directed by the Director of Resources. Any alternative authorisation procedures will be in accordance with arrangements approved by the Director of Resources.
45. Directors and Heads of Service should ensure separation of duties within their service areas so that no one officer is able to carry out all parts of a financial transaction i.e. an officer other than the one who authorised the order must certify the payment

### A3 SCHEME OF VIREMENT

46. The scheme of virement is intended to enable the Cabinet, Directors and Heads of Service to manage budgets with a degree of flexibility within the overall policy framework determined by full Council and therefore to optimise the use of resources.
47. Virement is the permission to spend more on one budget when this is matched by a corresponding reduction (saving) on some other budget. A virement does not create an additional budget but changes the purpose for which the budget will be used via a switch or transfer of resources.
48. Virement is an important part of the budgetary control process and an important mechanism in managing budgets efficiently and within cash limits. Virement needs to be undertaken in a controlled manner. It provides a mechanism to amend annual budgets to reflect changing circumstances or to address overspends and helps to ensure that budgets are based on actual activity.
49. Directors/Heads of Service must demonstrate that savings are feasible for a virement to be actioned. Savings of a non-recurring nature i.e. one-off, cannot be used to justify the incurring of expenditure with a continuing commitment into future years.
50. Virements between Capital (including Repairs & Renewals) and Revenue are not permitted.
51. All proposals for virement must be submitted on the appropriate form to the Head of Finance either for information, written agreement and/or referral to the Cabinet depending on the amount requested.
52. The Head of Finance will keep a record of all virements and will reflect all virements within the Financial Information System.
53. The table below sets out the approval limits for all virements and applies to both Revenue and Capital budgets.

#### CDC

|                    |   |
|--------------------|---|
| Up to £3,000       | Head of Service                               |
| £3,001 to £10,000  | Director of Resources                         |
| £10,001 to £50,000 | Director of Resources (If same Service Area)  |
| £10,001 to £50,000 | Portfolio Holders (If different Service Area) |
| Over £50,000       | Full Council                                  |

#### SBDC

|                     |                       |
|---------------------|-----------------------|
| Up to £10,000       | Head of Service       |
| £10,001 to £50,000  | Director of Resources |
| £50,001 to £100,000 | Cabinet               |
| Over £100,000       | Full Council          |

Nb: These limits are cumulative for a budget code, as opposed to per virement.

### A4 SUPPLEMENTARY ESTIMATES

54. Given the virement procedures available to Directors/Heads of Service and the increasing budget pressures on the Council's finances, requests for Supplementary Estimates are unlikely to be considered favourably unless there are exceptional circumstances. The Director of Resources would expect all virement opportunities to have been used before agreeing the need for a Supplementary Estimate.

55. Where any cost centre (revenue or capital) is likely to vary from its approved net budget by either more than:

CDC £5,000 or 1%, whichever is the greater,  
SBDC £10,000 or 1%, whichever is the greater,

and where no possibility for virement exists, the Director/Head of Service concerned, after consultation with the Director of Resources, will inform the Portfolio Holder of a request for a Supplementary Estimate. The request for a Supplementary Estimate will be the subject of a report to the Cabinet and onward recommendation to the full Council.

## **A5 YEAR END BALANCES**

56. Service specific carry forward of year end balances is generally not allowed. Any overall under or overspend at the end of the financial year will normally be transferred to / from the General Fund Reserve unless the Cabinet, on the advice of the Director of Resources, recommend any transfers to earmarked reserves.

## **A6 ACCOUNTING POLICIES**

57. The Director of Resources is responsible for selecting suitable accounting policies and for ensuring that they are applied consistently. The accounting policies are set out in the Statement of Accounts
58. Directors and Heads of Service are responsible for ensuring adherence to the accounting policies and guidelines approved by the Director of Resources.

## **A7 ACCOUNTING RECORDS AND RETURNS**

59. Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources.
60. The accounting records shall be sufficient to show and explain the Council's transactions and shall be such as to disclose with reasonable accuracy at any time the financial position and to enable the Director of Resources to ensure that any balance sheet, statement of accounts, statement of balances or record of receipt and payments, as the case may be, complies with the Local Authority Accounting regulations.
61. The accounting records determined by the Director of Resources shall contain:
- entries from day to day of all sums of money received and expended by the Council and the matters to which the income and expenditure relates.
  - a record of the assets and liabilities of the Council; and
  - a record of income and expenditure in relation to claims made, or to be made, by them for contribution, grant or subsidy.
62. The accounting control systems determined by the Director of Resources shall include:
- measures to ensure that the financial transactions of the Council are recorded as accurately and promptly as possible,
  - measures to enable the prevention and detection of inaccuracies and fraud,

- the ability to reconstitute any lost records,
  - identification of the duties of all officers dealing with financial transactions and division of responsibilities in relation to significant transactions,
  - procedures for uncollected amounts, including the writing off of unrecoverable debts
63. Directors and Heads of Service must consult and obtain the approval of the Director of Resources before making any changes to accounting records and procedures.

## **A8 STATEMENT OF ACCOUNTS**

64. The Council has a statutory responsibility to prepare annual accounts to present a true and fair view of the financial position of the Council. The Audit Committee has delegated authority for approving the annual Statement of Accounts.
65. The Director of Resources is responsible for
- selecting suitable accounting policies and to apply them consistently =
  - making judgements and estimates which are reasonable and prudent
  - complying with Codes of Practice
  - signing and dating the Statement of Accounts
  - drawing up the timetable for final accounts preparation and to advise staff and external auditors accordingly
  - presenting the Statement of Accounts to Members with appropriate interpretation and highlighting of key issues
66. Directors / Heads of Service are responsible for complying with accounting guidance issued by the Director of Resources and for supplying information when required.



## B FINANCIAL PLANNING

### Why is this important?

Full Council is responsible for approving, adopting and amending the Council's Budget and Policy Framework. In terms of Financial Planning, the key elements are:

- Medium Term Financial Plan
- Revenue Budget
- Capital Programme (including the Repairs & Renewals Programme operated at Chiltern District Council)

### B1 MEDIUM TERM FINANCIAL PLAN

67. The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable resources to be allocated in accordance with priorities and objectives.
68. It is good practice to maintain and publish medium term business plans that cover a three to five year period. The purpose of these plans is to explain overall priorities and objectives, current performance, proposals for further improvement and to demonstrate value for money.
69. The Director of Resources will present a Medium Term Financial Plan (MTFP) to the Cabinet, taking into account any other matters he/she considers relevant to the financial position of the Council. The MTFP will be prepared and updated on a regular basis (at least annually) and will set out the consequences of the proposed strategy on Council Tax levels. The Cabinet is responsible for proposing the MTFP to full Council on the advice of the Director of Resources.

### B2 REVENUE BUDGET

70. The Director of Resources will determine the detailed format and method of preparation of the Revenue Budget and ensure compliance with local authority accounting requirements.
71. Heads of Service and Budget Managers will be provided with a budget timetable and budget guidance notes to enable the annual budget to be completed by the statutory deadline. The guidance will set out the responsibilities for the completion of the budget estimates.
72. As part of the annual revenue budget process all fees and charges for goods and services supplied by the Council will be reviewed. The Director of Resources will provide a summary of proposed fees and charges for Cabinet approval as part of the annual revenue budget report.
73. Estimates of income and expenditure on each account code within each cost centre heading will be prepared by Budget Managers in consultation with the Director of Resources. The estimates will take account of the Council's key corporate objectives and individual service plans.
74. The Head of Finance will collate the overall estimates for consideration by the Senior Management Team. The Revenue Budget will be submitted to the Cabinet by the Director of Resources together with his/her report.
75. The Cabinet will consider the Revenue Budget and will make such amendments as they consider desirable before recommending the budget for approval by full

Council. At the same time, the Cabinet will recommend the Council's Council Tax Requirement to the full Council for determination.

76. At any point in the budget preparation process the Performance and Resources Overview Committee (at Chiltern) or Overview and Scrutiny Committee (at South Bucks) may request the Revenue Budget for review purposes.
77. Approval of revenue budgets will give authority to Directors and Heads of Service to commit their budgets, subject to Financial Procedure Rules and Contract Procedure Rules being complied with, to achieve the Council's key objectives.
78. Any carry forward of Revenue budgets must be approved by the Cabinet.

### **B3 CAPITAL PROGRAMME AND REPAIRS & RENEWALS**

79. Capital expenditure involves acquiring or enhancing fixed assets with a long term value such as land, buildings and major items of plant, equipments and vehicles.
80. The Director of Resources will determine the detailed format and method of preparation of the Capital Programme and Repairs & Renewals Programme.

*Note – the Repairs & Renewals Programme is relevant for Chiltern District Council only*

81. Budget Managers will submit Capital Programme bids and Repairs & Renewal Fund Programme bids to the Head of Finance on an annual basis. The bids will take account of the Council's key corporate objectives and individual service plans. Guidance notes on the annual Capital Programme and Repairs & Renewals Fund Programme review process will be provided to Budget Managers by the Head of Finance.
82. The overall programmes will be collated by the Head of Finance and submitted to the Senior Management Team for consideration. The programmes will be submitted to the Cabinet by the Director of Resources together with his/her report.
83. The Cabinet will consider the Capital Programme and Repairs & Renewals Programme and will make such amendments as they consider desirable before recommending the programmes for approval by full Council.
84. Inclusion of a scheme in the Capital Programme does not automatically provide authority to incur capital expenditure other than staff development time. The Head of Finance will provide Heads of Service and Budget Managers with Capital Programme guidance and procedures that outline the processes that must be followed for implementation of capital schemes.
85. Any carry forward of Capital or Repairs & Renewals budgets must be approved by the Cabinet.

### **B4 BUDGET MONITORING AND CONTROL**

86. Budget management ensures that resources allocated are used for their intended purpose and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

87. By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity.
88. Directors/Heads of Service are responsible for the control of income and expenditure within their area and for monitoring performance throughout the financial year. They are expected to control their budgets so that they achieve the Council's key objectives without overspending.
89. Each Director/Head of Service will approve a scheme of delegation of budgets to named officers such that there is a nominated budget holder for each cost centre budget. The scheme of delegation will be notified to the Head of Finance. Each budget manager will be accountable to their Director/Head of Service for controlling their budgets and for complying with these Financial Procedure Rules.
90. The Director of Resources is responsible for providing appropriate financial information to enable budgets to be effectively monitored. Such information to be in the form and at the frequency agreed (normally monthly).
91. Income and expenditure must be controlled and monitored and the overall position on key areas reported to the Senior Management Team and the Cabinet.
92. Before incurring expenditure, each Director/Head of Service must ensure that adequate provision exists within approved budgets.

## **B5 MAINTENANCE OF RESERVES**

93. Under the Local Government Act 2003 the Director of Resources, as the Council's Section 151 Officer, must advise the Cabinets and/or Councils on prudent levels of reserves and balances.
94. The Director of Resources will prepare, keep under review and present to Cabinet a policy on the Council's reserves and balances that provides an explanation of the purpose, usage and control of each individual reserve, together with a recommended minimum to be maintained.

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

### **Why is this important?**

All organisations, whether public or private sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.

### **C1 RISK MANAGEMENT**

95. The Cabinet is responsible for approving the Council's Risk Management Strategy, for reviewing the effectiveness of the Council's risk management practices and promoting a culture of risk management awareness throughout the Council.
96. The Director of Resources is responsible for preparing and promoting the Council's Risk Management Policy and Strategy and for ensuring that there is proper management and control of risk throughout the Council.
97. The Senior Management Team is responsible for ensuring that strategic risks to the Council are regularly identified and managed.
98. Directors/Heads of Service are responsible for ensuring that operational risks to their areas of business are identified and managed in accordance with guidance issued by the Director of Resources and for ensuring that an Operational Risk Register for service areas within their control is maintained and reviewed on a regular basis.
99. Directors/Heads of Service are responsible for ensuring that operational risks are assessed in their Service Plans.
100. The Risk Management Group is responsible for reviewing risk and business continuity arrangements. This group will regularly report to the Senior Management Team.
101. All staff are responsible for being aware of and reporting any new risks to their line manager or Head of Service as they become aware of them

### **C2 INSURANCE**

102. The Cabinet is responsible for ensuring that proper insurance cover exists where appropriate, either through external insurance or internal funding.
103. The Director of Resources is responsible for advising the Cabinet on proper insurance cover or alternative arrangements.
104. The Director of Resources will arrange all insurance cover on behalf of the Council and will negotiate claims in conjunction with other officers where necessary.

105. Each Director/Head of Service will give immediate notification to the Head of Finance of the extent and nature of all new risks or assets that require to be insured and of any alterations affecting existing insurances.
106. Each Director/Head of Service will, within two working days, notify the Head of Finance in writing using the appropriate form of any loss, liability or damage or any event likely to lead to a claim. In cases of urgency the Director/Head of Service will report verbally pending submission of a written report.
107. All employees and volunteers of the Council will be included in suitable fidelity guarantee insurance.
108. The Director of Resources will annually, or at such other lesser period as he/she may consider necessary, review all insurances in consultation with other Directors/Heads of Service as appropriate.
109. The value of equipment insured by the Council's insurers (based on a percentage of the valuation of the building) to be established and reviewed to ensure it accurately reflects the value of equipment held.
110. Directors/Heads of Service will consult the Director of Resources regarding the terms of any indemnity which the Council is requested to give.

### **C3 INTERNAL CONTROL**

111. Internal control refers to the system of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
112. The Council faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
113. The Director of Resources is responsible for advising on effective systems of internal control. The arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently and in accordance with statutory and other authorities that govern their use.
114. The Director of Resources is also responsible for ensuring that an effective Internal Audit function is properly resourced and operates in accordance with recognised auditing guidelines.
115. Directors/Heads of Service are responsible for establishing sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets. This should include detailed and up to date systems procedure notes, where relevant. All procedure notes should be reviewed at least annually and the date of review shown on the procedure notes.
116. The Director of Resources is responsible for producing an Annual Governance Statement which will include a review of the effectiveness of the Council's internal control arrangements. This must be submitted to the Audit Committee for comment and review and then approved by the Leader and Chief Executive.

**C4 INTERNAL AUDIT**

117. The Accounts and Audit Regulations require every local authority to maintain an adequate and effective system of internal audit of their accounting records and control systems.
118. The Director of Resources is responsible for maintaining an adequate and effective system of Internal Audit of its accounting records and of its system of internal control in accordance with proper internal audit practices.
119. Internal Audit is an assurance function that provides an independent and objective opinion to the Council on the degree to which the internal control environment supports and promotes the achievement of the Council's objectives. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.
120. The Director of Resources and any officer to whom he/she has delegated the duty of Internal Audit shall be responsible for the appraisal of all the Council's activities.
121. The Director of Resources or his/her authorised representative shall have authority to:
- enter at all reasonable times on any premises or land owned by or under the control of the Council.
  - have access to all records, documents and correspondence, computerised or manual relating to any financial and other control systems or transactions of the Council.
  - require and receive such information and explanation considered necessary concerning any matter under examination.
  - require any employee of the Council to produce cash, stores or any other property of the Council under his/her control.
  - apply any test or check deemed necessary to the accounts, cash, securities or other property and records that relate in any way to the financial or other systems of the Council; and
  - access records belonging to third parties, such as contractors whenever appropriate.
122. The Internal Audit Manager will normally report to the Head of Finance. If due to the nature of the audit this is inappropriate, the Internal Audit Manager shall have authority to report directly to the Chief Executive and/or the Chairman of the Council or the Leader of the Cabinet.
123. The existence of Internal Audit shall in no way diminish the functions powers and responsibilities of Directors/Heads of Service for the management of the services under their control. In particular their responsibility for accountability for security, custody and control of all resources, including staff, plant, buildings, materials, cash and stores placed under their control.
124. Directors/Heads of Service are responsible for ensuring that Internal Audit are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.

125. Directors/Heads of Service are responsible for ensuring that Internal Audit is provided with any information and explanations that they seek in the course of their work.
126. Directors/Heads of Service are responsible for immediately notifying the Director of Resources of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, the Director/Head of Service should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
127. The Internal Audit Manager shall report to the appropriate level of management on all matters which he/she considers significant arising out of Internal Audit appraisals giving recommendation(s) for improvement wherever necessary or possible.
128. Directors/Heads of Service are responsible for considering and responding promptly to recommendations in audit reports and ensuring that agreed actions from recommendations are carried out in a timely and efficient manner.
129. Internal Audit will report regularly to the Senior Management Team and to the Audit Committee on Internal Audit work, including management's response to Internal Audit recommendations.

## **C5 EXTERNAL AUDIT**

130. The Director of Resources will ensure that the Appointed Auditor is given access at all times to premises, personnel, documents and assets that he/she considers necessary for the purposes of their work. The Director of Resources will also ensure there is effective liaison between external and internal audit.

## **C6 PREVENTING FRAUD AND CORRUPTION**

131. The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.
132. The Council's expectation of propriety and accountability is that all Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
133. The Director of Resources is responsible for maintaining an Anti-Fraud and Anti-Corruption Policy Statement which details the culture of the Council in relation to fraud and corruption.
134. The Council also has a Whistle Blowing Policy, listing officers who can be contacted to report any suspicious matter, and a Benefit Fraud Prosecution Strategy.
135. Irregularities are broadly of four types, the first two being criminal offences:
  - theft, which includes fraud which is typically taken to mean theft involving deception.
  - bribery and corruption.
  - failure to observe the Council's Standing Orders, Financial Procedure Rules, Contract Procedure Rules and breaches of other Council Policies and Codes of Conduct etc. issued.

- errors and omissions which lead to a loss to the Council.
136. Whenever a fraud or irregularity is discovered or is suspected to exist concerning cash, property, stores or other matters involving the Council's interests, it shall be the duty of the officer concerned to immediately inform his or her Director/Head of Service or line manager. The officer contacted shall, in turn and as soon as practically possible, advise and consult either the Director of Resources or the Chief Executive, and in every case the Internal Audit Manager.
  137. All Directors/Heads of Service shall notify the Internal Audit Manager of all anonymous notifications of fraud or irregularity either suspected or actual.
  138. Directors / Heads of Service will if appropriate instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour by an employee.
  139. The Chief Executive or the Director of Resources shall decide whether the matter shall be referred to the police for investigation. The Chief Executive or the Director of Resources shall report to the Leader of the Cabinet or appropriate Committee if required.

### **Money Laundering**

140. The Council's Director of Resources is the appointed Money Laundering Reporting Officer (MLRO). There is a maximum limit of £2,000 on the acceptance of cash payments; in exceptional circumstances this limit can be exceeded with the prior approval of the MLRO.
141. The Council is alert to the possibility that it may become the subject of an attempt to involve it in a transaction involving the laundering of money. It is the duty of all officers who suspect that a money laundering activity may be taking place to report it immediately to the Director of Resources. Individuals are personally responsible for referring suspicions and can be fined for non-compliance.
142. Any disclosures about money laundering activity should be reported to the Money Laundering Reporting Officer or his/her nominated representative.

### **C7 SECURITY OF ASSETS**

143. The Council holds assets in the form of property, equipment, vehicles and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations.
144. Directors/Heads of Service should ensure that records and assets under their control are properly maintained and securely held.
145. Directors/Heads of Service are responsible for ensuring the maximum limit for cash holdings in accordance with insurance and safe limits is not exceeded, except with the express permission of the Director of Resources.
146. Directors/Heads of Service should ensure that all assets under their control are, as far as is practicable, effectively marked as Council property.
147. The Council's assets will not be removed or used otherwise than in the course of the Council's business except in accordance with specific instructions issued by the Director/Head of Service concerned.



148. All Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control and for ensuring that the use of these resources is legal, is properly authorised and provides value for money.
149. It will be the responsibility of each Director/Head of Service to make adequate arrangements for the security of monies whilst in their custody, such arrangements to be the subject of approval by the Director of Resources
150. Keys to safes and other cash receptacles must be securely held at all times.
151. Building access keys must be securely held at all times.
152. The Director of Resources is responsible for ensuring that proper security and privacy arrangements are applied in respect of all information held on the Council's computer installations and that information is used in accordance with Data Protection and other relevant information. He/she shall also ensure that effective contingency plans, disaster recovery and back-up procedures are in place to enable information systems to resume speedily in the event of interruption. Any such plans should be tested on a regular basis.
153. Directors/Heads of Service should ensure that all visitors to any Council buildings or sites, except public areas, are signed in and wear authorised identification. They should also ensure that any visitors are adequately supervised to ensure confidentiality of information and security of Council assets at all times.

#### **Information and Communication Technology (ICT) Security**

154. The Head of Business Support is responsible for policies in relation to the security of ICT equipment and for the issuing of Network and PC Standards.
155. The Head of Business Support is responsible for the application of policy, instructions and good practice in respect of corporate servers and distributed systems (networks).
156. Directors/Heads of Service are responsible for ensuring that policies and instructions are made known to all members of staff.

#### **C8 INTELLECTUAL PROPERTY**

157. Intellectual property is a generic term that includes inventions and writing. If these are created by an employee during the course of employment then, as a general rule, they belong to the employer, not the employee.
158. Certain activities undertaken with the Council may give rise to items that may be patentable e.g. software development. These items are also regarded as intellectual property.
159. In the event that the Council decides to become involved in the commercial exploitation of inventions the matter should proceed in accordance with the advice and guidance of the Director of Resources.
160. Directors and Heads of Service should ensure that controls are in place to ensure that staff do not carry out private work in Council time and that staff are aware of an employer's rights with regard to intellectual property.

## **C9 INVENTORIES**

### **Equipment**

161. The Council will maintain an inventory of all equipment (excluding ICT related equipment) with a replacement value above £1,500.
162. Each Director / Head of Service is responsible for maintaining an annual check of all items allocated to their areas and for taking action in relation to any surpluses or deficiencies, to include informing the Director of Resources.
163. All Information and Communication Technology and equipment will be recorded on an inventory held by the Head of Business Support and should include all servers, scanners, PCs, laptops, PDAs and any other equipment.
164. For 'mobile' equipment (i.e. equipment that is not always kept in the office) such as PDAs, mobile phones and laptops the register will include the name of the officer to whom the equipment has been allocated.

### **Land and Property**

165. A property database will be maintained by the Director of Services detailing all properties, including land, owned by the Council. The database will record, the purpose for which the property is held, its location, extent and plan reference, purchase details, particulars of nature of interest and rents receivable and particulars of leases and licences granted.
166. The Head of Finance will keep an Asset Register for capital accounting purposes. The register will be reviewed and updated on an annual basis. A review of asset values will be carried out at least every five years by an independent valuer.
167. Directors and Heads of Service are responsible for immediately notifying any amendments, deletions or additions to the Asset Register to the Head of Finance.
168. The Head of Legal & Democratic Services will keep all title deeds securely.
169. The Director of Services will maintain a Corporate Asset Management Plan to ensure that efficient, effective and sustainable use is made of the Council's land and buildings and that a co-ordinated approach to asset management is achieved across the authority.
170. Any contract relating to the purchase or disposal of any land or property or an interest in land or property will be in writing in a form agreed by the Head of Legal Services & Democratic Services.
171. The Head of Finance must be consulted in advance of any contractual agreement being entered into by the Council in order to ensure that any VAT liability has been properly assessed and tax planning implications taken into account.
172. The Director of Services will be responsible for the granting of licences and easements and for determining rent levels.
173. The Head of Business Support is responsible for co-ordinating the maintenance of the Council's Geographical Information System and Local Land and Property Gazetteer.

## **C10 ASSET DISPOSAL**

### **Stock, Stores and Equipment**

174. Equipment, stock and stores will be disposed of in accordance with the following procedure:

Under £10,000

- Sale of surplus stock and equipment with an estimated value up to £10,000 to be approved by a Director/Head of Service at the best price available (Head of Finance to be advised).
- Write off of stock and equipment with an estimated value up to £10,000 to be approved by a Director/Head of Service (Head of Finance to be advised).

Over £10,000

- Sale of surplus stock and equipment with an estimated value above £10,000 – Director of Resources to approve the method of sale.
- Write off of stock and equipment with an estimated value above £10,000 – Director of Resources to approve write off.

### **Land and Property**

175. Any proposal to lease or sell land, buildings or other permanent assets will be the subject of a report to Cabinet by the appropriate Officer in consultation with the Director of Resources.

## **C11 TREASURY MANAGEMENT**

176. Many millions of pounds pass through the Council's books each year. Procedures have been put in place to provide assurance that the Council's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Council's capital sum.
177. The Council has adopted and complies with CIPFA's "Code of Practice on Treasury Management in the Public Sector".
178. The Director of Resources is responsible for reporting to Cabinet on an annual basis a proposed Treasury Management Strategy for the coming financial year at or before the start of each financial year.
179. The Treasury Management Strategy and a Treasury Policy Statement is approved by the full Council.
180. The Director of Resources has responsibility for the implementation and monitoring of the Treasury Management Strategy.
181. The Director of Resources will report to Cabinet at least twice in each financial year on the activities of the treasury management operation and on the exercise of delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.
182. Working procedures are detailed in the Treasury Management Practices document.

**C12 STAFFING**

183. The Director of Resources will advise Members and Officers on areas such as National Insurance and Pension Scheme contributions as appropriate.
184. Directors and Heads of Service are responsible for the management of staffing budgets by:
- adjusting the staffing numbers to that which can be funded within the approved budget provision
  - the proper use of appointment procedures
  - monitoring staff activity to ensure adequate control over such costs as sickness, overtime, training, temporary and agency staff
  - ensuring that the staffing budget is not exceeded unless the necessary additional ongoing funding is available and the agreement of the Senior Management Team is obtained as required.
  - ensuring compliance with taxation and contract requirements for contractors and employees. Remuneration of employees must be paid through the authorised payroll system.

## D FINANCIAL SYSTEMS AND PROCEDURES

### Why is this important?

Sound systems and procedures are essential to an effective framework of accountability and control. Information must be accurate, reconciled and controlled to ensure that transactions are promptly processed and errors detected promptly.

### D1 GENERAL PROCEDURES

185. All accounting procedures and financial records shall be determined by the Director of Resources.
186. The following principles shall be observed in the allocation of accounting duties:
- The duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them.
  - Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.

### D2 BANKING ARRANGEMENTS

187. All banking arrangements with the Council's bankers will be made by, or under arrangements approved by, the Director of Resources.
188. All pre-printed cheques will be ordered only on the authority of the Director of Resources who will make proper arrangements for their control, safe custody and issue.
189. All computer prepared cheques will bear the facsimile signature of the Director of Resources. All cheques of:
- CDC £10,000 and over  
SBDC £20,000 and over
- will also bear the manuscript of an authorised signatory.
190. All cheques drawn manually will be signed by the Director or Resources or other authorised signatory. All manual cheques of £20,000 and over will also bear the manuscript signature of a second, different authorised signatory
191. All other payments of £20,000 and over e.g. by BACS, will bear the manuscript signature of the Director of Resources, or an officer authorised by the Director of Resources, on the payment documentation.
192. No officer will make arrangements for recurrent payments to be made by Direct Debit or Standing Order without the prior approval of the Head of Finance.
193. Income will be banked in accordance with procedures agreed by the Head of Finance and the Council's bankers. Income will be transferred by security carrier to cash and cheque processing centres nominated by the Council's bankers.

### Corporate Purchasing Cards

194. Directors or Heads of Service to make written requests to the Head of Finance for all new corporate purchasing cards.
195. The Director of Resources to formally authorise all new corporate purchasing cards.
196. The Director of Resources will authorise transaction limits and card limits These limits apply to the individual for the purposes of card spend only and are independent of the authorised signatory limits.
197. Corporate purchasing cards will be issued and monitored by specified staff within the Finance Team.
198. Corporate purchasing cards are only to be used for Council business.
199. Staff must ensure corporate purchasing cards are securely held at all times. See Corporate Purchasing Card Procedures for details of purchasing, reconciliation, contact names and notification of lost or stolen cards etc.

### D3 IMPREST ACCOUNTS / FLOATS

200. Payments made from an Imprest Account will be limited to minor items of expenditure and to such other items as the Head of Finance may approve and must be supported by a receipt.  
*Note: Imprest Accounts in operation at South Bucks District Council only*
201. All requests for new or increased cash floats to be authorised by the relevant Director or Head of Service and submitted to the Head of Finance stating the need for the float, the amount required and the officer responsible for the float.
202. All cash floats must be securely held and must be regularly checked to ensure all cash is accounted for. Any cash discrepancies must be immediately reported to the Head of Finance. Internal Audit will be responsible for carrying out a year end check on any significant cash floats.
203. The cash takings held by the Customer Services may be used in exceptional circumstances, subject to the approval of the Director of Resources or Head of Finance, to cash Council drawn cheques. These will include any Council drawn cheques authorised to 'pay cash'. For all such transactions a specified form must be completed and authorised by a Head of Service or Senior Revenues Manager (for Housing Benefit cheques only). Customer Services staff must check the customer's identity and obtain a signature (on the specified form) to acknowledge receipt of the cash paid out. The cheque can then be substituted for the cash and banked.
204. No income received on behalf of the Council may be paid into a petty cash account or float but must be banked in accordance with procedures provided elsewhere in these rules.

### D4 INCOME

#### Accounting for income

205. Income can be a vulnerable asset and effective income collection systems are essential to ensure that all revenues due to the Council are collected. It is important that all income due is properly identified, collected, receipted, banked and recorded in the financial accounting system.

206. The Director of Resources is responsible for authorising arrangements for the collection of all income due to the Council and for approving the procedures, systems and documentation used for its collection.
207. All income related special stationery i.e. invoices, invoice requests, receipt forms, tickets, books, license forms etc will be ordered and supplied in accordance with arrangements approved by the Head of Finance.
208. The Director of Resources, or nominated representative, is responsible for establishing and initiating appropriate recovery procedures, including legal and bailiff action where necessary, for debts that are not paid promptly.

#### **Cheque and cash handling procedures**

209. All money received by an officer on behalf of the Council must be processed on the day of receipt and banked within one working day unless otherwise agreed by the Director of Resources / Head of Finance.
210. No deduction may be made from such money unless specifically authorised by the Director of Resources / Head of Finance.
211. Every officer with responsibility for the collection and/or receipt of income by cash or cheque shall ensure that a timely reconciliation is conducted to ensure the completeness and accuracy of monies received and the appropriate action taken to correct any errors/omissions.
212. Post dated cheques within a reasonable time frame will be accepted. They must be recorded, held securely and banked on the due date. The relevant department should be informed in order that any recovery procedures may be suspended.
213. Each officer who banks money will enter on the paying-in slip a reference to the related debt (such as the receipt number or the name of the debtor), or otherwise indicate the origin of the cheque. The reverse of each cheque must be endorsed with the receipt or reference number of the related debt.
214. Under no circumstances should personal cheques belonging to staff be cashed out of money held on behalf of the Council.
215. Every transfer of Council money from one member of staff to another must be evidenced in the records of the departments concerned by the signature of the receiving officer unless alternative arrangements are authorised in writing by the Director of Resources / Head of Finance.

#### **Charging and Invoicing**

216. Directors / Heads of Service will be responsible for ensuring that all charges made for goods and services falling within their control, apart from those charges fixed on a statutory or nationally agreed basis, are reviewed at least annually and that all proposals for new charges and changes in charges are in accordance with the Council's Charging Policy.
217. Directors / Heads of Service should ensure that wherever possible income is obtained in advance of supplying goods and services as this improves the Council's cashflow and also avoids the time and costs of administering debts.

218. Officers will inform the Finance Team on a timely basis of particulars of all charges to be made in connection with work done, goods supplied, or services rendered to ensure the prompt raising of accounts.
219. The Finance Team must be notified of all money due to the Council including contracts, leases and other agreements.
220. In normal circumstances a debtor's invoice will not be raised where the invoice value is less than £10. This is because the administrative cost of raising the invoice would be greater than the value to be invoiced. Any exceptions to this rule should be with the agreement of the Director of Resources / Head of Finance.

### **Bad Debts and Write Offs**

221. An impairment provision for bad debts will be provided where it is deemed appropriate by the Director of Resources / Head of Finance.
222. The financial limits applying to the write off of all irrecoverable debts in circumstances where recovery of the sum is unlikely to be achieved or where proceeding are inappropriate or unjustified, will be as follows:

|               |   |
|---------------|---|
| Up to £150    | The Parking Manager has the power to write off irrecoverable penalty charge notices up to £150.   |
| Up to £1,000  | The Head of Finance has the power to write off irrecoverable debt up to £1,000.   |
| Up to £10,000 | The Director of Resources has the power to write off irrecoverable debts up to the value of £10,000.<br><br>The Head of Customer Services has the power to write off irrecoverable Council Tax debts, Non Domestic Rates debts and Housing Benefit / Council Tax Support Overpayments up to the value of £10,000. |
| Over £10,000  | The Cabinet has the power to write off irrecoverable debts over £10,000.  |

223. The Head of Finance will keep a register of all such irrecoverable debts.

### **Card payments and regulatory requirements**

224. All payments received over the Internet shall be timely processed and reconciled in accordance with arrangements approved by the Director of Resources.
225. All documentation in respect of credit and debit card income should be processed by the next working day unless otherwise agreed to in writing by the Director of Resources / Head of Finance
226. The processing of card payments must comply with Payment Card Industry Data Security Standards (PCIDSS) and other relevant legislation. The following criteria must be adhered to in order to meet these requirements:
- Retention periods for card holder data must be specified
  - Arrangements for the secure disposal of card holder data must be in place



- Card holder details should not be written down or recorded in any format
- Customers must be notified of the charge to be levied for the use of credit cards in advance of making payment.

### **Waiving of a Charge**

227. The Council will set its charges annually and these must be applied in all cases. Any variation or waiver of a charge must be approved by the relevant Director / Head of Service.
228. Card charges may be waived where they have been incorrectly applied.
229. Penalty Charge Notices issued to staff or Members may be waived only on the authority of the Chief Executive.

### **Policy for charging interest on late payment of debts**

230. The Late Payment of Commercial Debts Regulations 2002 allows the Council to claim interest and compensation on commercial debts (this excludes Business Rates) which are paid late. The legislation applies to debts with commercial organisations only; the Council cannot charge interest on a debt with an individual.
231. It will be at the Head of Finance's discretion to decide whether to apply the late payment legislation on a case by case basis, it is not compulsory to charge interest on all late payments. As a general rule, we would not expect to charge interest on debts under £500, as the administrative cost of raising the invoice for interest may be greater than the value of the interest claimed. However, there may be circumstances where it would be appropriate to charge interest, even if the debt is of low value. For example, if there was a very old debt of lower value it may be appropriate to charge interest.

## **D5 ORDERING WORKS, GOODS AND SERVICES**

### **Requisitions and Orders**

232. Directors and Heads of Service are responsible for the requisitioning and ordering of all works, goods and services within their areas of responsibility in accordance with procedures laid down by the Director of Resources. The only exception to this is in relation to Information and Communication Technology related expenditure (see 12 and 13 below for further information on this).
233. No expenditure shall be authorised or incurred unless the cost is covered by an approved budget, a virement or is rechargeable to a third party.
234. Only officers authorised by their Director and/or Head of Service may requisition or order works, goods or services and commit expenditure on behalf of the Council.
235. The form, requisition, custody and issue of all order documentation will be subject to the approval of the Director of Resources, including arrangements for submission of orders by electronic means.
236. Directors/Heads of Service will take account of the Council's Procurement Strategy and procedures whenever requisitioning / ordering works, goods or services.

237. Directors/Heads of Service will ensure that Contract Procedure Rules are complied with in respect of all requisitions / orders for works, goods or services.
238. An official order must be despatched to a supplier (see 8 below for a list of exceptions to the raising of official orders). When appropriate where works, goods or services have been ordered via the telephone or internet and where no immediate payment is made a confirmation order should be issued and clearly marked as a confirmation order.
239. The following is a list of types of expenditure where there is no formal requirement to raise an official order The Head of Finance should be consulted for the approval of any additional type of expenditure:
- Contract payments
  - Supplies of public utility services
  - Telephone bills
  - Periodical payments such as rent, rates or leases
  - Business Rates bills
  - Refunds
  - Housing Benefit Payments
  - Appointing or commissioning of an external legal firm or specialist consultants (a brief or letter should be sent detailing verbal agreements made)
  - Regular subscriptions
  - Courses, seminars or conference fees (where payment is sent with the booking form)
  - Land registry fees and stamp duty (where payment is required with the application)
  - Court fees (where payment is required with the papers)
  - Grant payments
  - Payments for Homelessness Accommodation
  - Purchases made by Corporate Purchasing Card
  - Very low value orders (eg under £1,000)
240. Before entering into any contract hire, finance or operating lease or lease – rental agreement, Directors / Heads of Service will consult with the Director of Resources / Head of Finance to ensure that the arrangement is financially advantageous to the Council. Any such agreements will be signed by the Director of Resources / Head of Finance.
241. A copy of all requisitions and orders must be retained in accordance with the Information Management retention guidelines.
242. No personal acquisitions must be made using official orders.

#### **Acquisition of Information and Communication Technology (ICT) Hardware and Software**

243. All ICT equipment must be either purchased or leased through ICT. This equipment includes all hardware, phones, PDAs, memory sticks, cameras and any other removable devices. Users should consult with ICT prior to any removable devices or other ICT equipment being purchased or used.
244. The ICT section must hold all original software and license documentation. The license will then be added to the asset register held in ICT. All software must be purchased or leased through ICT.

**D6 PAYMENT OF ACCOUNTS**

245. The Director of Resources is responsible for the payment of all invoices and accounts and for determining appropriate procedures for the payment of accounts.
246. All invoices or accounts must be examined, verified and certified by an authorised officer before being released in the financial system for payment. Certification means that the authorised officer is satisfied that :-
- the works, goods or services have been satisfactorily received or carried out as per instructions.
  - the charges are in accordance with quotations or contracts and are arithmetically correct.
  - all appropriate discounts, allowances and credits have been claimed.
  - the account has not previously been certified and approved for payment.
  - appropriate entries have been made in the inventories and stock records where necessary.
  - any VAT element of the payment has been correctly identified.
  - the expenditure has been properly ordered, authorised or incurred and is within the relevant budget provision and has been charged to the correct expenditure code.
247. Directors and Heads of Service are authorised to approve payments up to an agreed authorisation limit. Any exceptions to this rule must be approved by the Director of Resources and specified on the Authorised Signatory List:
248. When an invoice or account is found to be incorrect it must not be amended or altered in any way as any alteration will result in the account being invalid for the purposes of VAT requirements. If there is a discrepancy this should be referred to the creditor to either re-issue the invoice or supply a credit note.
249. Photocopied or faxed copies of original invoices are not acceptable. Payment on a copy invoice will only be made in exceptional circumstances and only after all necessary checks to avoid duplicate payment have been made. Any such exceptional payments must be clearly marked and the action taken approved by an authorised officer.
250. Under no circumstances should payment be made on a supplier's statement.
251. Where payment is required to be made on a pro-forma invoice no VAT should be recovered until a VAT receipt/invoice has been received and passed to the Finance Team.
252. Each Director/Head of Service will ensure that certified invoices and accounts are input promptly into the financial system in accordance with arrangements approved by the Director of Resources.
253. The Finance Team will examine, so far as considered necessary, certified accounts passed for payment and will be entitled to receive such information and explanations as may be required.

254. Payments will be made by the Finance Team promptly and directly to the supplier concerned unless in exceptional circumstances the Director of Resources / Head of Finance agrees alternative arrangements.
255. Certified invoices and accounts due for payment but which require payment in advance of the normal processing date may, in exceptional circumstances, be processed through the urgent payment system with the approval of the Director of Resources / Head of Finance.
256. The default payment method will be BACS transfer, any other payments will be made by cheque or other instrument drawn on the Council's bank account
257. Any direct debit payment arrangements must be approved by the Director of Resources/Head of Finance prior to acceptance and all direct debit mandates must be signed by an authorised cheque signatory.
258. By exception only a standing order arrangement may be established after approval by the Director of Resources / Head of Finance.

## **D7 PAYMENTS TO EMPLOYEES AND MEMBERS**

259. The Director of Resources is responsible for payment of salaries and all other forms of remuneration to employees and for payment of allowances to Members.

### **Salaries**

260. Each Director/Head of Service will inform the Personnel Team, who will in turn be responsible for notifying the Finance Team as soon as possible and in such form prescribed, of all matters affecting the payment of salaries and other remuneration to employees, in particular:
  - Appointments, resignations, dismissals, suspensions, secondments and transfers.
  - Absences from duty for sickness or other reason, apart from approved leave.
  - Changes in remuneration, other than normal increments and pay awards.
  - Information necessary to maintain records of service e.g. for pension, income tax and national insurance.
261. The appointment of all employees must be in accordance with the policies and procedures of the Council and with regard to the approved establishments, grades and rates of pay.
262. All time records or other pay documents will be in a form prescribed or approved by the Director of Resources and must be certified by an authorised officer. All documents must be submitted by the specified day of the month (or a date to be determined by the Director of Resources).
263. Each Director / Head of Service, in conjunction with the Personnel Team, will be responsible for the observance of the terms and conditions of employment.
264. Directors / Heads of Service will control the level of paid overtime within the approved budgetary provision.

### **Car Loans**

265. The arrangements for the administering of staff car loans must be approved by the Director of Resources. Individual car loan applications will be authorised by the Director of Resources.

### **Members Allowances**

266. Members' allowances will be paid in accordance with the Council's approved scheme. (See below for Members' expense claims).

### **Travelling, Subsistence and other expenses**

267. All expense claims (including car allowances, subsistence, disturbance, travelling and other expenses) will be paid by the Finance Team upon timely receipt of the prescribed form. All claims must be submitted by the specified date (or a date to be determined by the Director of Resources) in the month immediately following the date on which the expense was incurred.
268. Members' expense claims for travelling or other allowances will be paid by the Finance Team and must be submitted on a prescribed form with relevant receipts attached. Claims must be made within two months of the date on which the duty was undertaken.
269. An authorised officer must certify all expense claims.
270. The certification by the authorised officer will be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and that the allowances are properly payable by the Council.
271. Each Director / Head of Service shall approve all post entry training courses (including the estimated expenditure of each course). All claims for post entry training must be certified by an authorised officer and submitted to the Personnel Team before payment is made.
272. All staff using their own vehicles on Council business will be required to provide details of appropriate insurance, driving licence and MOT if applicable upon request by the Director of Resources or nominated representative.

### **D8 TAXATION**

273. The Director of Resources is responsible for advising Directors / Heads of Service, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.
274. The Director of Resources is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.
275. The Director of Resources shall be responsible for liaising with HM Revenues & Customs on all VAT related matters and for submitting and signing the necessary returns / claims in a timely manner.
276. Any new activities or contractual arrangements should be notified to the Director of Resources in order that potential tax implications may be considered.

**D9 TRADING ACCOUNTS AND BUSINESS UNITS**

277. The Director of Resources is responsible for advising on the establishment and operation of trading accounts and business units.

**D10 STOCKS AND STORES**

278. Stocks and stores, including minor items of equipment, represent short term assets of the Council.
279. Directors / Heads of Service are responsible for ensuring all stocks and stores are securely held and recorded.
280. Levels of stock held should not be in excess of reasonable requirements unless agreed by the Director of Resources.
281. Directors / Heads of Service should ensure stocks and stores are periodically checked and should complete a certificate for stock and stores in hand at the end of each financial year or when required by the Director of Resources.
282. Stocks and stores records shall be in a form approved by the Director of Resources.
283. Any surplus or deficiencies of stock must be reported to the Head of Finance.
284. Disposal of surplus stock should be in accordance with procedures set out in Financial Procedure Rule C10
285. The Director of Resources or nominated representative is entitled to check stocks and stores and be supplied with such information as may be required for the accounting, costing and financial records of the Council.

## E EXTERNAL ARRANGEMENTS

### E1 PARTNERSHIPS

286. Partnerships play a key role in delivering community strategies and in helping to promote and improve the well-being of an area. Local authorities are increasingly working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Part of the leadership role of local authorities is to bring together the contributions of various stakeholders.
287. Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations.
288. The main reasons to enter into a partnership are
- desire to find new ways to share risk
  - ability to access new resources
  - provide new and better ways of delivering services
289. A partner is defined as
- an organisation (private, public or third sector) undertaking, part funding or participating as a beneficiary on a project
  - a body whose nature or status give it a right or obligation to support the project
  - an individual whose contribution gives them a right or obligation to support the project
290. Partners participate in projects by
- acting as project deliverer or sponsor, solely or in conjunction with others
  - acting as project funder or part funder
  - being the beneficiary group of the activity undertaken in the project
  - planning and/or monitoring partnership deliverables and outcomes
291. Partnership working is playing an increasing role in the provision of Council services. The Cabinet is accountable to full Council for functions in respect of partnerships but some of these functions are delegated to officers.
292. The Head of Paid Service (statutory duties held by the Chief Executive) represents the authority on partnership and external bodies in accordance with the scheme of delegation.
293. The Monitoring Officer (statutory duties held by the Head of Legal & Democratic Services) is responsible for promoting and maintaining the high standards of conduct with regard to financial administration in partnerships that apply throughout the authority.
294. The Director of Resources must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He/she must consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He/she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.

295. Directors / Heads of Service are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

## **E2 EXTERNAL FUNDING**

296. External funding is potentially a very important source of income but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council.
297. Directors / Heads of Service are responsible for informing the Director of Resources and Head of Finance of all funding notified by external bodies, for ensuring that all claims for funds are made by the due date and that the project progresses in accordance with the agreed project terms of reference and that all expenditure is properly incurred and recorded.
298. Directors / Heads of Service are responsible for ensuring that any match funding requirements are considered prior to entering into agreements and that future revenue or capital budgets reflect these requirements.
299. The Director of Resources is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.

## **E3 WORK FOR THIRD PARTIES**

300. Current legislation enables the councils to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this are minimised and that such work is intra vires (i.e. legal).
301. The Director of Resources is responsible for issuing guidance with regard to the financial aspects of third party contracts.
302. Directors / Heads of Service are responsible for ensuring that any proposals are properly costed in accordance with guidance provided by the Director of Resources and that contracts are drawn up in accordance with advice from the Head of Legal Services & Democratic Services and that any relevant formal approval process is adhered to.
303. It is the responsibility of Directors / Heads of Service to ensure:
- that the approval of Cabinet where necessary is obtained before any negotiations are concluded to work for third parties
  - appropriate insurance arrangements are made
  - the Council is not put at risk of bad debts
  - that no contract is subsidised by the Council
  - that wherever possible payment is received in advance of the delivery of the service
  - the service area has appropriate expertise and resource to undertake the contract
  - that such contracts do not impact adversely upon the services provided for the Council
  - that all such contracts are properly documented
  - appropriate information is provided to the Head of Finance to enable a note to be entered in the Council's Statement of Accounts.



**Chiltern District Council  
and  
South Bucks District Council**

**CONTRACTS PROCEDURE**

**RULES**

**October 2015**

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## A INTRODUCTION

### A1 Purpose

1. The purpose of these Contracts Procedure Rules is to set out the Councils' approach to dealing with all aspects of Procurement.
2. Procurement includes preparing for, entering into, managing, extending, varying and terminating contracts for the supply of goods, services and works. These rules do not apply to contracts for employment.
3. These rules are designed to ensure that the Councils spend public money wisely, fairly and transparently.

### A2 Definitions

4. For the purposes of these rules a contract is:  
*“an **agreement** having a lawful object entered into voluntarily by two or more parties, each of whom intends to create one or more legal obligations between them. The **elements** of a contract are “offer” and “acceptance” by “competent persons” having legal capacity, who exchange “consideration” to create “mutuality of obligation. Proof of some or all of these elements may be done in writing, though contracts may be made entirely orally or by conduct.”*
5. The 'EU Procurement Rules' are the Public Contracts Regulations that enact The Public Contracts Directive 2004/18/EC into UK Law.

### A3 Requirement to Follow

6. These Contracts Procedure Rules must be followed by all employees, agency staff, contractors and councillors when dealing with all aspects of Procurement on behalf of the Council(s).
7. Furthermore, if a Councillor or Officer becomes aware of any activities or actions that do not comply with these rules they must inform the Director of Resources, as soon as they are aware.
8. It is a disciplinary offence if employees do not comply with these Rules or are aware of non-compliance but do not tell the Director of Resources.

### A4 Contract Owners

9. A Contract Owner is the person who has overall responsibility for a contract.
10. Every contract must have a named Contract Owner, who is responsible for:
  - Complying with these Contracts Procedure Rules
  - The specific method and activities the Councils' use to prepare for, enter into, manage, extend, vary and terminate a contract
  - Due diligence to verify that contracts the Councils' become party to, but did not award, are suitable
  - Keeping records to give a transparent, comprehensive and complete audit trail for the duration of each contract
  - Writing contract award reports.

11. The Head of Service will be the contract owners for all contracts that fall within their remit, unless they specifically delegate this role, or aspects of it, to someone else.

### A5 Declaring an Interest / Gifts and Hospitality

12. When a councillor or employee becomes aware of any pecuniary (monetary) interest they have, directly or indirectly, in any contract the Councils intend to award, or have already awarded they must declare their interest in writing by sending a 'declaration of interest' to the Chief Executive. The Chief Executive will keep a record of all 'declarations of interest'.
13. An indirect interest is when an employer, sponsor or relative of a councillor or employee has a pecuniary (monetary) interest in any contract the Councils intend to become party to or are already party to. A "relative" could be a partner (married or living with), a parent, a son or daughter, a stepson or stepdaughter, the son or daughter of a partner, and / or a sibling.
14. Councillors and officers also need to be very wary of accepting gifts / hospitality from suppliers or potential suppliers in order to avoid accusations of favouritism / bribery. Any offers must be recorded in the corporate gifts and hospitality register, and advice must be taken before accepting any non trivial gifts / hospitality.

### A6 Exemptions

15. The Councils must comply with these Contracts Procedure rules at all times. However there are sometimes valid reasons why an exemption from one or more elements of these rules is required.
16. All exemptions must be formally approved by Management Team, and shall be reported to the next appropriate Cabinet meeting.
17. Possible reasons for an exemption include:
  - **Urgency:** do not have sufficient time to comply with all of these rules.
  - **Buying at auction:** an auction is the only source.
  - **No genuine competition:** only one organisation or individual can realistically supply.
  - **Advantageous terms:** an organisation offers terms that are significantly better than the industry norm and is unlikely to repeat these terms.
  - **Failed competitive process:** when a Contract Owner stops a competitive quotation or tender process and decides there is a need to negotiate because no-one submits a quotation or a tender, or after evaluation no quotation or tender is appropriate.
  - **Collaborative procurement:** when another party is leading on the procurement it is normal practice that the other party's Contracts Procedure Rules are followed.
18. However in all cases the EU Procurement Rules must be complied with in full when they apply.

### A7 Variations to the Contracts Procedure Rules

19. Only Full Council has the authority to amend these Contracts Procedure Rules.

## B SUMMARY OF CONTRACTS PROCEDURE RULES

| Total Spend Estimate (C1) Excluding VAT | Advertising (C4) (Minimum Requirement) | Procedure (C5)  | Contract Award / Sign off (C10)   | Record Keeping (C11)  | Contract Review (D2)      | Vary / Extend a Contract (E)   |
|---|--|---|---|---|---------------------------|--|
| Up to £5,000                            | Up to Contract Owner.                  | Minimum of one Quotation.   | Contract Owner + another officer  | Records stored locally.   | At least every 12 months. | Up to an extra £2,000.   |
| £5,000 to £25,000                       | Up to Contract Owner.                  | Minimum of two Written Quotations.  | Head of Service + another officer   | Contract recorded in contract register. Records stored locally.   |                           | Up to an extra 25% increase in value.  |
| £25,001 to £50,000                      | Contracts Finder.                      | Request for Quote (RFQ). Minimum of three Formal Sealed Written Quotations. | Head of Service + Director.   | Contract recorded in contract register. Records stored centrally. |                           |  |
| £50,001 to < EU Threshold               | Contracts Finder.                      | Invitation to Tender (ITT). Minimum of four Formal Sealed Written Tenders.  | Head of Service + Director. Councils' common seal.                              |   | At least every 6 months.  | Up to an extra 25% increase in value<br>To no more than the EU Threshold.          |
| Above EU Threshold                      | Contracts Finder. Office OJEU Notice.  | EU procurement rules.   | Head of Service + Director + Portfolio Holder / Cabinet. Councils' common seal. |   |                           | Up to an extra 25% increase in value<br>Plus comply with the EU Procurement Rules. |

The EU Thresholds from 1 January 2016 are £164,176 (supplies & services) and £4,104,394 (works). They are set once every two years and were last set in January 2014.

## C PROCEDURES FOR AWARDING CONTRACTS

### C1 Total Spend Estimate

20. The amount a Contract Owner estimates the Councils' will spend on the same or similar goods, works or services, over the duration of a contract determines which procedure or procedures a Contract Owner must use.
21. TOTAL SPEND ESTIMATE = Estimated Spend over the Full Length of the Contract.  
 Estimated Spend - This is the total value of all purchase likely to be made under the contract, excluding VAT. This includes all organisations that are party to the agreement eg CDC + SBDC if a joint contract.  
 Note: A contract owner must not disaggregate contracts to avoid following these rules ie they should not just let a contract for stationery for one team, they need to consider the total spend on stationery across the Council(s).  
 Full Length of Contract – This includes any potential extensions or options that are likely to be included in a contract.
22. If the procurement is likely to result in income to the Council (ie the contract is for the sale / disposal of an item) then the procedure is determined by the likely Value of the contract, as opposed to the likely Spend.
23. A Contract Owner can use a procedure they would normally use to enter into a contract in a higher spend threshold to enter into one in a lower spend threshold, but not the other way around. For example they could use the tender procedure for contracts with a total spend estimate of £50,001 to EU Threshold to enter into contracts with a total spend estimate of less than £50,000.

### C2 Preparation

24. A Contract Owner must prepare thoroughly before they advertise a contract opportunity, although the amount and type of preparation should be commensurate with a contract's complexity and total spend estimate. In particular they need to be clear on the deliverables they expect from the contract.
25. If a contract or framework agreement for services, or primarily for services, is likely to have a total spend estimate equal to or greater than EU thresholds a Contract Owner must comply with the Public Services (Social Value) Act 2012, and start that compliance as soon as the Councils' are aware they intend to award a contract.

### C3 Contract Terms and Conditions

26. All Council awarded contracts must include the Council's standard terms and conditions.
27. The exceptions to this are when:
- A contract has a total spend estimate of less than £25,000 and the contract does not pose a significant risk to the Council.
  - There are changes to the Council's terms and conditions and these are agreed by the Head of Legal and Democratic Services.
  - The norm is for organisations and individuals to use their own terms and conditions (for example the supply of utilities), and there is little or no possibility of

being able to use alternative terms and conditions, and the Councils' Head of Legal and Democratic Services agrees these terms.

28. Each contract must allow a Contract Owner to terminate a contract at any time if a supplier's performance does not discharge their contractual responsibilities.

#### **C4 Advertising Contract Opportunities**

29. A Contract Owner must advertise contract opportunities when the total spend estimate is more than £25,000. They can advertise opportunities with lower total spend estimate if they consider it to be economically advantageous to the Council(s).
30. The primary purpose of an advert is to:
- Attract the interest of organisations and individuals.
  - Inform potential bidders concisely and clearly about the opportunity, and
  - Stimulate them to compete with their best terms.
31. As a minimum all adverts must be shown on the Contracts Finder website and the Councils e-tender software (if it uses such software).
32. The Contract Owner may also decide to advertise in:
- A local paper
  - An appropriate professional journal or journals
  - Other suitable websites.
33. A Contract Owner must place an official Notice in the OJEU to advertise an opportunity with a total spend estimate that is more than the thresholds for the EU Procurement Rules. Contract Owners should also place voluntary OJEU notices when they consider it appropriate to do so.

#### **C5 Requesting Quotations and Tenders**

##### **Quotation (Up to £5,000)**

34. For a total spend estimate of up to £5,000 the Contract Owner must obtain written evidence (for example a digital copy of an email or webpage) of the following:
- Description of goods, services or works
  - Contract terms and conditions (they could be a seller's terms of sale)
  - Price and delivery.
35. A Contract Owner only has to obtain one quotation for goods, services or works costing up to £5,000, provided they believe this to offer best value. If in doubt additional quotes should be obtained.

##### **Written Quotations (£5,000 to £25,000)**

36. For a total spend estimate of £5,000 to £25,000 the Contract Owner must obtain written evidence (for example a digital copy of an email or webpage) of the following:
- Description of goods, services or works
  - Contract terms and conditions (they could be a seller's terms of sale)
  - Price and delivery.

37. A Contract Owner must use reasonable endeavours to obtain at least 2 quotations for goods, services or works costing £5,000 to £25,000.

**Formal Sealed Written Quotations (£25,001 to £50,000)**

38. For a total spend estimate of £25,001 to £50,000 the Contract Owner must produce:

- a Formal Request for Quotation (RFQ), and
- a specification

and request that potential bidders formally submit sealed quotations.

39. A Contract Owner must use reasonable endeavours to obtain at least 3 Formal Sealed Written Quotations for goods, services or works costing £25,001 to £50,000.

**Tenders (Over £50,000)**

40. A tender should include more detail and be more complex than a quotation. It is likely to require considerably more time to formulate, complete and evaluate.

41. There are three different sets of circumstances that determine the type of tender a Contract Owner can invite from those who express an interest in a contract opportunity.

- **Non-EU Tender** is when a total spend estimate is less than the spend thresholds to comply with the EU Procurement Rules and a Contract Owner must comply with these Contracts Procedure Rules.
- **EU Tender** is when a total spend estimate is equal to or more than the spend thresholds for the EU Procurement Rules and a Contract Owner must comply with these Contracts Procedure Rules and the EU Procurement Rules.
- **Single Action Tender** is when a Contract Owner has a valid exemption from some of these Contracts Procedure Rules because there is only one organisation or individual able to supply what they intend to buy. A single action tender is only different from a normal tender in that a Contract Owner will invite just one organisation or individual to tender and they are very likely to negotiate. All other aspects must remain the same as any other tender.

42. For a total spend estimate of over £50,000 the Contract Owner must produce:

- An Invitation to Tender (ITT) document. This must include:
  - Instructions on how to tender, including timings,
  - details of the evaluation process and evaluation criteria,
  - a note to say that we are not bound to accept the lowest or any tender.
- A specification
- Contract terms and conditions
- Tender return forms or schedules – price and quality schedules and a Non-Collusive Tendering Certificate.

43. A Contract Owner shall use reasonable endeavours to obtain at least 4 tenders for goods, services or works costing over £50,000.

44. Note: In the case of EU tenders, if we use the restrictive procedure and want to limit the number of providers we intend to invite to tender, we have to invite at least five providers to tender.



## C6 Receiving Quotations and Tenders

45. Quotations and tenders must be submitted in the following manner.

| Spend Threshold  | Method   | Sent To               |
|--|--|-----------------------|
| Written Quotation<br>(Up to £25,000)                           | As an attachment to an email, a copy of a webpage, by e-tender software, or by post. | Contract Owner        |
| <u>Formal</u> Sealed Written Quotation<br>(£25,001 to £50,000) | By e-tender software or in a plain sealed envelope.                                  | Head of Service       |
| Tender<br>(Over £50,000)                                       | By e-tender software or in a plain sealed envelope.                                  | Director of Resources |

46. A plain sealed envelope must only have written on it:

- The name of the person to whom the Quotation / Tender is to be returned;
- The Council's addresses;
- The title of the contract; and
- The word "quote" or "tender".

47. On receipt Quotations and Tenders must not be opened, and must immediately be passed to Contract Owner / Head of Service / Director as appropriate.

## C7 Opening Quotations and Tenders

48. Quotations under £25,000 can be opened by the Contract Owner or his / her nominee.

49. Formal Sealed Written Quotations and Tenders must not be opened until the submission deadline has passed.

50. Formal Sealed Written Quotations (£25,001 to £50,000) must be opened by the Head of Service or his / her nominee, and in the presence of at least 1 other member of staff.

51. Tenders (Over £50,000) must be opened by the Director or Resources or his / her nominee in the presence of at least 2 other members of staff or Councillors, including a representative from Finance.

52. Each Formal Sealed Written Quotation / Tender shall be date stamped and logged on a Quotation / Tender Receipt form and this form shall be signed by each person present at the opening.

## C8 Evaluation of Quotations and Tenders

### Up to £5,000

53. For contracts with a total spend of £5,000 or less a Contract Owner can evaluate quotations on their own.
54. However, they must be able to explain how and why, with supporting evidence, they decided to recommend the award of a contract to a specific organisation or individual.

### Over £5,000

55. A Contract Owner must assemble an evaluation panel with a named chairperson, who could be the Contract Owner. An evaluation panel must have no less than:
  - Two members of staff or Councillors to evaluate quotations (£5,000 to £50,000)
  - Three members of staff or Councillors to evaluate tenders (over £50,000).
56. The primary concerns of an evaluation panel must be:
  - **Consistency:** the panel must apply the evaluation process and criteria consistently to each written quotation or tender.
  - **Suitability:** the panel must determine which organisation or individual has submitted the most economically advantageous quotation or tender and is therefore the most suitable to supply the Councils.
  - **Criteria:** the panel must evaluate the contents of each formal written quotation or tender against evaluation criteria given in the relevant 'Request for Quotation' or 'Invitation to Tender'.
  - **Consensus:** the panel's members must strive to achieve a consensus for recommendations they give in a contract award report. If they fail to achieve a consensus then a majority must prevail. In the event of an equal split then the chairperson has the deciding vote.

## C9 Negotiation

57. A Contract Owner can only negotiate the terms of a contract when:
  - Management team has agreed this, and either
  - The total spend estimate is less than that required to comply with the EU Procurement Rules, or
  - They have valid grounds to negotiate, as described in the EU Procurement Rules.
58. A Contract Owner must make sure there are formal written notes of any negotiations.
59. Note: The European Council has stated in its communications that in the open and restricted procedures all negotiations on fundamental aspects of contracts, variations in which are likely to distort competition, in particular on prices, are ruled out. Discussions may be held only to clarify or supplement the content of tenders or the requirements of the contracting authorities and provided this does not involve discrimination.

## C10 Contract Award / Sign Off

60. The table below details those who are eligible to sign off contracts, depending on the total spend estimate.

| Spend Threshold         | Evaluation   | Sign-off   |
|-------------------------|--|--|
| Up to £5,000            | Contract evaluation to be <u>formally</u> recorded in writing by the Contract Owner. | Contract Owner + another officer   |
| £5,000 to £25,000       |  | Head of Service + another officer  |
| £25,001 to £50,000      | Full Contract Award Report.<br>See below   | Head of Service + Director.  |
| £50,001 to EU Threshold |  | Head of Service + Director.  |
| Over EU Threshold       |  | Three stage sign-off:<br>- Head of Service +<br>- Director +<br>- Portfolio Holder / Cabinet |

### Full Contract Award Report (Over £25,000)

61. The Contract Owner is responsible for preparing a full contract award report for contracts with a total spend estimate of more than £25,000.
62. The Contract Award report must be considered by all the Officers / Councillors who have the authority to sign off the contract, prior to the award of the Contract.
63. A contract award report is an accurate, comprehensive and concise summary of the activities, decisions, results and recommendations a Contract Owner instigates:
- From the time the Council(s) know they intend to enter into a contract; to
  - The signing of a contract.
64. Each contract award report must provide sufficient information in the body of a report and / or in accompanying documents for the person who will sign off a contract. Sufficient information is when the person to sign off a contract is confident that the contract in question complies with these Contracts Procedure Rules.
65. The scope, content and approvals (sign-off) for each contract award report depend on the total spend estimate for a contract and its potential risks.

### Sealing Contracts (Over £50,000)

66. Contracts with a total spend estimate of more than £50,000 must be executed under the Councils' common seal. Affixing its common seal is how the Councils formally execute contracts and there are specific rules that govern its use.

## C11 Record Keeping

67. A Contract Owner must keep records on the decisions and activities they take concerning how they prepare for, enter into, manage, extend, vary and terminate each of the Councils' contracts.
68. These records must provide complete, comprehensive and concise evidence of how and why contract decisions were made. A transparent audit trail is a pre-requisite for all contracts.
69. A Contract Owner must, as a minimum, keep the following:
  - The Request for Quotation (RFQ) / Invitation to Tender (ITT)
  - All the documents that comprise a quotation or tender
  - The Contract Award Report
  - The documents that make up the formal contract
  - Any formal performance review reports
  - Details of any variations and extensions to the original contract
  - Details of any contract terminations with reasons.
70. These records need to be kept for the duration of the contract, plus 6 years (unsealed contracts) or plus 12 years (sealed contracts).
71. For those contracts with an estimated lifetime spend of less than £5,000 a Contract Owner may store these records locally.
72. For those contracts with an estimated lifetime spend of £5,000 - £25,000 a Contract Owner may store these records locally. However they must notify Finance so that summary details are included in the contracts register.
73. For contracts with an estimated lifetime spend of more than £25,000 these records must be stored in the central contracts register. In addition they must notify Finance so that summary details are included in the contracts register.

## **D PROCEDURES FOR MANAGING SUPPLIER PERFORMANCE**

### **D1 Contract Start Up**

74. A Contract Owner should not normally purchase or receive goods, services or works through a contract before it is signed. If there is a reason for doing this, it must be formally documented.
75. If appropriate when starting a contract a Contract Owner should define a start up period, relevant to the spend and complexity of a contract, in which there is a more intense focus on making sure the contract performs to achieve expectations.

### **D2 Managing Performance During the Contract Period**

76. A Contract Owner must ensure, as far as possible, the Council(s):
  - Receive what they have agreed to pay for;
  - Support a supplier or suppliers to achieve satisfactory results; and
  - Enable a supplier or suppliers to improve performance and increase the benefit of what they have agreed to supply.
77. A Contract Owner shall formally, regularly and consistently meet with the contractor to discuss all aspects of performance.
78. It is recommended that contract reviews take place at least every 12 months for contracts under £50,000 and at least every 6 months for contracts above this value.

### **D3 Contracts Due to Finish**

79. To ensure that the Council(s) always have suitable contracts in place for the goods, services and works that they need to buy, the Contract Owner shall take appropriate action to re-let or renew contracts in good time before the expiry of the existing contract(s).
80. If there are any concerns about the ability to re-let or renew contracts before the expiry of existing contracts these need to be raised with the Director of Resources.

## E PROCEDURES FOR VARYING /EXTENDING CONTRACTS

### E1 If a Contract has a Variation and/or an Extension Clause

81. If a contract has a variation and / or an extension clause then a Head of Service or Director can vary and / or extend it within the bounds of the terms in such a clause provided they believe this will provide best value for the Council(s).

### E2 If a Contract does not have a Variation and/or an Extension Clause

#### Within Criteria

82. When the terms of the variation and / or extension clause are not specific, or they are not present in a contract, a Contract Owner can request a variation and/or an extension to a contract if the changes they intend to propose comply with the following criteria.

| Original Contract Spend | Criteria   |
|-------------------------|--|
| Up to £5,000            | Up to an extra £2,000.   |
| £5,001 to £50,000       | Up to an extra £2,000 or up to an extra 25% increase in value, whichever is the greatest |
| £50,001 to EU Threshold | Up to an extra 25% increase in value to no more than the EU Threshold                    |
| Above EU Threshold      | Up to an extra 25% increase in value<br>Plus comply with the EU Procurement Rules        |

83. In which case a Contract Owner must document the reasoning for each variation and / or extension and get this signed off by a Head of Service or a Director.

#### Outside Criteria

84. If a Contract Owner wishes to vary and / or extend a contract by more than the above criteria, this needs to be formally approved by Management Team.

### E3 Recording Variations and/or Extensions

85. A Contract Owner must store details of each variation and / or extension, for all contracts with a new total spend estimate of more than £25,000, in the central contracts register.

**PART C**  
**SECTION A: Code of Corporate Governance**

## Definition of Governance

Governance comprises the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved.

Source: *International Framework: Good Governance in the Public Sector (CIPFA/IFAC, 2014)*.

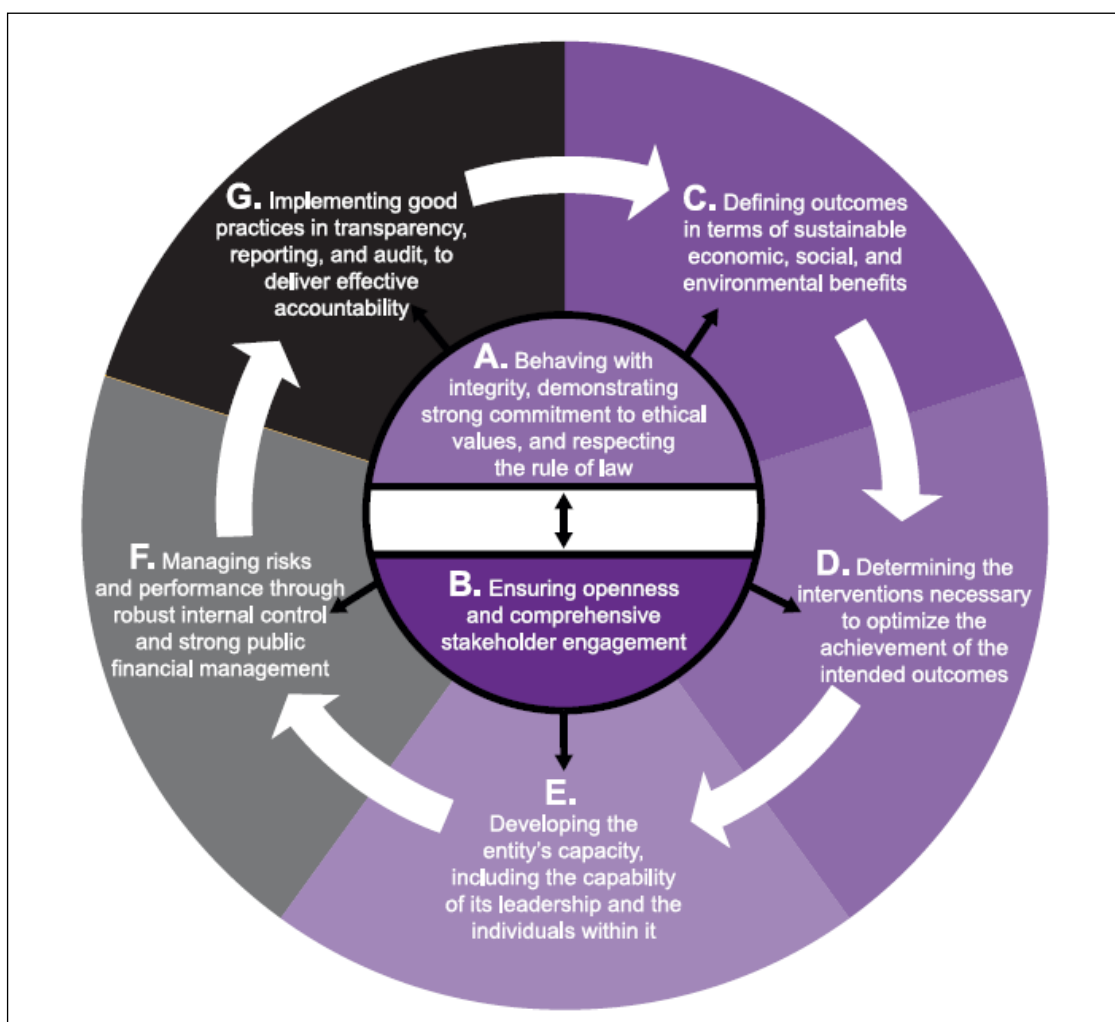
## Our Approach to Governance

We believe that to deliver good governance, both the Council and individuals working for the Council must try to achieve our objectives while acting in the public interest at all times.

We do this by applying the following framework where Principles A and B permeate implementation of principles C to G.

### Governance Framework:

**Achieving the intended outcomes whilst acting in the Public Interest at all times.**



Source: *International Framework: Good Governance in the Public Sector (CIPFA/IFAC, 2014)*.

Good governance is also dynamic, and we are committed to improving governance on a continuing basis through a process of evaluation and review.



## How we Deliver Good Governance

We aim to deliver good governance by carrying out the actions in the following table to meet each of the core Governance principles.

| Core Principle   | Actions   |
|--|---|
| <p><b>A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law</b></p> <p>Local government organisations are accountable not only for how much they spend, but also for how they use the resources under their stewardship.</p> <p>This includes accountability for outputs, both positive and negative, and for the outcomes they have achieved.</p> <p>In addition, they have an overarching responsibility to serve the public interest in adhering to the requirements of legislation and government policies.</p> <p>It is essential that, as a whole, they can demonstrate the appropriateness of all their actions and have mechanisms in place to encourage and enforce adherence to ethical values and to respect the rule of law.</p> | <p><b>Behaving with integrity</b></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Maintain and enforce a Member Code of Conduct.</li> <li>• Maintain and enforce an Employee Code of Conduct.</li> <li>• Ensure new Members and staff are briefed on the Codes of Conduct.</li> <li>• Have a clear system for performance management applying to all employees.</li> <li>• Declare and record any vested interests at meetings.</li> <li>• Conduct meetings in an open and inclusive manner.</li> <li>• Ensure a committee has specific responsibility for standards matters.</li> <li>• Maintain and enforce an Anti-Fraud, Bribery and Corruption Policy.</li> <li>• Maintain an up to date register of interests for Members and staff.</li> <li>• Maintain an up to date register of gifts and hospitality.</li> <li>• Maintain a whistleblowing policy.</li> <li>• Maintain a complaints policy, taking complaints seriously, and acting on these when appropriate.</li> </ul> <p><b>Demonstrating strong commitment to ethical values</b></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Set out and follow our core Values, which underpin how we behave.</li> <li>• Appoint staff based on merit alone.</li> <li>• Ensure our Contract Procedure Rules are fair, open and transparent.</li> <li>• Require our partners to act with integrity and comply with high ethical standards.</li> </ul> <p><b>Respecting the rule of law</b></p> |

| Core Principle   | Actions  |
|--|--|
|  | <p>We will:</p> <ul style="list-style-type: none"> <li>• Follow all applicable legislation and statutory guidance.</li> <li>• Maintain and follow our constitution.</li> <li>• Comply with CIPFA’s Statement on the Role of the Chief Financial Officer in Local Government (CIPFA, 2015).</li> <li>• Ensure legal advice is sought when necessary, and will formally record this advice.</li> <li>• Appoint a statutory Monitoring Officer, and support them to discharge their function effectively.</li> <li>• Ensure effective arrangements are in place for the discharge of the Head of Paid Service function.</li> </ul>  |
| <p><b>B. Ensuring openness and comprehensive stakeholder engagement</b></p> <p>Local government is run for the public good, organisations therefore should ensure openness in their activities.</p> <p>Clear, trusted channels of communication and consultation should be used to engage effectively with all groups of stakeholders, such as individual citizens and service users, as well as institutional stakeholders.</p> | <p><b>Openness</b></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Produce and publish an Annual Report on our performance.</li> <li>• Maintain a Freedom of Information Act publication scheme.</li> <li>• Maintain a website and publish key information about the Authority on this.</li> <li>• Formally record decisions taken, and make these available to the public.</li> <li>• Provide clear reasoning and evidence for all decisions.</li> <li>• Maintain a calendar of dates for meetings with advance notice of key decisions to be taken.</li> </ul> <p><b>Engaging comprehensively with institutional stakeholders</b></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Consult institutional stakeholders when appropriate on key decisions, and listen to the feedback.</li> <li>• Maintain a communications strategy.</li> <li>• Work in an open and inclusive manner with partners.</li> </ul> <p><b>Engaging with individual citizens and service users effectively</b></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Consult citizens and service users when appropriate on key decisions, and listen to the feedback.</li> <li>• Maintain a communications strategy.</li> <li>• Seek to effectively consult with vulnerable and hard to reach</li> </ul> |

| Core Principle   | Actions   |
|--|---|
|  | <p>groups.</p> <ul style="list-style-type: none"> <li>• Maintain a record of public consultations.</li> </ul>   |
| <p><b>C. Defining outcomes in terms of sustainable economic, social, and environmental benefits</b></p> <p>The long-term nature and impact of many of local government's responsibilities mean that it should define and plan outcomes and that these should be sustainable.</p> <p>Decisions should further the authority's purpose, contribute to intended benefits and outcomes, and remain within the limits of authority and resources.</p> <p>Input from all groups of stakeholders, including citizens, service users, and institutional stakeholders, is vital to the success of this process and in balancing competing demands when determining priorities for the finite resources available.</p> | <p><b>Defining outcomes</b></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Work with our partners to create a vision for the area.</li> <li>• Work with our partners to produce a Sustainable Community Strategy for the area.</li> <li>• Publish a forward looking Business Plan.</li> <li>• Produce annual service plans.</li> <li>• Regularly monitor progress with achieving our aims and objectives.</li> </ul> <p><b>Sustainable economic, social and environmental benefits</b></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Consider and balance the economic, social and environmental impact of our actions.</li> <li>• Consider the wider public interest associated with balancing conflicting interests between achieving the various economic, social and environmental benefits.</li> <li>• Consider long term implications when making decisions.</li> <li>• Ensure fair access to our services for all users.</li> </ul> |
| <p><b>D. Determining the interventions necessary to optimise the achievement of the intended outcomes</b></p> <p>Local government achieves its intended outcomes by providing a mixture of legal, regulatory, and practical interventions.</p> <p>Determining the right mix of these courses of action is a critically important strategic choice that local government</p>  | <p><b>Determining interventions</b></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Ensure alternative options are presented and objectively considered, to ensure best value is achieved. For instance in reports seeking decisions.</li> <li>• Consider the risks associated with alternative options.</li> <li>• Consider feedback from citizens and service users when making decisions about service improvements or where services are no longer required in order to prioritise competing demands within limited resources.</li> <li>• Maintain a fair and proportionate corporate enforcement policy and follow this at all times.</li> </ul>  |

| Core Principle   | Actions  |
|--|--|
| <p>has to make to ensure intended outcomes are achieved.</p> <p>They need robust decision-making mechanisms to ensure that their defined outcomes can be achieved in a way that provides the best trade-off between the various types of resource inputs while still enabling effective and efficient operations.</p> <p>Decisions made need to be reviewed continually to ensure that achievement of outcomes is optimised.</p>   | <p><b>Planning interventions</b></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Operate an annual planning and control cycle to deal with strategic and operational plans, priorities and targets.</li> <li>• Engage / involve internal and external stakeholders and partners as appropriate.</li> <li>• Set and monitor key performance indicators / targets.</li> <li>• Maintain and follow a formal project management framework.</li> <li>• Be prepared to change and adapt, to deal with changing circumstances.</li> </ul> <p><b>Optimising achievement of intended outcomes</b></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Balance service priorities, affordability and other resource constraints. For instance by use of our Cost, Quality and Resilience triangle.</li> <li>• Take account of the full cost of operations over the medium and longer term.</li> <li>• Consider 'social value' and comply with the Public Services (Social Value) Act 2012</li> </ul> |
| <p><b>E. Developing the entity's capacity, including the capability of its leadership and the individuals within it</b></p> <p>Local government needs appropriate structures and leadership, as well as people with the right skills, appropriate qualifications and mindset, to operate efficiently and effectively and achieve their intended outcomes within the specified periods.</p> <p>A local government organisation must ensure that it has both the capacity to fulfill its own mandate and to make certain that there are policies in place to guarantee</p> | <p><b>Developing the entity's capacity</b></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Regularly review our activities, outputs and planned outcomes.</li> <li>• Improve resource use through appropriate application of techniques such as Peer Review / benchmarking.</li> <li>• Work in partnership with others, where added value can be achieved.</li> <li>• Develop a workforce plan and an organisational development strategy.</li> </ul> <p><b>Developing the capability of the entity's leadership and other individuals</b></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Maintain up to date job descriptions for all staff.</li> <li>• Maintain a Protocol on Member / Officer Relations.</li> <li>• Maintain an up to date scheme of delegation.</li> </ul>  |

| Core Principle  | Actions   |
|---|---|
| <p>that its management has the operational capacity for the organisation as a whole.</p> <p>Because both individuals and the environment in which an authority operates will change over time, there will be a continuous need to develop its capacity as well as the skills and experience of the leadership of individual staff members.</p> <p>Leadership in local government entities is strengthened by the participation of people with many different types of backgrounds, reflecting the structure and diversity of communities.</p>   | <ul style="list-style-type: none"> <li>• Invest in Member and staff training.</li> <li>• Maintain our Investors in People (IIP) accreditation.</li> <li>• Hold staff to account through regular performance reviews which take account of training or development needs.</li> <li>• Implement appropriate human resource policies.</li> </ul>   |
| <p><b>F. Managing risks and performance through robust internal control and strong public financial management</b></p> <p>Local government needs to ensure that the organisations and governance structures that it oversees have implemented, and can sustain, an effective performance management system that facilitates effective and efficient delivery of planned services.</p> <p>Risk management and internal control are important and integral parts of a performance management system and crucial to the achievement of outcomes.</p> <p>Risk should be considered and addressed as part of all decision making activities.</p> | <p><b>Managing risk</b></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Consider risk as an integral part of all activities.</li> <li>• Maintain an up to date Risk Management Strategy.</li> <li>• Maintain up to date Risk Management Guidance.</li> <li>• Maintain up to date Risk Registers.</li> <li>• Allocate a senior officer with overall responsibility for risk management.</li> <li>• Maintain up to date business continuity plans.</li> <li>• Report at least annually to the Committee responsible for Risk Management.</li> </ul> <p><b>Managing performance</b></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Monitor our performance and regularly report on progress.</li> <li>• Compare our performance against others by using benchmarking, cost comparisons etc.</li> <li>• Ensure an effective scrutiny function is in place. For instance we will maintain at least one scrutiny committee, independent of the executive.</li> </ul> |

| Core Principle  | Actions  |
|---|--|
| <p>A strong system of financial management is essential for the implementation of policies and the achievement of intended outcomes, as it will enforce financial discipline, strategic allocation of resources, efficient service delivery, and accountability.</p> <p>It is also essential that a culture and structure for scrutiny is in place as a key part of accountable decision making, policy making and review.</p> <p>A positive working culture that accepts, promotes and encourages constructive challenge is critical to successful scrutiny and successful delivery.</p> <p>Importantly, this culture does not happen automatically, it requires repeated public commitment from those in authority.</p> | <ul style="list-style-type: none"> <li>• Proactively work with / manage our contractors to ensure agreed outputs are delivered and services improved.</li> </ul> <p><b>Robust internal control</b></p> <p>We will</p> <ul style="list-style-type: none"> <li>• Maintain effective internal control processes.</li> <li>• Maintain an effective internal audit service.</li> <li>• Work constructively with external audit.</li> <li>• Maintain an Audit Committee, independent of the Executive.</li> <li>• Report the audit plans and audit reports to the Audit Committee.</li> </ul> <p><b>Managing data</b></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Maintain appropriate data management policies and procedures.</li> <li>• Designate a senior officer with overall responsibility for data management.</li> <li>• Maintain appropriate data protection policies.</li> <li>• Maintain appropriate data sharing protocols.</li> <li>• Maintain appropriate data quality procedures.</li> </ul> <p><b>Strong public financial management</b></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Maintain an up to date Medium Term Financial Strategy.</li> <li>• Maintain up to date Financial Procedure Rules.</li> <li>• Prepare robust budgets taking account of our objectives, strategies and our medium term financial plan.</li> <li>• Carry out regular budget monitoring.</li> </ul> |
| <p><b>G. Implementing good practices in transparency, reporting, and audit to deliver effective accountability</b></p> <p>Accountability is about ensuring that those making</p>  | <p><b>Implementing good practice in transparency</b></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Write and communicate reports for the public and other stakeholders in an understandable style.</li> <li>• Try to provide the right amount of information, striking a balance between transparency and understandability.</li> </ul>   |

| Core Principle  | Actions   |
|---|---|
| <p>decisions and delivering services are answerable for them.</p> <p>Effective accountability is concerned not only with reporting on actions completed, but also ensuring that stakeholders are able to understand and respond as the organisation plans and carries out its activities in a transparent manner.</p> <p>Both external and internal audit contribute to effective accountability.</p> | <ul style="list-style-type: none"> <li>• Comply with the Government's Local Government Transparency Code.</li> </ul> <p><a href="#">Implementing good practices in reporting</a></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Produce and publish an Annual Report.</li> <li>• Produce and publish annual Financial Statements.</li> <li>• Produce and publish an Annual Governance Statement.</li> </ul> <p><a href="#">Assurance and effective accountability</a></p> <p>We will:</p> <ul style="list-style-type: none"> <li>• Act on agreed recommendations.</li> <li>• Comply with CIPFA's Statement on the Role of the Head of Internal Audit (2010).</li> <li>• Comply with Public Sector Internal Audit Standards.</li> <li>• Work constructively with inspection agencies.</li> </ul> |

**PART C**  
**SECTION B: Members' Code of Conduct**





## SOUTH BUCKS DISTRICT COUNCIL

### Code of Conduct for Members Adopted on 24 July 2012

#### Part 1 - General Provisions

##### Introduction

1. (1) The Council has adopted this Code of Conduct pursuant to section 27 of the Localism Act 2011 (the Act) to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council including the office to which they were elected or appointed or when they claim to act or give the impression of acting as a representative of the Council
- (2) This Code of Conduct complies with Section 28 the Act and is consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

##### Scope

2. (1) This Code of Conduct applies to you whenever you are acting in your capacity as a member of South Bucks District Council, including: -
  - (a) at formal meetings of the Council, its Committees and Sub-Committees, its Cabinet and PAG's
  - (b) when acting as a representative of the authority
  - (c) in taking any decision as a Cabinet member or a Ward Councillor
  - (d) in discharging your functions as a ward Councillor
  - (e) at briefing meetings with officers
  - (f) at site visits and
  - (g) when corresponding with the authority other than in a private capacity
- (2) Where you act as a representative of the Council: -
  - (a) on another authority, you must when acting for that authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with this Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject

##### General obligations

3. You must -
  - (1) provide leadership to the council and communities within its area, by personal example and
  - (2) respect others and not bully any person
  - (3) recognise that officers (other than political assistants) are employed by and serve the whole council

- (4) respect the confidentiality of information which you receive as a member -
  - i. not disclosing confidential information to third parties unless required by law to do so or where there is a clear and over-riding public interest in doing so; and
  - ii. not obstructing third parties' legal rights of access to information
- (5) not misconduct yourself in a manner which is likely to bring the council into disrepute
- (6) use your position as a member in the public interest and not for personal advantage
- (7) act in accordance with the council's reasonable rules on the use of the resources of the council for private or political purposes
- (8) exercise your own independent judgement, taking decisions for good and substantial reasons -
  - i. attaching appropriate weight to all relevant considerations including, where appropriate, public opinion and the views of political groups
  - ii. paying due regard to the advice of officers, and in particular to the advice of the statutory officers, namely the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer and
  - iii. stating the reasons for your decisions where those reasons are not otherwise apparent
- (9) account for your actions, particularly by supporting the council's scrutiny function
- (10) ensure that the council acts within the law.

## Part 2 - Interests

### Personal interests

4. In addition to the statutory requirements under the Act in relation to DPI's and as set out in Paragraph 10 below and save for the subject interest already having been declared as a DPI and the statutory provisions complied with, the following Paragraphs 5 to 9 shall also apply.
5. (1) You have a personal interest in any business of the council where either—
  - (a) it relates to or is likely to affect—
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the council;
    - (ii) any body—
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),
 of which you are a member or in a position of general control or management;
    - (iii) any person or body who employs or has appointed you;
    - (iv) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £50;

- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision;
- (2) In sub-paragraph (1)(b), a relevant person is—
- (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (d) any body of a type described in sub-paragraph (1) (a) (i) or (ii).

### Disclosure of personal interests

6. (1) Subject to sub-paragraphs (2) to (5), where you have a personal interest in any business of the council and you attend a meeting of the council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of the council which solely relates to a body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the council, you need only disclose to the meeting the existence and nature of that interest if that interest is prejudicial.
- (3) Where you have a personal interest in any business of the council of the type mentioned in paragraph 5(1) (a) (iv), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Subject to paragraph 9(1) (b), where you have a personal interest in any business of the council and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

### Prejudicial interest generally

7. (1) Subject to sub-paragraph (2), where you have a personal interest in any business of the council you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the council where that business—
- (a) does not affect your financial position or the financial position of a person

- or body described in paragraph 5;
- (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 5; or
- (c) relates to the functions of the council in respect of—
  - (i) an allowance, payment or indemnity given to members;
  - (ii) any ceremonial honour given to members; and
  - (iii) setting council tax or a precept under the Local Government Finance Act 1992.

### **Prejudicial interests arising in relation to overview and scrutiny committees**

8. You also have a prejudicial interest in any business before an overview and scrutiny committee of the council (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by the cabinet, PAG's or another of the council's committees, sub-committees, joint committees or joint sub-committees; and
  - (b) at the time the decision was made or action was taken, you were a member of the cabinet, PAG's, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **Effect of prejudicial interests on participation**

9. (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your council—
- (a) you must declare the existence and nature of your interest and withdraw from the room or chamber where a meeting considering the business is being held—
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
 unless you have obtained a dispensation from your council's monitoring officer;
  - (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of the council you may attend a meeting (including a meeting of the overview and scrutiny committee of the council or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

### **Disclosable Pecuniary Interest**

10. A Disclosable Pecuniary Interest (DPI) is as defined in 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012' (The Regulations) and the categories of interest are set out in Appendix A.

**Note:** In addition to the statutory requirements under the Act, Council Procedure Rules require you to withdraw from the room or chamber where the meeting is being held if you have a DPI in an item of business being considered at that meeting unless a Dispensation has been granted pursuant to and in accordance with Section 33 of the Act.

### Part 3 - Registration of Members' Interests

#### Registration or Disclosure of members' interests

11. (1) Subject to paragraph 12, you must, within 28 days of—
- (a) in relation to a DPI, the Regulations coming into effect namely 1.7.12
  - (b) in relation to Personal Interests, this Code being adopted by or applied to the council; or
  - (c) otherwise your election or appointment to office (where that is later),
- register in the council's register of members' interests, maintained under Section 29 of the Act, details of any DPI which you or your spouse or civil partner (or person with whom you are living as spouse or civil partner) may have, together with your personal interests where they fall within a category mentioned in paragraph 5(1) (a), by providing written notification to the council's monitoring officer,.
- (2) Failure to register or disclose any DPI in accordance with section 30(1) or 31(2), (3) or (7) of the Act, or participating in any discussion or vote in contravention of section 31(4) of the Act, or taking any steps in contravention of section 31(8) of the Act, is a criminal offence and risks a fine not exceeding level 5 on the standard scale (currently £5,000) or disqualification as a member for a period not exceeding 5 years.
- (3) Subject to paragraph 12, you must, within 28 days of becoming aware of any new DPI and/or personal interest or change to any DPI and/or personal interest registered under paragraph (1), register details of that new DPI and/or personal interest or change by providing written notification to the council's monitoring officer.
- (4) Subject to Paragraph 12, you are required to disclose the existence and nature of any DPI when it arises at a meeting even where already registered in the Register or pending registration so the minutes can be duly noted.

#### Sensitive interest

12. (1) Where you consider that you have a sensitive interest (whether or not a DPI), and the council's monitoring officer agrees, if the interest is entered in the Council's register, copies of the register that are made available for inspection and any published version of the register, must not include details of the interest (but may state that the member has an interest the details of which are withheld under section 32 (2) of the Act) and any public declaration required need only state the fact an interest arises without further detail.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer a sensitive interest, notify the Council's monitoring officer asking that the interest be

included in the Council's register of members' interests.

- (3) In this Code, "sensitive interest" means an interest, the nature of which is such that you and the Council's monitoring officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation.

### **Dispensations**

13. On a written request made to the Council's Monitoring Officer, the Council may grant a dispensation for you to participate in a discussion and vote on a matter at a meeting even if you have a DPI or a prejudicial interest and that you be relieved of the obligation to otherwise withdraw from the room in which the matter is being considered if the Council considers that the number of members otherwise prohibited from taking part in the meeting would be so great a proportion of the body transacting the business that it would impede the transaction of the business; or the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote on the business; or it is in the interests of the inhabitants in the Council's area to allow you to take part or that without the dispensation the Council's Executive would be prohibited from participating in the matter or it is otherwise appropriate to grant a dispensation.

## Appendix A

### Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a DPI are set out in Chapter 7 of the Act.

DPI's are defined in the Regulations 2012 as follows -

| <i>Interest</i>                                   | <i>Prescribed description</i>   |
|---|---|
| Employment, office, trade, profession or vocation | Any employment, office, trade, profession or vocation carried on for profit or gain.  |
| Sponsorship                                       | Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.<br>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992). |
| Contracts   | Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—<br>(a) under which goods or services are to be provided or works are to be executed; and<br>(b) which has not been fully discharged.  |
| Land  | Any beneficial interest in land which is within the area of the relevant authority.   |
| Licences  | Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.  |
| Corporate tenancies                               | Any tenancy where (to M's knowledge)—<br>(a) the landlord is the relevant authority; and<br>(b) the tenant is a body in which the relevant person has a beneficial interest.  |
| Securities  | Any beneficial interest in securities of a body where—<br>(a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and<br>(b) either—<br><br>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or   |



- (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose -

“body in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a member of the committee of management of an industrial and provident society;

“land” excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a member of a relevant authority;

“member” includes a co-opted member;

“relevant authority” means the authority of which M is a member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**PART C**  
**SECTION C: Protocol on Member-Officer Relations**

## 1. Introduction

- 1.1 The protocol is intended to be a framework to cover member and officer relations with one another and encourage good practice throughout the Council. It seeks to offer guidance and promote greater clarity and certainty but given the variety and complexity of situations involved, does not seek to be either prescriptive or comprehensive. If the Protocol is followed it should ensure that members receive objective and impartial advice and that employees are protected from accusations of bias and any undue influence from members. It also seeks to reflect the principles underlying the respective codes of conduct which apply to members and employees.
- 1.2 Members and officers should at all times treat each other with mutual respect and courtesy having regard to the Council's agreed Values and Behaviours. ~~Close Working relationships will obviously occur~~ between senior members and employees involved in providing the service for which members are responsible. ~~However such relationships~~ should never be allowed to become so close, or appear to be so close, as to bring into question the employees ability to deal impartially with other members and other party groups. Close personal friendship/relations should be avoided as they are likely to prove awkward for both fellow officers and members and are also likely to represent a personal or prejudicial interest of the member when the officer is involved in a matter which comes before the member for consideration/a decision.
- 1.3 ~~If an employee is or becomes aware of any member action which conflicts with the principles of this Protocol he/she should be at liberty to make their Head of Service, Director or Chief Executive aware of the actions/s. In the event of a member having any reason to complain about or doubt officers' conduct or opinion the member should refer such complaint to the officer's Director or the Chief Executive as the member sees fit and should not seek to challenge the individual officer. The same applies should a member receive any complaint in relation to an officer from a member of the public.~~
- 1.4 ~~This protocol should be read in conjunction with the Planning Code of Good Practice and the Protocol on Gifts and Hospitality and any other relevant policies of the Council, for example the Confidential Reporting Policy, the Whistleblowing Policy for Members and the Dignity at Work Policy.~~

## 2. The Chief Executive

- 2.1. The Chief Executive is the Head of Paid Service of the Council as a whole and his overriding responsibility is to the Council, and not to any political group.
- 2.2 ~~The Chief Executive is nevertheless expected to work closely with the Cabinet for the time being and give them information, assistance and advice. Subject to remaining politically neutral, he may develop a special relationship with the Cabinet and will not without the consent of the Cabinet Leader, disclose to any of the political groups on the Council any matters discussed with the Cabinet.~~
- 2.3. ~~The political neutrality of the Chief Executive should be respected by everyone. He should not be asked to play any role or undertake any task which is likely to prejudice that~~

- neutrality, or make it difficult for him to serve a different Cabinet or majority political party at some future time.
- 2.4. All Members of the Council have a right of access to the Chief Executive. Where a Member requires some information and the Chief Executive considers the request reasonable and appropriate, the information will be provided as soon as possible. In other circumstances, the Chief Executive shall consult with the Chairman of the Council and the Cabinet Leader on the action to be taken.
- 2.5. The Chief Executive is free to give advice on a confidential basis about procedural matters to any Member. The Chief Executive is entitled to seek the advice of Monitoring Officer and the Chairman of the Council on procedural matters before responding to a request from a Councillor, although in such circumstances the Councillor would be informed first. It may be necessary to require the Member to keep the advice/information confidential.
- 2.6. The Chief Executive has a responsibility to ensure the effective scrutiny of the Council's programmes, projects and proposals. He will be expected to develop a working relationship with the Chairman of the Overview & Scrutiny Committee, particularly in providing support for the work programmes of the Committees, including the attendance of Officers and the provision of professional and technical advice.
- 2.7. The following principles govern the relationship between the Chief Executive and the various political groups on the Council:-
- 1) It is proper for the Chief Executive to develop a working relationship with each Group on the Council;
  - 2) Except for matters referred to in Clause 1.2 above, the Chief Executive is free to provide information and answer procedural inquiries to Members of any Group;
  - 3) Matters discussed with any Group will not without their consent be disclosed to the Cabinet or any other political group;
  - 4) As a consequence of the duty owed by the Chief Executive to the Council as a whole, he will draw the attention of the Cabinet to any case where consideration should, in his opinion, be given to affording information, representation, or consultation to any political or other group.
- 2.8. In applying these principles to any given situation, the Chief Executive will have regard to the perceived customs of the Council, to any established traditions, and the statutory and procedural rules set out in the Council's Constitution governing the rights of Minority Groups to information, consultation, or representation.
- 2.9. If the Chief Executive attends a meeting of any party political group, he will inform the leadership of the other Groups on the Council. He will ensure that the part he plays in the proceedings is consistent with his political neutrality. He will not attend political group meetings at which there are persons present who are neither elected Members nor Officers of the Council. At such meetings, Members will be expected to abide by normal declarations of interest rules.

- 2.10 In the event that a Cabinet comprises members of more than one political group, the principles set out above still apply. Officers are entitled to assume information can and should be shared within the Cabinet.

### 3. Directors and Heads of Service

- 3.1. The foregoing principles apply similarly to the Directors and all Heads of Service, who shall act under the general direction and after seeking advice of the Chief Executive as statutory Head of Paid Service. The Directors will be expected to develop a close working relationship with the Cabinet and attend its meetings. Heads of Service will attend as required. The Directors and all Heads of Service will be expected to attend, as required, meetings of the Overview Committees and full Council and any of its Committees or Sub-Committees.

### 4. Chief Finance Officer and Monitoring Officer

- 4.1 Special responsibilities attach to the following statutory roles: -

- 1) Chief Finance Officer: in this Council, the Director of Resources; and
- 2) Monitoring Officer: in this Council, Head of Legal and Democratic Services

- 4.2 The special roles of the Chief Finance Officer and the Monitoring Officer are described in Articles 11.3 and 11.4 of this Constitution.

### 5. Other Employees

- 5.1 Although the considerations applicable to the Chief Executive, the Directors and Heads of Service affect other employees at different levels, the most senior employees, and those additionally closely associated with the political processes, are statutorily politically restricted and should be politically neutral. These other employees may attend meetings of full Council, the Cabinet or any of the Committees and Sub-Committees as the Chief Executive, or in their absence the Directors, shall determine.

- 5.2 It is also the duty of the Chief Executive, Directors and Heads of Service to ensure that the work and responses of employees are conducive to, and not undermining of, the foregoing general principles. They are entitled to expect Members to respect political neutrality and the duties and limitations of employees.

- 5.3 It is also the duty of the Chief Executive, Directors and Heads of Service to arrange matters so that their employees properly understand the roles of Members and employees and the Council's approach to the relations between them. ~~They are also entitled to expect~~

- 5.4 Members ~~should understand to respect~~ the degree of seniority of employees with whom they have dealings and the fact that, while those employees owe duties to the Council as their employer, they are first answerable to their line manager and their respective Head of Service, the Directors or the Chief Executive and not to any individual Member.

Classification: OFFICIAL

**PART C**  
**SECTION D: Protocol on Recording, Photography and  
Use of Social Media at Meetings**

Classification: OFFICIAL

1

Classification: OFFICIAL

## 1. Introduction

The Council is committed to being open and transparent in the way it conducts all its decision-making meetings which are held in public. The purpose of this protocol is to provide guidance for members of the public and representatives of the press about taking photographs and audio/visual recording of any Council meeting which is held in public. It also covers blogging, tweeting and use of other social media tools.

## 2. Background

As part of the Government's drive for transparency in local democracy, Councils are required to give any member of the public, including community 'hyper-local' bloggers and on-line broadcasters, the same access to council meetings as the traditional accredited media. The Openness of Local Government Bodies Regulations 2014 allow any member of the public to take photographs, film or audio record the proceedings at meetings held in public and to report on them using social media.

## 3. General Principle

There is a general presumption in favour of allowing the photographing and audio/visual recording of Council meetings which the press and public are entitled to attend including the use of social media. However, the proceedings of that meeting must not be disrupted by the use of media tools and must not inhibit community involvement in the proceedings.

## 4. Filming and Audio Recording

Audio and visual recordings of meetings by representatives of the media and also by members of the public using small media tools are permitted. Although it is not a requirement, anyone wishing to film or audio record a meeting is asked to inform the Democratic Services Officer in advance of the meeting. If the equipment to be used is larger than a hand held device, this advance notice should include details of that equipment so adequate arrangements can be made.

### 4.1 Obligations and Limitations

Anyone wishing to photograph and/or audio or visually record a meeting must agree to the following:

- a) Any photography or audio/visual recording must take place from fixed positions in the meeting room, generally in the area designated as the public gallery. Any alternative location, due to the size of the equipment to be used, must be agreed with the Chairman of the meeting in liaison with the Communications ~~Team: [communications@southbucks.gov.uk](mailto:communications@southbucks.gov.uk) and Public Relations Officer~~ and Democratic Services Officer: [democratic.services@southbucks.gov.uk](mailto:democratic.services@southbucks.gov.uk).
- b) ~~If the equipment is large~~ **If the equipment is large** ~~equipment it~~ must be set up before the meeting starts
- c) The use of flash photography or additional lighting will only be permitted, if in the opinion of the Chairman of the meeting, it does not disrupt the proceedings of the meeting

Classification: OFFICIAL

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- d) People seated in the public gallery/seating area should not be photographed, filmed or recorded without the consent of the individuals concerned. This also applies to those individuals who may ask public questions, present a petition or make a representation at a Council meeting open to the public and who are not seated in a "public seating area".
- e) If members of the public address a meeting that is being filmed or audio-recorded, such as objectors to a planning or licence application, they will be asked if they [agree/permit](#) to being filmed or audio-recorded. If they do not, the operator will be asked to stop whilst that member of the public is speaking.
- f) If the Chairman of the meeting feels that any photography, audio or visual recording is disrupting the meeting in any way or any pre-meeting agreement has been breached, then the operator of the equipment will be required to stop immediately. Examples of disruption include moving outside the designated area; excessive noise; intrusive lighting; a running commentary by the operator or other interruptions; and continuing to film or record when a member of the public addressing the meeting has asked not to be filmed or recorded.
- g) If during the meeting the press and public are asked to leave a meeting because there are private items of business on the agenda, then all rights to record the meeting are removed. The operator of the equipment will be required to stop recording and/or filming and must not leave filming or recording devices in the meeting room.
- h) If a meeting is adjourned by the Chairman then the operator of the equipment should stop any recording or photography at the point at which the meeting is adjourned.
- i) Comply with any request made by the Chairman regarding respecting the public's right to privacy.
- j) Use must not be made of an image or recording if consent is refused by an individual.
- k) Photographs, audio and visual recordings should not be edited in a way that could lead to misinterpretation of the proceedings. This includes refraining from editing the views being recorded in a way that may ridicule or show lack of respect.

Failure to comply with this protocol may lead to the refusal of any future requests to photograph or audio or visually record any future Council meetings.

If a request has been received to take photographs or to audio or visually record a particular meeting, notices to this effect will be displayed in the relevant meeting room. The Chairman of the meeting will also make an announcement that the meeting will be photographed and/or recorded or filmed.

The Council may, on occasion, audio record meetings for minuting purposes only. The relevant Chairman will make an announcement to this effect and these recordings will not be made available to anyone outside the Council.

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## **5. Procedure Prior to the meeting for those wishing to film or record a meeting**

Requests to take photographs or to audio or visually record meetings open to the public, either by members of the public or by the media, should wherever possible be made to the Democratic Services Officer for the meeting concerned (contact details are printed on the Agenda for the meeting and on the Council's website or email [democraticservices@chiltern.gov.uk](mailto:democraticservices@chiltern.gov.uk) / [democraticservices@southbucks.gov.uk](mailto:democraticservices@southbucks.gov.uk)) at least two working days before the meeting.

The request should include the following information:

- a) Which meeting this request refers to.
- b) The name, organisation (if applicable) and contact details of the person making the request.
- c) What equipment it is intended will be used (e.g. camera/audio recorder/video camera).
- d) What the photographs or audio/visual recording will be used for and/or where the information is to be published.

## **6. Social Media**

There are no restrictions placed on anyone at the meeting using Twitter, blogs, Facebook or similar "social media" provided that the Chairman of the meeting does not consider their actions are disrupting the proceedings of the meeting.

If the Chairman of the meeting feels the use of social media is at the time disrupting the proceedings the councillor, member of the public or media representative may be required to stop and if they fail to do so, will be asked to leave the meeting. If the person refuses to leave then the Chairman may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption.

At the start of the meeting the Chairman of the meeting will request that all mobile phones are set to 'silent' to ensure the meeting is not disrupted.

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**PART C**  
**SECTION E: Protocol for the Operation of Policy  
Advisory Groups**

This Protocol, agreed and adopted by the Council in February 2018<sup>5</sup>, sets out the way in which Portfolio Holders will work with their Policy Advisory Groups. This Protocol relates to permanent PAGs but should also be used as a basis for the operation of single-issue, limited life PAGs.

## 1. The Purpose of PAGs

PAGs are established in two categories:

- a) Permanent PAGs for each Cabinet Portfolio Holder. The purpose of these is to provide advice and guidance for the Portfolio Holder in exercising his or her delegated powers to take executive decisions as set out in the Scheme of Delegation to Cabinet Portfolio Holders in Part E of this Constitution. The PAGs are advisory and the Portfolio Holder is not obliged to follow the advice they receive.
- b) Single Issue PAGs. These are generally time limited and are set up to consider specific and self-contained issues, which are generally too substantial to be considered by the relevant permanent PAG. They may only be set up with the approval of the Leader of the Council. The PAGs are advisory and the Portfolio Holder is not obliged to follow the advice they receive.

## 2. Establishing PAGs

Permanent PAGs will be established and chaired by the relevant Portfolio Holder. Each Portfolio Holder will only establish one permanent PAG. The following guidance must be followed:

- Meetings will be chaired by the Portfolio Holder or in his/her absence by a Member of the PAG appointed for that purpose at the meeting.
- The PAG will consist of the Portfolio Holder plus up to five other Members and although not required, political proportionality will be observed. The quorum for a PAG will be two.
- Members of the PAG will be appointed by the political Group Leaders having regard to political balance.
- Membership of PAGs will be reviewed and reconfirmed after every Annual Meeting of the Full Council, or as required.
- To strengthen the relationship between the PAGs and the Overview and Scrutiny Committee each PAG will include at least one member from the Overview and Scrutiny Committee. The Portfolio Holder may invite guests to attend meetings of the PAG to provide advice.

Single Issue PAGs will be subject to the rules for permanent PAGs, except that membership can be a minimum of four.

## 3. Operation of PAGs

Although agenda papers are publicly available and published on the Council's website, meetings of PAGs are not open to the public or the press. Any Member of the Council has the right to attend,

or anyone else with the agreement of the relevant Portfolio Holder. Any Member of the Council may also speak on any issue with the consent of the Portfolio Holder. He/she may speak for no more than five minutes and only once on any particular subject and on a later occasion on that subject, only on a point of personal explanation.

#### **4. PAG Meetings**

PAG meetings will be convened by Officers within Democratic Services on the instructions of the Portfolio Holder and will be held on a regular cycle. PAG agenda items will be determined by the Portfolio Holder. PAG meetings will be minuted and both agenda and minutes, where not subject to restrictions under the Access to Information Rules, will be available to the public and press on the Council's website.

The officer preparing the report must consult with and brief the Portfolio Holder before the report is finalised.

#### **5. Portfolio Holder Decisions**

Portfolio Holders will be able to make decisions on matters delegated to them within the scheme of delegation set out in Part E of the Constitution, subject to such decisions having been taken after consultation with the permanent PAG. On those matters not delegated to the Portfolio Holder, the Portfolio Holder will make a recommendation to Cabinet, having regard to the advice of the PAG.

A recommendation/decision need not be made at the PAG meeting, but must be made within a maximum of two working days after the PAG meeting and notified to the author of the original report and to Democratic Services. If a decision is not taken within the two working days the matter will be referred to the Cabinet for determination.

Once a decision has been made by the Portfolio Holder a Decision Notice must be circulated to all members of the Council and published on the Council's website as soon as practicable ~~after~~ ~~from~~ the meeting of the PAG to trigger the call-in procedure set out in Part B of the Constitution.

Where a decision needs to be implemented urgently and cannot be delayed the urgency procedure set out in Part B of the Constitution will be followed.

The Portfolio Holder's decision/recommendation will then be minuted and will fall into one of the following categories

- a) Agrees with the advice of the PAG. No further reasons necessary.
- b) Does not agree with the advice of the PAG, either in part or in total. In this case, the Portfolio Holder must give reasons why he/she has arrived at a different view and these will be recorded in the minutes.
- c) The Portfolio Holder feels that further information is to hand that the PAG did not consider and therefore defers a decision until the PAG has been reconvened.

- d) The Portfolio Holder feels it is not appropriate for him/her to make the decision and refers the matter to Cabinet, with or without a recommendation.

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## **PART C**

### **SECTION F: Scheme of Public Speaking at Planning Committee (as at xx 2018-July 2012)**

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## 1. Introduction

The Council gives wide publicity to planning applications and welcomes the views of the public so that these can be taken into account when applications are considered. The views of objectors and supporters are summarised in a report.

In certain circumstances, the Council allows members of the public, applicants or agents to speak, or be represented by a spokesperson, at meetings of the Planning Committee. These are held in the Council Chamber at the Council Offices in Capswood, Denham- ~~at 4.15 pm normally every 4 weeks once a month~~ on a Wednesday. Scheduled Planned Committee meetings can be viewed on our website [www.southbucks.gov.uk](http://www.southbucks.gov.uk) under Your Council/Meetings.

This advice note tries to answer some of the questions you may have about the scheme of public speaking and what will happen at the Committee meeting.

## 2. Does Public Speaking apply to all applications?

No. The scheme only applies to applications considered by the Planning Committee which are being recommended for approval and where at least 10 separate letters of objection from individual households (not petitions or duplicate letters) have been received 10 working days prior to the planning committee meeting date or after the 21 day neighbour notifications period has expired, whichever is later. The scheme does not apply to a second or duplicate application which is basically the same as the first. There are limitations on the amount of time available for speaking as set out later on in this advice note and there is no guarantee that everyone who wishes to speak will be able to do so.

## 3. Are all applications considered by committee?

No. Many applications are delegated to the [Head of Planning and Economic Development/Area Team Managers-Control Area Team Managers](#).

## 4. How will I be told if I may have an opportunity to speak at the Committee Meeting?

When we know that an application is to go to a Committee, all objectors who may be entitled to speak will receive a letter which will invite them to register their wish to speak. Invitation letters will be sent by first class post ([or email if we have an address](#)) about a week before the date of the meeting. The rules limit the time for speaking so it is important to talk to other objectors to see if one person can speak for everybody. As well as writing to objectors, we will let agents know that either they, or the applicant, may wish to register a wish to be heard in the event of an objector speaking.

## 5. What do I do if I decide I would like to speak?

You must register your wish to speak by [contacting Planning Administration on planning@southbucks.gov.uk](#) or telephoning ~~the Development Control Administration section on~~ 01895 837210/01895 837342 84 at least 2 days before the meeting (by 4.00 p.m. on the Monday before a normal Wednesday meeting).

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## **6. Can any member of the public speak about any Application on the Agenda?**

No. The only people who can speak are those who have been sent and accepted an invitation to do so or someone they nominate to speak on their behalf.

## **7. Can I see the officer's report before the meeting?**

Yes. The agenda and officer's report can be viewed [on our website www.southbucks.gov.uk](http://www.southbucks.gov.uk) under [Your Council/Meetings or a hard copy](#) at the Council ~~Offices~~reception for at least 5 working days before the meeting (normally Wednesday, Thursday, Friday, Monday and Tuesday) as well as on the day of the Committee itself.

## **8. For how long may I speak?**

An overall total of 5 minutes is allowed for objectors to address the Committee. This time limit is for all objectors in total, not 5 minutes each. Coloured lights (like traffic lights) will guide you on how much time is left.

## **9. What happens if there are a number of Objectors wishing to speak on an Application?**

Objectors will be encouraged and helped to contact each other so that repetition can be avoided. This means that you may be given the names, addresses and telephone numbers of other objectors and they may be given your details. In many cases, it may be sensible for a spokesperson to speak on behalf of objectors. Where a number of speakers cannot agree on a spokesperson, speakers will be heard in the order in which they registered an intention to speak, until the 5 minute period ends.

## **10. Can someone else speak on my behalf?**

A group of objectors may have a spokesperson as set out above. Alternatively, you may ask someone to speak for you, or you may use a professional advisor.

## **11. Can Applicants speak to the Committee?**

Where an objector has addressed the Committee, applicants, or their agents will have the chance to comment on what has been said by objectors. Applicants will not be allowed to make full presentations of their proposals and they will not be able to speak where objectors have not spoken. Applicants or their agents will also be limited to a total of 5 minutes.

## **12. What is the order of speaking for each Application?**

The order of business on each application will be:

- The Chairman will announce the application number.

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- A planning officer will introduce the application and provide any new information.
- The Chairman will call on registered objectors to speak in accordance with the rules set out.
- The Chairman will call on the applicant or agent to respond to the objectors' comments.
- The Committee will discuss the application.
- The Chairman has the discretion to question speakers directly to clarify points they have made.
- If appropriate, officers will respond to issues and questions raised by Councillors.
- The Committee will make a decision.

### **13. How do I present my Objections?**

The Committee can only consider relevant planning issues. You are asked to avoid matters which cannot be considered by the Committee such as:

- Boundary disputes
- Covenants
- Personal remarks (e.g. the applicant's motives)
- Reduction in property values
- Loss of views
- Effect on competition (e.g. between traders)

### **14. What happens if the Application is deferred after debate or referred for a site visit?**

The application will be heard again at the next or a later Committee. No further invitation to speak will be made, although you may provide further comments in writing.

### **15. Can I speak at a Councillors' site visit?**

No. The purpose of the site visit is for Councillors to see the site for themselves. It is not an opportunity for discussion about the merits of the proposal.

### **16. Can an Application be approved by the Committee if it is recommended for refusal?**

The Committee can disagree with an officer recommendation. If it does so, and the application is one where public speaking would otherwise be allowed, the item will be deferred to the next meeting so that objectors have an opportunity to speak.

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## **PART 3**

### **SECTION G: Adopted Procedure for Confirming Tree Preservation Orders by Planning Committee When Objections Received (Adopted ~~13 April 2011~~xxxxx 2018)**

**Note:***In advance of the Committee meeting*

- *All objections would have been acknowledged.*
- *A copy of the committee report would have been supplied to all objectors – together with any additional papers as applicable.*
- *Objectors would have been asked if they request a site visit to be undertaken by members. Unless recommended by the councils arboriculturist or requested by an objector no site visit will be arranged.*
- *Objection letters will be included in the committee report in full.*
- *Objectors will be invited to the committee to address the meeting on their objection – in person or by a representative – and/or invited to submit further comments on the officers' report.*
- *Any further comments received from an objector after the agenda has been circulated will be tabled at the meeting.*

**1. Site Visits**

- 1) The purpose of a site visit – if there is one - will be for “visual fact finding” by Members of the Planning Committee – there will not be a debate of the issues which will be dealt with at the Committee meeting in public.
- 2) The Council's Arboriculturist or ~~Officer~~other Officer who is “promoting” the TPO(Promoting Officer) and the Objectors – or their representative - will be invited to attend the site visit.
- 3) If the Objector/s or their representative cannot attend the site visit then neither will the Council's Arboriculturist/any Promoting Officer ~~who is “promoting” the TPO~~. In this case Members will be accompanied by an a Development Management Officer who is not “promoting” the TPO – ~~most likely one of the two Development Management Area Team Managers~~ who are on the Members minibus – although they do not act as a substitute for the Arboriculturist/Promoting Officer.
- 4) If attending, the Arboriculturist/Promoting -Council officer ~~who is promoting the TPO~~ will make their own way to the Site Visit and not go on the Members minibus.

**2. At the Planning Committee Meeting**

- 1) The Council's Arboriculturist/Promoting Officer will start the proceedings by confirming if a site visit was undertaken – and if so, who attended ~~same~~ – and will table any additional comments, reports etc. not forming part of the printed Agenda.
- 2) Both the Councils Arboriculturist/Promoting Officer and each Objector (or their representative) will be given the opportunity to address the Committee – each will be given an equal amount of time. This will not be time limited as a matter of course - objectors will be given a reasonable amount of time to put their objections – although a time limit can be applied at the Chairman's complete discretion.
- 3) Members can ask any questions arising from the report and site visit and the Objectors/their representative and the Council's Arboriculturist/Promoting Officer -will be given the opportunity to respond - as applicable.

- 4) Objectors/their representative and the Council's Arboriculturist/Promoting Officer -will be given an equal opportunity to make any Final Comments.
- 5) If an Objector, having been invited to attend, the Committee does not attend or is not represented, the meeting will continue and the Councils Arboriculturist/ Promoting Officer will be permitted to address and respond to the Committee as necessary – unless an Objector has requested a deferral, in which case the matter will be adjourned to the next Planning Committee meeting time permitting or delegated to the Executive Sub-Committee Head of Planning and Economic Development/Director of Services in consultation with the Chairman as necessary. The Committee will normally only agree to one deferral (time permitting).
- 6) Members will then proceed to make their decision whether or not to confirm the TPO with or without modification.
- 7) If the Planning Committee is not able to make a decision i.e. because a report or further information is required then the matter may be adjourned to the next Planning Committee – time permitting – or delegated to the Head of Planning and Economic Development/Director of Services in consultation with the Chairman ~~an Executive Sub-Committee meeting~~ if necessary.
- 8) If during the consultation period representations are received supporting the TPO then those persons supporting the TPO will be afforded the same opportunities as Objectors to the TPO – for "Objector" also read "Supporter").

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**PART C**  
**SECTION H: Guidance for All Members on Planning  
Matters (Updated ~~XX 2018~~ July 2012)**

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**Note:**

*The Localism Act 2011 received Royal Assent on 15.11.11. Changes were made to the Standards Regime and as a result, a revised Member Code of Conduct was adopted on 24 July 2012.*

*Section 25 clarifies the law re pre-determination which took effect on 16.1.12 - 2 months after the day the Act was passed. This Guidance has been updated to reflect the changes.*

## 1. Introduction

- 1.1 The conduct of Members is governed by Statute, Guidance ([Planning Advisory Service \(PAS\)](#)/Local Government Association, DCLG, etc.), the Council's Constitution and by the Code of Conduct. This note develops these by means of a Guidance Note for Members on Planning matters and should be read in conjunction with the Code of Conduct adopted on 24 July 2012. The Code of Conduct requires a Member to have regard to any relevant advice provided to him/her by the Council's Chief Finance Officer and Monitoring Officer in certain circumstances when reaching decisions.
- 1.2 This note also seeks to guide the practice and procedure to be followed at Planning Committee but does not and cannot cover every circumstance that may arise. Specific advice should be sought in relation to matters not covered in this Guide.
- 1.3 Whilst the Code of Conduct is primarily concerned with individual probity and other aspects of conduct across the whole range of Members duties, this guidance is concerned with the integrity of the planning system including the conduct of Members in its processes and procedures.
- 1.4 Whilst this Guide is purely advisory, failure to follow/comply with its provisions without good reason could be taken into account in investigations into allegations of breaches of the Act, the code and/or maladministration by the authority.
- 1.5 This Guidance applies to any Member who becomes involved in planning matters and is not restricted to Members of the Planning Committee – for example it applies to Members as applicants (or agents for applicants) for planning permission, to local Members in the vicinity of an application site and to Members attending Planning Committee other than as the nominated Member of the Committee.
- 1.6 Members are also advised to have regard to the LGA/[PAS](#) Guidance – “~~Probity in Planning: for the role of Councillors and officers – revised guidance note on good planning practice for councillors and officers dealing with planning matters~~” – 201309.
- 1.7 This ~~LGA~~ Guidance [clarifies how councillors can get involved in planning discussions on plan making and on applications, on behalf of their communities, in a fair, impartial and transparent way.](#) It recognises that the planning system works best when the roles and responsibilities of the many players essential to its effective operation – including councillors and officers, are clearly understood. Planning decisions involve balancing [many competing interests and making an informed judgment against a local and national policy framework, the needs and interests in pre-applicati](#) In doing this decision-makers [need an ethos of decision-making in the wider public interest on what can be controversial](#) [proposals on discussions](#) ~~The Guidance – and~~ also advises how to avoid pre-determination and bias in decision making.

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- 1.8 The encouragement of early councillor engagement must be applied to a process characterised by open and transparent decision making. One of the key purposes of the planning system is to manage development in the public interest and will involve balancing the needs and interests of individual constituents and the community - with the need to maintain an ethic of impartial decision making on what can be highly controversial proposals. The 201309-LGA Guidance provides refreshed advice on achieving this balance in the light of the local authority role of place shaper and recognises the ability of councillors to participate.
- 1.9 This guidance note will apply to the determination of planning applications and/or the consideration of adoption of Local Development Documents and the enforcement of planning control and TPO's.
- 1.10 This guide cannot cover every circumstance – members should seek advice from relevant officers in relation to other situations as and when they occur.

## 2. Main Considerations

### 2.1. Legislation

Members hold office by virtue of the law and are charged with ensuring that at all times they act within the law. The Council's planning or legal officers will of course advise on matters of law but the ultimate responsibility for the actions of Members lies with Members themselves.

### 2.2 Public Duty

- 2.2.1 Although all Members have a duty to their constituents, regardless of how they voted, the overriding duty of a Member on planning issues is to the whole community.
- 2.2.2 The role of an elected Member on the Planning Committee involves achieving a balance between representing the needs and interests of their constituents and the whole community with the need to maintain impartial decision-making on planning grounds.
- 2.2.3 The successful operation of the planning system relies on Members ensuring that they act in a way that is not only fair and impartial but is also clearly seen to be so. Decisions should be made openly, impartially, with sound judgement and for justifiable reasons. Councillors should not favour any person, company, group or locality nor put themselves in a position where they appear to do so.
- 2.2.4 The Council's planning policies are adopted in the interests of the whole community i.e. the District, and, in almost all cases, have been subject to a process of public consultation. They therefore reflect the public interest, rather than those of an individual, group of individuals or an organisation. The planning duty of Members is therefore to support the Council's planning policies, unless there is an overriding reason for not doing so i.e. very special circumstances. This is reinforced by the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires the Council to determine applications in accordance with the development plan unless material planning considerations lead it to act otherwise.

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## 2.3 Registration and Declarations of Interest

- 2.3.1 In addition to the legal requirement to register and declare Discloseable Pecuniary Interests (DPI's), all Members are under a duty to observe the authority's Code of Conduct which carries with it a duty to declare:
- a) Personal interests – now including gifts and hospitalities - in a public register held by/on behalf of the Monitoring Officer and to notify the Monitoring Officer/Deputy Monitoring Officer of any changes to those interests within 28 days; and
  - b) Personal and Prejudicial interests - as defined by the Code - in relation to the consideration of /participation in decision making on a particular matter; and
  - c) In addition to the statutory requirements regarding DPI's to leave the room in respect of the matter in which such an interest arises (unless an exemption applies) and to declare the details of the DPI before leaving the room (unless the provisions relating to sensitive interests apply)
- 2.3.2 It is ultimately the responsibility of the individual Members to declare all interests and comply with the Code of Conduct – although Members are reminded of paragraph 3 of the Code of Conduct which requires members when reaching decisions on any matter to have regard to any relevant advice provided by the authority's head of paid service, chief finance officer or monitoring officer – members must also avoid jeopardising the legality of Council decision making or its reputation by participating in matters without declaring interests or where there are issues of pre-determination – see further below.
- 2.3.3 There is also an overriding duty not to use his/her position as a Member improperly to confer on or secure for himself/herself or any other person an advantage or disadvantage.
- 2.3.4 A Member with a Personal interest (as defined by the Code of Conduct) in any matter (i.e. a planning application, enforcement of planning control or adoption of local development documents) should declare such an interest before that matter falls to be considered – or as soon as it becomes apparent that they have an interest in it – if this is later. Consideration of a matter normally starts once the relevant item on the agenda is reached and will include the hearing of any evidence and representations or submissions from officers, interested parties or members of the public.
- 2.3.5 The declaration of an interest in the register of personal interests does not absolve Members of the need to declare interests at each and every meeting at which an interest arises - however there are 3 exceptions:
- a) Where the personal interest only arises from membership of or position of control or management on another body to which the Member is appointed or nominated by their authority or another body exercising functions of a public nature – then the personal interest only needs to be declared if also a Prejudicial Interest.
  - b) If the Personal Interest concerns sensitive information (see paragraph 12 of the Code) - then only the existence of a Personal Interest needs to be declared – not the nature of it.
  - c) With regard to Gifts and Hospitality's – only those received in the last 3 years need to be declared.

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- 2.3.6 Unless that Personal Interest is also a Prejudicial Interest (as defined by the Code of Conduct) the Member can continue to be involved in the consideration of that application. (Members are reminded that Prejudicial Interests are determined on the basis of an objective viewpoint – and not the members own).
- 2.3.7 Where that interest is a DPI or Prejudicial Interest that Member should declare his/her interest and leave the room during the consideration of the matter – not speaking or voting thereon – unless the exception under the new Code applies – see below. Members should also excuse themselves from any associated site visit or consideration of the application details at the Town/Parish Council. This applies to any Members who wish to attend Planning Committee to merely observe or to address the Committee, as well as to nominated Members of the Committee.
- 2.3.8 The exception to this under the new Code of Conduct allows a member to stay to make representations in relation to Planning Committees provided that the public can attend for the same reason, but once the Member has done so they must leave the room until the matter has been concluded.
- 2.3.9 Unless authorised to speak – see paragraph 9(2) of the Code - a Member with a DPI or prejudicial interest must withdraw from the room and take no further part in the discussion.
- 2.3.10 Even when the Code permits a member with a DPI or Prejudicial Interest still to address the Committee, the Member must leave the room immediately after they have completed their representation and will not be allowed to observe the discussion and the vote – albeit members of the public can do so. The Code of Conduct’s intent here is that a Member’s presence alone can influence a decision or discussion.
- 2.3.11 Where members with a Prejudicial interest are permitted to speak, the Member will get no preferential treatment as a Councillor and any time limit on public speaking will be shared with other members of the public with a right to address the Committee.
- 2.3.12 For the purposes of the Code of Conduct a Member will have a declarable interest where the matter concerns the well being or financial position of not only himself/herself, his/her spouse/partner but also a person with [the Member’s family and anyone with whom the Member has a close association](#) . ~~For and for~~ these purposes reference should be made to the Code for relevant definitions.
- 2.3.13 Members should take account of any relevant guidance provided by Officers, the Councils Audit Committee, DCLG, [PAS](#) and the Local Government Ombudsman.
- 2.3.14 The sensitivity of planning issues is such that Members are advised to err on the side of caution and if in any doubt as to the existence of an interest, they should make such interest publicly known. The declaration of interest should disclose the existence and nature of the interest – unless it relates to sensitive information as defined in paragraph 12 of the Code i.e. sensitive employment – in which case only the existence of the interest need be disclosed.
- 2.3.15 Members with a Prejudicial Interest can as well as addressing the Committee if the public enjoy the same rights, still present their views by other means i.e. make written

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representations and/or they may appoint a planning agent to represent them. They can also arrange for another Member to represent the views of their constituents on matters in which they have a Prejudicial Interest so those views are still expressed. The Members representative – save where they are also a Councillor and have an interest – can remain in the room for the entire matter.

2.3.16 Members are reminded that:

- The responsibility for declaring interests is theirs alone – see also paragraph 2.3.2;
- Failure to register/declare a DPI is an offence;
- Consideration as to whether an interest arises is based on what a reasonable and objective observer with knowledge of all the relevant facts would consider – namely whether the Personal Interest is also a Prejudicial Interest because it is so significant that it would impair the Members ability to judge the public interest – and is not based on what the Member themselves think; and
- Although the duty to report a member for breach of the Code does not appear in the new code, this does not prevent another Member reporting breaches to the Council's Monitoring Officer or indeed members of the public and/or officers.

## 2.4 Fairness and Equity

2.4.1 Members should treat all their constituents fairly and should avoid giving any intimation of specific support or encouragement for a particular applicant or objector until they are in possession of all the facts. It is legitimate for Members to assist an applicant by explaining how to go about making a planning application. With regards to advice to applicants or objectors about whether or not a proposal is in line with policies, Members must be sure they are fully aware of all policy implications, otherwise an applicant or objector might be misled. It is often safer to refer the enquirer to an Officer of the Council.

2.4.2 Applications should not be subject to bias or predetermination. Predetermination involves the decision maker having a closed mind when making a decision – that is the making of or appearing to make a decision before the matter is submitted for formal determination and all facts disclosed i.e. committee report/debate. Whether predetermination has occurred will be considered on the basis of what a reasonable person would consider - being in possession of all the facts. Whilst predisposition is acceptable, predetermination can invalidate a decision. The Localism Act 2011 has confirmed that a decision maker will not be taken to have had – or appeared to have had, a closed mind when making a decision just because they had previously done anything that directly or indirectly indicated a view that they took or would or might take in relation to a matter and that matter was relevant to the decision. Expressing an opinion on a matter prior to making a formal decision is therefore acceptable as long as the Member has not completely closed their mind to further considerations before making their final decision.

## 2.5 Lobbying

2.5.1 The lobbying of Members is a legitimate part of the democratic process. Members of the Planning Committee (and others) may be lobbied by applicants, agents, objectors or any other party. Since Members owe an equal duty to the whole community, if they are

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prepared to be lobbied by one party, they should afford the same opportunity to all other parties.

- 2.5.2 As an alternative, they may decline to be lobbied by any parties.
- 2.5.3 If lobbying is accepted, Members should advise that, whilst prepared to listen to the arguments put, they have an obligation to hear all sides of an argument and should not agree to speak in Committee or vote in a particular way.
- 2.5.4 When being lobbied Members should take great care to avoid expressing any opinion that may be taken as indicating that they have already made up their mind on the issue and have completely closed their mind to further considerations before they have received/heard all the evidence and arguments.
- 2.5.5 It should be made clear that any final decision will only be reached after considering all the relevant evidence and arguments.
- 2.5.6 If the lobbying is by way of a letter it is suggested a copy is passed to the relevant Area Team Manager as soon as possible following receipt.
- 2.5.7 Where the lobbying is verbal, Members should request such representations to be also submitted in writing to the relevant Area team Manager.
- 2.5.8 Members should not become involved in negotiating on an Application or prospective application.
- 2.5.9 Where a Member has received information on an application that is believed to be new to that contained in the application, this should be reported to the relevant Area Team Manager who can ensure that relevant facts are made known to the whole Planning Committee.
- 2.5.10 Members should not attend any presentations without having sought prior advice from officers. If members thereafter do attend – they are reminded of the responsibility to declare hospitalities – see further below.

## **2.6 Applications by Members**

- 2.6.1 Members may of course submit or have submitted planning applications on their own behalf. Whilst it is perfectly legitimate for such applications to be made, when such applications come before the Planning Committee for consideration the Member will undoubtedly be considered to have a [DPI Prejudicial Interest](#) in that matter.
- 2.6.2 Such applications will be determined by the Planning Committee in public and any delegated authority to Officers that may otherwise apply will not be relied on in the interests of transparency and impartiality.
- 2.6.3 All such applications will be treated and publicised in the same way as other similar applications submitted by the public at large.

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- 2.6.4 Members who act as agents for people pursuing planning applications within the authority should play no part in the decision making process and should not attend the Planning Committee at which such application/s are considered – whether as a Member or as an observer – see also 2.10 below.
- 2.6.5 Whilst a Member with a [DPI](#) or prejudicial interest may now address the Committee under the Code if the public enjoy the same rights, the member should still consider whether it would be wise to do so in all the circumstances of the case – including the nature of the [DPI](#) or Prejudicial Interest and the relationship of the Councillor with the remainder of the Planning Committee.
- 2.6.6 Members own development proposals should also be treated with transparency and impartiality and will always be submitted to the Committee for approval rather than dealt with under delegated powers.
- 2.6.7 A Member whose cabinet/executive responsibility effectively makes them an advocate for the development should not vote on the application but may still be able to make representations on behalf of the proposal.

## 2.7 Members as Parish Councillor

- 2.7.1 Members of the Planning Committee may also be Parish Councillors in which case their involvement with planning applications may also fall within certain additional categories:
- a) As a Parish Councillor consultee.
  - b) As an applicant Parish Council.
  - c) As landowner Parish Council but the application is being pursued by a third party.
- 2.7.2 In such cases and in accordance with the Code of Conduct Members are advised as follows:
- a) The Parish Council as consultee – whilst contributing to Parish Council discussions Members should be aware of the need to be in possession of all the facts before deciding whether to support or oppose a proposal. Members are also reminded as to their duty as Parish Councillors to comply with their Parish's Code of Conduct - the same rules apply as to declarations of interest both at Parish and District Committees. Provided a Member has not indicated his/her final opinion on an application at Parish level and has not closed their mind to further considerations that may be brought to their attention before the final District decision is reached, then the Member will be free to determine the application at District level if a Member of the District Planning Committee. Members are reminded that that membership of another public body – be it another authority or an outside body - is a declarable personal interest – but only where it is also a Prejudicial Interest – and this applies to Parish Councillors declaring an interest at the District Council and vice versa.
  - b) The Parish Council as applicant - when a Parish Council application comes before the District Council Planning Committee, where a Member is also a Parish Councillor of that Council, the matter would fall within the category of Prejudicial Interest. Whilst the Member would not be allowed to vote on the matter - the

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Code provides for an exemption which can apply to this situation to override the need to otherwise leave the room and take no part in the application determination. Under such circumstances a Member must still declare his/her interest but draw attention to the reliance on the exemption. The exemption is at paragraph 9 of the Code – to address the Committee with the same rights that apply to members of the public – but the Member must then leave the room – see paragraph 2.3 above.

- c) Parish Council as landowner – as above. The exemption can be relied on in relation to what would otherwise be considered a Prejudicial Interest – but Members are reminded they must then leave the room immediately after speaking - and must not vote.

## **2.8 Social Contact**

Members of the Committee are advised to minimise their social contacts where possible with known developers and to avoid altogether such contacts when developments are contemplated or applications are being processed/considered.

## **2.9 Committee Site Visits**

- 2.9.1 The proper place for discussion of the merits of an application or other matter is in Committee. It is important when Members are on Committee site visits that they demonstrate objectivity and detachment. The visit should be used as a fact-finding opportunity to acquire information about the application site and its implications and Members must to avoid formulating a decision on the proposal outside of the context of the Committee. Members should also avoid entering into discussions with applicants and their agents or with objectors at the site visit. These guidelines should also apply for site visits relating to enforcement and tree preservation orders.
- 2.9.2 The Code of Conduct applies whenever a Councillor is conducting official Council business which will include a site visit. The Council has set procedures when site visits will be undertaken.
- 2.9.3 Site visits should only be undertaken in the presence of a Planning officer.

## **2.10 Membership of the Planning Committee**

Members involved in the development industry as builder, landowner, agent or planning consultant within the South Bucks District should avoid seeking or accepting membership of the Planning Committee because their frequent declarations of interest would be likely to reduce their effectiveness as Committee Members as well as weakening public confidence in the duty of the Committee to work in the public interest.

## **2.11 Confidentiality**

There are valid reasons why some planning information should remain confidential. Members must not disclose confidential planning information and they must not use such information for personal advantage.

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## **2.12 Gifts and Hospitality**

- 2.12.1 Planning decisions can result in financial advantages/disadvantages to parties so the probity and integrity of Members is vital to the maintenance of public confidence in the planning system.
- 2.12.2 Members must observe the Code of Conduct in so far as it relates to notification of gifts and/or hospitalities (over the value of £50.00 – written notification to the Monitoring Officer within 28 days – details held on a public register – registered interest for 3 years) and should be aware that their connection with persons/bodies bestowing such gifts/hospitalities may also amount to a declarable interest.

## **2.13 Political Parties**

As a general rule party politics should have no place in the consideration of individual planning applications or other planning matters. No political group should dictate/decide how councillors should vote. The use of political whips to influence the outcome of planning applications or other planning matters is likely to be regarded as maladministration.

## **2.14 Dispensations**

Unless a dispensation is granted or a relevant exception applies under the Code of Conduct – a Member with a DPI or Prejudicial interest must withdraw from the Committee – whether he is a Member of that Committee or not – and not vote or speak in relation to the subject application. The procedure for seeking and being granted a Dispensation can be sought from the Monitoring Officer or the Deputy Monitoring Officer.

## **2.15 Relationship Between Members and Officers**

- 2.15.1 Both Members and Officers are guided by Codes of Conducts and Officers may further be guided by Codes of Conduct of their Professional Bodies. A successful relationship between Members and Officers can only be based upon mutual trust and understanding of each others positions. This relationship and the trust which underpins it must never be abused or compromised.
- 2.15.2 Reference should also be had to Part C of the Constitution – the Protocol on Member/Officer Relations - in this regard.
- 2.15.3 Members should refrain from seeking to influence the outcome of an officer decision/recommendation.

## **2.16 Pre-Application Discussions**

- 2.16.1 With the recognition by the Government that Councillor engagement in pre-application discussions on major developments is necessary to allow Councillors to fulfil their role of champion of their local community – guidelines have to be established to guard against accusations of pre-determination to protect the Council and Councillors.

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- 2.16.2 Pre-application discussions include discussions before an application is submitted or after submission but before determination.
- 2.16.3 Such discussions can take place subject to adherence to the following guidelines – and further any advice from Council officers – in particular the Chief Executive, Head of [Planning and Economic Development](#)~~Sustainable Development~~, the Monitoring Officer or Deputy Monitoring Officer:
- It being clearly stated at the outset that the discussions will not bind the Council to any particular decision and any views expressed are personal and provisional.
  - Advice regarding development plans and material considerations is reserved to officers.
  - Pre-application discussions can only take place when an officer is present.
  - Councillors should not engage in negotiations.
  - A written note should be kept of all meetings and placed on the file as a:
    - public record – confidentiality will be an exception and only respected;
    - with the prior approval of the Head of [Planning and Economic Sustainable Development](#) in liaison with the Monitoring Officer;
    - any advice should not be partial.
- 2.16.4 In any pre-application discussions, members need to be aware of the Code of Conduct, in particular not using their position to improperly influence decisions.

## **2.17 Pre-Determination and Pre-Disposition**

- 2.17.1 Pre-determination goes beyond pre-disposition and essentially evades the process of weighing and balancing relevant facts and other views.
- 2.17.2 Bias and pre-determination are issues to consider which may prevent participation in addition to declaring interests.
- 2.17.3 Avoidance of bias and pre-determination are principles of natural justice.
- 2.17.4 Particular care is needed on ward matters where prior views may have been expressed – or members of the [Cabinet executive](#) where Local Development Document proposals may be in conflict with a particular planning application submitted to members for determination. The [Cabinet Executive](#) role may lead to a perception of predetermination. In such cases, the LGA [/PAS](#) Guidance indicates that the member may be able to speak on the application but should not vote.
- 2.17.5 A ward councillor may still be able to attend a committee and make representations - under paragraph 9 of the Code of Conduct provided they then withdraw – see also right to attend Planning Committee in the Council Procedure Rules – para 22 (Part B of the Constitution).
- 2.17.6 Decisions should only be reached after consideration of all relevant evidence and arguments and Members should avoid deciding or declaring which way they are inclined to vote in advance of a Planning Committee. As stated above, whilst the Localism Act 2011 has confirmed that a decision maker will not be taken to have had (or appeared to have had) a

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closed mind when making a decision, just because they had previously done anything that directly or indirectly indicated a view that they took, or would or might take, in relation to a matter and that matter was relevant to the decision. This falls short of expressing that a Member has already decided how to vote. Expressing an opinion on a matter prior to making a formal decision is acceptable - predetermination goes further and involves the decision maker having already reached a decision before considering all available facts.

- 2.17.7 Members must avoid jeopardising the legality of Council decision making or its reputation by participating in matters where there is an issue of pre-determination – in this respect members are advised to comply with advice from the Monitoring Officer, Deputy Monitoring Officer and/or Chief Executive.

### 3. Availability and Status of Guidance

- 3.1. This local Guidance is a publicly available document intended to demonstrate the way in which all Members will conduct themselves. It will be kept under review and may be adapted from time to time.
- 3.2. In drawing up this Guidance regard has been had to the LGA/PAS Guidance – “Probity in Planning: ~~the role of Councillors and officers – revised guidance note on good planning practice for councillors and officers dealing with planning matters~~” - 201309, the Localism Act 2011, the revised Code of Conduct adopted by the Council on 24.7.12 and guidance from the DCLG.
- 3.3. Advice is available and will be given to Councillors when sought – in some cases however even when advice is not specifically requested, the Monitoring Officer, Deputy and/or Chief Executive may highlight potential breaches of the Code and advise that an interest should be declared to safeguard the Councils position.

### 4. Other Reading/References

- LGA/PAS Guidance – “Probity in Planning: ~~for the role of~~ Councillors and officers” – revised guidance note on good planning practice for councillors and officers dealing with planning matters - 201309
- LGA – 2008 – Planning at the heart of local government
- The Localism Act 2011
- The Code of Conduct for Members adopted 24.7.12

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## **PART C**

### **SECTION I: Licensing Sub-Committee Hearing Procedure (Updated ~~XX7~~ February 201~~81~~)**

This procedure shall apply to any hearings conducted by the Licensing Sub-Committee in relation to matters under the Licensing Act 2003 as amended falling to be determined by them except Interim Hearings (Summary Review of a Premises Licence) conducted pursuant to Section 53B of the Licensing Act 2003, as amended. Any reference in this procedure to Regulations is to the Licensing Act 2003 (Hearings) Regulations 2005 as amended.

## 1. Administration in Relation to a Hearing

- 1) Prior written notice of the hearing will have been given to the interested/relevant parties.
  - a) In the circumstance where a party has informed the authority that he/she does not intend to attend or be represented the hearing may proceed in their absence.
  - b) Where a party has not replied to the written notice of the hearing and does not attend and is not represented then it will be assumed they do not intend to attend and the Sub-Committee may proceed to hold the hearing in that party's absence or adjourn the hearing if it is considered necessary in the public interest to do so.
  - c) If a party has indicated attendance but does not appear, it will be that party's responsibility to inform the Council of any delay – with reasons - and in consideration thereof the Sub-Committee can decide to proceed with the hearing or adjourn to later the same day or another time. If a party is more than 15 minutes late and has not contacted the Council with details of any delay – the Sub-Committee can decide to proceed with the hearing or adjourn to later the same day or another time.

If the hearing is held in a party's absence, the Sub-Committee shall still consider the application, representation or notice made by that party. Regulations 6/20.

- 2) A hearing can be dispensed with if all parties give notice that they consider a hearing unnecessary. Regulation 9. If this is the case the application/notice will still be determined by the Sub-Committee ~~in public—unless it is considered to be in the public interest that the determination should be in private—~~ on the basis of the advance papers provided, with the Licensing Officer introducing his/her report and answering any queries the members of the Sub-Committee may have before they make their determination.
- 3) Representations can be withdrawn by prior notice or orally at the hearing. Regulation 10.
- 4) Hearings shall take place in public except where the authority considers that the public interest in excluding the public from all or part of the hearing outweighs the public interest in it remaining public. Regulation 14.
- 5) At the hearing any party can be assisted or represented by any person whether or not that person is legally qualified. Regulation 15. In exceptional circumstances the parties may call any other person (witnesses) to address the hearing to assist (prior written notice must have been given to the Council and permission given). The overriding consideration for the Chairman in making a decision to hear from a witness will be the interests of justice and the conduct of a fair hearing. Regulation 8/16/22.

- 6) The hearing will be before the Licensing Sub-Committee which will be made up of three Members of the South Bucks District Council Licensing Committee who will at the beginning of the session agree and identify which of them is to act as Chairman for the hearing.
- 7) A District Councillor who has made relevant representations upon an application may attend a Licensing Sub-Committee Hearing and participate as any member of the public can (make submissions, ask and be asked questions, discuss conditions, make any final comments) BUT cannot stay in the room to hear the Decision of the Licensing Sub-Committee being read out – in accordance with the SBDC Members Code of Conduct - paragraph 12(2). [A District Councillor can also attend the Hearing and represent an Objector who has made relevant representations or the Applicant.](#)

If there are Councillors (District or Parish) who attend the Licensing Sub-Committee Hearing, the members of the Licensing Sub-Committee need to consider whether their attendance prevents them from sitting on the Licensing Sub-Committee i.e. because their relationship with the member attending to make representations amounts to a declarable interest (prejudicial).

Regarding Reviews if any of the Members sitting on the Licensing Sub-Committee also sat on a previous Licensing Sub-Committee which determined an application in respect of the Licensed Premises/Club currently under review then they should consider whether their previous involvement prevents them from sitting on the Licensing Sub-Committee.

The Chairman will address any issue of interests regarding the members of the Licensing Sub-Committee at the hearing after the Introductions have been made.

- 8) Members should also consider beforehand if they have or would be considered to have predetermined the matter in which case they should also distance themselves from the determination of the matter and not attend.

A Member with a Personal Interest can still participate but must declare their interest at the start of the Hearing.

Each matter/application will be dealt with individually and three Members must be able to participate in relation to each application for the hearing to proceed ~~and – who~~ must remain until the subject application/notice is determined.

Advice as to Members interests can be obtained from the Head of Legal Services (Monitoring Officer) and/or Principal ~~Assistant~~-Solicitor ([Deputy Monitoring Officer](#)) and/or ~~the~~, Legal Advisor to the ~~Committee~~/Sub-Committee.

- 9) Members of the Licensing Sub-Committee will have received in advance (5 clear days) in relation to each application/notice to be considered:
- a) Copy of the relevant application/notice.
  - b) Copy of relevant representations.
  - c) The Licensing Officers observations on the application/notice in consideration of the representations.

- 10) Account can be taken of documentary or other information produced by a party in support of their application, representation or notice (as applicable) either before or - with the consent of all other parties - at the hearing – sufficient copies required for all relevant parties (10 requested). Regulation 18.
- 11) The Sub-Committee may disregard any information which is not considered relevant to the application/representation/notice and the promotion of the licensing objectives (crime prevention objective re a police notice). Regulation 19.
- 12) The Chairman can also require any person who in his opinion is behaving in a disruptive manner to leave. Regulation 25.
- 13) For the purposes of this procedure, Objectors will include anyone who has made relevant representations i.e. an interested party or a responsible authority.
- 14) The parties will be allowed an equal maximum period of time to exercise their rights to address the hearing and ask questions – the Chairman may set such maximum period of time in the interests of the progress of the hearing in the public interest. Regulation 24.
- 15) Whilst in some cases the Regulations provide for the decision to be made after the close of the hearing, the Sub-Committee will always endeavour to make its decision at the end of each hearing – to be confirmed in writing as soon as possible thereafter with details of the right of appeal also to be provided in writing. Regulations 28/29.
- 16) The Sub-Committee may depart from this procedure if it considers it necessary and/or equitable to do so (as varied/amended [by the Head of Legal & Democratic Services](#) from time to time on the basis of changes to law and practice).
- 17) The date of formal notification for the purposes of any appeal against the Licensing Sub-Committee's decision will be the date the letter from the Licensing Officer enclosing the Decision Notice and confirming the rights of appeal and the timescales involved is deemed to have been [received\\_served on the by the parties. \(2nd working day after posting if sent by first class post and 4th working day after posting if sent by second class post unless there is any evidence to the contrary – S7 Interpretation Act 1978\).](#)

## 2. At the Hearing

- 1) The Chairman will open the hearing and introduce the parties present and outline their role in the proceedings and invite each of the participants present to introduce themselves. The Chairman should also make clear that if a party is not in attendance their representations/application will ~~still~~ have been read and will still be considered in reaching the decision. The Chairman will also address any interest issues arising regarding the members of the Licensing Sub-Committee.
- 2) If all parties present confirm that they have seen and understand the procedure to be followed at the hearing and agree they are ready to proceed - then the hearing shall commence as set out from para 8 below.

- 3) The Chairman will consider any [prior written](#) request for permission for another person to appear at the hearing – permission not to be unreasonably withheld. Regulation [8/22](#).
- 4) The Chairman will remind those present that the purpose of the hearing should be borne in mind at all times i.e:
  - to enable those with a right to appear to advance their point of view and concerns and to test the case of their opponents; and
  - to assist the Sub-Committee to gather evidence and understand the relevant issues.
- 5) The Chairman will advise all those present what advance papers have been received and that these have been read and therefore there is no need to repeat these matters.
- 6) The Chairman will make clear that parties should only address the Sub-Committee in relation to matters previously raised/submitted – ~~late evidence additional matters will can~~ only be considered ~~if the Sub-Committee is of the opinion no other party will be prejudiced by the lateness of the matter being raised, if~~ all parties present ~~agree give their consent and that it is relevant i.e. it relates to the subject application and the promotion of the licensing objectives. (Regulation 18).~~
- 7) The Chairman will then outline the procedure to be followed by reading out points 8 to 15 below unless all parties present have confirmed that they have seen and understood the procedure and are ready to proceed with the Hearing. Regulation 22.
- 8) The Licensing Officer will start by outlining the details of the application/notice and representations received, his/her observations on the application/notice and his/her views as to the determination bearing in mind the representations received.
- 9) Questions may be asked by each objector, the applicant and/or the Members (in that order). Regulation 16/17.
- 10) Each Objector will then be invited to address the hearing and to clarify any matters in relation to which prior notice has been given. Each Objector may call any other person ([witnesses](#)) to address the hearing to assist (prior [written](#) notice must have been given and permission [allowed given](#)). The Objector/his representative and/or his witnesses (as the case may be) may be asked questions by the Applicant and/or Members (in that order) Regulations [8/16/17](#).
- 11) The Applicant or his representative will be invited to address the hearing and to clarify any matters in relation to which prior notice has been given. The Applicant may call any other person ([witnesses](#)) to address the hearing to assist (prior [written](#) notice must have been given and permission [allowed given](#)). The applicant/his representative and/or his witnesses as the case may be may be asked questions by the Licensing Officer, Objectors and/or Members (in that order). Regulations [8/16/17](#).
- 12) Before moving onto the next party the Chairman will check there are no further points the current party wishes to make or any further questions that need to be put to that party.

- 13) As part of the Licensing Officers report a schedule of suggested conditions will be set out on a without prejudice basis. Before closing submissions each party will be asked to address/give their views on the suggested conditions and any other appropriate conditions should the application be granted on a without prejudice basis to assist the Sub-Committee. If possible an agreed schedule of conditions will result. It will remain however for the Sub-Committee to determine what conditions will apply should the application be successful.
- 14) Each party will be invited to make closing submissions in the following order:
  - a) Licensing Officer
  - b) Objectors
  - c) The Applicant
- 15) The Sub-Committee will then retire together with the Committee Clerk – and the Committee Legal Advisor in order for a decision to be formulated.
- 16) On returning the Legal Advisor will detail any legal advice given to the Members in private session.
- 17) The Chairman will announce the decision (with reasons as required) and a written version supplied - to be confirmed in writing with details of the right of appeal.

**NOTE:**

In producing and adopting this procedure the following have been considered:

- Licensing Act 2003 as amended - and Explanatory Notes
- National Guidance
- The Licensing Act 2003 (Hearings) Regulations 2005
- The Licensing Act 2003 (Hearings) (Amendment) Regulations 2005
- The Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007
- The Human Rights Act 1998

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## PART C

### SECTION J: Member Interests When Determining Applications or Representing Objectors **or** **Applicants** Re: Applications Pursuant to Licensing Act 2003 (As at **xxxAugust** 201**82**)

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## 1. Generally

~~The provisions of the Localism Act 2011 (the Act) re interests came into effect on 1 July 2012 and -In accordance with the Localism Act 2011 the Council adopted a new Code of Conduct on 24 July 2012 and this note reflects has been updated to take the provision of the Code changes into account.~~

~~There are 3 types of interest:~~

- ~~• A Disclosable Pecuniary Interest (DPI) - is provided for under Section 30 of the Act as specified in regulations made by the Secretary of State. The relevant Regulations are The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. A DPI is defined as an interest of a member and - which in this case includes the interest of the members spouse or civil partner or anyone with whom he/she lives as a husband or wife It and covers a paid employment, office trade, profession or vocation; any sponsorship; contracts made between the member and the authority; land in which the member has an interest in the area of the authority i.e. their home; any licence to occupy land in the area; any corporate tenancies and certain securities a member holds.~~

~~A member with a DPI must declare the same and must not vote or participate in any discussion on that matter and must leave the room whilst the matter is under discussion. To do otherwise than with the benefit of a dispensation granted by the Council or in reliance on the provisions regarding sensitive interests, is a criminal offence.~~

~~Personal and Prejudicial interests are additional interests and are defined in the Code. The Council's Code of Conduct is in Part 3 of the Constitution.~~

- ~~• A Personal interests – is an interest required to be registered in the members public register of personal interests or one reasonably regarded as affecting the member, or a close associate of the member, to a greater extent than other council tax payers A members with a personal interest must- declare this at the meeting but can stay/speak/vote i.e- full participation.~~
- ~~• A Prejudicial interests – is a personal interest which is so significant that a member of the public would reasonably regard it as so significant that it is likely to prejudice the members judgement of the public interest and affect the member's financial interests or a planning /licensing application A member with a Prejudicial Interest must- declare and leave room when the item is under discussion and- cannot choose to stay in any other capacity i.e. as a parish councillor/local resident – unless the exemption at Paragraph 9 of the Code applies.~~
- ~~• Interpretation of the Code of Conduct is based on the assumptions of a reasonable man.~~

~~This note is written specifically in relation to Licensing Act 2003 applications and Schedule 3 of the Local Government Act 1982 applications and the interests that may arise in relation thereto due to consideration of premises licenses/club premises certificates and Sex Establishment Licences respectively within members' residential areas and/or connection with applicants - and/or other parties who have made representations in relation to applications.~~

~~It does not purport to cover applications/referrals relating to Private Hire or Hackney Carriage taxi applications/referrals which do not involve public participation and tend not to be locationally sensitive. However Members should be aware that interests can and will arise in relation to these~~

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matters which need to be declared and/or considered as to member participation in determining applications and/or considering referrals relating to Private Hire or Hackney Carriages regarding taxis to the Licensing Sub-Committee.

## 2. District Councillors determining an Application or attending a Licensing Sub-Committee Hearing

- 2.1 A District Councillor with a prejudicial interest in the matter/application to be determined must take no part in the determination of the matter/application unless a dispensation has been granted (unlikely in a licensing scenario as only 3 members needed out of a possible 12 to sit on a Licensing Sub-Committee so there will always be other members available). A District Councillor with a prejudicial interest in the matter/application to be determined must not attend the hearing. This applies whether the Councillor is a District Councillor of that Ward or not and applies to all District Councillors – whether or not they are a member of the Licensing Committee.

The Code of Conduct's intent here is that a District Councillor's presence alone can influence a decision or discussion.

However, the Code provides an exemption at Para 9 (2) which would allow a District Councillor who is a valid objector or is representing a valid objector/applicant to attend the Hearing and to make representations (including asking and being asked questions and making final submissions) provided that the public can attend for the same reason (i.e. the hearing is not in part II), but the District Councillor must leave the room when the members of the Licensing Sub-Committee retire to make their decision and the District Councillor is not allowed to return to hear the decision.

The opportunity to speak at the Hearing will be shared with other members of the public who are allowed to address the sub-committee – be they the applicant, objectors/supporters or representatives - and the District Councillor will get no preferential treatment as a Councillor.

It must be noted however that District Councillors may only speak at/address the Hearing in accordance with the same rights granted to members of the public – this must be in accordance with the Councils adopted Hearing Procedure and if the representation to which they refer/wish to address has been received in writing by the Councils Licensing Team within the period allowed for consultation.

- 2.2 There may be a higher chance that a District Councillor will have a Prejudicial Interest when determining an application from within their own Ward because for example, of the proximity of the premises to their home, they may frequent/attend/have connections to the premises, their family and/or friends may frequent/attend/have connections to the premises, they may know the applicant/an objector, they may have had other involvement in the premises and so on. In which case District Councillors may well find they are unable to be part of the determination process for many of the applications within their Ward. However, the Council does not have a blanket policy that District Councillors cannot determine any application within their Ward and will continue to assess each case upon its individual circumstances.

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- 2.3 Therefore if a Member considers that they have a Prejudicial Interest regarding an application to be determined at a Hearing and they were going to be on the Sub-Committee determining the application then they would need to declare the Prejudicial Interest prior to the application being determined and leave the room or not attend the Hearing at all. However a Member who seeks to address the Sub- Committee in relation to an application where they have a Prejudicial Interest will have the right to make representations and participate as permitted in relation to members of the public – also note italics underlined at 2.1 above - but must then leave the room and not be present when the decision is announced.

### 3. District Councillors attending a Hearing representing a Town/Parish Council who have objected

- 3.1 As above - a District Councillor with a prejudicial interest cannot attend a meeting/hearing at which the matter is being discussed/considered/determined - this is whether or not the District Councillor Member is a member of the Licensing Committee or not – subject to the Paragraph 9 exemption.
- 3.2 A Town/ Parish Councillor is not subject to the South Bucks District Code of Conduct – whilst they will be subject to their own ~~Parish Council~~ Code of Conduct, an interest at Town/Parish level will not affect their right to participate at District level. If however the Town/Parish Councillor is also a District Councillor then the District code will apply and can restrict their conduct/attendance - they cannot choose between the capacity in which they attend. But note – a Town/Parish Councillor will have a Personal Interest at the District Council and vice versa where the application is considered by either Council.
- 3.3 If the District Councillor has no prejudicial interest they could still attend and represent their Ward provided valid written objections have been submitted in time as above.

**BUT** a potential problem arises however in that a District or Town/Parish Councillors attendance at the Hearing and also addressing the Sub-Committee may in itself give rise to a “Prejudicial Interest” in relation to Members sitting on the Sub-Committee if they consider the Member attending to be a ‘close associate’ which can give rise to a prejudicial interest of the Member sitting on the Sub-Committee such that by addressing them a Member/s of the sub-committee must debar themselves from sitting.

### 4. District Councillors supporting a local Applicant/Objector

- 4.1 If asked by an applicant/objector to speak ~~on their behalf as a local resident~~ for/against an application which goes before a Hearing - a Prejudicial Interest may arise due to the location/local connection/knowledge of the premises/applicant and also the District Councillor may be considered as lobbying the Sub-Committee. Again the “close association” problem regarding other Members of the LSC referred to above may arise as well.
- 4.2 However, the District Councillor could write in (within the relevant consultation period) and their representation in support/opposition would be taken into consideration by the LSC.

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## 5. Lobbying a District Councillor sitting on the relevant Licensing Sub-Committee

- 5.1 If Objectors including other Councillors lobby Members of the relevant Licensing Sub-Committee direct, Members could disqualify themselves from sitting on that Sub-Committee by expressing any opinion or intimating support or sympathy to the objections raised by way of a potential claim of predetermination/bias as this would prejudice a Fair Hearing if the applicant was not given equal opportunity of expressing their case to those Members in this way. Whilst expressing a 'view' is now allowed under Section 25 of the Localism Act 2011 – Members must still be wary of going too far and committing to a decision prior to the hearing.
- 5.2 The objector, as long as he has submitted written representations/objections to the Council within the relevant time scales permitted (consultation period) can attend the Hearing in person or be represented by another person where they would be able to speak and ask questions in accordance with the Councils adopted Hearings Procedure.
- 5.3 If Members of the relevant Licensing Sub-Committee are contacted directly – legal advice is that they should invite the objector to make their representations direct to the L-licensing Team officer within the time scales permitted and attend the Hearing but the Member should not express any opinion on the application or offer to be a recipient or pass on the representation, which may suggest support for the representation submitted.

### NOTE:

**CIVIL LAW** (Administrative Law): Applications must be determined fairly and not subject to bias/predetermination or prejudiced by public reaction/pressure.

- Can you sit on the Committee and determine the Application with an open mind? Or have you prejudged an application and already expressed more than a 'view'?
- Would a reasonable man think you have already shown your colours? i.e. Would the public think you have made up your mind already?

District Councillors may seek legal advice from:

- Monitoring Officer
- Deputy Monitoring Officer
- Chief Executive

**ADVICE:** Advice is available and will be given to District Councillors. Members are reminded that:

- the responsibility for declaring interests is theirs alone,
- if they have a DPI – failure to register/disclose is an offence unless a dispensation has been obtained or the interest is sensitive,
- consideration as to whether a Prejudicial interest arises is based on what a reasonable and objective observer with knowledge of all the relevant facts would consider – namely whether the Personal Interest is so significant that it would impair the Members ability to judge the public interest – and is not based on what the Member themselves think,
- the provisions re pre-determination under the Localism Act 2011 only apply to a 'view' – anything more can still amount to pre-determination,

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- *although the duty to report a Member for breach of the Code no longer appears in the Code, this does not prevent another Member reporting breaches or indeed members of the public and/or officers.*

*If Councillors choose to ignore advice given this will be at their own peril/risk because if by ignoring such advice an offence is committed or a breach of the Code of Conduct is reported – the officer will have to inform the investigator of the advice offered. In some cases even when advice is not specifically requested – the Monitoring Officer (Deputy/Chief Executive) may highlight a potential breach and advise that an interest be declared to safeguard the Council's position.*

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**PART C**  
**SECTION K: Employees Code of Conduct**



## CHILTERN AND SOUTH BUCKS DISTRICT COUNCILS' EMPLOYEES CODE OF CONDUCT

### Version control

| Version | Owner | DATE     | DESCRIPTION                         | REVIEW DATE |
|---------|-------|----------|-------------------------------------|-------------|
| 1       | HR    | 01 01 16 | Harmonised Employee Code of Conduct | 01 02 18    |
|         |       |          |                                     |             |

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## 1. INTRODUCTION

The Councils exist to provide services to the public. The customers and communities we serve are entitled to expect the highest standard of conduct from employees of Chiltern and South Bucks District Councils. This code sets out the minimum standards of conduct that are expected from you as a Council employee. The aim of the Code is to set guidance for employees to help maintain and improve standards and protect employees from criticism or misunderstandings.

## 2. STATUS AND SCOPE OF THE CODE

This Code of Conduct applies to all employees and sets out what is expected from you in your daily work while employed by either Council. Wider workers such as agency workers, consultants and volunteers are also required to abide by the Code. Managers of these workers are responsible for ensuring they comply with the code.

The code does not affect your rights or responsibilities under the law. Its purpose is to provide clear and helpful advice to you. Because of the nature of your work, some parts of the code may apply more to some of your colleagues than to you. It is important you read the code and ask about anything that isn't clear as failure to comply with these standards will be viewed as misconduct and may give rise to disciplinary action.

If you have management responsibilities please ensure that your direct reports, including wider workers you are responsible for have access to this Code and that they are given opportunities for training/discussion where appropriate.

## 3. THE COUNCILS' VALUES AND PRINCIPLES OF PUBLIC LIFE

The Councils have agreed a set of shared values which all employees are expected to adopt and demonstrate in all Council related business. These can be found in the Councils' Business Plans.

### How employees can put the Councils' Values into practice:

**Governance and accountability:** Accept personal responsibility for your decisions and actions. Provide the highest standards of service and act with integrity and transparency. Always act within the Councils' constitutions, policies and the law.

**Equality and diversity:** Respect the diversity, individuality and dignity of the people of Chiltern and South Bucks, and all those you come in contact with while working for the Councils, promoting equality and fairness for all.

**Staff:** Maintain and seek to improve professional knowledge and competence and where you have management responsibilities ensure that those working for you have the appropriate level of competence, supervision and support.

**Working with others:** Put customers first and work flexibly, innovatively and collaboratively with colleagues, Members and partners to the benefit of the communities of Chiltern and/or South Bucks

**Personal responsibility:** Work with partners and residents to promote personal responsibility and positive lifestyle choices.

Employees are also required to abide by "The Nolan Principles of Public Life". These are:

- **Selflessness:** You should not take any decisions which will result in any financial or other benefit to yourself, your family, or your friends. Decisions should be based solely on the best interests of the Councils.
- **Integrity:** You should not place yourself under any financial or other obligation to an individual or an organisation which might influence you in your work with the Councils.

- **Objectivity:** Any decisions must be made solely on merit, including making appointments, awarding contracts, or recommending individuals for rewards or benefits.
- **Accountability:** You are accountable for your actions and your part in making decisions, you must co-operate with whatever scrutiny is appropriate to your post.
- **Openness:** You should be as open as possible in all the decisions and actions that you take. You should give reasons for your decisions and should not restrict information, unless this is clearly required by Council policy or by the law.
- **Honesty:** Be truthful. You have a duty to declare any private interests which might affect or be perceived to affect your work with the Councils.
- **Leadership:** Actively promote and exhibit these principles by behaving in a way that gives people complete confidence in the Councils. Report/challenge poor behaviour.

#### 4. GENERAL OBLIGATIONS:

##### The Councils' Obligation

The Councils will ensure:

- You are clear about what is expected of you
- You have a safe and healthy working environment
- You have a work environment that is free from discrimination, harassment or bullying
- You are offered relevant training and development

It is important to maintain conduct of the highest standard such that public confidence in your integrity is sustained. For the Councils to provide excellent services to the communities they serve it is vital that you understand your role and your responsibilities whilst at work and undertake your role in a safe and effective manner. Your role as an employee is to serve the Councils in providing impartial advice, implementing their policies and delivering services to the local communities. In performing your duties you should act in accordance with the Councils' Vision and Values, policies and procedures, all of which are available on the Councils' shared intranet. Please familiarise yourself with these together with your job description and annual objectives.

#### 5. DISCLOSURE OF INFORMATION

The Councils' decision-making processes should be transparent and open. The Councils provide the public with clear and accessible information about how they operate. The Freedom of Information Act 2000 gives a right to access to information held by the Councils in accordance with their publication scheme. There is also a complaints procedure in place for the public to use when things go wrong. You may be required in the course of your duties to make certain information available to councillors, auditors, government departments or service users.

There are exceptions to the principle of openness where confidentiality is involved, and information may be withheld if, for example it would compromise a personal or commercial confidentiality, unless there is a legal duty to provide this information.

Employees should not use any information obtained while working for the Councils for personal gain or benefit, nor should they pass it on to others who might use it in such a way.

#### 6. CONFIDENTIALITY

You are required to safeguard all confidential, commercially sensitive and personal data that you have access to and adhere to the Councils' Joint Data Protection and Confidentiality Policy. Confidential information obtained must only be used for Council business and only for the purpose it was obtained.

- You will not, without written consent, make personal use of or divulge to any unauthorised person confidential or sensitive information either during or after your employment.

- You will use your best endeavours to prevent the publication or disclosure of confidential information, unless this is in the proper performance of your duties.

## 7. INTELLECTUAL PROPERTY

Intellectual property includes inventions, patents, drawing, records, papers and other documents and papers relating to the Councils. If these were created or acquired by an employee during the course of their employment then they will remain the property of the Councils.

Knowledge and information held by the Councils is the property of the Councils and must not be used for other purposes including outside paid employment.

## 8. SECURITY OF INFORMATION

Use of the Councils' equipment, systems and network is provided as part of your role. You must adhere fully to the Councils' Joint ICT Security Policy. This details the standards expected from staff in protecting the security of information including standards on the use of the Internet, External E-mail, computer security, accessing files and data held on your computer. You are also required to comply with the Councils' Joint Data Protection and Confidentiality Policy and Social Media Policy.

## 9. POLITICAL NEUTRALITY

The public expects you to carry out your duties in a politically neutral way. Employees serve the Councils as a whole and must serve all councillors equally, not just a single political group. You must not allow personal or political opinions to interfere with your work and you are required to implement the decisions / policies of the Councils irrespective of your personal views. The Councils respect the rights of employees to hold personal or political opinions; employees should ensure that the expression of those opinions does not constitute a conflict of interest. Employees who have concerns about whether there is a potential conflict of interest should raise the matter with their manager.

If employees are asked by a councillor to provide assistance with a matter which is clearly party political, or does not have a clear link to the work of the Council, they should politely refuse and inform the councillor that the matter will be referred to their manager.

Some employees will have a close working relationship with councillors of the majority political group (or groups) which form the administration of the Council. Political groups may sometimes seek advice from Council employees. Where this occurs the Chief Executive must be informed in advance of any meeting or advice being given.

The political activities of a small number of staff are restricted by law. If your post is politically restricted this will be set out in your Statement of Particulars and you will need to comply with the statutory restrictions on your political activities. This includes not standing for elected office as a County, District or London Borough Councillor, MP or MEP, not writing, speaking or canvassing to affect public support for a political party and not holding office in a political party.

## 10. CONFLICT OF INTEREST

As a Council employee you must not undertake an act or omission which brings you into conflict with your employment or allow any private interest or opinions to influence your decisions at work. You must not use your position to further your own interests or the interests of others who do not have a right to benefit under the Councils' policies. You or a close family member/friend

may have a private interest which relates to the work of the Councils. That interest may be a financial one, or one which a member of the public might reasonably think could influence your judgement. All such interests must be declared to your line manager. If in doubt seek advice from your line manager.

#### 10.1. RELATIONSHIPS WITH COUNCILLORS

Both councillors and employees are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Employees are responsible to the Councils through their senior managers and in many cases they give advice to councillors. Mutual respect between employees and councillors is essential for good service provision. Close personal familiarity between employees and individual councillors can damage this relationship and should therefore be avoided. Employees should deal with councillors in a polite and efficient manner. You must not attempt to influence a councillor out of a personal motive and must report to your line manager if a councillor attempts to pressurise you to deal with a matter outside of the Councils' policies.

#### 10.2. CONTACT WITH THE LOCAL COMMUNITY AND SERVICE USERS

All citizens and service users have a right to be treated with fairness and equity. You must be courteous, effective and impartial in dealing equitably and consistently with the public.

#### 10.3. APPOINTMENTS/EMPLOYMENT MATTERS

Employees involved in appointments, decisions in relation to discipline, promotion or pay adjustments for other employees where a family relationship or a personal friendship exists must declare any potential conflict of interest to their line manager.

#### 10.4. OUTSIDE INTERESTS/PAID EMPLOYMENT OUTSIDE THE COUNCIL

Generally, what you do outside of work is your own concern, however as a Council employee you need to take care that your private activities including your use of social media does not adversely affect the reputation of the Councils or put you in a position where there is a conflict of interest which may bring one of the Councils into disrepute.

The Councils will normally allow you to undertake paid employment in addition to your work for the Councils, unless there is a clear conflict of interest, or it is likely to have an adverse effect on the work of the Councils. For all Officers grade 5 and above there is a requirement in your Statement of Particulars for you to obtain approval from your Head of Service to take up any other additional employment or appointment. Depending on your role there may also be restrictions on the private work you may undertake. For all Officers below grade 5 it is advisable to first obtain approval before taking up any other role or outside appointment, this is in your interest and to protect you. Please note you are not allowed to use the equipment or resources of either Council in any other paid employment.

You must also seek consent from your Head of Service before accepting any voluntary position in which you are acting on behalf of either Council or where there may be a conflict of interest.

If you are a member of an organisation or club, and membership might result in a conflict of interest in relation to any aspect of your work with the Councils, you must declare this.

#### 10.5. RELATIONSHIPS WITH SUPPLIERS, CONTRACTORS, PLANNING/LICENSING/GRANT APPLICANTS

All Council decisions including orders, contracts, grants, planning and licensing decisions must be made on merit and no special favour shown in the tendering or decision making process and no part of the community should be discriminated against. You must let your manager know of any relationship or beneficial interest which may affect or perceive to affect such a decision.

Officers purchasing goods/services are required to follow the Councils' Contracts Procedure Rules which set out the Councils' approach to dealing with all aspects of Procurement. You must declare any direct or indirect financial interest that you or a close family member/friend has or have previously had to your line manager. You should also declare any non-financial interests such as voluntary work for an organisation in receipt of a grant from the Councils.

If you are an employee involved in the tendering process and dealing with contractors you need to be clear on the separation of client and contactor role. Senior employees who have both a "client" and "contractor" responsibility in the tendering process must observe the requirement for accountability and even handedness in undertaking these two roles.

#### 10.6. WHAT HAPPENS IF YOU ARE SUSPECTED/CONVICTED OF A FRAUDULENT, CRIMINAL OR CIVIL CONVICTION?

You will not be subjected to a detriment or face prejudicial treatment as a result of being the subject of an investigation by an official body, arrested or charged with a criminal offence. However, depending on the nature of the investigation/offence we may have to assess whether there is any conflict of interest and your suitability to continue to carry out your role.

You must tell your manager if at any time during your employment with the Councils you are the subject of an investigation by an official body, arrested or convicted of a criminal charge: this includes motoring offences with the exception of road traffic offences dealt with by way of a fixed penalty notice. We will then assess whether or not this affects your suitability to continue to carry out your role.

### 11. BRIBERY AND CORRUPTION

You need to be aware it would be considered corrupt for an employee to demand or accept any fee or reward other than their normal remuneration from anyone who may benefit from a decision, work, information or funding provided by the Councils. Please see section on gifts and hospitality below and ensure you comply with the Councils' Joint Anti-Fraud, Bribery and Corruption Policy.

Under the Bribery Act 2010 it is a criminal offence to offer or give someone a reward to induce them to perform an activity improperly or to accept or agree to accept a reward in return for performing a relevant activity improperly.

### 12. GIFTS AND HOSPITALITY

In the acceptance of any gift or hospitality you need to be sure you will not be subject to legitimate criticism, if you are in any doubt you should seek advice from your line manager. You need to be careful as even with the best intentions, people could legitimately think gifts or hospitality might influence, or be intended to influence your judgement. You must follow the Councils' procedure for declaring gifts and hospitality including any authorisation required.

You should not accept significant personal gifts from contractors, suppliers or members of the public, although you may keep items of token value such as pens, diaries etc. Offers to attend

social or sporting functions should be accepted only when they are part of the life of the community or where either Council would be expected to be represented.

### 13. SPONSORSHIP

Where an outside organisation wishes to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

Where either Council wishes to sponsor an event neither an employee nor close family/friend must benefit from such sponsorship in a direct way without there being full disclosure to your line manager of any such interest.

### 14. COUNCIL RESOURCES

You have a responsibility to make sure that the Councils use their resources prudently and in accordance with the law. Please remember this principle when you use Council equipment, materials and resources, in order to ensure value for money. You should not utilise property, vehicles or other facilities of the Councils for personal use unless authorised to do so.

Some limited personal use of telephones, photocopiers and computers is permitted provided you have your manager's permission. This use should be restricted to outside of working hours, e.g. in your lunch break, except in urgent or exceptional circumstances. Please refer to your Council's Acceptable Use policies.

### 15. USE OF FINANCIAL RESOURCES

The use of public funds entrusted to employees is to be used in a responsible and lawful manner. You should strive to ensure value for money to the local community and to avoid legal challenge to the Councils. Care should be taken in dealing with the Councils' financial resources and any errors or fraud should be reported. If you have responsibility for budgets or purchasing you must ensure you understand and comply with the Councils' Standing Orders and Financial Procedure Rules.

### 16. PRODUCTIVITY AT WORK

Residents may reasonably expect the highest standards of productivity from all those who work for the Councils. Personal activities should be kept to a minimum whilst working, for example this will include non-urgent private phone calls, text messaging and private internet activities.

### 17. CONTACT WITH THE MEDIA

In your work with the Councils, contact with the media should only take place where this has been authorised by the Councils. Please take advice from the Communications, Performance and Policy Team and ensure all press releases are issued via the Communications, Performance and Policy Team. Any subjects that appear to have legal implications should also be referred to the Legal Services Team.

As a citizen, you are entitled to express your views about the Councils provided you do not make use of any information gained through your work with either Council. It is advisable to take care in making any comments and to take all reasonable steps to ensure it is seen as representing your personal views as a private citizen.

## 18. EQUALITY ISSUES

One of the Councils' Values is equality and diversity. All members of the local community, councillors and employees have a right to be treated with fairness and equity and we ask all employees to endeavour to promote best practice in this area at all times. You are required to comply with the Councils' Equality Policies in addition to the requirements of the law.

## 19. HEALTH AND SAFETY

The Councils are committed to promoting a healthy and safe working environment. You are expected to know and to comply with all Health and Safety policies available on the joint intranet site and you have an obligation to take reasonable care of your own safety and for the safety of others who may be affected by your actions/omissions.

In the event of an accident or near miss involving yourself, a colleague or customer you should follow the accident reporting procedure. If you are involved in an incident involving a possible claim against either Council or an individual, you should not admit liability; the decision as to legal liability rests with the Councils' insurers.

## 20. SAFEGUARDING CHILDREN AND VULNERABLE ADULTS

The Councils are committed to best practice with regards safeguarding the health, wellbeing and human rights of children and vulnerable adults. If during the course of your duties you have any concerns about the treatment of a child or vulnerable adult you must contact your manager and the designated officer, currently Martin Holt, Head of Healthy Communities, immediately. It is important any concerns are reported via the proper channels in accordance with the Councils' Joint Safeguarding Policy.

The Councils will determine which posts require a DBS (Disclosure and Barring Service) check. Where an employee is questioned, cautioned or arrested on a safeguarding matter they should notify their Director immediately.

## 21. REPORTING BREACHES OF THE CODE AND WHISTLEBLOWING

Employees are expected, in accordance with procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of services. A separate Joint Whistle Blowing Policy has been developed to enable staff and others to voice concerns.

**PART C**  
**SECTION L: Petitions Scheme (Adopted 11 May 2010)**



## 1. Introduction

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

Petitions can be sent to:

Chief Executive  
South Bucks District Council  
Capswood  
Oxford Road  
Denham  
Bucks UB9 4LH

Petitions can also be presented to a meeting of the Council. These meetings take place at approximately eight weekly intervals, dates and times can be found by visiting <http://www.southbucks.gov.uk/meetings>. If you would like to present your petition to the Council, or would like your Councillor or someone else to present it on your behalf, please contact the Democratic & Electoral Services Manager on 01895 837227 at least 10 working days before the meeting and they will talk you through the process. If your petition has received 3,000 signatures or more it will also be scheduled for a Council debate and if this is the case we will let you know whether this will happen at the same meeting or a later meeting of the Council.

## 2. What are the guidelines for submitting a Petition?

Petitions submitted to the Council must include:

- A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take.
- The name and address and signature of any person supporting the petition.

The Council will normally require petitions to be signed by at least 10 persons to be treated as a petition. A valid address shall relate to a person who lives, works or studies within the Council's area.

Petitions should be accompanied by contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. If the petition does not identify a petition organiser, we will contact signatories to the petition to agree who should act as the petition organiser.

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the Council

may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

### **3. What will the Council do when it receives my Petition?**

An acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed. If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply.

We will not take action on any petition which we consider to be vexatious, abusive or otherwise inappropriate and will explain the reasons for this in our acknowledgement of the petition.

### **4. How will the Council respond to Petitions?**

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- Taking the action requested in the petition
- Considering the petition at a council meeting
- Holding an inquiry into the matter
- Undertaking research into the matter
- Holding a public meeting
- Holding a consultation
- Holding a meeting with petitioners
- Referring the petition for consideration by the Council's Overview and Scrutiny Committee\*
- Calling a referendum
- Writing to the petition organiser setting out our views about the request in the petition

\*The Overview and Scrutiny Committee is a Committee of Councillors who are responsible for scrutinising the work of the Council – in other words, the Overview and Scrutiny Committee has the power to hold the Council's decision makers to account.

In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition. The table below gives some examples.

| <b>Petition Subject</b>                   | <b>Appropriate Steps</b>   |
|---|--|
| <b>Alcohol related crime and disorder</b> | <p>If your petition is about crime or disorder linked to alcohol consumption, the Council will, among other measures, consider the case for placing restrictions on public drinking in the area by establishing a designated public place order or, as a last resort, imposing an alcohol disorder zone. When an alcohol disorder zone is established the licensed premises in the area where alcohol related trouble is being caused are required to contribute to the costs of extra policing in that area. The Council's response to your petition will set out the steps we intend to take and the reasons for taking this approach.</p>   |
| <b>Anti-social behaviour (ASB)</b>        | <p>As the elected representatives of your local area, as social landlord and licensing authority, the Council plays a significant role to play in tackling anti-social behaviour. The Council, in conjunction with our partners in the local crime and disorder partnership have set out minimum service standards for responding to issues of anti-social behaviour.</p> <p>When responding to petitions on ASB, we will consider in consultation with our local partners, all the options available to us including the wide range of powers and mechanisms we have to intervene as part of our role as social landlord and licensing authority. For example, we will work with the neighbourhood policing team in the affected area to identify what action might be taken including what role CCTV might play, consider identifying a dedicated contact within the Council to liaise with the community and neighbourhood partners on issues of ASB in the area in question and, where appropriate, we will alert the crime and disorder reduction partnership and crime and disorder overview and scrutiny committee to the issues highlighted in the petition.</p> |

If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with council policy), then we will set out the reasons for this to you.

If your petition is about something that a different Council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event we will always notify you of the action we have taken.

## 5. Full Council debates

If a petition contains more than 3,000 signatures it will be debated by the full Council unless it is a petition asking for a senior council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The

petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The Council will decide how to respond to the petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one on which the Council's Cabinet are required to make the final decision, the Council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

## **6. Officer evidence**

Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If your petition contains at least 1,500 signatures, the relevant senior officer will give evidence at a public meeting of the Council's Overview and Scrutiny committee. The relevant senior officers for this purpose are the Chief Executive, Director of Resources and Director of Services. You should be aware that the Overview and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The Committee may also decide to call the relevant councillor to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the Chairman of the Committee up to three working days before the meeting.

## **7. What can I do if I feel my Petition has not been dealt with properly?**

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the Council's Overview and Scrutiny Committee review the steps that the Council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review if the petition organiser gives a short explanation of the reasons why the Council's response is not considered to be adequate.

The Committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the Council's Cabinet and arranging for the matter to be considered at a meeting of the full Council.

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.

**PART E**

**SECTION A: The Local Authorities Functions and  
Responsibilities Regulations 2000 as amended  
– Miscellaneous Functions**

**Council Functions under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended from time to time (the Functions Regulations) (as at July 2009) delegated to Governance and Electoral Arrangements Committee and Joint Staffing Committee/ SBDC Sub-Committee**

1. To exercise the Council's responsibilities relating to the miscellaneous functions as shown in the left hand column of the Table below in respect of the enactments in the right hand column in so far as they are not the responsibility of any other local authority

**Note:**

| <b>(1) Function</b>   | <b>(2) Provision of Act or Statutory Instrument</b>   |
|---|---|
| <b>D. Functions relating to elections</b><br>1. Duty to appoint an electoral registration officer.    | Section 8(2) of the Representation of the People Act 1983(c.2).   |
| 2. Power to assign officers in relation to requisitions of the registration officer.                  | Section 52(4) of the Representation of the People Act 1983.   |
| 3. Functions in relation to parishes and parish councils.   | Part II of the Local Government and Rating Act 1997 (c.29) and subordinate legislation under that Part. |
| 4. Power to dissolve small parish councils.   | Section 10 of the Local Government Act 1972.  |
| 5. Power to make orders for grouping parishes, dissolving groups and separating parishes from groups. | Section 11 of the Local Government Act 1972.  |
| 6. Duty to appoint returning officer for local government elections.                                  | Section 35 of the Representation of the People Act 1983.  |
| 7. Duty to provide assistance at European Parliamentary elections. (S.I. 2007/2593)                   | Section 6 (7) and (8) of the European Parliamentary Elections Act 2002.                                 |
| 8. Duty to divide constituency into polling districts.  | Sections 18A to 18E of and schedule 1A to the Representation of the People Act 1983.                    |
| 9. Power to divide electoral divisions into polling districts at local government elections.          | Section 31 of the Representation of the People Act 1983.  |
| 10. Powers in respect of holding of elections.  | Section 39(4) of the Representation of the People Act 1983.   |

| <b>(1) Function</b>  | <b>(2) Provision of Act or Statutory Instrument</b>   |
|--|---|
| 11. Power to pay expenses properly incurred by electoral registration officers.  | Section 54 of the Representation of the People Act 1983.  |
| 12. Power to fill vacancies in the event of insufficient nominations.  | Section 21 of the Representation of the People Act 1985.  |
| 13. Duty to declare vacancy in office in certain cases.  | Section 86 of the Local Government Act 1972.  |
| 14. Duty to give public notice of a casual vacancy.  | Section 87 of the Local Government Act 1972.  |
| 15. Power to make temporary appointments to parish councils.   | Section 91 of the Local Government Act 1972.  |
| 16. Power to determine fees and conditions for supply of copies of, or extracts from, elections documents,   | Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 (S.I. 1986/2214) and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (S.I. 1986/2215). |
| 17. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000. | Section 10 of the Representation of the people Act 2000 (c.2).  |
| 18. Duty to consult on change of scheme for electors.<br>(S.I. 2008/516)   | Sections 33(2), 38(2) and 40(2) of the Local Government and Public Involvement in Health Act 2007 (The 2007 Act).   |
| 19. Duties relating to publicity.  | Sections 35, 41 and 52 of the 2007 Act.   |
| 20. Duties relating to notice to Electoral Commission.   | Sections 36 and 42 of the 2007 Act.   |
| 21. Power to alter years of ordinary elections of parish councillors.  | Section 53 of the 2007 Act.   |
| 22. Functions relating to change of name of electoral area.  | Section 57 of the 2007 Act.   |
| <b>E. Functions relating to name and status of areas and individuals</b><br>1. Power to change the name of a county, district or London borough.   | Section 74 of the Local Government Act 1972.  |

| <b>(1) Function</b>  | <b>(2) Provision of Act or Statutory Instrument</b>  |
|--|--|
| 2. Power to change the name of a parish.   | Section 75 of the Local Government Act 1972.   |
| 3. Power to confer title of honorary alderman or to admit to be an honorary freeman. | Section 249 of the Local Government Act 1972.  |
| 4. Power to petition for a charter to confer borough status.                         | Section 245b of the Local Government Act 1972.   |
| <b>EB. Functions relating to community governance</b>                                |  |
| 1. Duties relating to community governance.  | Section 79 of the Local Government and Public Involvement in Health Act 2007 (the 2007 Act).                                   |
| 2. Functions relating to community governance petitions.                             | Sections 80, 83 to 85 of the 2007 Act.   |
| 3. Functions relating to terms of reference review.                                  | Sections 81(4) to (6) of the 2007 Act.   |
| 4. Power to undertake a community governance review.                                 | Section 82 of the 2007 Act.  |
| 5. Functions relating to the making of recommendations.                              | Sections 87 to 92 of the 2007 Act.   |
| 6. Duties when undertaking review.   | Sections 93 to 95 of the 2007 Act.   |
| 7. Duty to publicise outcome of review.  | Section 96 of the 2007 Act.  |
| 8. Duty to send two copies of order to Secretary of State and Electoral Commission.  | Section 98(1) of the 2007 Act.   |
| 9. Power to make agreements about incidental matters.                                | Section 99 of the 2007 Act.  |
| <b>F. Power to make, amend, revoke, re-enact or enforce byelaws.</b> (S.I. 2006/886) | Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978 (c.30). |
| <b>G. Power to promote or oppose local or personal Bills.</b>                        | Section 239 of the Local Government Act 1972.  |
| <b>H. Functions relating to pensions etc.</b>  |  |



| <b>(1) Function</b>  | <b>(2) Provision of Act or Statutory Instrument</b>                          |
|--|--|
| 1. Functions relating to local government pensions, etc.                                   | Regulations under section 7, 12 or 24 of the Superannuation Act 1972 (c.11). |
| <b>I. Miscellaneous functions</b>  |  |
| <i>Part I: functions relating to public rights of way.</i>                                 |  |
| 1. Power to create footpath or bridleway by agreement.                                     | Section 25 of the highways Act 1980 (c.66).                                  |
| 2. Power to create footpaths and bridleways.   | Section 26 of the Highways Act 1980.   |
| 3. Duty to keep register of information with respect to maps, statements and declarations. | Section 31A of the Highways Act 1980.  |
| 4. Power to stop up footpaths and bridleways.  | Section 118 of the Highways Act 1980.  |
| 5. Power to determine application for public path extinguishment order                     | Sections 118ZA and 118C(2) of the Highways Act 1980.                         |
| 6. Power to make a rail crossing extinguishment order.                                     | Section 118A of the Highways Act 1980.                                       |
| 7. Power to make a special extinguishment order.   | Section 118B of the Highways Act 1980.                                       |
| 8. Power to divert footpaths and bridleways.   | Section 119 of the Highways Act 1980.  |
| 9. Power to make a public path diversion order.  | Sections 119ZA and 119C(4) of the Highways Act 1980.                         |
| 10. Power to make a rail crossing diversion order.   | Section 119A of the Highways Act 1980.                                       |
| 11. Power to make a special diversion order.   | Section 119B of the Highways Act 1980.                                       |
| 12. Power to require applicant for order to enter into agreement.                          | Section 119C(3) of the Highways Act 1980.                                    |
| 13. Power to make an SSSI diversion order.   | Section 119D of the Highways Act 1980.                                       |
| 14. Duty to keep register with respect to  | Section 121B of the Highways Act 1980.                                       |

| <b>(1) Function</b>  | <b>(2) Provision of Act or Statutory Instrument</b>         |
|--|---|
| applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.  |   |
| 15. Power to decline to determine certain applications.  | Section 121C of the Highways Act 1980.                      |
| 16. Duty to assert and protect the rights of the to use and enjoyment of highways.   | Section 130 of the highways Act 1980.                       |
| 17. Duty to serve notice of proposed action in relation to obstruction.  | Section 130A of the Highways Act 1980.                      |
| 18. Power to apply for variation of order under section 130B of the Highways Act 1980.   | Section 130B(7) of the Highways Act 1980.                   |
| 19. Power to authorise temporary disturbance of surface of footpath or bridleway.  | Section 135 of the Highways Act 1980.                       |
| 20. Power temporarily to divert footpath or bridleway.   | Section 135A of the highways Act 1980.                      |
| 21. Functions relating to the making good of damage and the removal of obstructions.   | Section 135B of the Highways Act 1980.                      |
| 22. Powers relating to the removal of things so deposited on highways as to be a nuisance.   | Section 149 of the Highways Act 1980.                       |
| 23. Power to extinguish certain public rights of way.  | Section 32 of the Acquisition of Lane Act 1981 (c.67).      |
| 24. Duty to keep definitive map and statement under review.  | Section 53 of the Wildlife and Countryside Act 1981 (c.69). |
| 25. Power to include modifications in other orders.  | Section 53A of the Wildlife and Countryside Act 1981.       |
| 26. Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981. | Section 53B of the Wildlife and Countryside Act 1981.       |
| 27. Duty to reclassify roads used as public paths.   | Section 54 of the Wildlife and Countryside Act 1981.        |

| <b>(1) Function</b>   | <b>(2) Provision of Act or Statutory Instrument</b>                                       |
|---|---|
| 28. Power to prepare map and statement by way of consolidation of definitive map and statement.   | Section 57A of the Wildlife and Countryside Act 1981.                                     |
| 29. Power to designate footpath as cycle track.   | Section 3 of the Cycle Tracks Act 1984 (c.38).  |
| 30. Power to extinguish public right of way over land acquired for clearance.   | Section 294 of the Housing Act 1981 (c.68).   |
| 30A. Power to authorize stopping up or diversion of highway.  | Section 247 of the Town and Country Planning Act 1990.                                    |
| 31. Power to authorise stopping-up or diversion of footpath or bridleway.   | Section 257 of the Town and Country Planning Act 1990.                                    |
| 32. Power to extinguish public rights of way over land held for planning purposes.  | Section 258 of the Town and Country Planning Act 1990.                                    |
| 33. Power to enter into agreements with respect to means of access.   | Section 35 of the Countryside and Rights of Way Act 2000 (c.37).                          |
| 34. Power to provide access in absence of agreement.  | Section 37 of the Countryside and Rights of Way Act 2000.                                 |
| <i>Part II: other miscellaneous functions</i>   |   |
| 35. Functions relating to sea fisheries.  | Sections 1,2,10 and 19 of the Sea Fisheries Regulation Act 1966 (c.38).                   |
| 36. Power to make standing orders.  | Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972 (c.70). |
| 37. Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal). | Section 112 of the Local Government Act 1972.   |
| 38. Power to make standing orders as to contracts.  | Section 135 of the Local Government Act 1972.   |
| 39. Duty to make arrangements for proper administration of financial affairs etc.   | Section 151 of the Local Government Act 1972.   |
| 40. Power to appoint officers for particular purposes (appointment of "proper officers").   | Section 270(3) of the Local Government Act 1972.  |

| <b>(1) Function</b>  | <b>(2) Provision of Act or Statutory Instrument</b>                                      |
|--|--|
| 41. Power to make limestone pavement order.  | Section 34(2) of the Wildlife and Countryside Act 1981 (c.69).                           |
| 42. Power to make closing order with respect to take-away food shops.  | Section 4 of the Local Government (Miscellaneous Provisions) Act 1982 (c.30).            |
| 43. Duty to designate officer as the head of the authority's paid service, and to provide staff, etc.  | Section 4(1) of the Local Government and Housing Act 1989 (c.42).                        |
| 44. Duty to designate officer as the monitoring officer, and to provide staff, etc.  | Section 5(1) of the Local Government and Housing Act 1989.                               |
| 44A. Duty to provide staff, etc. to person nominated by monitoring officer.  | Section 82A(4) and (5) of the Local Government Act 2000.<br>(S.I. 2004/2748)             |
| 44B. Powers relating to overview and scrutiny committees (voting rights of co-opted members).  | Paragraphs 12 and 14 of Schedule 1 to the Local Government Act 2000.<br>(S.I. 2004/2748) |
| 45. Duty to approve authority's statement of accounts, income and expenditure and balance, sheet, or record of payments and receipts (as the case may be). | The Accounts and Audit Regulations 1996 (S.I. 1996/590).                                 |
| 48. Power to make payments or provide other benefits in cases of maladministration etc.  | Section 92 of the Local Government Act 2000".  |
| 49. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption."         | Section 13(2) of the Criminal Justice and Police Act 2001 (c.16).                        |
| 50. Power to apply for an enforcement order against unlawful works on common land.   | Section 41 of the Commons Act 2006.<br>(S.I. 2008/2787)                                  |
| 51. Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.                                  | Section 45 (2)(a) of the Commons Act 2006.<br>(S.I. 2008/2787)                           |
| 52. Power to instigate proceedings for offences in respect of unclaimed  | Section 45 (2)(b) of the Commons Act 2006.   |

| <b>(1) Function</b>  | <b>(2) Provision of Act or Statutory Instrument</b> |
|--|---|
| registered common land and unclaimed town or village greens. | (S.I. 2008/2787)                                    |

## **PART E**

### **SECTION B: Planning Delegations**

## The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended from time to time (the Functions Regulations) (as at July 2009) – Functions Delegated to Planning Committee

1. To exercise the Council's responsibilities relating to Town and County Planning miscellaneous functions as shown in the left hand column of the Table below in respect of the enactments in the right hand column

| (1) Function  | (2) Provision of Act or Statutory Instrument   |
|---|--|
| <b>A. Functions relating to town and country planning and development control.</b>  |  |
| 1. Power to determine application for planning permission   | Sections 70(l)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c8).   |
| 2. Power to determine applications to develop land without compliance with conditions previously attached.                                | Section 73 of the Town and Country Planning Act 1990.  |
| 3. Power to grant planning permission for development already carried out.  | Section 73A of the Town and Country Planning Act 1990.   |
| 4. Power to decline to determine application for planning permission.   | Section 70A of the Town and Country Planning Act 1990  |
| 5. Duties relating to the making of determinations of planning applications.  | Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder |
| 6. Power to determine application for planning permission made by a local authority, alone or jointly with another person                 | Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492)  |
| 7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights. | Parts 6,7, 11, 17, 19,20,21 to 24,26,30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418).  |
| 8. Power to enter into agreement regulating development or use of   | Section 106 of the Town and Country Planning Act 1990.   |

| <b>(1) Function</b>  | <b>(2) Provision of Act or Statutory Instrument</b>  |
|--|--|
| land.  |  |
| 9. Power to issue a certificate of existing or proposed lawful use or development.             | Sections 191(4) and 192(2) of the Town and Country Planning Act 1990   |
| 10. Power to serve a completion notice.  | Section 94(2) of the Town and Country Planning Act 1990.   |
| 11. Power to grant consent for the display of advertisements.                                  | Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992 |
| 12. Power to authorise entry onto land.  | Section 196A of the Town and Country Planning Act 1990   |
| 13. Power to require the discontinuance of a use of land.                                      | Section 102 of the Town and Country Planning Act 1990.   |
| 14. Power to serve a planning contravention notice, breach of condition notice or stop notice. | Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990   |
| 15. Power to issue a temporary stop notice (SI 2005/929).                                      | Sections 171E of the Town and Country Planning Act 1990  |
| 16. Power to issue an enforcement notice.  | Section 172 of the Town and Country Planning Act 1990  |
| 17. Power to apply for an injunction restraining a breach of planning control.                 | Section 187B of the Town and Country Planning Act 1990   |
| 18. Power to determine applications for hazardous substances consent, and related powers.      | Sections 9(1) and 10 of the Planning (hazardous Substances) Act 1990 (c. 10).  |



## **PART E**

### **SECTION C: Licensing Delegations**

## The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended from time to time (the Functions Regulations) (as at July 2009) – Functions delegated to Licensing Committee

1. To exercise the Council's responsibilities relating to the functions as shown in the left hand column of the Table below in respect of the enactments in the right hand column in so far as they are not the responsibility of any other local authority

| (1) Function  | (2) Provision of Act or Statutory Instrument  |
|---|---|
| <b>B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)</b> |   |
| 1. Power to issue licences authorising the use of land as a caravan site ("site licences").                       | Section 3(3) of the Caravan Sites and Control of Development Act 1960 (c. 62).  |
| 2. Power to license the use of moveable dwellings and camping sites   | Section 269(l) of the Public Health Act 1936 (c.49).  |
| 3. Power to license hackney carriages and private hire vehicles.  | (a) as to hackney carriages, the Town Police Clauses Act 1847 (10 & II Vict. c. 89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict. c. 55), and section 15 of the Transport Act 1985 (c. 67); and sections 47, 57,58,60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57); (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976. |
| 4. Power to license drivers of hackney carriages and private hire vehicles.                                       | Sections 51, 53, 54, 59. 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.   |
| 5. Power to license operators of hackney carriages and private hire vehicles.                                     | Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.   |
| 6. Power to register pool promoters.  | Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (c. 2)(c) as saved for certain purposes by the Gambling Act Order.<br><br>("The Gambling Act Order" means the Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006)   |

| <b>(1) Function</b>  | <b>(2) Provision of Act or Statutory Instrument</b>   |
|--|---|
| 7. Power to grant track betting licences.  | Schedule 3 to the Betting, Gaming and Lotteries Act 1963(d), as saved for certain purposes by the Gambling Act Order.   |
| 8. Power to license inter-track betting schemes.   | Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963(e), as saved for certain purposes by the Gambling Act Order.  |
| 9. Power to grant permits in respect of premises with amusement machines.                    | Schedule 9 to the Gaming Act 1968 (c. 65), as saved for certain purposes by the Gambling Act Order.   |
| 10. Power to register societies wishing to promote lotteries.                                | Schedule 1 to the Lotteries and Amusements Act 1976 (c. 32), as saved for certain purposes by the Gambling Act Order.   |
| 11. Power to grant permits in respect of premises where amusements with prizes are provided. | Schedule 3 to the Lotteries and Amusements Act 1976, as saved for certain purposes by the Gambling Act Order.   |
| 12. Power to issue cinema and cinema club licences.  | Section 1 of the Cinema Act 1985 (c. 13).   |
| 13. Power to issue theatre licences.   | Sections 12 to 14 of the Theatres Act 1968 (c. 54).   |
| 14. Power to issue entertainments licences.  | Section 12 of the Children and Young Persons Act 1933 (c. 12), section 52 of and Schedule 12 to, the London Government Act: 1963 (c. 33). Section 79 of the Licensing Act 1964 (c. 26). Sections 1 to 5 and 7 of. And Parts I and II of the Schedule to the Private Places of Entertainment (Licensing) Act 1967 (c. 19) and Part I of, and Schedules I and 2 to, the Local Government (Miscellaneous Provisions) Act 1982 (c. 30). |
| 14A. Functions relating to licensing.  | Sections 5 to 8 of the Licensing Act 2003.  |
| 14AA. Duty to comply with requirement to provide information to the Gambling Commission.     | Section 29 of the Gambling Act 2005.  |
| 14AB. Functions relating to exchange of information.   | Section 30 of the Gambling Act 2005.  |
| 14AC. Functions relating to occasional use notices.  | Section 39 of the Gambling Act 2005.  |
| 14B. Power to resolve not to issue a casino  | Section 166 of the Gambling Act 2005.   |

| <b>(1) Function</b>  | <b>(2) Provision of Act or Statutory Instrument</b>  |
|--|--|
| premises licence.  |  |
| 14C. Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises. | Section 304 of the Gambling Act 2005.  |
| 14CA. Power to make order disapplying section 279 or 282(1) of the 2005 Act in relation to specified premises.       | Section 284 of the Gambling Act 2005.  |
| 14D. Power to institute criminal proceedings.  | Section 346 of the Gambling Act 2005.  |
| 14E. Power to exchange information.  | Section 350 of the Gambling Act 2005.  |
| 14F. Functions relating to the determination of fees for premises licences.  | The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (S.I. 2007/479).   |
| 14G. Functions relating to the registration and regulation of small society lotteries.                               | Part 5 of Schedule 11 to the Gambling Act 2005.  |
| <b>FA. Functions relating to smoke-free premises etc.</b>  |  |
| 1. Duty to enforce chapter 1 and regulations made under it.  | Section 10(3) of the Health Act 2006.  |
| 2. Power to authorise officers.  | Section 10(5) of and paragraph 1 of Schedule 2 to the Health Act 2006.   |
| 3. Functions relating to fixed penalty notices.  | Paragraphs 13, 15 and 16 of Schedule 1 to the Health Act 2006.<br>Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007 (S.I. 2006/760). |
| 4. Power to transfer enforcement functions to another enforcement authority.   | Smoke-free (Premises and Enforcement) Regulations 2006 (S.I. 2006/3368).   |
| 15. Power to license sex shops and sex cinemas.  | The Local Government Miscellaneous Provisions) Act 1982. section 2 and Schedule 3.   |
| 16. Power to license performances of hypnotism.  | The Hypnotism Act 1952 (c. 46).  |
| 17. Power to license premises for  | Sections 13 to 17 of the Local Government  |

| <b>(1) Function</b>   | <b>(2) Provision of Act or Statutory Instrument</b>   |
|---|---|
| acupuncture, tattooing, ear-piercing and electrolysis.  | (Miscellaneous Provisions) Act 1982.  |
| 18. Power to license pleasure boats and pleasure vessels  | Section 94 of the Public Health .Acts Amendment Act 1907 (c. 53).   |
| 19. Power to license market and street trading.   | Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982, Part III of the London Local Authorities Act 1990 (c.vii) and section 6 of the London Local Authorities Act 1994 (c.xii).   |
| 20. Power to license night cafes and take-away food shops   | Section 2 of the Late Night Refreshment Houses Act 1969 (c. 53)(f), Part II of the London Local Authorities Act 1990 and section 5 of the London Local Authorities Act 1994.  |
| 21. Duty to keep list of persons entitled to sell non-medicinal poisons.                                  | Sections 3(l)(b)(ii), 5. 6 and 11 of the Poisons Act 1972 (c. 66)(g).   |
| 22. Power to license dealers in game and the killing and selling of game.                                 | Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 (c. 32); sections 2 to 16 of the Game Licensing Act 1860 (c. 90). section 4 of the Customs and Inland Revenue Act 1883 (c. 10). sections 12(3) and 27 of the Local Government Act 1874 (c. 73), and section 213 of the Local Government Act 1972 (c. 70). |
| 23. Power of register and license premises for the preparation of food.                                   | Section 19 of the Food Safety Act 1990 (c. 16).   |
| 24. Power to license scrap yards.   | Section I of the Scrap Metal Dealers Act 1964 (c. 69).  |
| 25. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds. | The Safety of Sports Grounds Act 1975 (c. 52)   |
| 26. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.  | Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c.27).  |
| 27. Power to issue fire certificates.   | Section 5 of the Fire Precautions Act 1971 (c. 40).   |
| 28. Power to license premises for the breeding of dogs.   | Section 1 of the Breeding of Dogs Act 1973 (c.60) and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999 (c.11).   |
| 29. Power to license pet shops and other  | Section I of the Pet Animals Act 1951 (c. 35)   |

| <b>(1) Function</b>  | <b>(2) Provision of Act or Statutory Instrument</b>  |
|--|--|
| establishments where animals are bred or kept for the purposes of carrying on a business.  | section I of the Animal Boarding Establishments Act 1963(c. 43) the Riding Establishments Acts 1964 and 1970(1964 c. 70 and 1970 c. 70) ; section I of the Breeding of Dogs Act 1973 (c. 60) and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999. |
| 30. Power to register animal trainers and exhibitors.  | Section 1 of the Performing Animals (Regulation) Act 1925 (c.38)   |
| 31. Power to license zoos.   | Section 1 of the Zoo Licensing Act 1981 (c.37)   |
| 32. Power to license dangerous wild animals.   | Section 1 of the Dangerous Wild Animals Act 1976 (c.38).   |
| 33. Power to license knackers' yards.  | Section 4 of the Slaughterhouses Act 1974. <i>See Also</i> the Animal By-Products Order 1999 (S.I. 1999/646).  |
| 34. Power to license the employment of children.   | Part II of the Children and Young Persons Act 1933 (c. 33), byelaws made under that Part, and Part II of the Children and Young Persons Act 1963 (c. 37).  |
| 35. Power to approve premises for the solemnisation of marriages.  | Section 46A of the Marriage Act 1949 (c. 76) and the Marriages (Approved Premises) Regulations 1995 (S. 1. 1995/510)   |
| 36. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to—<br><br>(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<br><br>(b) an order under section 147 of the Inclosure Act 1845 (c. 8 & 9 Vict. C. 118). | Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843).   |
| 37. Power to register variation of rights of common.   | Regulation 29 of the Commons Registration (General) Regulations 1966(S.I. 1966/1971).  |
| 38. Power to license persons to collect for charitable and other causes.   | Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (c. 31) and section 2 of the House to House Collections Act  |

| <b>(1) Function</b>  | <b>(2) Provision of Act or Statutory Instrument</b>                                     |
|--|---|
|  | 1939(c. 44).  |
| 39. Power to grant consent for the operation of a loudspeaker.   | Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c. 40).                        |
| 40. Power to grant a street works licence  | Section 50 of the New Roads and Street Works Act 1991 (c. 22).                          |
| 41. Power to license agencies for the supply of nurses   | Section 2 of the Nurses Agencies Act 1957 (c.16).                                       |
| 42. Power to issue licences for the movement of pigs.  | Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (SI. 1995/11). |
| 43. Power to license the sale of pigs.   | Article 13 of the Pigs (Records, Identification and Movement) Order 1995.               |
| 44. Power to license collecting centres for the movement of pigs.  | Article 14 of the Pigs (Records, Identification and Movement) Order 1995.               |
| 45. Power to issue a license to move cattle from a market.   | Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871).             |
| 46. Power to grant permission for provision, etc of services, amenities, recreation and refreshment facilities on highway, and related powers. | Sections 115E, 115F and 115K of the Highways Act 1980.                                  |
| 47. Power to permit deposit of builder's skip on highway.  | Section 139 of the Highways Act 1980 (c.66).  |
| 47A. Duty to publish a notice in respect of a proposal to grant permission under section 115E of the Highways Act 1980.                        | Sections 115G of the Highways Act 1980.   |
| 48 Power to license planting, retention and maintenance of trees etc. in part of highway.  | Section 142 of the Highways Act 1980.   |
| 49. Power to authorise erection of stiles etc. on footpaths or bridleways.   | Section 147 of the Highways Act 1980.   |
| 50. Power to license works in relation to buildings etc. which obstruct the highway.   | Section 169 of the Highways Act 1980.   |
| 51. Power to consent to temporary deposits or excavations in streets.  | Section 171 of the Highways Act 1980.   |

| <b>(1) Function</b>   | <b>(2) Provision of Act or Statutory Instrument</b>  |
|---|--|
| 52. Power to dispense with obligation to erect hoarding or fence.   | Section 172 of the Highways Act 1980.  |
| 53. Power to restrict the placing of rails, beams etc. over highways.   | Section 178 of the Highways Act 1980.  |
| 54. Power to consent to construction of cellars etc. under street.  | Section 179 of the Highways Act 1980.  |
| 55. Power to consent to the makings of openings into cellars etc. under streets, and pavement lights and ventilators.   | Section 180 of the Highways Act 1980.  |
| 56. Power to sanction use of parts of buildings for storage of celluloid.   | Section 1 of the Celluloid and Cinematograph Film Act 1922 (c.35).   |
| 57. Power to approve meat product premises.   | Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082).                              |
| 58. Power to approve premises for the production of minced meat or meat preparations.   | Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205).                 |
| 59. Power to approve dairy establishments.  | Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086)(e).                          |
| 60. Power to approve egg product establishments.  | Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520).  |
| 61. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods. | Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763).                           |
| 62. Power to approve fish products premises.  | Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994). |
| 63. Power to approve dispatch or purification centres.  | Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.                 |
| 64. Power to register fishing vessels on board which shrimps or molluscs are cooked.  | Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.                 |



| <b>(1) Function</b>   | <b>(2) Provision of Act or Statutory Instrument</b>   |
|---|---|
| 65. Power to approve factory vessels and fishery product establishments.  | Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.  |
| 66. Power to register auction and wholesale markets.  | Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.  |
| 67. Duty to keep register of food business premises.  | Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/ 2828).  |
| 68. Power to register food business premises.   | Regulation 9 of the Food Premises (Registration) Regulations 1991.  |
| 69. Power to issue near beer licence.<br>(S.I. 2001/2212)   | Sections 16 to 19 and 21 of the London Local Authorities Act 1995 (c.x.) and, to the extent that it does not have effect by virtue of regulation 2(3), section (3), section 25 of that Act. |
| 70. Power to register premises or stalls for the sale of goods by way of competitive bidding.   | Section 28 of the Greater London Council (General Powers) Act 1984 (c.xxvii).   |
| 71. Power to register motor salvage operators.  | Part I of the Vehicles (Crime) Act 2001.  |
| 72. Functions relating to the registration of common land and town or village greens.<br>(S.I. 2008/2787)   | Part I of the Commons Act 2006 and the Commons Registration (England) Regulations 2008.   |
| <p><b>Functions relating to health and safety at work</b></p> <p>Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer.</p> | Part I of the Health and Safety at Work etc. Act 1974 (c. 37).  |

**PART E**  
**SECTION D: Licensing Sub-Committee Delegations**

## Functions and Responsibilities of Licensing Sub Committee in relation to the Licensing Act 2003, the Gambling Act 2005 and the Licensing of Sex Establishments

### 1. Licensing Act 2003

The table below sets out the agreed delegation of decisions and functions of the Licensing Committee, Sub-Committee and Officers. The various delegations include delegation to impose appropriate conditions.

This scheme of delegations is without prejudice to the right of officers to refer an application to a Licensing Sub-Committee or the full Licensing Committee if considered appropriate in the circumstances of any particular case.

Unless there are compelling reasons to the contrary, the Council will require the Licensing Committee or any of its sub-committees to meet in public – although Members can retire in private session to consider their decision.

| <b>Matter to be dealt with</b>                                       | <b>Full Licensing Committee</b> | <b>Licensing Sub-committee</b>                                    | <b>Head of Healthy Communities</b> |
|--|---------------------------------|---|------------------------------------|
| Application for grant or renewal of Personal Licence inc. revocation |                                 | Application for personal licence with unspent convictions         | If no relevant representation made |
| Application for personal licence with unspent convictions            |                                 | All cases   |                                    |
| Application for premises licence/club premises certificate           |                                 | If a relevant representation made<br>Section 18(3), Section 72(3) | If no relevant representation made |
| Application for provisional statement                                |                                 | If a relevant representation made<br>Section 31(3)                | If no relevant representation made |
| Application to vary premises licence/club premises certificate       |                                 | If a relevant representation made<br>Section 35(3), Section 85(3) | If no relevant representation made |
| Application to vary designated premises supervisor                   |                                 | If a police objection<br>Section 39(3)                            | All other cases                    |
| Request to be removed as designated premises supervisor              |                                 |   | All cases                          |
| Application for transfer of premises licence                         |                                 | If a police objection<br>Section 44(5)                            | All other cases                    |

| <b>Matter to be dealt with</b>  | <b>Full Licensing Committee</b> | <b>Licensing Sub-committee</b>  | <b>Head of Healthy Communities</b> |
|---|---------------------------------|---|------------------------------------|
| Applications for Interim Authorities  |                                 | If police objection<br>Section 48(3)  | All other cases                    |
| Decision on whether a complaint is irrelevant frivolous vexatious etc   |                                 |   | All cases                          |
| Decision to object when local authority is a consultee and not the lead authority   |                                 |   | All cases                          |
| Determination of a temporary event notice   |                                 | If a police objection - including powers to serve a counter notice<br>Section 105(2)                | All other cases                    |
| Determination of an application to review a premises licence  |                                 | Application for a review by an interested party or a responsible authority – all cases. Section 51. |                                    |
| Determination of an application to review a club premises certificate   |                                 | Application for a review by an interested party or a responsible authority – all cases. Section 87. |                                    |
| Determination of a review of a premises licence following a closure order   |                                 | Order made a senior police officer or a Magistrates Court – all cases. Section 167.                 |                                    |
| Determination of whether the variations to a Premises Licence applied for pursuant to Section 41A of the Act fall within the definition of “Minor Variations” taking into account the Act and the DCMS Guidance |                                 |   | All cases                          |
| Determination of an Application for a minor variation to a Premises Licence – Section 41A of the Act  |                                 |   | All cases                          |

| <b>Matter to be dealt with</b>  | <b>Full Licensing Committee</b> | <b>Licensing Sub-committee</b>    | <b>Head of Healthy Communities</b> |
|---|---------------------------------|-----------------------------------|------------------------------------|
| Determination of whether the variations to a Club Premises Certificate applied for pursuant to Section 86A of the Act fall within the definition of "Minor Variations" taking into account the Act and the DCMS Guidance  |                                 |                                   | All cases                          |
| Determination of an Application for a minor variation to a Club Premises Certificate – Section 86A of the Act   |                                 |                                   | All cases                          |
| Determination of whether an applicant fulfils the criteria of the statutory definition of "Management Committee" regarding applications made pursuant to Section 25A and 41D of the Act taking into account DCMS Guidance |                                 |                                   | All cases                          |
| Determination of whether a premises falls within the statutory definition of "Community Premises" regarding applications made pursuant to Sections 25A and 41D of the Act taking into account DCMS Guidance               |                                 |                                   | All cases                          |
| Determination of an Application for a new Premises Licence which includes an application for an Alternative Licence Condition – Section 25A of the Act  |                                 | If a relevant representation made | If no relevant representation made |
| Determination of an Application to vary a Premises Licence to include the Alternative Licence Condition or an application which includes an application for the Alternative Licence Condition – Section 41D of the Act    |                                 | If a relevant representation made | If no relevant representation made |

| <b>Matter to be dealt with</b>  | <b>Full Licensing Committee</b> | <b>Licensing Sub-committee</b> | <b>Head of Healthy Communities</b> |
|---|---------------------------------|--------------------------------|------------------------------------|
| Determination of a review of a Premises Licence when held by a management Committee which includes the Alternative Licence Condition – Section 51 of the Act - Review   |                                 | All cases                      |                                    |
| Determination of validity of all applications and administration thereof  |                                 |                                | All cases                          |
| Determination of an application for a Temporary Event Notice where a representation has been received from a relevant person  |                                 | All cases                      |                                    |
| Power to act as responsible authority for the purposes of the 2003 Act  |                                 |                                | All cases                          |
| Authority to suspend licences where licence fees are not paid by the due date.  |                                 |                                | All cases                          |
| Power to impose conditions upon Temporary Event Notices.  |                                 |                                |                                    |
| Power to determine a late Temporary Event Notice including the service of a counter notice where an objection has been received and when the permitted number of TENs has been exceeded..                     |                                 |                                | All cases                          |
| Power to impose conditions upon standard Temporary Event Notices where an objection has been received and the applicant agrees to the imposition of conditions and all parties agree no hearing is necessary. |                                 |                                | All cases                          |
| Power to determine a standard Temporary Event Notice if an objection is received.   |                                 | All cases                      |                                    |
| Power to impose conditions on a standard Temporary Event Notice if an objection has been received.  |                                 | All cases                      |                                    |

| <b>Matter to be dealt with</b>   | <b>Full Licensing Committee</b>                   | <b>Licensing Sub-committee</b>   | <b>Head of Healthy Communities</b>                                     |
|--|---|--|--|
| Power to determine a standard Temporary Event Notice including the service of a counter notice when the permitted number of TENs has been exceeded.  |   |  | All cases other than when an objection has been received.              |
| Authority to vary/amend the Hearings Procedure from time to time as necessary on the basis of changes to law and practice  |   |  | Head of Legal and Democratic Services                                  |
| The consultation provisions contained in Part 10.2 of the Council's adopted Licensing Policy be waived in respect of applications made pursuant to Sections 41A and 86A of the Act for Minor Variations and for applications made pursuant to Sections 41D of the Act for the Alternative Licence Condition when the only variation sought was for the Alternative Licence Condition in place of Mandatory Conditions. |   |  | All cases  |
| Authority to give approval under conditions attached to premises licences and club premises certificates which require Licensing Authority approval.   |   |  | All cases  |
| Authority to give approval under conditions attached to sexual entertainment licences, premises licences and club premises certificates where the condition(s) relate to adult entertainment, and which require Licensing Authority approval.  |   | All cases  |  |
| <a href="#">Applications for Film Classification and Reclassification</a>  | <a href="#">Approve policy, guidance and fees</a> | <a href="#">Applications for classification /re-classification and appeals not dealt with by the Head of Healthy</a> | <a href="#">All applications and appeals in accordance with policy</a> |

|  |  |                             |  |
|--|--|-----------------------------|--|
|  |  | <a href="#">Communities</a> |  |
|--|--|-----------------------------|--|



## 2. Gambling Act 2005

Authority for the following matters delegated as set out (in relation to applications received from 30 April 2007 onwards):

| <b>Matter to be dealt with</b>           | <b>Full Council</b> | <b>Licensing Committee</b> | <b>Sub-Committee</b>   | <b>Director of Services</b>   |
|--|---------------------|----------------------------|--|---|
| Three year licensing policy              | x                   |                            |  |   |
| Policy not to permit casinos             | x                   |                            |  |   |
| Fee Setting – when appropriate           |                     | x                          |  |   |
| Application for Premises Licences        |                     |                            | Where representations have been received and not withdrawn   | Grant where no representations have been received/representations have been withdrawn |
| Application for a Variation to a Licence |                     |                            | Where representations have been received and not withdrawn   | Grant where no representations have been received/representations have been withdrawn |
| Application for a Transfer of a Licence  |                     |                            | Where representations have been received from the Commission | Grant where no representations have been received from the commission                 |
| Application for a Provisional Statement  |                     |                            | Where representations have been received and not withdrawn   | Grant where no representations have been received/representations have been withdrawn |
| Review of a Premises Licence             |                     |                            | x  |   |

| <b>Matter to be dealt with</b>                              | <b>Full Council</b> | <b>Licensing Committee</b> | <b>Sub-Committee</b>                                       | <b>Director of Services</b>   |
|---|---------------------|----------------------------|--|---|
| Application for club gaming/club machine permits            |                     |                            | Where representations have been received and not withdrawn | Grant where no representations have been received/representations have been withdrawn |
| Cancellation of club gaming/club machine permits            |                     |                            | x  |   |
| Applications for other permits                              |                     |                            |  | x   |
| Cancellation of licensed premises gaming machine permits    |                     |                            |  | x   |
| Consideration of temporary use notice                       |                     |                            |  | x   |
| Decision to give a counter notice to a temporary use notice |                     |                            | x  |   |
| Approval and/or amendments to Delegation Scheme             |                     | x                          |  |   |

### 3. Sex Establishments Licences

Authority for the following delegated matters:

| <b>Matter to be dealt with</b>   | <b>Licensing Committee</b> | <b>Licensing Sub</b> | <b>Officer</b>  |
|--|----------------------------|----------------------|---|
| Determination of all valid applications when a valid objection/representation is received or when Officer recommendation is for refusal and the Applicant, Transferee or Licence Holder requests a hearing |                            | All cases            |   |
| Power to determine an application if no objection/representation received.   |                            |                      | Director of Services  |
| Consideration of referrals by the Licensing Officer recommending revocation of a licence.  |                            | All cases            |   |
| Authority to determine whether an objection in relation to licences or Sexual Entertainment Venues is irrelevant, vexatious or frivolous.  |                            |                      | Director of Services  |
| Authority to vary/amend the Hearings Procedure as necessary  |                            |                      | Head of Legal and Democratic Services   |
| Authority to commence prosecution proceedings regarding offences relating to sex establishments.   |                            |                      | Head of Legal and Democratic Services on consultation with the Director of Services |

## **PART E**

### **SECTION E: The Cabinet, Leader and Cabinet Members Role and Scheme of Delegations**

## 1. The Cabinet

### 1.1 Role

The Cabinet will be responsible for the discharge of the executive functions defined in Part A of this Constitution and in accordance with the Cabinet Procedure Rules in Part B of this Constitution.

Individual Cabinet Members may only have delegated to them decisions within their defined portfolio which are not otherwise delegated to Officers or reserved to the full Council or Cabinet.

### 1.2 Terms of Reference

To guide the Council in the formulation of its policy framework, including the setting of the budget and council tax levels. To discharge in accordance with the Council's policy framework all those executive functions not discharged either by a Cabinet Member or through delegations to Officers.

## 2. Leader of the Council (and the Deputy Leader in the Leader's absence)

Responsible for Strategy and Direction of the Council; Political Leadership; Public Profile and Regional Representation.

### 2.1 Delegated Functions/Responsibilities

- To appoint a Deputy Leader and Cabinet Members;
- To determine which matters shall be decided by the Cabinet collectively and which shall be delegated to Cabinet Members;
- To discharge or arrange to be discharged the executive functions of the Council;
- To delegate the discharge of any executive functions within the remit of a portfolio to that Cabinet Member;
- To delegate the discharge of the executive functions to an Officer of the Council;
- To have principal responsibility for the policy direction of the Council;
- To chair meetings of the Cabinet and oversee the preparation of business for its consideration;
- To be the principal spokesperson for the Council;
- Promotion of the vision for South Bucks and the key aims;
- Public relations and corporate marketing;
- Performance assessment and improvement;
- Performance management and publication of performance indicators;
- Business transformation and service reviews;
- New business development;
- Financial Strategy;
- Personnel, and matters related to the LGPS;
- ~~Economic Development;~~
- Change management - employee and customer engagement, leadership and organisational development;
- Progressing other change initiatives within the organisation and encouraging adoption of the Council's aspirations and values;

- Initiatives for collaborative working with other Councils and organisations;
- To represent the Council at the Local Government Association and the Local Enterprise Partnership; and
- To take any decisions delegated to any Cabinet Member in the absence or inability to act of that Member.

### 3. Deputy Leader

The Cabinet Member appointed as Deputy Leader shall exercise all those matters delegated to the Leader in his/her absence.

### 4. Cabinet Members

Where executive functions are not reserved to the Council or to Cabinet or Officers, they are Cabinet Member matters in accordance with the portfolios set out in the Constitution.

The Leader of the Council shall determine which is the appropriate Cabinet Member to deal with a matter in cases of uncertainty.

Recommendations shall be made to Cabinet on matters which impact on the work of more than one Cabinet Member.

The following areas of responsibility are included in the matters which may be determined by the Cabinet Member (subject to the limitations set out in the scheme of delegation to Cabinet Portfolio Holders):

- To consider reports prepared by Officers and to make any decisions in accordance with the procedures as set out in the constitution;
- To consider draft reports in respect to their portfolio with the relevant director or heads of service;
- To determine how expenditure on services should be undertaken within approved budgets;
- To monitor service delivery, performance and budgets;
- To agree responses to consultations; and
- To approve schemes for which external funding has been agreed and which fall within their portfolio.

### 5. Cabinet Member/Portfolio Holder for **Planning and Economic Sustainable Development**

Responsible for functions including:

- Strategic planning and Duty to Co-operate issues (e.g. housing, infrastructure, transport, minerals, waste, gypsies and travellers, etc.);
- Strategic Transportation Issues
- Commenting on and providing an input into the policy documents of other organisations (e.g. BTVLEP);
- Planning policy framework and guidance (e.g. Local Plans, Supplementary Planning Documents, Development & Design Briefs, Design Guidance, evidence base, etc.);

- Major infrastructure proposals/projects;
- Neighbourhood Plans;
- Development Management & Enforcement (which are not the responsibility of the Planning Committee );
- Planning Appeals;
- Planning Enforcement;
- Planning Administration;
- Tree Preservation Orders and tree matters;
- Conservation Areas & the historic environment;
- Historic Buildings;
- Building Control; ~~and~~
- ~~Dangerous structures;~~
- ~~Economic Development; and~~
- ~~HS2.~~

### 5.1 Specific matters concerning which only recommendations to Cabinet can be made

- Designation of Conservation Areas

### 5.2 Matters reserved to full Council

- With the exception of supplementary planning documents, the approval of any documents comprising the Development Plan / Local Development Framework.

## 6. Cabinet Member/Portfolio Holder for Healthy Communities

Responsible for Community functions including:

- Sport and leisure;
- Community Development Grants and SLA's with the Voluntary Sector;
- Supporting younger and older people;
- Partnership working with the voluntary community sector and statutory agencies to empower the community;
- Community Safety and Crime Reduction;
- Prevent, Community Cohesion and Equalities;
- ~~Farnham Park Playing Fields;~~
- ~~The South Buckinghamshire Golf Course;~~
- ~~The South Buckinghamshire Academy Golf Course;~~ and
- Leisure Centre Management and Sports Development.

Responsible for Health & Housing functions including:

- Housing Services (enabling, homelessness and standards) - except targets for overall house building which is the responsibility of the Cabinet Member for Sustainable Development;
- Health & Safety;
- Health and Wellbeing;
- Housing Financial Assistance (grants and Loans);
- Prevention and Control of ASB and Statutory Nuisances and Environmental Protection;
- Food Safety and Food Law enforcement;

- Public Health (Disease Control, Environmental Hazards, Public Health Burials) ;
- Animal Welfare;
- Licensing functions which are not the responsibility of the Council;
- Sustainability – Carbon Management, Climate Change, Home Energy Efficiency;
- Pest & Dog Control; and
- Civil Emergencies.

### 6.1 Specific Matters Concerning Which Only Recommendations To Cabinet Can Be Made

- Concessionary travel arrangements

### 6.2 Matters Reserved To Council

- Approval of Community Safety Annual Partnership Plan;
- Approval of Community Development/Cohesion Plan
- Approval of Housing / Homelessness Strategy;
- Approval of Choice Based Letting Scheme;
- Approval of Local Lettings Policy;
- ~~Approval of Food Service Delivery Plan;~~
- ~~Approval of Health and Safety Enforcement Plan; and~~
- ~~Approval of Sustainable Community and Wellbeing Plan Strategy~~
- ~~Approval of the Corporate Enforcement Policy.~~

## 7. Cabinet Member/Portfolio Holder for Environment

Responsible for functions including:

- Waste collection and recycling;
- Street Environment;
- Damaged and Threatened Land;
- Chiltern AONB;
- Open spaces and common land (except for those for which the Cabinet Member ~~for Resources of Healthy Communities~~ is responsible);
- Grass Cutting, horticultural and street cleansing contracts;
- Street Naming & Numbering;
- Management of the countryside and environment improvements;
- Environment Policy;
- Public Conveniences;
- Strategic Flood Management;
- Setting of Burial Expenses and Fees;
- Stoke Poges Memorial Gardens; and
- ~~Cemeteries.~~
- ~~Car parking and Council car parks~~

### 7.1 Specific Matters Concerning Which Only Recommendations To Cabinet Can Be Made

~~Charging policies for car parking~~

### 7.2 Matters Reserved To Council



- Approval of Joint Waste Strategy; and
- Approval of Car Parking strategy.

## 8. Cabinet Member/Portfolio Holder for Resources

Responsible for functions including:

- Capital programme, asset (incl land) and Treasury~~Investment~~ Management;
- ~~Car parking and Council car parks;~~
- Finance including banking and insurance affairs;
- ~~Information and Communications Technology;~~
- ~~Legal Services;~~
- ~~Council Owned Companies~~
- ~~Farnham Park Sports Fields, South Buckinghamshire Golf Course, The Academy~~
- ~~Purchase, disposal, management and leasing of land and property other than land :-~~
- ~~in the operational control of another Cabinet Member;~~
- ~~to be purchased by compulsory purchase order and/or;~~
- ~~to be disposed of/leased at a concessionary figure unless such arrangements are in the commercial interests of the Council.~~
- Property & Facilities Management;
- Executive & Support;
- ~~Customer Services;~~
- Democratic Processes & Committee Services;
- Internal Audit, Risk Management, Business Continuity and Fraud;
- Corporate Management Costs;
- ~~Housing benefits;~~
- ~~Council tax & NNDR;~~
- ~~Overall coordination of business planning processes;~~ and
- Procurement.

### 8.1 Specific Matters Concerning Which Only Recommendations To Cabinet Can Be Made

- The establishment of a corporate plan and broad budgetary priorities in consultation, as necessary, with other Cabinet Members; and
- Terms for disposal of assets (see Fin. Reg. 5 for limits).
- ~~Charging policies for car parking~~

### 8.2 Matters Reserved To Full Council

- Annual Budget;
- The determination of the annual Capital budget and its resourcing;
- ~~Supplementary expenditure which cannot be found from within existing budgetary provision, including earmarked reserves;~~
- Medium Term Financial Strategy
- Approval of the Treasury Management Strategy;
- ~~Approval of the IT Strategy;~~
- ~~Approval of the Council's Annual Report;~~

- Approval of the Asset Management Plan; and
- Approval of the Corporate Plan .

## **9. Cabinet Member/Portfolio Holder for Customer and Business Support**

Responsible for functions including:

- Information and Communications Technology
- Customer Services
- Revenues and Benefits Client
- Revenues and Benefits operation
- Fraud and Welfare partnership
- Housing Benefits
- Council Tax and NNDR

### **9.1 Specific matters concerning which only recommendations to Cabinet can be made**

- None

### **9.2 Matters reserved to full Council**

- Determination of Council Tax levels and the annual budget
- Approval of the ICT Strategy
- Approval of Customer Experience Strategy

## 10. Scheme of Delegation to Cabinet Portfolio Holders

### 10.1 Limits of Cabinet Portfolio Decision

The Council has defined a Key decision as a decision which:

- 1) Has an income or expenditure effect of £50,000 or more.
- 2) Is likely to have a significant effect on more than one ward.

Excluded from paragraph (1) above are contracts for and expenditure on repairs, maintenance and improvements works within budget provision and approved policy where the contract or expenditure has either been properly and specifically approved by or on behalf of the Cabinet or by an Officer acting under delegated powers, save where Contract Standing Orders require the Cabinet itself to authorise acceptance of a tender and such acceptance has not previously been authorised or delegated by the Cabinet.

A non-key decision is therefore a decision that does not meet the above criteria i.e. has an expenditure or income effect of less than £50,000 and affects only one ward.

The Leader has agreed a Scheme of Delegation which authorises Cabinet Portfolio Holders to make non-key decisions provided:

- 1) The matter on which the decision is to be made has not been delegated to an Officer under the Scheme of Delegation in which event the procedure set out in Part E (Officer Scheme of Delegation) will be followed.
- 2) Subject to the urgency procedure (Rules 16 and 17, Access to Information Procedure Rules in Part B) the matter in respect of which the decision is to be made is included in the Forward Plan.
- 3) The matter falls within their Portfolio as detailed above.
- 4) Subject to the urgency procedure, the matter is included in an agenda published and circulated to members of their respective PAG (or PAGs if the matter significantly affects issues covered by other Portfolio Holders) in accordance with the Protocol for the Operation of PAG set out in Part C.
- 5) The advice of their respective Policy Advisory Group has been sought.
- 6) The decision is taken within 2 working days from the time the advice of the PAG was given. If a decision is not taken within the 2 working days the matter will be referred to the Cabinet for determination.
- 7) Subject to the urgency procedure the decision is not implemented until the call-in period (as set out in Rule 4, Overview and Scrutiny Procedure Rules Part B) has expired.

## **PART E**

### **SECTION F: Scheme of Delegations to Officers Methodology, General Limitations and Powers**

## 1. Note on Methodology

- 1.1 Delegations are listed by named Officer commencing with the Chief Executive.
- 1.2 Each delegation is identified by the letter "C" or "E" followed by a number. The letter "C" indicates that the function or matter delegated is the responsibility of full Council or a Committee or Sub-Committee of full Council. The letter "E" indicates that the function or matter delegated is the responsibility of the Cabinet.
- 1.3 Each named Officer has been allocated up to 50 possible delegation numbers as follows:

|   |         |
|---|---------|
| Chief Executive                           | 1-50    |
| Director of Resources                     | 101-150 |
| Director of Services                      | 151-200 |
| Head of Planning and Economic Development | 201-250 |
| Head of Environment                       | 251-300 |
| Head of Finance                           | 301-350 |
| Head of Healthy Communities               | 351-400 |
| Head of Business Support                  | 401-450 |
| Head of Legal and Democratic Services     | 451-500 |
| Head of Customer Services                 | 501-550 |
| Building Control Manager                  | 551-600 |

This allows for future variations in the number of delegations given to a named officer by the Council or one of its Committees/Sub-Committees or the Cabinet.

- 1.4. Delegations by the Council or the Cabinet to external bodies or persons (other than by joint arrangements) have been allocated delegation numbers 551 to 600 and are set out in Part E of this Scheme of Delegations.
- 1.5 Examples:

|                 |   |
|-----------------|---|
| Delegation C1   | To carry out the duties of Head of the Paid Service   |
| Delegation E105 | To act as Senior Information Risk Officer and have overall responsibility for the Council's risk management |
| Delegation C301 | To be responsible for payroll and implementing awards concerning wages, salaries and conditions of service  |
| Delegation E508 | Day to day responsibility for Customer Services   |

- 1.6. In so far as it relates to functions which are the responsibility of the Council or one of its Committees or Sub-Committees, the following Scheme of Delegation was approved by full Council on xxxx 2018 as amended/added to from time to time.
- 1.7. In so far as it relates to functions which are the responsibility of the Cabinet or a Committee of the Cabinet, the following Scheme of Delegations was approved by the Cabinet on xxx 2018 as amended/added to from time to time.

## **2. General Limitations on the Exercise of Delegated Powers**

- 2.1. Where decisions are taken or powers are exercised by Officers in pursuance of authority delegated to them by full Council or the Cabinet, the following shall apply:
- 1) Decisions shall be made and powers shall be exercised in accordance with any statutory requirements, the approved budget, any policies and plans approved by the Council, and the various Procedural Rules set out in Part B of this Constitution, including without limitation, the Access to Information Rules, Financial Procedure Rules, Contract Procedure Rules and Budget and Policy Framework Procedure Rules.
  - 2) Where the making of a decision or the exercise of a power would be contrary to, or not in accordance with, the Budget and Policy Framework (as defined in the Access to Information Procedure Rules set out in Part B of this Constitution), unless the matter is urgent, it shall be referred to the Cabinet. In all other cases, the making of a decision or the exercise of a power that would result in a departure from established policy shall be referred to the Cabinet or a Committee/Sub-Committee as appropriate.
  - 3) Any power delegated to an Officer may also be exercised to the same extent by any other body or person with concurrent responsibility for the discharge of the function or delivery of the service in question, unless the discharge of that function or delivery of that service is restricted by law to the Officer named herein.
  - 4) Decisions taken by Officers in pursuance of delegated powers shall be reported, as appropriate, to full Council or one of its Committees or Sub-Committees or to the Cabinet when required to do so by the terms of the Access to Information Rules or the other Procedural Rules set out in Part B of this Constitution.
  - 5) Authority to take action or to do or omit to do anything pursuant to any of the delegations granted by this Scheme shall include the power to take any preliminary or consequential action in order to give effect to the exercise of the relevant delegation.
  - 6) Officers must consider in what circumstances it might be appropriate to consult Members such as the relevant Cabinet Portfolio Holder, Committee Chairman or local Members before taking a decision. If such a Member objects to the proposed decision the matter must be reported to the Cabinet or relevant decision-making body for consideration unless there is specific provision for dealing with objections within a particular delegation.
  - 7) The Cabinet or relevant Cabinet Portfolio Holder may reserve a decision about a particular matter to them or require that an officer refrains from exercising a delegated authority.

- 8) Where the Scheme delegates powers and duties within overall functional descriptions the exercise of a delegation applies to functions in a broad and inclusive manner and includes the doing of anything that will facilitate or is conducive or incidental to the discharge of any of the specified functions.
- 9) An officer may consider that a delegated authority should not be exercised and that a matter should be referred to the relevant Cabinet Portfolio Holder or decision making body for determination.
- 10) An Officer must not exercise delegated powers in relation to any matter in which they have a personal interest.

### **3. General Powers of Chief Executive, Directors and Heads of Service**

- 3.1 The Chief Executive, all Directors and Heads of Service have delegated power in respect of the following:

#### **Financial**

- 1) To incur expenditure within approved capital and revenue budgets.
- 2) To remit or reduce charges normally paid for council services when there are exceptional or special circumstances justifying the remission or discount in consultation with the relevant cabinet member of committee chairman if the remission is greater than £500.
- 3) To determine the fees and charges to be levied for all council charges excluding car parking charges in consultation with the relevant Cabinet Portfolio Holder or committee chairman.
- 4) To settle small compensation payments up to a value of £500 where a complaint has been agreed through the Council's complaints procedure.
- 5) With the exception of community grants, to award grants up to a maximum of £5,000 in consultation with the relevant Cabinet Portfolio Holder.
- 6) To prepare and submit applications to external bodies and organisations for grant funding on behalf of the council

#### **Land, property and assets**

- 7) To incur expenditure on any item or service, including acquisition of land, or property, vehicle, plant and equipment up to £50,000 and in consultation with the relevant Cabinet Portfolio Holder where the proposed expenditure exceeds £50,000.
- 8) To serve notices to obtain particulars of persons' interests in land.
- 9) To serve notices under any enactment and take follow up action.

- 10) To grant permission to carry out works on the council's land in consultation with the relevant Cabinet Portfolio Holder and local members.
- 11) To declare as surplus and sell assets up to a book value of £10,000 in consultation with the relevant Cabinet Portfolio Holder.

### **Legal**

- 12) To serve notices, make orders take enforcement action and respond to consultations under the provisions of the Anti-Social Behaviour Act 2003.
- 13) Without prejudice to any specific delegation in the scheme to authorise the issue and service of any statutory notice or requisition relating to any matters within their areas of responsibility including obtaining particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1971 and /or section 330 of the Town and Country Planning Act 1990 as appropriate, and to take any associated enforcement action and authorise default works.
- 14) Without prejudice to any specific delegation in the scheme to act as the proper officer for the authorisation of any statutory notices, any requisitions, Orders or other documents which are issued and served relating to any matter within their area of responsibility.
- 15) To approve the copying of documents for the purposes of the copyright, designs and patents legislation.
- 16) Without prejudice to any specific delegation in the scheme to authorise the commencement, continuation, defence, discontinuance or settlement of any legal proceedings (other than high court proceedings or above) relating to any matters within their areas of responsibility in consultation with the Head of Legal and Democratic Services.
- 17) Subject to the rules of court to authorise members of staff to attend, appear as witnesses and represent the council in any legal proceedings in court, public inquiries, tribunals or other hearings.
- 18) To authorise under section 223 of the Local Government Act 1972 (as amended) officers to appear on behalf of the council in proceedings before the magistrates' courts.
- 19) Where any officer has delegated powers to authorise legal proceedings that power also includes the power to administer simple cautions (previously known as formal cautions).
- 20) Without prejudice to any specific delegation in the scheme to determine any applications for permissions, consents, licences or registrations within their area of responsibility.



- 21) Without prejudice to any specific delegation in this scheme to grant, renew, refuse or cancel any authority in writing to members of staff who may exercise any statutory power of inspection and entry onto land or property (including inspection of buildings, premises and vehicles). Such written authority shall allow the authorised person to exercise all the relevant statutory powers of such an authorised officer.
- 22) To release information under the Data Protection Act 1998, Freedom of Information Act 2000 and Environmental Information Regulations 2004, in consultation with the Corporate Information Officer in respect of applying any exemptions.
- 23) To sign a statement of truth on behalf of the Council under the civil procedure rules.
- 24) To make planning applications including listed building, conservation areas and advertisement consents and footpath diversions in consultation with the relevant Cabinet Portfolio Holder in the case of major projects.
- 25) To make any applications for any orders and other applications such as building control.

### **Staffing matters**

- 26) To enter into agreements under section 113 of the Local Government Act 1972 to place staff at the disposal of other councils or to receive the services of staff of other councils in consultation with the relevant Cabinet Portfolio Holder.
- 27) To take any action required or authorised under the Council's recruitment and selection policies and procedures.
- 28) To determine applications to extend an employee's contractual period of sick leave in consultation with the relevant Director.
- 29) To determine applications for leave of absence without pay in consultation with the relevant Director.
- 30) To agree flexible working patterns in accordance with agreed council policies.
- 31) To authorise the working and payments for employees undertaking standby duties and for overtime.
- 32) To approve applications for annual, compassionate, special or other leave.
- 33) To enter into apprenticeships or similar agreements in consultation with the HR Manager.

- 34) To authorise reimbursement of employees for mileage, subsistence and other expenses incurred by staff in carrying out their duties.
- 35) To undertake disciplinary action in accordance with the Council's disciplinary policies and procedures.
- 36) To authorise the attendance by employees at meeting, training sessions, seminars, exhibitions and conferences and to attend training on day release courses in pursuit of relevant professional or other qualifications.

#### **Contracts, purchases, plant, stock, equipment and materials**

- 37) To take any action authorised by the Council's Contract Procedure Rules and Financial Procedure Rules.
- 38) To sign on the Council's behalf any contract for works, goods or services subject to compliance with relevant requirements in the Contract Procedure Rules.
- 39) To accept, renew and vary contracts for the maintenance of equipment within the annual estimates.
- 40) To dispose of surplus furniture, materials, stores or equipment in accordance with Financial Procedure Rules and Contract Procedure Rules.
- 41) To hire plant subject to inclusion of the cost of hire within approved budgets.

#### **Miscellaneous**

- 42) To hold, arrange or facilitate community schemes or projects which are in accordance with any approved Plan or Strategy, including approving attendance or allocating places on such schemes or projects, provided the budget estimates are not exceeded.
- 43) Within their areas of responsibility to take all actions that the Council is required to take to comply with mandatory legislative requirements.
- 44) To take all necessary action in respect of lost or uncollected property found on any Council owned or managed buildings or premises under the powers contained in Section 41 of the Local Government (Miscellaneous Provisions) Act 1982, following consultation with the Head of Legal and Democratic Services.
- 45) To respond to consultation documents within their areas of responsibility in consultation with the appropriate Cabinet Portfolio Holder or Committee Chairman (as the case may be).
- 46) To undertake any roles or functions allocated under any council policies or procedures including responsibility for business continuity in respect of their areas of responsibility and the operational management of emergency planning (section

138 of the Local Government Act 1972) under the general direction of the Emergency Planning Officer.

- 47) Responsibility under the Health and Safety at Work etc Act 1974 for the operational management and implementation of all Regulations and Codes of practice in respect of employees under their direction and control and for compliance with Council health and safety policies.
- 48) To make minor amendments to strategies/policies after approval by cabinet/council prior to publication.
- 49) To instruct consultants and other agents (other than counsel or outside solicitors) to advise or otherwise assist the council in connection with any work of the council subject to compliance with relevant requirements in the Contract and Financial Procedure Rules.

3.2 Delegation to any Officer in this Scheme is subject to the over-riding proviso that the Chief Executive may:

- 1) direct the Officer concerned not to exercise the delegation but to report to the Cabinet or appropriate PAG, Committee or Sub-Committee for instructions; or
- 2) exercise the delegation himself/herself.

3.3 A delegation to a Head of Service is also subject to the over-riding proviso that the appropriate Director may:

- 1) direct the Head of Service concerned not to exercise the delegation but to report to the Cabinet or appropriate PAG, Committee or Sub-Committee for instructions; or
- 2) exercise the delegation himself.

3.4 In the absence of the Chief Executive any of the powers granted to him by this Scheme of Delegations may be exercisable by the Director of Resources or the Director of Services.

3.5 Any delegation granted by this Scheme of Delegations to a Head of Service may, with the consent of the appropriate Director, be exercised by a subordinate officer acting under the instruction or supervision of the Head of Service or appropriate Director.

3.6 Reference in these delegations to any Statute, Statutory Instrument or Regulation shall be deemed to include any statutory re-enactment or modification thereof.

#### 4. Delegations to Individual Officers

| <b>Officer</b>         | <b>Delegation</b>   | <b>Limits on Delegation</b>  | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
|------------------------|---|--|----------------------------------|------------------------------------|
| <b>Chief Executive</b> | To carry out the duties of Head of the Paid Service (section 4 of the Local Government and Housing Act 1989) which includes all necessary powers for co-ordinating the discharge of functions, exercising overall management responsibility for staff and acting as the Proper Officer for the purposes of Section 2 and 21 (regarding list of politically restricted posts); | Note – Council to appoint Head of Paid Service – Officer Employment Procedure Rules.   | C1                               |                                    |
|                        | To determine the council's establishment, numbers of staff, remuneration and deployments and agree terms and conditions for the employment of staff.  | Fundamental changes to the organisation structure to be agreed by Joint Staffing Committee.  | C2                               |                                    |
|                        | Authority to take such steps as are necessary to ensure that in the recruitment, remuneration and termination of employment of staff and in the conditions of service generally, the Council complies with all relevant mandatory legislation.  |  | C3                               |                                    |
|                        | To approve any redundancies, retirements, settlement of claims, secondments, unpaid leave request, pensions related matters, annual increments and any other employment related matters.  | In consultation with the Cabinet Leader or in his/her absence the Deputy Leader for settlement of claims.<br><br>Proposals for enhanced benefits to be determined by Staffing Sub-Committee. | C4                               |                                    |
|                        | Authority to sign offers and contracts of employment.   |  | C5                               |                                    |
|                        | In any month when a Committee or Sub- Committee of the Council does not meet, to take any action required to give effect to the duties powers and functions of that Committee or Sub-   | In consultation with the appropriate Committee Chairman and subject to the action being reported to the next available meeting of the  | C6                               |                                    |

| <b>Officer</b> | <b>Delegation</b>  | <b>Limits on Delegation</b>  | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
|----------------|--|--|----------------------------------|------------------------------------|
|                | Committee.   | Committee/Sub-Committee.   |                                  |                                    |
|                | In cases of urgency to take any action required to give effect to the powers and duties of the Cabinet.  | In consultation with the Cabinet Leader or in his/her absence the Deputy Cabinet Leader and subject to the action taken being reported to the next available meeting of the Cabinet. |                                  | E1                                 |
|                | In the period between the date of the election of councillors and the day following the subsequent Annual General Meeting of Council to exercise any of the duties and powers of the Council or the Cabinet or any of their Committees or Sub- Committees. | In consultation with the Chairman of the Council or in his/her absence the Vice Chairman of the Council.   | C7                               | E2                                 |
|                | In connection with any application for the post of Director or Head of Service in his/her department, to prepare long lists and interview and shortlist suitable candidates for consideration by Joint Staffing Committee.                                 | In consultation with the HR Manager.   | C8                               |                                    |
|                | Authority to approve attendance by Members at appropriate Conferences/Seminars and the payment of travel and subsistence in connection therewith subject to there being adequate budgetary provision.  |  | C9                               | E3                                 |
|                | Overall responsibility for the implementation of the Council's Health and Safety Policies.   |  |                                  | E4                                 |
|                | Overall responsibility for implementation of the Council's Safeguarding Policies.  |  |                                  | E5                                 |
|                | Authority to conduct Parish Polls demanded under The Parish and Community Meetings (Polls) Rules 1987 as the Returning Officer.  |  | C10                              |                                    |

| Officer | Delegation   | Limits on Delegation  | Council Delegation Number | Executive Delegation Number |
|---------|--|---|---------------------------|-----------------------------|
|         | To carry out the duties of the Electoral Registration Officer and Returning Officer.   |   | C11                       |                             |
|         | Authority to respond to neighbouring local authorities and other external organisations on non- strategic proposals.   | In consultation with the appropriate Cabinet Portfolio holder.  |                           | E6                          |
|         | To represent the Council on partnerships and external bodies as required by statute or by the Council.   |   | C12                       | E7                          |
|         | To carry out the duties of the Emergency Planning Officer with all necessary power to act and incur expenditure.   |   | C13                       |                             |
|         | Authority to waive the Financial Procedure Rules where expenditure is incurred in direct support of a major emergency, direct action in connection with the Enforcement of Planning Control or other appropriate incident ( be it internal or external to the Council) where it is impractical or inappropriate to invoke them.  | Where it is impractical or inappropriate to invoke them, to report the action to the next available meeting of the Council or Cabinet (as appropriate). | C14                       | E8                          |
|         | <p>The following staffing matters are delegated to be exercised collectively with the other members of the Management Team:</p> <ul style="list-style-type: none"> <li>• Accelerating staff within linked grades;</li> <li>• Payment of honoraria;</li> <li>• Payment of performance related pay;</li> <li>• Employment of temporary staff for holidays, maternity absences and for peak workloads provided the cost is within the estimates;</li> <li>• Authorising changes to grades, where a review of the</li> </ul> |   | C15                       |                             |

| <b>Officer</b> | <b>Delegation</b>  | <b>Limits on Delegation</b> | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
|----------------|--|-----------------------------|----------------------------------|------------------------------------|
|                | <p>department or part of the department results in minor structural changes, (subject to no additional cost being incurred);</p> <ul style="list-style-type: none"> <li>• Authorising any individual grade change arising from job evaluation following changed duties and responsibilities;</li> <li>• Authorising minor changes to current conditions of service, providing these are achieved by agreement with the employees concerned;</li> <li>• Approving essential and casual user car allowances;</li> <li>• Reviewing and determining the levels of travelling and subsistence allowances;</li> <li>• Reviewing and determining the car loan interest rate when providing assistance to purchase a car; and</li> <li>• Dealing with employees' claims for compensation.</li> </ul> |                             |                                  |                                    |
|                | <p>Service Responsibilities:</p> <ol style="list-style-type: none"> <li>1) Human Resources</li> <li>2) Communications, Policy and Performance</li> </ol>   |                             |                                  | E9                                 |

| <b>Officer</b>               | <b>Delegation</b>   | <b>Limits on Delegation</b>                                    | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
|------------------------------|---|--|----------------------------------|------------------------------------|
| <b>Director of Resources</b> | To carry out the functions and duties of the Chief Finance Officer imposed by Section 151 of the Local Government Finance Act 1988.   |  | C101                             |                                    |
|                              | Responsibility for the Farnham Park Sportsfield Trust   |  |                                  | E101                               |
|                              | To lead and direct the range of services in the Directorate and resources allocated to the Directorate in accordance with the Councils policies and procedures.   |  |                                  | E102                               |
|                              | To be responsible for performance review issues, progressing achievement against strategic objectives and delivering on major projects within the Directorate.  |  |                                  | E103                               |
|                              | Leading programmes of change and development.   |  |                                  | E104                               |
|                              | To act as Senior Information Risk Officer and have overall responsibility for the Council's risk management.  |  |                                  | E105                               |
|                              | Authority to respond to consultations from neighbouring local authorities and other external organisations on non-strategic proposals.  | In consultation with the appropriate Cabinet Portfolio holder. |                                  | E106                               |
|                              | Writing off any irrecoverable debt in accordance with the Council's Financial Procedure Rules.  |  |                                  | E107                               |
|                              | In connection with any application for the post of Head of Service in his/her Directorate, to prepare long lists and interview and shortlist suitable candidates for consideration by Joint Staffing Committee. | In consultation with the Chief Executive and HR Manager.       |                                  | E108                               |



| <b>Officer</b>              | <b>Delegation</b>  | <b>Limits on Delegation</b>   | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
|-----------------------------|--|---|----------------------------------|------------------------------------|
| <b>Director of Services</b> | To lead and direct the range of services in the Directorate and resources allocated to the Directorate in accordance with the Councils policies and procedures.  |   |                                  | E151                               |
|                             | To be responsible for performance review issues, progressing achievement against strategic objectives and delivering on major projects within the Directorate.   |   |                                  | E152                               |
|                             | To lead programmes of change and development.  |   |                                  | E153                               |
|                             | To respond to neighbouring local authorities and other external organisations on non- strategic proposals including Local Plans from neighbouring authorities and Neighbourhood Planning matters.  | In consultation with the appropriate Cabinet Portfolio Holder.  |                                  | E154                               |
|                             | Authority to respond to consultation documents on local/regional transport proposals   | In consultation with the appropriate Cabinet Portfolio holder.  |                                  | E155                               |
|                             | Authority to take binding decisions or actions in relation to the implementation of the Development Plan and Infrastructure Delivery Schedule where statutory timetables or non- negotiable closing dates do not permit prior reporting to the Cabinet or the Council. | In consultation with the appropriate Cabinet Portfolio holder and subject to an information report being submitted to the next ordinary meeting of the Cabinet. | C151                             | E156                               |
|                             | In connection with any application for the post of Head of Service in his/her Directorate, to prepare long lists and interview and shortlist suitable candidates for consideration by Joint Staffing Committee.  | In consultation with the Chief Executive and HR Manager.  | C152                             |                                    |
|                             | Responsibility for implementation of the Council's Safeguarding Policies.  |   |                                  | E158                               |

| <b>Officer</b> | <b>Delegation</b>  | <b>Limits on Delegation</b>                                 | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
|----------------|--|---|----------------------------------|------------------------------------|
|                | Matters of routine planning business and those requiring urgent decisions between meetings | Subject to Consultation with the Planning Consultative Body | C153                             |                                    |

| Officer   | Delegation  | Limits on Delegation   | Council Delegation Number | Executive Delegation Number |
|---|---|--|---------------------------|-----------------------------|
| <p><b>Head of Planning and Economic Development</b></p> <p>The delegations hereby given to grant approvals includes the power to attach conditions.</p> <p>Reference to the Acts shall include any statutory modifications or re-enactments thereof</p> | <p><b>Determination of Applications</b></p> <p>Authority to approve in accordance with the provisions of the relevant development plan and In the light of other relevant material considerations any application or notification submitted under the Town and Country Planning Act 1990 and associated legislation, where no material planning objections have been received</p> | <p>An application by a Member or Officer of the Council will not be subject to these delegation arrangements but will be reported to the Committee (or Consultative Body) for determination.</p> <p>Delegated authority shall not be exercised in any case where a Member of the Committee has specifically requested, for sound policy reasons, that the matter be referred to the Committee for determination, and that such request has been notified to the Development Control Unit within 27 days of the date that the application is registered. Where a Member requests that the Committee undertake a site visit, the request is subject to the agreement of the Chairman of the Committee</p> <p>Delegated authority referred shall not be exercised In any case whereby the recommended decision may run counter to an earlier decision taken by the Committee to undertake enforcement action against the relevant development</p> | C201                      |                             |
|   | <p>Authority to refuse in accordance with the provisions of the relevant</p>  | <p>Delegated authority shall not be exercised in</p>   | C202                      |                             |

| <b>Officer</b> | <b>Delegation</b>   | <b>Limits on Delegation</b>  | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
|----------------|---|--|----------------------------------|------------------------------------|
|                | development plan and in the light of other relevant material considerations any application or notification submitted under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 and associated legislation, notwithstanding any representations of support that may have been received  | any case where a Member of the Committee has specifically requested, for sound policy reasons, that the matter be referred to the Committee for determination, and that such request has been notified to the Development Control Unit within 27 days of the date that the application is registered. Where a Member requests that the Committee undertake a site visit, the request is subject to the agreement of the Chairman of the Committee  |                                  |                                    |
|                | Authority to approve in accordance with the provisions of the relevant development plan and in the light of other relevant material considerations any application submitted under the Planning (Listed Buildings and Conservation Areas) Act 1990 and associated legislation, notwithstanding any representations of objection that may have been received, but subject to the Conservation and Design Officer finding the proposal acceptable | Delegated authority shall not be exercised in any case where a Member of the Committee has specifically requested, for sound policy reasons, that the matter be referred to the Committee for determination, and that such request has been notified to the Development Control Unit within 27 days of the date that the application is registered. Where a Member requests that the Committee undertake a site visit, the request is subject to the agreement of the Chairman of the Committee<br><br>Delegated authority | C203                             |                                    |

| Officer | Delegation  | Limits on Delegation   | Council Delegation Number | Executive Delegation Number |
|---------|---|--|---------------------------|-----------------------------|
|         |   | referred shall not be exercised in any case whereby the recommended decision may run counter to an earlier decision taken by the Committee to undertake enforcement action against the relevant development  |                           |                             |
|         | Authority to determine any application for a certificate of lawfulness for an existing development, taking account of any Information that may be provided by local Members and following consultation with the Head of Legal & Democratic Services                                       |  | C204                      |                             |
|         | Authority to determine any applications for a certificate of Lawfulness for a proposed development.   |  | C205                      |                             |
|         | Authority to determine in accordance with the provisions of the relevant development plan and in the light of other relevant material considerations any application for consent to display advertisements, notwithstanding any representations of objection that may have been received. | Delegated authority referred shall not be exercised in any case where a Member of the Committee has specifically requested, for sound policy reasons, that the matter be referred to the Committee for determination, and that such request has been notified to the Development Control Unit within 27 days of the date that the application is registered. Where a Member requests that the Committee undertake a site visit, the request is subject to the agreement of the Chairman of the | C206                      |                             |

| Officer | Delegation   | Limits on Delegation  | Council Delegation Number | Executive Delegation Number |
|---------|--|---|---------------------------|-----------------------------|
|         |  | Committee   |                           |                             |
|         | (Authority to formulate the Council's appeal case as a basis for advising the Planning Inspectorate and appellants of the District Planning Authority's submissions in respect of any appeal lodged against a decision of the District Planning Authority, delegated or otherwise, or any non-determination appeal     |   | C207                      |                             |
|         | Authority to renew permission/consent, or to grant a further permission/consent for an amended form of development, in cases where there has been no material change in circumstances since the grant of the previous permission/consent, notwithstanding any representations of objection that may have been received | <p>Delegated authority shall not be exercised in any case where a Member of the Committee has specifically requested, for sound policy reasons, that the matter be referred to the Committee for determination, and that such request has been notified to the Development Control Unit within 27 days of the date that the application is registered. Where a Member requests that the Committee undertake a site visit, the request is subject to the agreement of the Chairman of the Committee</p> <p>Delegated authority referred shall not be exercised in any case whereby the recommended decision may run counter to an earlier decision taken by the Committee to undertake enforcement action against the relevant development</p> | C208                      |                             |

| Officer | Delegation  | Limits on Delegation  | Council Delegation Number | Executive Delegation Number |
|---------|---|---|---------------------------|-----------------------------|
|         | <p>Authority to approve in accordance with the provisions of the relevant development plan and in the Light of other relevant material considerations any application or notification involving the forms of development listed below, where fewer than 10 separate Letters of objection from individual households (not petitions or duplicate Letters) have been received:</p> <ul style="list-style-type: none"> <li>• Householder developments, including domestic extensions and buildings or other works within the curtilage of a dwelling.</li> <li>• Developments involving a net increase up to 9 dwelling(s).</li> <li>• All forms of development (excluding the erection of dwellings) falling within the Government's definition of "minor development".</li> <li>• Changes of use of single parcels of land or single buildings,</li> <li>• the erection, Installation or alteration of street furniture including telecommunications equipment.</li> </ul> | <p>Delegated authority referred shall not be exercised in any case where a Member of the Committee has specifically requested, for sound policy reasons, that the matter be referred to the Committee for determination, and that such request has been notified to the Development Control Unit within 27 days of the date that the application is registered. Where a Member requests that the Committee undertake a site visit, the request is subject to the agreement of the Chairman of the Committee</p> <p>Delegated authority shall not be exercised In any case whereby the recommended decision may run counter to an earlier decision taken by the Committee to undertake enforcement action against the relevant development</p> | C209                      |                             |
|         | <p>Authority to approve applications for forms of development that raise special material considerations, such that the spirit or intent of the relevant development plan policy is not prejudiced, with the further exception that such applications are to be determined by the Committee if relevant planning objections have been raised by the Town/Parish Council or the public</p>   | <p>Delegated authority shall not be exercised in any case where a Member of the Committee has specifically requested, for sound policy reasons, that the matter be referred to the Committee for determination, and that such request has been notified to the</p>  | C210                      |                             |

| Officer | Delegation  | Limits on Delegation   | Council Delegation Number | Executive Delegation Number |
|---------|---|--|---------------------------|-----------------------------|
|         |   | <p>Development Control Unit within 27 days of the date that the application is registered. Where a Member requests that the Committee undertake a site visit, the request is subject to the agreement of the Chairman of the Committee</p> <p>Delegated authority shall not be exercised in any case whereby the recommended decision may run counter to an earlier decision taken by the Committee to undertake enforcement action against the relevant development</p>   |                           |                             |
|         | <p>Authority to approve applications for domestic two storey or first floor extensions less than one metre distant from the relevant plot boundaries, in those cases that raise special material circumstances such that the spirit or intent of the relevant development plan policy is not prejudiced, where fewer than 10 separate letters of objection from individual sources have been received</p> | <p>Delegated authority referred shall not be exercised in any case where a Member of the Committee has specifically requested, for sound policy reasons, that the matter be referred to the Committee for determination, and that such request has been notified to the Development Control Unit within 27 days of the date that the application is registered. Where a Member requests that the Committee undertake a site visit, the request is subject to the agreement of the Chairman of the Committee</p> <p>Delegated authority</p> | C211                      |                             |



| Officer | Delegation   | Limits on Delegation   | Council Delegation Number | Executive Delegation Number |
|---------|--|--|---------------------------|-----------------------------|
|         |  | shall not be exercised In any case whereby the recommended decision may run counter to an earlier decision taken by the Committee to undertake enforcement action against the relevant development |                           |                             |
|         | Authority to issue screening and scoping opinions In connection with the administration of environmental Impact assessment procedures, with details being reported for Information purposes to the next available meeting of the Committee |  | C212                      |                             |
|         | Authority to grant applications for Hazardous Substances Consent under the Planning (Hazardous Substances) Act 1990, subject to conditions as thought fit, where there are no objections or conflict with the development plan             |  | C213                      |                             |
|         | Authority to agree minor amendments to approved applications or notifications  |  | C214                      |                             |
|         | The requesting of further information under the General Development Order In respect of outline planning applications.   |  | C215                      |                             |
|         | The drafting of grounds of refusal and conditions of approval where the Committee come to a decision other than that recommended by the Case Officer.  |  | C216                      |                             |
|         | The issue of planning permission following satisfactory completion of an agreement under the Town and Country Planning Acts  |  | C217                      |                             |
|         | Advertising and taking of appropriate steps in respect of  |  | C218                      | E201                        |

| Officer | Delegation  | Limits on Delegation | Council Delegation Number | Executive Delegation Number |
|---------|---|----------------------|---------------------------|-----------------------------|
|         | substantial departures, listed building applications and Conservation Areas   |                      |                           |                             |
|         | Power to advise the relevant Government Office whether or not any more favourable decision or permission for development could be given where a claim is made for loss of development value.  |                      | C219                      |                             |
|         | Attendance of officers at meetings arranged by local authorities or outside organisations relevant to the work of the Committee   |                      | C220                      |                             |
|         | <p><b>Tree Preservation Orders, Trees and Hedgerows</b></p> <p>Authority to make and sign tree preservation orders, to confirm unopposed tree preservation orders (with or without modification), to revoke Tree Preservation Orders provided that they are being replaced with a more up to date Order (covering either a Woodland, an Area, a Group of trees or individual trees, or a combination of these).</p> |                      | C221                      |                             |
|         | Authority to grant or refuse consent to applications to fell, top or lop trees included in a tree preservation order, notwithstanding if objections or letters of support have been received and to determine whether or not to make tree preservation orders in response to notifications of works to trees (including felling) in Conservation Areas.   |                      |                           | E202                        |
|         | Authority to object to all referrals by the Forestry Commission within the Green Belt where no replacement planting or the  |                      | C222                      |                             |

| Officer | Delegation   | Limits on Delegation  | Council Delegation Number | Executive Delegation Number |
|---------|--|---|---------------------------|-----------------------------|
|         | promotion of regeneration is proposed and to respond to the Forestry Authority, where needed, on forestry proposals noted in the Forestry Authority's Public Register.   |   |                           |                             |
|         | Authority, in dealing with Hedgerow Removal Notices, to decide whether or not a hedgerow is important i.e. if it meets the criteria laid down in the Regulations, and if it does, to decide whether or not to serve a Hedgerow Retention Notice.   |   | C223                      |                             |
|         | Authority to respond to consultations from other Local Planning Authorities on proposals outside the District Council's area, taking into account the views of Town/Parish Councils If received in time even if that response would not accord with the views of the Town/Parish Council or other representatives. | This delegation does not to apply to proposals which would have a significant effect on the South Bucks District.   |                           | E203                        |
|         | Authority to respond to consultations from the County Council on 'county matter' applications and on applications that the County Council has submitted to itself  | This delegation is subject to responses being in accordance with the relevant Development Plan and are consistent with previous views of the District Council |                           | E204                        |
|         | To decide whether details of farm and forestry buildings should be requested from developers serving notice that permitted development rights are to be exercised  |   | C224                      |                             |
|         | Authority to issue Planning Contravention Notices and Breach of Condition Notices under Planning and Compensation Act 1991   | Concurrently with the Head of Legal and Democratic Services   | C225                      |                             |

| Officer | Delegation   | Limits on Delegation   | Council Delegation Number | Executive Delegation Number |
|---------|--|--|---------------------------|-----------------------------|
|         | <p><b>Enforcement</b></p> <p>Power to issue an enforcement notice under the Town &amp; Country Planning Acts in cases where the contravention has been the subject of a previous refusal of planning consent, and further that if necessary, legal proceedings be instituted to secure compliance</p>  | <p>In consultation with the Head of Legal and Democratic Services, (notices to be issued in the name of the Head of Legal and Democratic Services)</p> | C226                      |                             |
|         | <p>Authority to decide when it is not considered expedient to take enforcement action.</p>   |  | C227                      |                             |
|         | <p>Authority to consider the evidential and public interest tests as to whether or not a prosecution should be commenced for breach of a planning control related offence under prior authority from the Committee</p>   | <p>In consultation with the Head of Legal and Democratic Services</p>  |                           | E205                        |
|         | <p>Authority to determine that a Simple Caution be offered and administered as opposed to a prosecution for relevant planning control related offences (whether already delegated or authorised by Committee or pending a report for specific authority for a prosecution) where the circumstances support this way forward (the administering of a Simple Caution to be reported to the next available Planning Committee).</p> | <p>In consultation with the Head of Legal and Democratic Services</p>  |                           | E206                        |
|         | <p>Authority to deal with applications for demolition of buildings without neighbourhood notification pursuant to relevant guidance</p>  |  | C228                      |                             |
|         | <p>Authority to make representations on Licensing applications received under the Licensing Act 2003 on behalf of the local planning authority</p>   |  |                           | E207                        |

| Officer | Delegation  | Limits on Delegation  | Council Delegation Number | Executive Delegation Number |
|---------|---|---|---------------------------|-----------------------------|
|         | Power under Section 225 to arrange for removal of offending advertisements and/or prosecution   | In consultation with the Head of Legal and Democratic Services  | C229                      |                             |
|         | Authority to serve Enforcement Notices and Stop Notices in cases of urgency.  | Subject to Consultation with the Planning Consultative Body<br>In consultation with the Head of Legal and Democratic Services | C230                      |                             |
|         | Authority to take proceedings for breach of any notice or order within the work of the Committee.   | Subject to Consultation with the Planning Consultative Body<br>In consultation with the Head of Legal and Democratic Services | C231                      |                             |
|         | Authority to respond to consultations from other Local Planning Authorities on proposals outside the District Council's area, which would have a significant effect on South Bucks District   | Subject to Consultation with the Planning Consultative Body   |                           | E208                        |
|         | Authority to respond to consultations from the County Council on 'county matter' applications and on applications that the County Council has submitted to itself where the response would not be in accordance with the relevant Development Plan or would be materially different from previous views of the District Council | Subject to Consultation with the Planning Consultative Body   |                           | E209                        |
|         | Authority to issue a Temporary Stop Notice, such Notice to be issued in the name of the Head of Legal and Democratic Services   | Subject to Consultation with the Planning Consultative Body<br>In consultation with the Head of Legal and Democratic Services | C232                      |                             |
|         | : The following actions in relation to the neighbourhood planning process:  | 1) In consultation with the relevant local Member(s)  | C233                      | E210                        |

| Officer | Delegation   | Limits on Delegation   | Council Delegation Number | Executive Delegation Number |
|---------|--|--|---------------------------|-----------------------------|
|         | <p>a) Decisions on whether to accept and designate or modify a neighbourhood area under s61G of the Town and Country Planning Act 1990, as inserted by Schedule 9 of the Localism Act 2011;</p> <p>b) Consultation responses to neighbourhood development plans and neighbourhood development orders, before their formal submission as proposals to the Council;</p> <p>c) Decisions on whether to decline to accept repeat proposals for neighbourhood development plans or neighbourhood development orders under paragraph 5(1) of Schedule 4B of the Town and Country Planning Act 1990, as inserted by Schedule 10 of the Localism Act 2011;</p> <p>d) Decisions on who to appoint as an examiner under paragraph 7(4) or 13(2) of Schedule 4B of the Town and Country Planning Act 1990, as inserted by Schedule 10 of the Localism Act 2011;</p> <p>e) Decisions on recommendations in examiners' reports that propose no change or only minor changes to plans or orders pursuant to paragraph 12 of Schedule 4B of the Town and Country Planning Act 1990, as inserted by Schedule 10 of the Localism Act 2011;</p> <p>f) Decisions on whether to modify neighbourhood development plans and</p> | <p>and Cabinet Portfolio Holder for Planning and Economic Development.</p> |                           |                             |

| Officer | Delegation  | Limits on Delegation  | Council Delegation Number | Executive Delegation Number |
|---------|---|---|---------------------------|-----------------------------|
|         | <p>orders where the proposed modifications are only minor, whether or not recommended by the examiner.</p> <p>2) Decisions on the validity and acceptance of applications for a neighbourhood plan or neighbourhood development order.</p> <p>3) Decisions where the Council propose to disagree with an examiner's recommendation and the reasons for such a decision and authority to undertake the necessary publicity and consultation to invite views on the Council's proposed decision(s).</p> <p>4) Decisions to determine the referendum area.</p> | <p>2) The Head of Planning and Economic Development is required to inform relevant local ward member(s) within the relevant Neighbourhood Area and the Cabinet Portfolio Holder for Planning and Economic Development of decisions taken and where determined that a plan or development order is not found valid to provide reasons for the decision.</p> <p>3) In consultation with the Cabinet Portfolio Holder for Planning and Economic Development, where the implications for the plan are minor.</p> <p>4) Subject to taking into account the examiner's recommendation and the views of the Cabinet Portfolio Holder. NB: The decision whether or not to make a neighbourhood development plan</p> |                           |                             |

| Officer   | Delegation   | Limits on Delegation  | Council Delegation Number | Executive Delegation Number |
|---|--|---|---------------------------|-----------------------------|
|   |  | or order shall be subject to the approval of Full Council at the recommendation of the Cabinet. |                           |                             |
|   | To maintain all registers required under Town and Country Planning legislation and related regulations.                                |   | C234                      | E211                        |
| Delegations from Buckinghamshire County Council | Authority to remove flyposting on the highway / verge /affixed to Bucks County Council street furniture (S. 132 of Highways Act 1980). |   | C235                      |                             |



| <b>Officer</b>             | <b>Delegation</b>   | <b>Limits on Delegation</b>  | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
|----------------------------|---|--|----------------------------------|------------------------------------|
| <b>Head of Environment</b> | <b>A. Environmental Services</b>  |  |                                  |                                    |
|                            | Responsibility for procuring, managing and monitoring contracts for the collection of household or commercial waste.  | In accordance with Contract Procedure Rules.   |                                  | E251                               |
|                            | Authority to deal with unauthorised deposits of waste or of things abandoned in the open air or on land forming part of a highway.  |  |                                  | E252                               |
|                            | Responsibility for procuring, managing and monitoring any contracts let in respect of grounds maintenance.  | In accordance with Contract Procedure Rules.   |                                  | E253                               |
|                            | Responsibility for procuring, managing and monitoring any contracts let in respect of street cleaning and/or litter control.  | In accordance with Contract Procedure Rules.   |                                  | E254                               |
|                            | Authority to negotiate and enter into Supply Agreements with gas water electricity and telephony utility supply companies.  |  |                                  | E255                               |
|                            | Authority in respect of Part IV of the Environmental Health Act 1990 (litter etc.) including: <ol style="list-style-type: none"> <li>1) Instituting prosecution proceedings under Section 87;</li> <li>2) Serving Litter Abatement Notices and Street Litter Notices under Sections 92 and 93.</li> </ol> | In consultation with the Head of Legal and Democratic Services.  |                                  | E256                               |
|                            | Enforcement of bylaws relating to playing fields, open spaces, etc including instituting prosecution proceedings.   | The institution of legal proceedings to be in consultation with the Head of Legal and Democratic Services. |                                  | E257                               |
|                            | Authority to deal with: <ul style="list-style-type: none"> <li>• Litter;</li> </ul>   | The institution of legal proceedings to be in consultation with the  |                                  | E258                               |

| Officer | Delegation  | Limits on Delegation  | Council Delegation Number | Executive Delegation Number |
|---------|---|---|---------------------------|-----------------------------|
|         | <ul style="list-style-type: none"> <li>• Restricting the distribution of leaflets and printed matter to designated areas;</li> <li>• Landowners permitting dumping on their land;</li> </ul> <p>Including authority to grant conditional or unconditional consent for the distribution of leaflets and printed materials in a designated areas and authority to institute legal proceedings or to issue a Litter Clearing Notices in relation to any land and/or issue or authorise other agencies to issue a Fixed Penalty Notice.</p> | <p>Head of Legal and Democratic Services.</p> <p>NB: Head of Healthy Communities an identical delegation.</p>   |                           |                             |
|         | <p>Authority to serve a Graffiti Removal Notice in respect of graffiti or unlawful advertising including authority to institute legal proceedings or to issue or authorise other agencies to issue a Fixed Penalty Notice for unlawful advertising or failing to comply with a Graffiti Removal Notice.</p>   | <p>The institution of legal proceedings to be in consultation with the Head of Legal and Democratic Services.</p> <p>NB: Head of Healthy Communities has an identical delegation.</p> |                           | E259                        |
|         | <p>Authority to search, seize and impound a vehicle involved in fly-tipping including the authority to institute legal proceedings or to issue or authorise other agencies to issue a Fixed Penalty Notice to a waste carrier for:</p> <ul style="list-style-type: none"> <li>• Failing to produce registration details;</li> <li>• Failing to produce a waste transfer notice.</li> </ul>  | <p>The institution of legal proceedings to be in consultation with the Head of Legal and Democratic Services.</p> <p>NB: Head of Healthy Communities has an identical delegation.</p> |                           | E260                        |
|         | <p>Authority to deal with all the Council's functions relating to watercourses.</p>   |   |                           | E261                        |
|         | <p>Authority to discharge the functions of the Appointing Officer under the Party Wall etc Act 1996.</p>  |   |                           |                             |

| <b>Officer</b>             | <b>Delegation</b>   | <b>Limits on Delegation</b>   | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
|----------------------------|---|---|----------------------------------|------------------------------------|
| <b>Head of Environment</b> | <b>B. Asset Management</b>  |   |                                  |                                    |
|                            | Authority to deal with the maintenance of Council buildings.  |   |                                  | E262                               |
|                            | Day to day responsibility for facilities management including caretaking and cleaning services.   |   |                                  | E263                               |
|                            | Authority to let the Council Chamber and Committee Rooms in accordance with prescribed charges and to remit charges for cancelled bookings.   |   |                                  | E264                               |
|                            | Authority to grant easements for vehicular access over Council owned land or Commons to service residential dwellings in existence on or before 4 July 1982 in accordance with the compensation regime set out in the Vehicular Access Across Common Land (England) Regulations 2002 including the power to appoint a qualified Valuer to advise on the compensation payable. | In consultation with the Head of Legal and Democratic Services.   |                                  | E265                               |
|                            | Responsibility for the management, control and maintenance of all Council land and property holdings including Commons and open spaces which are not within the direct responsibility of another service, subject to the consideration for any long leases or disposals being assessed by a qualified Valuer.   | In consultation with the relevant Cabinet Portfolio Holder, the Head of Finance and the Head of Legal and Democratic Services in respect of any long leases or disposals. |                                  | E266                               |
|                            | To grant short term tenancies including licences and non-protected leases of no more than 7 years with an annual rent not exceeding £35,000 across the Council's property portfolio and the grant of easements or wayleaves.  |   |                                  | E267                               |

| <b>Officer</b>             | <b>Delegation</b>  | <b>Limits on Delegation</b>                                    | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
|----------------------------|--|--|----------------------------------|------------------------------------|
|                            |  |  |                                  | E268 (not used)                    |
|                            | Responsibility to carry out rent reviews and agree other permissions/matters arising under current leases/licenses including any title issues.   |  |                                  | E269                               |
| <b>Head of Environment</b> | <b>C. Traffic Management and Highways</b>  |  |                                  |                                    |
|                            | Authority to respond to the Highways Authority on consultation draft Traffic Regulation Orders.  |  |                                  | E270                               |
|                            | Authority to deal with all the Council's street naming and numbering functions.  |  |                                  | E271                               |
|                            | Authority to take all actions associated with the removal of abandoned vehicles from the highway and private land.   |  |                                  | E272                               |
|                            | Authority to respond to consultations by the Buckinghamshire County Council as the Highways Authority in relation to: <ul style="list-style-type: none"> <li>• Road traffic and road safety proposals;</li> <li>• Proposals for alterations or modifications to the definitive map;</li> <li>• Proposals for the stopping up or diversion of a public path.</li> </ul> | In consultation with the appropriate Cabinet Portfolio holder. |                                  | E273                               |
|                            | Authority to authorise free "school run" car parking schemes where they form part of a School Travel Plan and any loss of income would be minimal.   |  |                                  | E274                               |

| <b>Officer</b>             | <b>Delegation</b>   | <b>Limits on Delegation</b>  | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
|----------------------------|---|--|----------------------------------|------------------------------------|
|                            | Authority to deal with: <ul style="list-style-type: none"> <li>• Exposing vehicles for sale;</li> <li>• Repairing vehicles on a road;</li> </ul> Including authority to institute legal proceedings or to issue or authorise other agencies to issue a Fixed Penalty Notice.  | The institution of legal proceedings to be in consultation with the Head of Legal and Democratic Services.   |                                  | E275                               |
|                            | Authority to deal with: <ul style="list-style-type: none"> <li>• Abandoned vehicles;</li> <li>• Illegally parked vehicles;</li> </ul> Including authority to institute immediate removal, disposal or destruction of abandoned vehicles or vehicles without licence and registration and/or to issue or authorise other agencies to issue a Fixed Penalty Notice.   | The institution of legal proceedings to be in consultation with the Head of Legal and Democratic Services.<br><br>NB: Head of Healthy Communities has an identical delegation.   |                                  | E276                               |
|                            | Authority to undertake all the Council's Parking services functions including: <ul style="list-style-type: none"> <li>• Management, maintenance and enforcement-related activities of Council car parks.</li> <li>• Authority to waive the recovery of a penalty charge notice where a request for waiver has been received and the reasons stated in the request are considered to be reasonable.</li> </ul> | The power to waive the recovery of a penalty charge notice is subject to the following limitation and to any other guidelines issued from time to time by the Cabinet.<br><br>A penalty charge notice issued in respect of a vehicle of which the owner, driver or registered keeper is a member or employee of Chiltern or South Bucks District Councils shall not be waived without the prior written consent of the Head of Paid Service. |                                  | E277                               |
|                            | Authority to make Temporary Road Closure Orders under the Town Police Clauses Act 1847.   | In compliance with current policy.   |                                  | E278                               |
| <b>Head of Environment</b> | <b>D. Assets of Community Value</b>   |  |                                  |                                    |

| <b>Officer</b> | <b>Delegation</b>  | <b>Limits on Delegation</b> | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
|----------------|--|-----------------------------|----------------------------------|------------------------------------|
|                | Authority to determine nominations to list land/property as an Asset of Community Value and deal with any matters arising therefrom including claims for compensation. |                             |                                  | E279                               |

| <b>Officer</b>         | <b>Delegation</b>  | <b>Limits on Delegation</b>  | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
|------------------------|--|--|----------------------------------|------------------------------------|
| <b>Head of Finance</b> | To arrange for the investment of the Council's funds in accordance with the annually approved Treasury Management Policy and to be responsible for the Council's banking arrangements. | Appointment of the Council's Bankers and Investment Fund Managers to be subject to the provisions of the Contract Procedure Rules. |                                  | E300                               |
|                        | To be responsible for the provision of effective accounting systems.   |  |                                  | E301                               |
|                        | To arrange for the proper auditing of all accounts and associated activities of the Council including the provision of an effective system of internal audit.                          |  |                                  | E302                               |
|                        | To be responsible for insurances and risk management and to deal with insurance claims.  | Appointment of the Council's Brokers and Insurers to be subject to the provisions of the Contract Procedure Rules.                 |                                  | E303                               |
|                        | To be responsible for payroll and implementing awards concerning wages, salaries and conditions of service.  |  | C301                             |                                    |
|                        | Dealing with applications for staff car purchase loans and cycle loans.  | In accordance with terms of the approved schemes.  | C302                             |                                    |
|                        | To adjust fees and charges when either the VAT rate or definitions change.   |  |                                  |                                    |
|                        | Exercising the option to tax for VAT purposes in respect of land and buildings owned by the Council.   |  |                                  | E304                               |
|                        | Writing off any irrecoverable debt in accordance with the Council's Financial Procedure Rules.   |  |                                  | E305                               |
|                        | Authority to receive and approve suggestions on alternative methods of financing expenditure   |  |                                  | E306                               |

| <b>Officer</b> | <b>Delegation</b>  | <b>Limits on Delegation</b> | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
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|                | and the utilisation of financial resources (Local Government Finance Act 1982 – Closing of Accounts. |                             |                                  |                                    |



| Officer                            | Delegation  | Limits on Delegation  | Council Delegation Number | Executive Delegation Number |
|------------------------------------|---|---|---------------------------|-----------------------------|
| <b>Head of Healthy Communities</b> | <b>A. Environmental and Public Health Functions</b>   |   |                           |                             |
|                                    | <p>Authority to exercise the Council's functions, powers and duties in relation to:</p> <ul style="list-style-type: none"> <li>• Sewers, drains and private water supplies</li> <li>• Abandoned premises</li> <li>• Housing grants and loans</li> <li>• Caravan sites</li> <li>• Housing health and safety standards and fitness of property</li> <li>• Domestic energy efficiency and conservation</li> <li>• Health and safety at work</li> <li>• Food safety and hygiene</li> <li>• Pest and dog control</li> <li>• Animal welfare</li> <li>• Communicable diseases</li> </ul> | <p>Energy Conservation Reports to be approved by the appropriate Cabinet portfolio holder prior to submission to the Secretary of State.</p> <p>Corporate Health and Safety is the responsibility of the Chief Executive.</p> | C351                      | E351                        |
|                                    | <p>Authority to agree the transfer or assignment of enforcement responsibilities under the Health and Safety Enforcing Authority Regulations.</p>   |   | C352                      |                             |
|                                    | <p>Authority to issue Public Space Control Orders in relation to:</p> <ul style="list-style-type: none"> <li>• Dog Fouling;</li> <li>• Letting a dog off the lead;</li> <li>• Allowing dogs on to land from which they are banned;</li> <li>• Walking more than a set number of dogs;</li> <li>• Drinking in public;</li> </ul> <p>Including authority to institute legal proceedings or to issue or authorise other agencies to issue a Fixed Penalty Notice in relation</p>   | <p>The institution of legal proceedings to be in consultation with the Head of Legal and Democratic Services.</p>   |                           | E352                        |

| <b>Officer</b> | <b>Delegation</b>   | <b>Limits on Delegation</b>                      | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
|----------------|---|--|----------------------------------|------------------------------------|
|                | to a breach of an Order.  |  |                                  |                                    |
|                | Accepting quotations for the provision of veterinary services associated with the annual inspection of animal establishments requiring a licence.   | In accordance with the Contract Procedure Rules. | C353                             |                                    |
|                | Authorising veterinary surgeons employed by the Council's Veterinary Adviser to inspect premises under animal welfare legislation.  |  | C354                             |                                    |
|                | Authority to exercise the Council's public health functions under the Public Health Acts and related legislation.   |  | C355                             | E353                               |
|                | <p>Pursuant to Part 8 of the Anti Social Behaviour Act 2003 (the Act) authority to:</p> <ul style="list-style-type: none"> <li>• Reject any complaint that is not accompanied by such fee as the Cabinet may determine from time to time to be payable in connection with making of such a complaint and to notify the complainant accordingly;</li> <li>• Determine not to proceed with a complaint where it appears that the complainant has not taken all reasonable steps to resolve the matters complained of without proceeding by way of a complaint to the Council and to notify the complainant of the reasons for such a determination;</li> <li>• Determine not to proceed with a complaint where it appears that the complainant is unreasonable or vexatious and to notify the complainant of the</li> </ul> |  |                                  | E354                               |

| Officer | Delegation  | Limits on Delegation  | Council Delegation Number | Executive Delegation Number |
|---------|---|---|---------------------------|-----------------------------|
|         | <p>reasons for such a determination;</p> <ul style="list-style-type: none"> <li>• Determine to take no action on the grounds that the hedge complained of does not adversely affect the reasonable enjoyment of the complainants domestic property and/or that it is not expedient to take any action in respect of the hedge and in either case to notify the complainant and any other appropriate person of the reasons for such a determination;</li> <li>• Issue and serve on the complainant and every owner and every occupier of neighbouring land a Remedial Notice under Section 69 of the Act giving the reasons for doing so and any such notice to contain such initial action or preventative action and time for compliance as is reasonable in all the circumstances of the case;</li> <li>• Waive or relax or withdraw a Remedial Notice (but without prejudice to the power to issue a revised Remedial Notice);</li> <li>• Exercise the power under Section 74 of the Act to enter neighbouring land and to authorise Officers to also exercise such powers;</li> <li>• Defend appeals made by the complainant or the owners or occupiers of neighbouring land pursuant to Section 71</li> </ul> | <p>A copy of the Remedial Notice shall be passed to the Local Land Charges Team for registration as a Local Land Charge.</p> <p>The Local Land Charges Team shall be notified of any waiver or relaxation or withdrawal so that the Local Land Charges Register can be amended accordingly.</p> |                           |                             |

| <b>Officer</b> | <b>Delegation</b>   | <b>Limits on Delegation</b>   | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
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|                | <p>of the Act;</p> <ul style="list-style-type: none"> <li>• Institute criminal proceeding against any person who at the relevant time was the owner or occupier of neighbouring land and failed to comply with the requirements of a Remedial Notice then in force, the time for compliance therewith having expired;</li> <li>• Institute works in default to secure compliance with a Remedial Notice and for that purpose to exercise the powers of entry under Section 77 of the Act and to authorise Officers to also exercise such powers; and</li> <li>• Institute proceedings to recover the expenses incurred in connection with the institution of works in default.</li> </ul> | <p>The Head of Legal and Democratic Services shall be consulted on the institution of any civil or criminal proceedings.</p> <p>The expenses of carrying out works in default shall be notified to the Head of Legal and Democratic Services for registration as a Local Land Charge.</p> |                                  |                                    |

| Officer                            | Delegation   | Limits on Delegation   | Council Delegation Number | Executive Delegation Number |
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| <b>Head of Healthy Communities</b> | <b>B. Environmental Protection and Enforcement Functions</b>   |  |                           |                             |
|                                    | <p>Authority to exercise the Council's functions, powers and duties in relation to:</p> <ul style="list-style-type: none"> <li>• Contaminated land</li> <li>• Air quality</li> <li>• Statutory nuisances, including the service of abatement notices</li> <li>• Permitted processes</li> <li>• Street trading</li> <li>• Sunday trading</li> <li>• Abandoned vehicles</li> <li>• Fly tipping</li> <li>• Byelaws</li> <li>• Flyposting</li> <li>• Unlawful encampments</li> <li>• Scrap metal and vehicle salvage operations</li> <li>• Carbon emissions</li> </ul> | <p>Carrying out of works in default to be reported to the next meeting of the Cabinet or Licensing and Regulation Committee (as the case may be).</p> <p>Actions in respect of the management of air quality to be reported to the next meeting of the Cabinet. The institution of legal proceedings for the recovery of expenses or the service and enforcement of a charging notice in respect of contaminated land, to be in consultation with the Head of Legal &amp; Democratic Services.</p> | C356                      | E355                        |
|                                    | <p>In accordance with the Road Traffic(Vehicle Emissions)(Fixed Penalty)(England) Regulations 2002 authority to issue or authorise an appointed officer to issue a fixed penalty notice to a driver of a vehicle who has left his engines running unnecessarily and who has failed to switch it off when requested to do so, together with authority to withdraw a fixed penalty notice or require a driver to furnish certain particulars or to recover an unpaid fixed penalty.</p>  | <p>The recovery of an unpaid fixed penalty shall be in consultation with the Head of Legal &amp; Democratic Services.</p>  | C357                      |                             |
|                                    | <p>Authority to:</p> <ul style="list-style-type: none"> <li>• Designate an area an alarm notification area</li> </ul>  | <p>The institution of legal proceedings to be in consultation with the Head of Legal &amp;</p>   |                           | E356                        |

| <b>Officer</b>                     | <b>Delegation</b>   | <b>Limits on Delegation</b>   | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
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|                                    | <ul style="list-style-type: none"> <li>Enter and silence an alarm</li> <li>institute legal proceedings or to issue a Fixed Penalty Notice in relation to a breach of Noise Act 1996.</li> </ul>                       | Democratic Services.  |                                  |                                    |
|                                    | Burial and Cremation functions pursuant to Section 46 of the Public Health (Control of Disease) Act 1984 including the recovery of expenses from the estate of the deceased.  |   |                                  | E357                               |
|                                    | Officially recognising natural mineral water sources under the Natural Mineral Water Regulations 1985.  |   |                                  | E358                               |
|                                    | Responding to consultations from Bucks County Council about issuing, amending and/or replacing safety certificates (whether general or special) for sports grounds pursuant to the Safety of Sports Grounds Act 1975. | The Building Control Manager has an identical delegation.   |                                  | E359                               |
| <b>Head of Healthy Communities</b> | <b>C. Housing Services</b>  |   |                                  |                                    |
|                                    | Authority to deal with all matters relating to the Council's housing standards, housing in multiple occupation and private sector housing functions, including licensing and registration functions.                  | In accordance with Council policy. The institution of legal proceedings to recover grant or loans to be in consultation with the Head of Legal and Democratic Services. |                                  | E360                               |
|                                    | Authority to deal with all the Council's housing needs and advice, housing partnerships and strategy and affordable housing development functions   |   |                                  | E361                               |
|                                    | Authority to determine applications from homeless persons or those threatened with homelessness under part VII of   |   | C358                             | E362                               |

| <b>Officer</b>                     | <b>Delegation</b>   | <b>Limits on Delegation</b>  | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
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|                                    | the Housing Act 1996, including authority to carry out a review as required of homelessness decisions under the Allocation of Housing and Homelessness (Review Procedures and Amendments) Regulations 1996.   |  |                                  |                                    |
|                                    | Authority to exercise or to authorise duly appointed officers to exercise powers to enter and inspect premises and apply for Empty Property Management Orders.  |  |                                  | E363                               |
|                                    | Authority to determine that an applicant be not eligible for inclusion on the Housing Register, including authority to carry out a review as required in accordance with Bucks Home Choice Allocations Policy.  |  |                                  | E364                               |
|                                    | Authority to enter into guarantees in respect of tenancies secured through the Rent Deposit Guarantee Scheme and to recover from tenants the cost of any Deposit paid to a Landlord under the Scheme.   | On condition that the total potential commitment under the Rent Deposit Guarantee Scheme shall not exceed the approved budget. |                                  | E365                               |
| <b>Head of Healthy Communities</b> | <b>D. Communities and Community Safety</b>  |  |                                  |                                    |
|                                    | <p>Authority to appoint authorised officers to deal with all matters under Crime and Disorder Act 1998 (as amended), Antisocial Behaviour Act 2003 and Antisocial Behaviour Crime and Policing Act 2014 and to:</p> <ul style="list-style-type: none"> <li>• Agree anti-social behaviour contracts;</li> <li>• Apply for Anti -Social Behaviour Orders;</li> <li>• Make Individual Support Orders;</li> <li>• Publicise Orders under the</li> </ul> | Orders and civil injunctions may only be made in consultation with the Head of Legal and Democratic Services.                  |                                  | E366                               |

| <b>Officer</b> | <b>Delegation</b>   | <b>Limits on Delegation</b>  | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
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|                | Act; <ul style="list-style-type: none"> <li>• Undertake a review of ASB cases;</li> <li>• Make a criminal behaviour order, community protection notice, Public Spaces Protection Order or exercise a closure power;</li> <li>• Apply for a civil injunction.</li> </ul>   |  |                                  |                                    |
|                | Responsibility in relation Community Safety, Counter Terrorism and Security.  |  |                                  | E367                               |
|                | Taking decisions on requests for grant aid in an emergency.   | In consultation with the appropriate Cabinet portfolio holder.   |                                  | E368                               |
|                | The approval of new projects in support of the Community Development Programme and Community Safety Initiatives which do not exceed £2,000 provided the costs can be contained within the overall budget provision.   | In consultation with the relevant portfolio holder for expenditure exceeding £2,000.<br><br>All projects are to be considered against objectives in the Joint Business Plan. |                                  | E369                               |
|                | Responsibility for the implementation of the Council's Safeguarding Policies.   |  |                                  | E370                               |
|                | Authority to deal with: <ul style="list-style-type: none"> <li>• Exposing vehicles for sale;</li> <li>• Repairing vehicles on a road;</li> </ul> Including authority to institute legal proceedings or issue or authorise other agencies to issue a Fixed Penalty Notice. | The institution of legal proceedings to be in consultation with the Head of Legal and Democratic Services.<br><br>NB: Head of Environment has an identical delegation.       |                                  | E371                               |
|                | Authority to deal with: <ul style="list-style-type: none"> <li>• Abandoned vehicles;</li> <li>• Illegally parked vehicles;</li> </ul> Including authority to institute immediate removal, disposal or destruction of abandoned vehicles or vehicles without licence and   | The institution of legal proceedings to be in consultation with the Head of Legal and Democratic Services.<br><br>NB: Head of Environment has an                             |                                  | E372                               |



| <b>Officer</b> | <b>Delegation</b>   | <b>Limits on Delegation</b>   | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
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|                | registration and/or to issue or authorise other agencies to issue a Fixed Penalty Notice.   | identical delegation.   |                                  |                                    |
|                | <p>Authority to deal with:</p> <ul style="list-style-type: none"> <li>• Litter;</li> <li>• Restricting the distribution of leaflets and printed matter to designated areas;</li> <li>• Landowners permitting dumping on their land;</li> </ul> <p>Including authority to grant conditional or unconditional consent for the distribution of leaflets and printed materials in a designated areas and authority to institute legal proceedings or to issue a Litter Clearing Notices in relation to any land and/or issue or authorise other agencies to issue a Fixed Penalty Notice.</p> | <p>The institution of legal proceedings to be in consultation with the Head of Legal and Democratic Services</p> <p>NB: Head of Environment has an identical delegation.</p>  |                                  | E373                               |
|                | <p>Authority to serve a Graffiti Removal Notice in respect of graffiti or unlawful advertising including authority to institute legal proceedings or to issue or authorise other agencies to issue a Fixed Penalty Notice for unlawful advertising or failing to comply with a Graffiti Removal Notice.</p>   | <p>The institution of legal proceedings to be in consultation with the Head of Legal and Democratic Services.</p> <p>NB: Head of Environment has an identical delegation.</p> |                                  | E374                               |
|                | <p>Authority to search, seize and impound a vehicle involved in fly-tipping including the authority to institute legal proceedings or to issue or authorise other agencies to issue a Fixed Penalty Notice to a waste carrier for:</p> <ul style="list-style-type: none"> <li>• Failing to produce registration details;</li> <li>• Failing to produce a waste transfer notice.</li> </ul>  | <p>The institution of legal proceedings to be in consultation with the Head of Legal and Democratic Services.</p> <p>NB: Head of Environment has an identical delegation.</p> |                                  | E375                               |

| Officer                            | Delegation  | Limits on Delegation  | Council Delegation Number | Executive Delegation Number |
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| <b>Head of Healthy Communities</b> | <b>E. Licensing and Registration</b>  |   |                           |                             |
|                                    | Authority to deal with all matters relating to the Council's licensing, registration and public safety functions. | <p>Applications to license sex establishments are to be determined by the Licensing Sub-Committee.</p> <p>Applications under the Licensing Act 2013 have to be submitted to the Licensing Sub-Committee in the following circumstances:</p> <ul style="list-style-type: none"> <li>• Personal Licence – where an objection is made</li> <li>• Premises/Club Premises Licence – if there is a relevant representation</li> <li>• Provisional Statement - if there is a relevant representation</li> <li>• Variation of premises/Club Premises Licence - if there is a relevant representation</li> <li>• Variation of Designated Premises Supervisor – if there is a Police objection</li> <li>• Transfer of a Premises Licence- if there is a Police objection</li> <li>• Interim Authorities – if there is a Police objection</li> </ul> | C359                      | E376                        |
|                                    | Authority to establish and  |   | C360                      |                             |

| <b>Officer</b> | <b>Delegation</b>   | <b>Limits on Delegation</b>  | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
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|                | maintain the Register of Personal Licences, Premises Licences and Club Premise Certificates issued and Temporary Permitted Event Notices received, pursuant to Section 8 and Schedule 3 of the Licensing Act 2003.  |  |                                  |                                    |
|                | Authority to annually publish a revised Table of Fares in respect of Hackney Carriages, consider objections thereto and make a final determination thereon.   | In accordance with the Policy and Procedures for the revision of the Table of Fares approved from time to time by the Cabinet and in consultation with the Licensing Committee. Objections by the trade shall be heard before the Licensing Committee.   |                                  | E377                               |
|                | <p>Authority to make determinations under the Gambling Act 2005 in respect of the following matters:</p> <ul style="list-style-type: none"> <li>• Applications for the grant, variation or transfer of a casino premises licence, bingo premises licence, adult entertainment centre licence, family entertainment centre licence or betting premises licence;</li> <li>• Applications for a provisional statement;</li> <li>• Applications for the grant, renewal or variation of a club gaming permit, club machine permit, licensed premises gaming machine permit or family entertainment centre gaming machine permit;</li> <li>• Applications for the grant or renewal of a prize gaming permit;</li> <li>• Applications for house-to-house and street collections;</li> <li>• Registration or revocation of registration of small society</li> </ul> | <p>Applications for the grant, variation or transfer of a casino premises licence, bingo premises licence, adult entertainment centre licence, family entertainment centre licence or betting premises licence or for a provisional statement stand referred to the Licensing Sub Committee for hearing and determination if representations have been made and have not withdrawn before the date fixed for a hearing.</p> <p>If the Gambling Commission or Police object to the grant or renewal of a club gaming permit or club machine permit or if the applicant holds a Club Premises Licence under the Licensing Act 2003</p> | C361                             |                                    |

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|                | lotteries.  | and the Head of Healthy Communities has declined to grant an application for a club gaming permit or club premises licence or if the Head of Healthy Communities has refused an application to vary a club gaming permit or club machine permit, then the matter stands referred to the Licensing Sub Committee for hearing and determination. |                                  |                                    |
|                | Pursuant to Section 224 of the Gambling Act 2005 authority to issue a counter notice to a Temporary Use Notice.   |  | C362                             |                                    |
|                | Authority under the Gambling Act 2005 to give notice of intention to cancel a club gaming permit or club machine permit or to give notice of intention to cancel or vary a license premises machine permit and if in any such case the permit holder does not request a hearing before the Licensing Sub Committee, authority to cancel or vary (as the case may be) such permit.   | If a permit holder requests a hearing the matter stands referred to the Licensing Sub Committee for determination.   | C363                             |                                    |
|                | <p>Authority to establish and maintain the following statutory Registers pursuant to the Gambling Act 2005:</p> <ul style="list-style-type: none"> <li>• Register of Premises Licences - Section 156</li> <li>• Register of Temporary Use Notices - Section 234</li> <li>• Register of Family Entertainment Centre Gaming Machine Permits – Section 247 and Paragraph 23 of Schedule 10</li> <li>• Register of Small Lottery</li> </ul> |  | C364                             |                                    |

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|                | <p>Societies – Section 258 and Paragraph 44 of Schedule 11</p> <ul style="list-style-type: none"><li>• Register of Club Gaming Permits and Club Machine Permits – Section 274 and Paragraph 26 of Schedule 12</li><li>• Register of Licensed Premises Gaming Machine Permits – Section 283 and Paragraph 22 of Schedule 13</li><li>• Register of Prize Gaming Permits – Section 289 and Paragraph 23 of Schedule 14</li></ul> |                             |                                  |                                    |

| <b>Officer</b>                  | <b>Delegation</b>   | <b>Limits on Delegation</b> | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
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| <b>Head of Business Support</b> | To act as Proper Officer for the purposes of the Council's responsibilities under the Data Protection Act 1984.   |                             |                                  | E401                               |
|                                 | To be responsible for co-ordinating compliance with the requirements of the Freedom of Information Act 2000 and Re-Use of Public Sector Information, throughout the Council, including providing guidance and promoting compliance with relevant legislation, codes and guidance, so as to assist with the easy, appropriate and timely retrieval and provision of information. |                             |                                  | E402                               |

| Officer  | Delegation   | Limits on Delegation   | Council Delegation Number | Executive Delegation Number |
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| <b>Head of Legal &amp; Democratic Services</b> | Authority to carry out the duties of the Monitoring Officer imposed by the Local Government and Housing Act 1989.  | Appointment subject to full Council approval.  | C451                      |                             |
|  | Pursuant to Section 223 of the Local Government Act 1972, to prosecute and appear on behalf of the Council at hearings of any legal proceedings and to take all necessary steps in connection therewith to protect the Council's interests and for the expeditious conduct of such action.   |  | C452                      | E451                        |
|  | Pursuant to Section 223 of the Local Government Act 1972, the power to grant authorisations to members of the Legal Section to prosecute or defend proceedings in the Magistrates' Court.  |  | C453                      | E452                        |
|  | Authority to acquire land where such acquisition has been approved by the Cabinet.   | In consultation with the Head of Environment.  |                           | E453                        |
|  | <p>Prepare, issue and serve, or, in case of injunctions, apply for:</p> <ul style="list-style-type: none"> <li>(i) Enforcement Notices, including Listed Building Enforcement Notices;</li> <li>(ii) Stop Notices including Temporary Stop Notices;</li> <li>(iii) Injunctions restraining breaches of Planning Control;</li> <li>(iv) Notices under Section 215 of the Town and Country Planning Act 1990 Act relating to untidy land;</li> <li>(v) Breach of Condition Notices under Section 187A of the Town and Country Planning Act 1990; and</li> <li>(vi) Planning Contravention Notices under Section 171 C of the Town and Country</li> </ul> | Following Planning Committee approval to take action and in consultation with the Head of Planning and Economic Development except in cases of emergency when action may be taken in consultation with the Head of Planning and Economic Development and the Chairman of Planning Committee (or in his/her absence the Vice- Chairman). Urgent action shall be reported to the next meeting of the Planning Committee. | C454                      |                             |

| <b>Officer</b> | <b>Delegation</b>   | <b>Limits on Delegation</b>   | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
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|                | Planning Act 1990.  |   |                                  |                                    |
|                | Serve requisitions for information as to interests in land under Section 330 of the Town and Country Planning Act 1990, or Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.                          |   | C455                             |                                    |
|                | In circumstances where further Enforcement Notices were being issued to withdraw any Enforcement or Stop Notice (but without prejudice to the power to serve another as circumstances warrant).                             | In consultation with the Head of Planning and Economic Development  | C456                             |                                    |
|                | Deferring enforcement action pending an appeal against a refusal of planning permission.  | In consultation with the Head of Planning and Economic Development. | C457                             |                                    |
|                | Institute legal action in respect of failure to respond to a requisition for information as to interests in land, or to a Planning Contravention Notice under Section 171 C and D of the Town and County Planning Act 1990. | In consultation with the Head of Planning and Economic Development. | C458                             |                                    |
|                | Institute prosecution proceedings for breach of Town and Country Planning (Control of Advertisements) Regulations 1992 or for fly-posting contrary to Section 224 of the Town and Country Planning Act 1990.                | In consultation with the Head of Planning and Economic Development. | C459                             |                                    |
|                | Institute proceedings under the Building Act 1984 in respect of contravention's of, or failure to comply with, any of the provisions of the Building Regulations.   | In consultation with a Principal Building Control Surveyor.         |                                  | E454                               |
|                | Instruct where necessary any Barrister at Law or Solicitor of the Supreme Court.  | In consultation with the relevant Director/Head of Service.         | C460                             | E455                               |
|                | Pursuant to Section 234 of the Local Government Act 1972, to authenticate documents and to  |   | C461                             | E456                               |



| <b>Officer</b> | <b>Delegation</b>  | <b>Limits on Delegation</b>  | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
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|                | sign on behalf of the Council any notice, order or other document which the Council is authorised or required by or under any enactment to give, make or issue.  |  |                                  |                                    |
|                | In the absence of the Chief Executive, in accordance with Article 13 authority to sign or where appropriate, seal, any document required to implement or give effect to any decision taken by the Council or one of its Committees and Sub-Committees or the Cabinet.  |  | C462                             | E457                               |
|                | Authority to serve notices and grant statutory access easements over Council owned commons pursuant to the Countryside and Rights of Way Act 2000 and any Regulations made thereunder including the power to appoint a qualified valuer to determine the market value or represent the Council in any arbitration proceedings. |  |                                  | E458                               |
|                | Authority to institute prosecution proceedings for offences under the Licensing Act 2003 and the Gambling Act 2005.  | In consultation with the Chairman of the Licensing Committee or in his absence, the Vice – Chairman. | C463                             |                                    |
|                | To act as the Senior Responsible Officer for the purposes of RIPA (Regulation of Investigatory Powers Act 2000) – responsible for managing compliance within Council and engaging with the Office of the Surveillance Commissioner.  |  |                                  | E459                               |
|                | Authority to determine request to review a decision to list land/property as an Asset of Community Value.  |  |                                  | E460                               |
|                | To act as Proper Officer for the purposes of the Local Government Act 1972 and section 100 of the  |  | C464                             |                                    |

| <b>Officer</b> | <b>Delegation</b>  | <b>Limits on Delegation</b> | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
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|                | Access to Information Act 1985 in respect of the authentication , certification and deposit of documents and the administrative arrangements for council meetings, reports and agendas, minutes and background papers. |                             |                                  |                                    |
|                | To deal with all matters relating to the Council Local Land Charges functions.   |                             |                                  | E461                               |

**NOTE:** That the Principal Solicitors be authorised to carry out and perform the delegations allocated to the Head of Legal & Democratic Services under the Council's Constitution (particularly the Scheme of Delegation to Officers and Article 13) and to act and sign in the name of the Head of Legal & Democratic Services.

| <b>Officer</b>                   | <b>Delegation</b>   | <b>Limits on Delegation</b>                                     | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
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| <b>Head of Customer Services</b> | The discharge of any of the functions imposed upon the billing authority by virtue of the Local Government Finance Acts 1988 and 1992 (as amended) in connection with the administration, billing, collection and recovery of Community Charge, Council Tax and the National Non-Domestic Rate. This general delegation is without prejudice to Section 139 of the 1988 Act or Section 67 of the 1992 Act and any procedural requirement stipulated by the Council with regard to the exercise of discretionary powers.     |   |                                  | E501                               |
|                                  | The administration of the Housing Benefit and Council Tax Benefit Schemes and the determination of claims, notification of awards and payment of any entitlements in accordance with the Housing Benefit (General Regulations) 1987 and the Council Tax Benefit Regulations 1992 (as amended) or any legislation consolidating amending or replacing the same. This general delegation includes the exercise of any discretionary powers available to the Council and any procedural requirements specified by the Council. |   |                                  | E502                               |
|                                  | Authority to institute proceedings in accordance with the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013.  | In consultation with the Head of Legal and Democratic Services. |                                  | E503                               |
|                                  | Authority to apply a penalty in accordance with the Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013.  |   |                                  | E504                               |
|                                  | Authority to institute proceedings in relation to any act of fraud or   | In consultation with the Head of Legal and                      |                                  | E505                               |

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|  | misappropriation of public funds against the Council in accordance with section 222 of the Local Government Act 1972 (power of authorities to prosecute).  | Democratic Services.  |  |      |
|  | Authority to institute proceedings in accordance with the Prevention of Social Housing Fraud Act 2013.   | In consultation with the Head of Legal and Democratic Services. |  | E506 |
|  | Authority to write off irrecoverable debts in relation to Council Tax, Community Charge and NNDR arrears or Housing Benefit repayments in accordance with Financial Procedure Rules.   |   |  | E507 |
|  | Day to day responsibility for Customer Services.   |   |  | E508 |
|  | To determine requests for Council Tax reduction by members of the armed forces serving overseas under Section 13A of the Local Government Finance Act 1992.  | In consultation with the appropriate Portfolio Holder.          |  | E509 |
|  | Authority to award Mandatory Rate Relief.  |   |  | E510 |
|  | Authority to waive or vary individual amount of costs for issuing summons for unpaid Council Tax and NNDR in appropriate circumstances for e.g. in cases of financial hardship or where size of the debt makes it unreasonable to apply the full amount of costs |   |  | E511 |

| <b>Officer</b>                              | <b>Delegation</b>  | <b>Limits on Delegation</b>  | <b>Council Delegation Number</b> | <b>Executive Delegation Number</b> |
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| <b>Principal Building Control Surveyors</b> | <p>All activities relating to the discharge of the Council's function as the Local Building Control Authority under the Building Act 1984, the Building Regulations 2010, the Building (Approved Inspectors etc.) Regulations 2010 and the Building (Local Authority Charges) Regulations 2010 (or any statutory amendments, updates or re-enactments thereof) including:</p> <ul style="list-style-type: none"> <li>• Determining, signing and issuing Decision Notices;</li> <li>• Notifying applicants that minor alterations and amendments may be construed as complying with plans previously approved under the Buildings Regulations; and</li> <li>• Subject to any necessary consultations, issuing notices on non-contentious applications for relaxation or dispensation under the Building Regulations.</li> </ul> |  |                                  | E551                               |
|   | Serving notice requiring contravening work to be pulled down, removed opened up or altered.  |  |                                  | E552                               |
|   | Taking enforcement action, including action in default and instituting court proceedings, for breach of the Building Regulations and related legislation.  | Institution of prosecution proceedings to be in consultation with the Head of Legal and Democratic Services. |                                  | E553                               |
|   | Authority under Regulation 3 of the Building (Local Authority Charges) Regulations 2010 to fix charges by means of a scheme and to recover the same.   | In consultation with the Head of Planning and Economic Development.  |                                  | E554                               |

|  |   |  |      |      |
|--|---|--|------|------|
|  | Authority to agree payment in instalments under Regulation 8(1)(i) of the Building (Local Authority Charges) Regulations 2010.  | In consultation with the Head of Planning and Economic Development.  |      | E555 |
|  | Authority to appoint consultants in connection with any of the powers granted to the Building Control Manager by this Scheme of Delegations.  | Subject to adequate budgetary provision.   |      | E556 |
|  | <p>Taking all actions, including serving and rescinding notices, making applications to court, executing work in default and recovering expenses incurred, in relation to the following:</p> <ul style="list-style-type: none"> <li>• Non-compliance with Section 61 of the Building Act 1984 (repair etc of drain);</li> <li>• Provision of exits, entrances, passages and gangways to buildings;</li> <li>• Provision of means of escape from fire;</li> <li>• Raising of chimneys or flues;</li> <li>• Construction of cellars below the subsoil water level;</li> <li>• Defective premises;</li> <li>• Dangerous buildings or structures including the taking of emergency measures;</li> <li>• Demolition notices;</li> <li>• Paving and drainage of yards and passages; and</li> <li>• Maintenance of entrances to courtyards.</li> </ul> | Institution of prosecution proceedings to be in consultation with the Head of Legal and Democratic Services. |      | E557 |
|  | Responding to consultation by the Fire Authority under the Regulatory Reform (Fire Safety) Order 2005.  |  | C551 |      |
|  | Dealing with matters arising under Section 29 of the Local Government (Miscellaneous Provisions) Act 1982 relating to   | The Head of Environment has an identical delegation.   |      | E558 |

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|  | undertaking works to buildings which are not effectively secured.   |  |      |      |
|  | Dealing with dangerous excavations pursuant to Section 25 of the Local Government (Miscellaneous Provisions) Act 1976.  |  |      | E559 |
|  | Responding to consultations from Bucks County Council about issuing, amending and/or replacing safety certificates (whether general or special) for sports grounds pursuant to the Safety of Sports Grounds Act 1975. | The Head of Healthy Communities has an identical delegation. | C552 |      |

## 5. Delegations to External Bodies or Persons (other than by joint arrangements)

| Person or Body   | Delegation   | Limits on Delegation   | Council Delegation Number | Executive Delegation Number |
|--|--|--|---------------------------|-----------------------------|
| <b>Bucks County Council</b>  | The exercise of the Council's functions under sections 46, 47 and 48 of the Buckinghamshire County Council Act 1957, incorporating as necessary and with amendment the provisions of Section 290 of the Public Health Act 1936, in relation to roadside ditches.   |  |                           | E601                        |
| <b>Chief Fire Officer - Bucks &amp; Milton Keynes Fire Service</b> | Authority to designate Officers to inspect the following licensed premises in respect of fire precautions on behalf of the Council: <ul style="list-style-type: none"> <li>• Theatres</li> <li>• Public Buildings,</li> <li>• Riding Establishments</li> </ul>   |  | C601                      |                             |
| <b>Chief Constable of Thames Valley Police</b>                     | In accordance with the Road Traffic(Vehicle Emissions) (Fixed Penalty) (England) Regulations 2002 authority to issue or authorise a Police and Community Support Officer to issue a fixed penalty notice to a driver of a vehicle who has left his engines running unnecessarily and who has failed to switch it off when requested to do so, together with authority to withdraw a fixed penalty notice or require a driver to furnish certain particulars or to recover an unpaid fixed penalty. | NB Environmental Health Officers and Parking Wardens also have the power to issue a fixed penalty notice under these provisions. | C602                      |                             |



## **6. The Proper Officer**

- 6.1 This term is used in legislation to indicate the Officer appointed by a local authority to carry out specific duties.
- 6.2 The Proper Officer in all cases is the Chief Executive, except as follows:
- 1) Matters clearly within the delegated power of a Director or Head of Service – that Director or Head of Service.
  - 2) Matters relating to the administration of the Council's financial affairs – the Head of Finance.
  - 3) Matters relating to the Registers of Members Interests and Officers Interests in Contracts and Gifts and Hospitality – the Head of Legal & Democratic Services.
  - 4) The receipt of Notices pursuant to the Procedure for Speaking at Planning Committee - the Head of Planning and Economic Development.
- 6.3 Where the office of a Proper Officer is vacant, or the Proper Officer is unable to act, any person appointed as his deputy has all the functions of the holder of the office.

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