



### **Declarations of Interest**

Any Member attending the meeting is reminded of the requirement to declare if he/she has a personal interest in any item of business, as defined in the Code of Conduct. If that interest is a prejudicial interest as defined in the Code the Member should also withdraw from the meeting.

### **SUPPLEMENTARY AGENDA**

- |  | (Pages)         |
|--|-----------------|
| 5. <b>Review of the Constitution - Part A 'The Framework of the Constitution'</b>  | <b>(3 - 4)</b>  |
| <i>Appendix 1: Part A - The Framework of the Constitution with draft revisions</i> | <b>(5 - 42)</b> |

The next meeting is due to take place on Thursday, 23 November 2017

<b>SUBJECT:</b>	Review of the Council's Constitution
<b>REPORT OF:</b>	Monitoring Officer
<b>RESPONSIBLE OFFICER</b>	Jim Burness, Director of Resources
<b>REPORT AUTHOR</b>	Joanna Swift, Head of Legal and Democratic Services <a href="mailto:joanna.swift@southbucks.gov.uk">joanna.swift@southbucks.gov.uk</a> Tel: 01494 732761
<b>WARD/S AFFECTED</b>	None

### 1. Purpose of Report

In accordance with the agreed work plan to undertake a detailed review of Part A - 'The Framework of the Constitution'.

#### RECOMMENDATION

**That the Committee consider and agree the proposed revisions to the Framework of the Constitution at Appendix 1**

### 2. Reasons for Recommendation

To ensure the Council's Constitution is up to date and user-friendly for members, staff and the public and to introduce harmonised procedures with Chiltern District Council where this will facilitate more effective running of shared services.

### 3. Content of Report

- 3.1 The Committee agreed a work programme for reviewing and updating the Council's Constitution at their meeting in July. This report deals with the Framework of the Constitution. The proposed changes are shown in track changes in the appendix to this report and the main issues explained in more detail below.
- 3.2 The Council's Constitution was last reviewed in 2014/15 and an updated version came into effect in May 2015. This took account of the reduction in the number of members and incorporated shared working arrangements with Chiltern District Council in place at the time. Therefore substantial changes to the Framework are not required. But it has been necessary to incorporate provisions relating to this Committee's new role in respect of Constitution in the paragraphs dealing with changes to the Constitution and the details of standing committees. Members will also note that changes to the Joint Waste arrangements have been incorporated, as well as the new Joint Staffing Committee and Su-Committee, which replaced JAIC.

- 3.3 The Framework has also been updated to reflect new Joint Policy documents including the Joint Economic Development Strategy and the Corporate Enforcement Policy which replaces the Food Service Delivery Plan and Health and Safety Enforcement Plan. Some of the policies listed have been amalgamated, for example under the Housing Strategies and some policies such as the whistle blowing and anti- fraud policy have been omitted as they are more operational in nature and more properly sit a level below the high level Policy Framework.
- 3.4 Some of the more technical provisions on Legal proceedings, authentication of documents and the common seal have been amended and in some case expanded, so the procedure adopted by officers at both Councils is consistent
- 3.5 The Monitoring Officer will explain the other proposed change at the meeting.

#### 4 Consultation

The Committee is asked to consider whether, and if so how, they wish to consult on the proposed revisions with members more widely, either via committees/cabinet or individually.

#### 5 Options

The Committee is being invite to consider and agree the revisions to the Framework document and can suggest further changes if considered appropriate.

#### 6. Corporate Implications

Financial – There are no financial implications arising directly from this report.

Legal – As set out in the report

Risks issues – The lack of an up to date and effective Constitution could increase the risk of governance failures

Equalities - None specific

#### 7. Links to Council Policy Objectives

There are no direct links to the policy objectives. But the Council has a statutory duty to maintain an up to date Constitution and publish this on the website.

#### 8. Next Steps

As set out in the agreed work programme.

<b>Background Papers:</b>	None except those referred to in the report
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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 give effect to any decisions of the Council
- 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 form of executive to alternative arrangements or vice versa**

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

## **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.

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

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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.

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

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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

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~~
  - d) 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 ~~policiess~~, 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 two 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.

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#### 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 2 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 that group holds ordinary seats on the Committee.

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.
- Where the ordinary member will be absent for the whole of the meeting.

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- After notifying Democratic Services before the commencement of the meeting of the substitution they have arranged with their named substitute.

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#### 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 it makes a decision on an allegation it has decided to investigate a view must 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

### 8.7.1 Terms of Reference

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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.

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## 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.

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## 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	<u>6 – an executive member from each Council with responsibility for waste management and one further member from each Council</u>
Substitute Members Permitted	<u>Executive Members have the right to appoint deputies by giving notice to that effect to the Secretary to the Joint Committee</u>
Political Balance Rules apply?	<u>No</u>
Appointments/Removals from Office	<u>By resolution of the Cabinet/Executive of the participating Councils</u>
Term of Appointment	<u>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</u>

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	<u>appointing participating Council (being not less than 24 months in duration)</u>
Restrictions on Membership	<u>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.</u>
Restrictions on Chairmanship/Vice-Chairmanship	<u>Appointments shall be for a maximum period of 2 years. The chairmanship and vice chairmanship shall rotate between the Councils</u>
Restrictions on Voting	<u>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 PROVIDED 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.</u>
Quorum	<u>3 – provide that an executive member from each Council is present</u>
No. of ordinary meetings per Council year	<u>Minimum of 3</u>

#### 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 Chiltern 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 of 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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