

CONSTITUTION

Buckinghamshire Council

12 February 2020

V0.12

Version	Date	Author	Description of amendments
0.1	28 Nov 2019	Cath Whitehead	Version as submitted by Cath to CIG on 20 Nov 2019
0.2	6 Dec 2019	Sue Markham	Updated to include corrections and clarifications, reflect comments from sub-workstream members and include additional sections.
0.3		Maria Damigos	Updated to reflect comments from Monitoring Officer and clarify position for comment from other senior officers/members
0.4		Maria Damigos	Updated to reflect comments and amendments from workstreams
0.5		Maria Damigos	To reflect comments and amendments from Monitoring Officer
0.6	13 Jan 2020	Charlie Griffin	Renumbering paragraphs
0.7	24 Jan 2020	Maria Damigos	Updates from MWG and workstream feedback
0.8	27 Jan 2020	Maria Damigos	Updates from MO and legal
0.9	30 Jan 2020	Maria Damigos	Ongoing updates
0.10	6 Feb 2020	Maria Damigos	Ongoing updates
0.11	7 Feb 2020	Jack Pearce	Reformatted
0.12	12 Feb 2020	Maria Damigos	Final updates

DRAFT

Contents

Glossary.....	5
Part A – Summary and Explanation	14
1. Summary and Explanation	15
Part B – Public Participation.....	23
1. Public Participation with Buckinghamshire Council.....	24
2. Access to Information Procedure Rules.....	27
3. Petition Scheme	32
Part C – Council	35
1. Role of Council	36
2. Budget and Policy Framework	37
3. Council Procedure Rules	38
4. Budget and Policy Framework Procedure Rules.....	51
Part D – Committees.....	54
1. Committee Structure	55
2. Committee Procedure Rules	57
3. Planning Committee Procedure Rules	66
4. Regulatory Committees – Terms of Reference.....	71
5. Standards and General Purposes Committee Terms of Reference	81
6. Audit and Governance Committee Terms of Reference.....	83
7. Pension Fund Committee Terms of Reference	85
8. Health and Wellbeing Board Terms of Reference	88
9. Senior Appointments and Pay Committee Terms of Reference	91
10. High Wycombe Town Committee Terms of Reference	93
Part E – Executive (Cabinet).....	94
1. The Role of Cabinet.....	95
2. Cabinet Arrangements	97
3. Cabinet Procedure Rules.....	100
Part F – Joint Arrangements	110
1. Joint Authorities.....	111
2.	Error! Bookmark not defined.
3. Joint Committees	113
Part G – Scrutiny	115
1. Select Committee Arrangements.....	116

2. Select Committee Procedure Rules	123
Part H – Councillors.....	134
1. Roles of Councillors and Office Holders.....	135
2. Code of Conduct for Councillors	139
3. Process for the Investigation of Complaints against Councillors.....	148
4. Protocol on Member/Officer Relations	151
5. Scheme of Member Allowances	156
Part I – Officers	157
1. Management Structure.....	158
2. Scheme of Delegation to Officers	159
3. List of Proper Officers (and Designated Posts)	170
4. Employee Code of Conduct.....	182
5. Staff Employment Procedure Rules	189
6. Contract Procedure Rules	191
7. Financial Procedure Rules.....	204
8. Property Procedure Rules.....	223
Part J – Interim Arrangements.....	225
1. Interim Arrangements.....	226
Appendix – Planning Protocol.....	228

Glossary

This glossary explains key terms used in the Council's Constitution but is not part of the Constitution.

Adjourned

To suspend (i.e. a meeting) with the intention to resume it later.

Annual Governance Statement

A public statement which reviews how well the council has kept to its own governance rules.

Annual Statement of Accounts

See Statement of Accounts.

Anti-Fraud and Corruption Strategy

The Council's strategy for protecting its valuable resources which describes the expectations and practices to avoid their loss.

Asset Management Strategy

The Council's approach to getting the best possible value and revenue from things it owns (assets), such as buildings, land, roads and technology.

Approved Supplier List

A list of suppliers which have met specific criteria to enable them to provide particular goods or services to the Council.

Balance Sheet

A statement of the Council's assets, liabilities, and capital at a particular point in time which details the balance of the Council's income and expenditure over the preceding period.

Budget

Every year the council puts a financial plan or budget in place. This shows how and where the council will spend money to provide services and deliver the aims which it set out in its corporate plan. It also sets the level of council tax which it will charge in the next financial year. All councils must have a balanced budget.

Cabinet

Also known as the Executive, the Cabinet is the Council's strategic decision-making body responsible for making the majority of decisions - "Executive Decisions" - for which the Council is responsible. The Cabinet is made up of the Leader and up to nine other elected councillors, including up to two Deputy Leaders, who are appointed and led by the Leader of the Council

Cabinet Member

An elected councillor appointed to the Cabinet by the Leader. Some Cabinet Members are assigned responsibility for a specific 'portfolio' and are sometimes referred to as 'portfolio holders'. Cabinet Members can also make key decisions which are included on the Forward Plan.

Capital and Investment Strategy

The Council's medium to long term plan for investing in its asset base.

Capital Programme

Part of the Medium Term Financial Plan which sets out capital projects approved by full Council over a medium term, multi-year period.

Chairman of the Council

The Chairman of the Council is an elected councillor who chairs meetings of the Council and carries out a variety of civic and ceremonial duties. The Chairman is elected to be the Chairman by the other councillors, usually at the Council's Annual Meeting in May. The Chairman cannot be a Cabinet Member and is assisted in their work by the Vice-Chairman.

Chief Executive

The Council's most senior Officer who is responsible for the management and direction of the Council's Officers. The Chief Executive line manages the Council's Corporate Directors and is accountable to the Leader of the Council, the Cabinet and the Council as a whole. The Chief Executive is designated as the Council's Head of Paid Service and is one of the Statutory Officers.

Chief Finance Officer

The Chief Finance Officer (CFO) is a Statutory Officer.*. The CFO is responsible for managing the council's finances and providing expert financial advice to the council. The CFO must be a qualified accountant and balancing the Council's budget each year is one of their major responsibilities. This officer is referred to as the Section 151 Officer throughout this Constitution.

** Section 151 of the Local Government Act 1972 requires every Council to have a Chief Financial Officer.*

Clear Days

Does not include the starting or finishing day. Example: for 5 clear days notice: do not include the day when notice was given. If this was on a Tuesday, time starts to run on Wednesday. Notice would not be completed until 12.01am the following Monday. If clear working days are used Saturday, Sunday or bank holidays would not be counted.

Code of Conduct (Councillor Code of Conduct / Officer Code of Conduct)

A set of rules which elected and co-opted councillors and officers must follow.

Commercial Agreement

A type of contract by way of which goods, services or other tasks are provided or undertaken for consideration (usually money).

Commissioning

Within the Council, the process of specifying, securing and monitoring service delivery by and from a provider- usually from outside the Council (i.e. a contractor).

Committee

A Committee is a formal group of elected councillors whose remit, terms of reference and operating rules are set out in the Council's Constitution. There are many different committees at Buckinghamshire Council. Each one makes decisions about a specific area of responsibility – for example planning or licensing.

Community Infrastructure Levy (CIL)

A levy which the Council can charge developers for specified new developments within parts of Buckinghamshire to help us deliver the infrastructure needed to support development in that area.

Confidential Information

In relation to meetings and reports this is information which the Council has received from a Government department on terms but which it cannot disclose publicly

It can also be information which the Council cannot disclose due to a court order or legislation or information which is not in the public domain, is information which you would expect to be kept out of the public domain and was given to the Council in such a way that made it clear it was meant to be kept confidential.

Constitution

A governance document, or 'rule book', which sets out how the council is run, how decisions are made and how it complies with the law.

Contingent Liability

A liability which may be incurred by the Council dependent upon a future uncertain event, eg a court case.

Contract

An agreement which: may be oral, written, partly oral and partly written or implied from conduct between the Council and another person; gives rise to obligations which are enforceable or recognised by law (i.e. legally binding); and commits the Council to paying or doing something.

A reference to a contract may also include a contract to which the Contract Procedure Rules apply and a "call off contract" means an order made or call off contract entered into under a Framework Agreement.

Contractors

See suppliers.

Contract Management

The process of ensuring the contract results in the benefits and outcomes envisaged and that the advantages secured during the tendering phase are realised and improved through further proactive performance management during its term.

Contract Management System

The IT system and associated processes used to support supplier and contract management, providing visibility and a single view of all Council contracts. It is the Council's contract register.

Contract Procedure Rules

The part of the Constitution that sets out the procedures to be followed when seeking to establish a contract with an external supplier.

Corporate Director

The Council's most senior officers report directly to the Chief Executive and are accountable to Members and the Cabinet. These posts include the statutory Director of Adult Social Services (DASS) and the Director of Childrens Services (DCS).

Council

The term often used to refer to the whole organisation (i.e. councillors and officers); but see Full Council below. Buckinghamshire Council is led by councillors who are elected by the public. They set the priorities and the budget for the organisation. Staff working for the council (officers) deliver the day to day operations. The word council is used to refer both to the organisation as a whole and specifically to the decision-making body.

Council Body

May include any Committee, Board, Panel or informal working group.

Council Tax

The income collected from residents based on banded property values and which funds a significant proportion of Council services.

Councillor

A councillor is elected and is a member of the Council. Councillors stand for election normally every four years and are accountable to the residents of a specific area (their electoral ward) but are responsible for making decisions for the entire Council area. Councillors do not have to be a member of a political party, but most do; those who do not are known as 'un-grouped' or 'independent' councillors.

Councillor Call for Action

The Councillor Call for Action allows councillors to refer matters of concern within the community to the relevant Board or Committee. The aim of this opportunity is to provide councillors with additional powers that enable them to respond to local community concerns which have proved difficult to resolve.

Debt Management Strategy

The Council's strategy to manage and recover the sums of money it is owed.

Decisions

The choices and agreements made on a particular issue. The Council's Constitution sets out the rules on how formal decisions are to be taken in compliance with the law. The Constitution sets out decisions are to be recorded and published. (see also Key Decisions)

Development Plan

Means the Council's local plans and other documents that set out the policies and proposals for the development and use of land within the Council of Buckinghamshire.

Disclosable Pecuniary Interest

Means a financial interest as defined in 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

Elected Member

See Councillor

Executive

See Cabinet

Exempt Information

In relation to meetings and reports this means information which can be withheld from the public. It must pass one of seven tests in order for it to be exempt and it must also be in the public interest to do so. If an item is deemed to be exempt during a public meeting, then members of the public and any press have to leave the meeting while exempt information is being discussed. We set out the rules in the Access to Information Procedure Rules at Part 5.4 of this Constitution (provide link).

EU Procurement Regulations

The Agreement on Government Procurement (GPA) entered into under the auspices of the World Trade Organisation; the European Community Treat (EU Treaty)* and any relevant regulations, directives or decisions of the European Community*; any Acts of Parliament or statutory instruments implementing the above for the time being in force in the United Kingdom; and any relevant judgements of the European Court of Justice* or UK courts.

*These will continue to be followed at the present time even though the United Kingdom has left the European Union.

External Auditors

An independent auditor appointed to review the Council's financial and management arrangements.

Financial Year

The financial year for the council is not the same as the calendar year. Our financial year starts on 1st April and ends on 31st March.

Financial Procedure Rules

The rules which set out how the Council will manage its financial affairs (in Part I of this Constitution).

Follow On Decisions

Means a decision on consequential matters following a decision to approve a Planning Application these include, but are not limited to: approval or discharge of planning conditions, legal agreements and non material amendments

Forward Plan

A list of the 'key decisions' the Council will make over the next one to four months. The forward plan also includes a summary of any reports which will be presented to the Cabinet. You can see the forward plan for Buckinghamshire Council [here](#)

Framework

A term used in different ways which refers to the way that the Council operates, for example, policy framework, commissioning framework, governance framework.

Full Council

The full council is all the councillors who make up Buckinghamshire Council. Full council meets throughout the year with the meeting being chaired by the Chairman. Full council takes specific decisions, including setting the budget. It also appoints committees to make decisions about specific issues such as planning and licensing.

Function

Within the Council, a function is a service which the Council provides or an activity which it undertakes, or which it has a duty to deliver; for example housing and education.

Head of Paid Service

The Head of Paid Service is a 'statutory officer' with overall responsibility for the employment of Council Officers (currently the Chief Executive).

Independent Person

The council has to have at least one designated independent person who is not a councillor or a member of staff. The independent person is consulted about complaints made against councillors and also about the dismissal of one of the council's statutory officers.

Key Decision

Key decisions are executive decisions (not those made by committee) and are defined in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) (Regulations) 2012 and are decisions which:-

- Result in the Council incurring expenditure which is, or making savings which are, significant having regard to the Council's budget for the service or function to which the decision relates; or
- Are deemed significant in terms of their effect on communities living or working within the area of the Council.

The council has decided that other significant decisions will be treated as key decisions, described in Part 1 of this Constitution. There are rules that set out how key decisions must be taken which are in Part 5.4. Key decisions are taken by the Cabinet or a Cabinet Member under delegated authority.

Leader (of the Council)

Councillors elect a person who will be the leader of the council. Usually this is the leader of the largest political group on the whole council. The Leader of the Council is also the Leader of the Cabinet and will appoint up to nine other councillors to form the Cabinet to take Executive decisions on behalf of the Council. The Leader can appoint up to two Deputy Leaders from the councillors appointed to the Cabinet.

Legal Professional Privilege

Confidential communications between lawyers and their clients can be withheld from a court or from a third party using legal professional privilege.

Legislation

The Law which can be made by Parliament which takes the form of an Act of Parliament (a statute) or Statutory Regulations or By-laws which can be made by the Council.

Light Touch Rules

For procuring social services contracts - expand

Medium Term Financial Plan

Sets out the Council's budget (revenue and capital) over a period of more than one year; is linked to the Corporate Plan and Service Plans.

Member

See Councillor.

Minutes

The formal written record of a meeting. Minutes of Buckinghamshire Council meetings are available online at (*insert weblink)

Monitoring Officer

The Monitoring Officer is a 'statutory officer' responsible for the lawful and good governance of the Council, in particular the Constitution, decision-making and the conduct of councillors (including Town and Parish councillors) and officers.

Motion

A proposal for a discussion or debate.

Municipal Year

The period between annual meetings of the Council. The municipal year is not the same as the council's financial year, which starts on 1 April. The municipal year usually starts in May but is not a fixed date and as such the number of days in a municipal year varies slightly.

Natural Justice

The right of all parties to proceedings to a fair hearing before an impartial tribunal.

Officer

Someone employed by the council.

Permission in Principle (PIP)

Means an application by a developer to the Council to determine whether a housing development is acceptable in principle only and does not include technical details. A Permission in Principle is not a grant of planning consent.

Planning Applications

Means planning applications for full and outline consent as well as applications for reserved matters approvals and for the avoidance of doubt excludes Permission in Principle (PIP) and Related Matters.

Planning Officer

Means an employee of the Council tasked with processing and evaluating planning applications

Public Access

Means the Council's online portal for viewing and commenting on Planning Applications

Policy

A policy sets out a strategic objective for the council and provides a framework of principles and guidelines which staff must follow to achieve those objectives.

Policy Framework

Refers to the Council's strategies and policies as set out in Part C of this Constitution. Put in Link

Point of Order

Where a councillor considers that a breach of the Procedure Rules or legislation has occurred within a debate

Portfolio

Within the Council, a portfolio is a specific area of responsibility, for example housing. You can see the portfolios and who is responsible for each area (the Portfolio Holders) here

Procedure

The means by which a strategy or policy will be implemented or a process which must be followed.

Procurement

How the council identifies, sources, selects and manages the resources which it needs to buy in to deliver services or meet its strategic objectives.

Proper Officer

A term used to refer to the Council's lead Officer for a particular function. The list of Proper Officers is in Part I of this Constitution. (*link)

Quorum

The minimum number of attendees who have to be present at a meeting of the Council, a Committee or Sub-Committee etc to begin and / or conduct its business. If at any time a meeting is not quorate, its decisions at that time are not valid.

Related matters

Means applications for permitted development, prior approvals, advertisement consent, tree preservation orders, high hedges and listed building consent.

Representations

Members of the public can give their views on any Cabinet or Cabinet Member reports or on proposed decision by informing Democratic Services by the deadline outlined in the report

Reserves

Sums of money set aside on the Council's balance sheet. The Council has 'general reserves' and 'earmarked reserves' which are set aside for a specific purpose.

Scheme of Delegation

The Scheme of Delegation sets out how the Council and the Cabinet have delegated authority to a committee or another body or to an individual councillor or senior officer to exercise their powers or perform their functions. The officer Scheme of Delegation concerns those powers and functions delegated to officers. The Scheme of Delegation will also specify any limits on the delegated authority.

Section 151 Officer (S151 Officer)

See Chief Finance Officer.

Select Committee

Specialist committees which support and challenge the work of the Cabinet and help hold it to account. Select Committees comprise councillors who are not part of the Cabinet.

Standards Complaint

Refers to a complaint made against an elected or co-opted councillor or Town or Parish councillor that the councillor concerned has failed to comply with the relevant Councillor Code of Conduct.

Statement of Accounts

A document required by law which sets out the Council's financial position at 31st March each year and includes the Council's income and expenditure for a given financial year.

Statute

An Act of Parliament – the law.

Statutory

Required by law. Councils have statutory duties including preventing homelessness, managing community safety and determining planning applications.

Statutory Officers

The Council is required by law to appoint officers in certain key roles. The Statutory Officers are the Head of Paid Service; the Monitoring Officer and the Section 151 Officer. The Council must also appoint other officers including a Director for Children's Services and the Director for Adult Social Services, a Director of Public Health and a Scrutiny Officer. for full details see [here]

Sub-Committee

A group of elected councillors from the committee in question convened to undertake a particular task or perform a particular function. The sub-committee then reports back and is accountable to the committee.

Suppliers

Also known as 'contractors' suppliers are those parties which enter into a contract with the Council to provide goods or services.

Trading Account

Services which are funded by generating income from internal and external sources.

Treasury Management Strategy

The way in which the Council manages its cash, borrowing, lending and investments, and associated risks.

Virement

The movement of money from one budget heading to another.

Vires (intra vires / ultra vires)

A Latin word which means 'powers'. Within the Council vires concerns the power or lawful authority to make a decision, perform a function or undertake an action. A decision made, function performed or action undertaken will be 'intra vires' if the Council has the power and lawful authority to do it and 'ultra vires' if it does not.

Ward

A ward is an electoral area. Buckinghamshire Council has 49 wards, each with three councillors.

DRAFT

Part A – Summary and Explanation

DRAFT

1. Summary and Explanation

The Council's Constitution

- 1.1. Buckinghamshire Council has a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that decisions 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. The Council must operate in accordance with its Constitution and the rules set out there which the Council has agreed.
- 1.2. The purpose of the Constitution is to ensure that the Council's decision-making and governance arrangements support the corporate aims, objectives and priorities effectively and efficiently. It also ensures that the Council meets its legal duties.
- 1.3. The Council has chosen a Leader and Cabinet model of governance. This is explained below.

Corporate Objectives and Values

- 1.4. The Council's current corporate objectives, priorities and values are set out in its Corporate Plan.

Residents' Rights

- 1.5. The Council welcomes the participation of residents in its work.
- 1.6. Residents have several rights in their dealings with the Council. Some of these are legal rights, whilst others depend on the Council's own processes.
- 1.7. Residents have the right to:
 - a. Vote at local elections as long as they are registered and eligible to vote;
 - b. Contact their local Councillor about any matters of concern to them in their ward.
 - c. Contact the appropriate Cabinet Member about any matters of concern that relate to their portfolio;
 - d. Have access to the Constitution;
 - e. Attend all meetings of the Council, Cabinet, Select Committees, and other Committees except where exempt or confidential matters are being discussed (these are explained in the Access to Information Procedure Rules link);
 - f. Petition the Council on any matter relevant to the Council;
 - g. Find out what major decisions (referred to as Key Decisions) are to be discussed by the Cabinet, individual Cabinet Members and employees and what decisions are likely to be taken by Cabinet in private and when;
 - h. See reports and background papers, and any record of decisions made by the Council, Cabinet, select, and other committees, also individual Cabinet Members and executive decisions made by officers (except exempt and confidential information);
 - i. Complain to the Council through its complaints procedure about something they think the Council should have done that it has not done, something it should have done differently or something it has not done that it should have;
 - j. Complain to the Ombudsman after using the Council's own complaints process if they think the Council has not followed its procedures properly.

- k. Compliment the Council where the service they have received has been exceptionally good or speedy and which could help spread good practice across the Council;
- l. Complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor (including a Town or Parish Councillor) has not followed their relevant Councillor Code of Conduct;
- m. Complain to the Council about any officers' actions or attitude; and
- n. Inspect the Council's accounts during the limited period of the audit each year and make their views known to the external auditor. The period when accounts are open to inspection is publicised in advance.

What's in the Constitution?

- 1.8. The Constitution is divided into 10 parts.
- 1.9. This part provides a summary and explanation of how the Council operates and sets out the basic principles about its procedures. There is more detail on this in the rest of the Constitution. Parts C to G set out the functions of the Council, Cabinet and Committees and how they operate. Part H deals with Councillors including the Scheme of Members Allowances which explains how the councillors are reimbursed for their time and expenses. Part I deals with officer matters. Part J relates to how the Council will operate during the interim period (from 1st April to 11th May 2020 inclusive).
- 1.10. Officers, councillors and committees must operate in accordance with the Scheme of Delegation and the more detailed Rules and Procedures in this Constitution.

How the Council Operates

- 1.11. The Council consists of 147 councillors who are elected in May 2020 for an initial five year term. From then on elections will be normally be held on the first Thursday in May every four years beginning in May 2025. If a Council seat becomes vacant during a councillor's term of office there may be a by-election. By-elections do not usually take place within 6 months prior to a normal election.
- 1.12. Councillors must be over 18 years old and must live or work in the Buckinghamshire Council administrative area. They are democratically accountable to residents of their ward. There are 3 councillors elected for each ward. The overriding duty of councillors is to the whole community of Buckinghamshire, but they have a special duty to everyone who lives in their ward, including those who did not vote for them. Councillors set the policy of the Council and take many decisions. The Council's website contains details of how to get in touch with the councillors and any positions they hold in the Council.
- 1.13. Councillors must follow a Code of Conduct to ensure high standards in the way they undertake their duties. If they do not follow the Code, complaints can be made against them. The Code of Conduct and how to make complaints is set out in Part H.
- 1.14. All councillors meet together at least quarterly as the Council and this is called "full Council". At full Council, councillors: make decisions that the law says are reserved to full Council (see Part C); decide on some of the Council's policies; and set the budget and Council tax each year. Members of the public are welcome to attend Council meetings, which will normally take place at the Gateway in Aylesbury but may take place in any part of Buckinghamshire. The agenda for the meeting including the location of the meeting and reports are published on the Council's website, usually the week before the meeting. The Council is committed to transparency and will ensure it holds full Council meetings in venues which have webcasting facilities and which can accommodate members of the public who wish to attend.

Role of All Councillors

- 1.15. All councillors will:
- a. collectively be the ultimate policy-makers and carry out several strategic and corporate management functions;
 - b. Act as a 'corporate parent' to Buckinghamshire's looked-after children and care leavers;
 - c. contribute to the good governance of the Authority and actively encourage community participation and resident involvement in decision making;
 - d. effectively represent the interests of the communities and individual residents of the County in their own ward;
 - e. respond to residents' enquiries and representations, fairly and impartially;
 - f. participate in the governance and management of the Council;
 - g. maintain the highest standards of conduct and ethics and observe the Councillor Code of Conduct for Elected and Co-opted councillors (set out in Part H) and the other Codes and Protocols adopted by the Council;
 - h. be available to represent the Council on other bodies; and
 - i. attend meetings of bodies to which they are appointed or, if they are unable to attend, present their apologies.
- 1.16. Councillors are entitled to receive allowances to cover their time and expenses in accordance with the Members' Allowances Scheme set out in Part H of this Constitution.

The Chairman of the Council

- 1.17. The Chairman is elected by the full Council at its Annual Meeting each year, which is usually held in May. The Council also elects a Vice Chairman, who acts as Chairman when the Chairman is not available.
- 1.18. The Chairman (and the Vice Chairman) undertake civil and ceremonial roles on behalf of the Council and represent the Council at events. The Chairman promotes public involvement in the Council's activities. If you would like to ask the Chairman to visit an event you can contact their office here
- 1.19. Although the Chairman is an elected politician and has a vote, there is a duty to be impartial in carrying out the role.
- 1.20. The Chairman presides over meetings of the full Council to ensure that business is carried out effectively and has responsibilities for upholding and interpreting this Constitution. Their ruling about this or any proceedings of the Council cannot be challenged, although their interpretation must have regard to the purposes of this Constitution and must be reasonable and lawful.
- 1.21. Neither the Chairman nor the Vice-Chairman can be the Leader or a member of the Cabinet.

Council Business

- 1.22. At its Annual Meeting (in May) the Council will approve its planned Calendar of Business and Schedule of Meetings but nothing prevents changes being made to the Calendar of Business and Schedule of Meetings during the following 12 months.
- 1.23. There are three types of full Council meeting:

- a. the Annual Meeting
- b. ordinary meetings
- c. extraordinary meetings

and they are conducted in accordance with the Council Procedure Rules in Part C of this Constitution.

1.24. There are some decisions which can only be taken by the full Council. The Council sets the Budget and Policy Framework for the Council. All decisions must be taken in accordance with these and only full Council can change them. Details of these are in Part C.

1.25. The Council is responsible for electing (and can remove) the Leader who in turn will appoint up to two Deputy Leaders and a Cabinet. The Council (mainly through the Select Committee process and call-in of decisions) is ultimately responsible for holding the Cabinet to account. The role of the Council is set out in more detail in Part C.

How Decisions Are Made

1.26. Types of Decision:

- a. Executive Decisions
 - i Key decisions which can be taken by Cabinet, or Cabinet Members; or in the absence of Cabinet Members, exercised by Corporate Directors, in consultation with Deputy Cabinet Members;
 - ii Delegated non key decisions.
- b. Non-Executive Decisions
 - i Council decisions – decisions reserved to Council by statute such as setting the precept;
 - ii Council reserved decisions – decisions which Council has reserved to itself;
 - iii Delegated Council decisions – decisions delegated to Committees and Officers

1.27. Key Decision

- a. Key decisions as defined by Regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 which:
 - i result in expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates;
 - ii are deemed to be significant in terms of their effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

1.28. The Council has resolved that the following shall *also* be treated as key decisions. The Council may change this as required in the light of experience of operating the Constitution. A decision which:

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

- d. requires the acquisition or disposal of any land or interest in land in excess of a value of £500,000;
 - e. comprises or includes the making, approval or publication of a draft or final scheme which may require, either directly or in the event of objections, the approval of a Minister of the Crown;
 - f. requires the passage of local legislation; or
 - g. is of such significance to the locality, the Council or the services which it provides that the decision-taker is of the opinion that it should be treated as a key decision;
 - h. A decision taker may only make a key decision in accordance with the requirements of Part E of this Constitution and, in particular (and to the extent applicable in any given case) with:
 - i the Access to Information Procedure Rules;
 - ii the Budget and Policy Framework provisions; and
 - iii the Cabinet Procedure Rules.
 - i. A key decision may only be taken by the Cabinet or Cabinet Members (or where Cabinet Members are absent, a Corporate Director in consultation with the relevant Deputy Cabinet Members) except in a case to which Access to Information Procedure Rules 16 or 17 applies (i.e. Special Urgency or Major Emergency respectively).
- 1.29. All decisions taken by the Council, unless they are delegated to a single councillor or to an officer, are taken by a simple majority vote of the councillors who are there. Councillors cannot vote unless they are physically present at the time. If there is a tie in the voting, the chairman of the meeting has a second vote. This is called a casting vote. The Scheme of Delegation in Part I gives details of responsibility for decision making.
- 1.30. When we know, we publish when key decisions are going to be discussed or made. You can see these on our Forward Plan available on our website. If these decisions are to be discussed at a Cabinet meeting, this will generally be open for the public to attend.
- 1.31. The Constitution also provides for decision making which enables the Council to:
- a. Provide clear leadership to the community in partnership with local people, communities, businesses and other organisations;
 - b. Support the active involvement of local people and local communities in the process of decision making;
 - c. Help councillors represent their constituents effectively;
 - d. Create a powerful and effective means of holding decision makers to public account;
 - e. Ensure that no one will review or scrutinise a decision in which they were directly involved;
 - f. Be clear about who is responsible for making specific decisions and that they explain the reasons for decisions; and
 - g. Provide a means of improving the delivery of services to the community.
- 1.32. The Council also requires that decisions:
- a. are proportionate, with clear aims and desired outcomes and reasons given;
 - b. show due regard to all relevant and material considerations and disregard irrelevant considerations;

- c. are taken after due consultation and obtaining professional advice where appropriate;
- d. show respect for human rights;
- e. pay due regard to equality legislation and the need to prevent people being drawn into terrorism;
- f. take account of the environmental and health impact;
- g. are as open and transparent as possible.

The Cabinet

- 1.33. The Council has decided to adopt a Leader and Cabinet (or Executive) form of governance. The Cabinet is a group of councillors who are responsible collectively for what the law calls the executive functions of the Council. The law sets out what functions are for the Cabinet and what are the functions of the Council. In all but a very few cases, if the law does not say that something is a function of the Council, it is for the Cabinet, as the Executive, to decide.
- 1.34. The Cabinet is made up of the Leader, and up to nine other Cabinet Members. These may include up to two Deputy Leaders (noting that the Deputy Leaders and Cabinet Members must not together exceed 9 postholders) who are chosen and appointed by the Leader. The Leader may also appoint Cabinet Deputies to assist Cabinet Members in their roles. The Leader may change Cabinet portfolios and delegations.
- 1.35. Individual members of the Cabinet have responsibility for specific functions delegated to them by the Leader. Details are set out in Part 5. Most of the decisions taken by the Authority are executive decisions in accordance with the law. The Leader also delegates executive decisions for officers to take.
- 1.36. The Cabinet is responsible for developing the policies and strategies of the Council and takes most of the decisions on service provision. These are executive decisions. The Cabinet generally takes decisions on cross portfolio issues and Cabinet Members take key decisions on their portfolio areas. They may also take joint decisions that may affect another portfolio area. Many decisions are delegated to individual Cabinet members or to officers, as set out in the Scheme of Delegation.
- 1.37. The Cabinet can only make decisions which are in line with the Council's overall Budget and Policy Framework (set out in Part C). If it wishes to make a decision outside this, that decision must be referred to the full Council to decide.

Scrutiny

- 1.38. Select Committees are established to support and challenge the work of the Cabinet and help hold it to account. They can consider decisions of the Cabinet and delegated decisions if they feel the decision should be looked at before it is implemented. This is called a "call-in". They may recommend that the decision is reconsidered or ask Council to consider it before it is referred back to Cabinet and the Cabinet has to hear what they say and consider the matter again. Cabinet members or their Deputies cannot sit on these Committees.
- 1.39. The Select Committees may also be consulted by the Cabinet or the Council on forthcoming decisions and policy development.
- 1.40. They also sometimes hold inquiries into matters of local concern in which residents may take part. These may lead to reports and recommendations which advise the Cabinet, the

Council as a whole, and, in some cases, outside agencies on policies, budget, and service delivery.

Regulatory and Other Council Committees

- 1.41. Some decisions cannot be decided by the Cabinet including planning and licensing determinations. These are delegated by the Council to committees.
- 1.42. Council committees, unlike the Cabinet and its sub-committees, must generally be proportionate to the size of the political groups on the Council. Members of Council committees are appointed by full Council.
- 1.43. The Council has established committees to deal with regulatory functions such as licensing and planning matters.
- 1.44. In addition, councillors take part when required in Appeals Committees and Appointment and Advisory Panels.
- 1.45. There is also an Independent Remuneration Panel to advise on Members' allowances.
- 1.46. These committees and all the other committees are explained in more detail in Part D.

The Council's Employees

- 1.47. The Council has people working for it (called 'officers') to give advice, implement and make decisions in accordance with the Scheme of Delegation and carry out the day-to-day delivery of its services. Officers are paid in accordance with the Council's policy on pay.
- 1.48. The management structure is set out on the Council's website here xxxx.
- 1.49. The recruitment, selection and dismissal of officers has to comply with the Council's Employment Procedure Rules in Part I.
- 1.50. Some officers - the Monitoring Officer (Governance) and the S151 Officer (Finance) have a specific duty to ensure that the Council acts within the law and uses its resources wisely.
- 1.51. Officers must comply with a Code of Conduct which is set out here.

Local and Partnership Working

- 1.52. The Council works closely with other organisations and creates new partnerships to help the Council meet its corporate vision and objectives. In addition, the way in which the Council delivers some of its services and functions to residents and businesses will be reviewed to ensure we deliver value for money.
- 1.53. Sixteen Community Boards have been set-up to ensure strong connections between Buckinghamshire Council and local communities. The Community Boards are advisory and may make recommendations to decision-makers in accordance with their terms of reference. They do not have any decision-making powers, other than the allocation of the budget devolved to them.

Joint Arrangements

- 1.54. The Council and the Cabinet may exercise their functions in several ways, for example they can:
 - a. enter into arrangements or agreements with any person or body to deliver a service;
 - b. establish joint arrangements including a joint committee with one or more other local authorities to exercise functions;
 - c. co-operate with, or facilitate or co-ordinate the activities of, any person or body;

- d. exercise on behalf of that person or body any functions of that person or body;
- e. delegate functions to another local authority.

Contracts and Contracting Out

- 1.55. Every contract made by the Council has to comply with the Contract Procedure Rules and Financial Procedure Rules in this Constitution.
- 1.56. Full Council (for non-executive functions) and the Cabinet (for executive functions) may contract out functions within the law but Buckinghamshire Council retains ultimate responsibility for those functions.

Documents

- 1.57. Where any document is necessary for any legal procedure or proceedings on behalf of the Council, it will be signed by the Service Director - Legal and Democratic Services or other person authorised by them unless any enactment requires otherwise or the Council has authorised another person in this regard.

Common Seal of the Council

- 1.58. The Common Seal of the Council is the official stamp of the Council to be used on deeds or other documents and will be kept in a safe place in the custody of the Service Director - Legal and Democratic Services.
- 1.59. A decision of the Council or one of its Committees acting under delegated powers, or of the Cabinet, or of a Committee of the Cabinet, or the Leader or a Cabinet Member acting under delegated powers, or one made in accordance with the Scheme of Delegations to Officers set out in Part I of this Constitution, will be sufficient authority for sealing any document necessary to give effect to the decision.
- 1.60. The Common Seal will be affixed to those documents which in the opinion of the Service Director - Legal and Democratic Services should be sealed or are required to be sealed by the Contract Procedure Rules in Part I of this Constitution. The Common Seal will be attested by the Head of Paid Service (or anyone so authorised by the Head of Paid Service).

Changes to the Constitution

- 1.61. The Constitution has been formally adopted by the Council. The Council will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- 1.62. The Monitoring Officer has authority to make minor amendments and corrections to the Constitution.
- 1.63. Any substantive changes to the Council's decision-making arrangements and committee structure will be considered by the Audit and Governance Committee who will recommend changes to full Council who will have to approve them prior to implementation.

Publication

- 1.64. The Monitoring Officer will ensure that copies of this Constitution are available for inspection on the Council's website and at Council offices and can be purchased by the local press and the public on payment of a reasonable fee.

Part B – Public Participation

Section 1 Public Participation

Section 2 Access to Information Procedure Rules

Section 3 Petition Scheme

DRAFT

1. Public Participation with Buckinghamshire Council

- 1.1. At Buckinghamshire Council we encourage and actively support people getting involved in our work to serve our area. We want to make it easy for people to get involved and give us their views to help influence and develop what we do and the decisions we take.
- 1.2. We welcome suggestions which will help us improve the way we work and how we involve the public. You can make suggestions here. (insert link)
- 1.3. There are lots of ways you can get involved with the work we do and find out about the decisions we make.

Attendance at Meetings of Council, Cabinet and Committee Meetings

- 1.4. The public are encouraged to attend meetings of the Council to hear the debate. The public are only able to speak at certain meetings but all meetings are open and if you can't make it to the meeting you can usually watch it live on our website.
- 1.5. You can find out when and where we have our meetings on our website (*link). You can also see what we will be covering in our meetings by looking at the agenda and reports for each meeting. We publish these on our website at least five days ahead of the date of the meeting. (*Link)
- 1.6. There are limited occasions when we need to discuss confidential details. When this happens we exclude press and public from the meeting while these issues are discussed. We will only do this when absolutely necessary and where there is legal justification for us to go into private session.

Public Speaking

- 1.7. The public can speak in accordance with set procedures at the following meetings:
 - a. Select Committees:

The Select Committees are open to the public and public involvement in key issues is encouraged [insert link?]
 - b. Community Boards:

We encourage people to attend Community Board meetings, ask questions and get involved. The rules for public speaking at community boards are set out in a terms of reference document and published online. (insert link)
 - c. Other Meetings:

Special rules apply to speaking at other meetings such as at the Planning Committees or Regulatory Committees. Further details can be found on the sections dealing with those Committees.

Planning Committees, Licensing Committee and the Licensing Sub-Committees

- 1.8. Although special rules apply to speaking it is also possible to write beforehand with views that you want the Committee to consider. There are rules about this which are set out here XXX.
 - a. You can find out how you can attend or speak at our planning committees, licensing committee or sub-committees' meetings here XXXX.

Cabinet

- 1.9. The Cabinet has developed a Forward Plan. This is found here XXXX. It indicates the most important decisions (known as “key decisions”) which the Cabinet will be taking in the future and when this is likely to be done.
- 1.10. If you are interested in attending a Cabinet meeting when a key decision is discussed, you can subscribe to electronic updates which will let you know when the meeting will take place.
- 1.11. You can also send in your views in writing to XXXX

Select Committees

- 1.12. The Council has a number of Select Committees which deal with separate parts of the Council work. These committees help the Council to develop new policy by finding out what is needed they also act as a “critical friend” to hold decision makers to account. Select Committees also carry out inquiries and reviews and welcome suggestions from residents as to areas they could investigate. You can get more details here XXXX

Community Boards

- 1.13. Community Boards will take place in 16 local areas and there will be a Board for each area. The Boards welcome public participation. Although they are formal meetings they have a more relaxed way of working. Details about Community Boards and what they do is available here XXX.

Petitions

- 1.14. The Council is pleased to accept petitions dealing with something for which the Council is responsible. There are rules which set out how to make a petition to the Council and what happens when we receive a petition and how we respond as a Council. (insert link to Petition Scheme)
- 1.15. Petitions need to clearly show what they are about. Names of everyone who supports the petition must be set out in an identifiable way. Some petitions, for example, those asking for the Council to have a different form of governance, must follow special rules set out in law.

Consultation

- 1.16. We try to consult as widely and as fairly as possible. Sometimes, with matters such as planning and licensing applications, there are specific statutory consultation processes that the Council must follow. Other than this, we will try to consult on important decisions as widely as possible and give feedback about the outcome of the consultations.

Councillors

- 1.17. The area of Buckinghamshire Council is divided into administrative areas, called wards.
*link to map Each ward has three elected councillors. If you are registered to vote you can vote for the people that you want to represent your ward at Buckinghamshire Council during local elections which are normally held every four years unless there is a vacancy or the Government has set a different time (such as 2025 for Buckinghamshire Council’s next election). Find out more about elections and how to register to vote here*****.
Although they have responsibility for the whole of the Buckinghamshire Council area, your local ward councillors also have a particular responsibility to the residents of their ward.
- 1.18. You can find out who your local councillor is, and how to get in touch with them here
link

- 1.19. Your local councillor may hold scheduled sessions where you can meet them face to face to talk about issues which concern you or where you need advice about Council matters. You can find out how to contact your local councillor using the contact details on our website here

Webcasting and Social Media

- 1.20. Members of the public are welcome to come and watch meetings of Buckinghamshire Council in person. Many meetings are also available to view online using the webcast service. *link*

- 1.21. Updates from Buckinghamshire Council can also be found on social media:

FB

Twitter

Linked IN

Instagram

Many local councillors have their own social media accounts too.

Budget and Policy Development

- 1.22. Buckinghamshire Council wants to include and involve local people when Councillors come to set the budgets and key policies so that residents can directly influence the decisions the Council make.
- 1.23. When appropriate the Council runs consultations inviting people to have their say (*link to have your say page). Focus groups and residents or user panels may also be arranged as a way of seeking out views. In addition, Community Boards will publicise proposed changes [or consultations] with a view to encouraging members of the community to have their say.

2. Access to Information Procedure Rules

Introduction

- 2.1. The Council is committed to the principles of transparency laid down in the Access to Information legislation (including the Freedom of Information Act 2000 and Environmental Information Regulations 2004). In accordance with the legislation, it maintains a Publication Scheme approved by the Information Commissioner which is available on the Council's website. It is committed to:
 - a. Promoting a positive attitude to dealing with requests for information
 - b. Maintaining information in an orderly and efficient fashion and disposing of information that is no longer required.
 - c. Increasing awareness and understanding of the implications of the Act, both amongst its employees and amongst members of the public.

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

Scope

- 2.2. These Rules apply to all meetings of the Council, Select Committees, Community Boards, Joint Committees, and other Council Committees including the Health and Wellbeing Board and public meetings of the Cabinet (together called meetings).

Rights to Attend Meetings

- 2.3. Members of the public may attend, record, photograph, film and report on all meetings subject only to the exceptions in these Rules.
- 2.4. Members of the public who wish to report or record public meetings are required to comply with any Council guidance on the reporting and recording of meetings which may be issued on practical arrangements. The Council will not permit the recording or reporting of proceedings where the public are not allowed to attend the meeting or that part of the meeting by reason of the likely disclosure of exempt or confidential information, and such reporting and recording must be conducted in such a manner as not to disrupt the conduct of the authority's business.
- 2.5. It is recommended that members of the public who wish to record, photograph film and report on public meetings advise Council officers in advance of the meeting so that all necessary practical arrangement can be made.
- 2.6. In relation to Cabinet Meetings, non-Cabinet Members can attend the meeting as a member of the public. Members of the public are not able to ask questions at Cabinet Meetings however councillors attending as a member of the public will be allowed to ask questions at the meeting subject to complying with any relevant procedural rules.

Notices of Meeting

- 2.7. The Council will give at least five clear days' notice of any meeting by posting details of the meeting on the Council's website and principal offices.
 - a. The Council will normally hold its meeting in public unless the content of the meeting requires it to be held in private,
 - b. If the Cabinet wishes to consider an item in private it will give 28 clear Days' notice of its intention to do so on the Forward Plan,

- c. After having given 28 clear days' notice of its intention to consider an item in private, the Council will give a further notice at least 5 clear working days before the meeting that the meeting will proceed in private. This Notice will be given by the Monitoring Officer (the Proper Officer) and will give the Council's reasons for meeting in private, details of the representations received that a private meeting should not take place and contain a statement of the Council's response,
- d. If it is proposed that the Cabinet consider an item in private and 28 clear days' notice of such a meeting has not been given on the Forward Plan, the agreement of the Chairman of the appropriate Select Committee is required if the public are to be so excluded.

Access to Agenda and Reports Before the Meeting

- 2.8. The Council will make copies of the agenda and reports open to the public available on the Council's website and available for inspection at its designated office at least five clear days before the meeting. Where an urgent item is added after this time, the Monitoring Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors, and will ensure that it will be open to inspection from the time the item was added to the supplementary agenda.

Supply of Copies

- 2.9. The Council will supply copies of:
 - a. any agenda and reports which are open to public inspection;
 - b. any further statements or particulars necessary to indicate the nature of the items in the agenda; and
 - c. if the Monitoring Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item;

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

Access to Minutes Etc. After the Meeting

- 2.10. Draft minutes of a decision are only confirmed as a correct record of a decision when:
 - a. Approved as a correct record at the next convenient meeting of the body (Council, Committees and Sub Committees)
 - b. Signed as a correct record by the Proper Officer (Cabinet and Cabinet Committees)
 - c. Signed by the Cabinet Member who has taken the decision or by an Officer alone.
- 2.11. Where appropriate, the Council will prepare and make available on request, a draft decision notice, as soon as practicable after the decision has been made, but any such draft should not be relied on as a correct record until it has been confirmed as such.
- 2.12. The Council will make available access to copies of the following after a meeting in accordance with its Retention Schedule:
 - a. the minutes of the meeting, or, where appropriate, records of decisions taken, together with reasons, for all meetings of the Cabinet excluding any part of the minutes of proceedings when the meeting was not open to the public and which disclose exempt or confidential information;
 - b. a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;

- c. the agenda for the meeting; and
- d. reports relating to items when the meeting was open to the public provide that such reports do not contain confidential or exempt information or, if they do the information disclosed is no longer confidential or exempt.

Background Papers

- 2.13. The Author of a Report will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:
- a. disclose any facts or matters on which the report or an important part of the report is based; and
 - b. which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Access to Information Standing Order 10)
- 2.14. The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers, except in so far as they disclose exempt or confidential information.

Summary of the Public's Rights

- 2.15. A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at all principal Council offices open to the public. Details of where inspection and copying may take place will be included.

Confidential Information – Exclusion of the Public

- 2.16. The public must be excluded from an item at a meeting whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings, that confidential information would be disclosed.

Meaning of Confidential Information

- 2.17. For the purposes of access to reports, confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by reason of a Court Order or any enactment.

Exempt Information – Discretion to Exclude Public

- 2.18. The public may be excluded from an item at a meeting whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings, that exempt information would be disclosed.
- 2.19. Where a decision on an item at a meeting will determine any person's rights or obligations, or adversely affect their possessions, Article 6 of the European Convention on Human Rights establishes a presumption that the discussion of the item will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

Meaning of Exempt Information

- 2.20. Subject to paragraph 2.24 below, and to the test of the Public Interest set out in paragraph 2.25 below, information is exempt information where it falls within any of the following categories:
- a. Information relating to an individual.
 - b. Information which is likely to reveal the identity of an individual.

- c. Information relating to the financial or business affairs of any particular person (including the public authority holding the information), except where the information is required to be registered under certain prescribed statutes detailed in Part 2 of Schedule 12A Local Government Act 1972 from time to time which include the Companies Acts (as defined by s.2 of the Companies Act 2006) and the Charities Act 2011.
 - d. "Financial or business affairs" includes contemplated, as well as past or current activities.
 - e. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the Authority. "Labour relations matter" means any matter which may be the subject of a trade dispute, or any dispute about any such matter (i.e. a matter specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992.
 - f. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
 - g. Information which reveals that the Authority proposes: a to give under any enactment a notice, under or by virtue of which requirements are to be imposed on a person; or b to make an order or direction under any enactment.
 - h. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- 2.21. Planning permission Information falling within any of the categories in paragraph 2.23 above is not thereby exempt if it relates to proposed development for which the local planning authority may grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

Public Interest Test

- 2.22. Information falling within any of categories in paragraph 2.23 above, which is prevented from being exempt because either:
- a. it falls within category c., and is required to be registered under the prescribed enactments; or
 - b. paragraph 2.24 applies to it
- is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Freedom of Information Act 2000 and Environmental Information Regulations 2004

- 2.23. In compliance with the Freedom of Information Act 2000, the Council will respond to any requests for information. There is no charge for responding to requests for information other than 'disbursement' costs; however, a charge may be made if it exceeds the Government's advisory fee level or the request is one which comes under the Environmental Information Regulations 2004.

Exclusion of Access by the Public to Reports

- 2.24. The Monitoring Officer may exclude access by the public to a report which, in his or her opinion, relates to an item during which, in accordance with Access to Information Standing Order 10, the meeting is likely not to be open to the public; or, as the case may

be, was not open to the public. Such reports will be marked “Not for Publication”, together with the category of information likely to be disclosed. Before the Public are excluded in accordance with this provision, the Council must have complied with the Notice provisions in Paragraph 4 above and Notice of the proposal to meeting in private will have been given by the Council’s Proper Officer.

Rights of Access to Information by Councillors

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

3. Petition Scheme

- 3.1. Buckinghamshire Council welcomes petitions and recognises that they are one way in which people can let us know their concerns. Councils have discretion on how petitions are approached locally. This is Buckinghamshire Council's Petition Scheme.

What is a Petition?

- 3.2. The Council treats as a petition any communication which is identified as being a petition or if it seems to us that it is intended to be a petition and has a minimum of 10 signatories of people who live, work or study in the Buckinghamshire Council area.

The Role of Councillors

- 3.3. Before considering whether or not to submit a petition to the Council the petition organiser may want to discuss their issue with one of their local councillors (include link) Their Local Councillor will be able to advise whether the matter is one for the Council and also whether a petition is the best form of engagement with the Council on the matter which has been raised.
- 3.4. When a petition is received by the Council which relates to a local matter (particularly affecting a specific ward), the Council will notify each relevant local Councillor.

How Do I Submit a Petition?

- 3.5. You can submit a petition by post, by hand, e-mail or through the e-petition scheme if available.
- 3.6. Petitions can be sent to:
The Petitions Officer, Monitoring Officer, Buckinghamshire Council, County Hall, Aylesbury
HP20 1UA
Or emailed to democratic services add link
Or by hand at any of our offices
Or be set up as an e-petition (add link)
 - a. The Council welcomes e-petitions which are created and submitted through the e-petitions section of our website. E-petitions must follow the same guidelines as paper petitions. All e-petitions will run for **28 days** (unless the Petitions Officer agrees an alternative timescale) to ensure that the Council's decision making process is not delayed. The petition will need to be checked before it is published on line and if the Council is unable to publish it, an officer will contact the Petition Organiser to explain why.

How We Will Deal with a Petition

- 3.7. All petitions submitted to Buckinghamshire Council will receive an acknowledgement from the Council within 3 clear working days of receipt.
- 3.8. If the petition is not valid it will be returned to the Petition Organiser with an explanation within 10 clear working days of receipt.
- 3.9. If the petition is valid the Petition Organiser will then be informed of how the petition will be handled within 20 clear working days of acknowledgement
- 3.10. If the Petition Organiser is submitting the petition in response to a Council consultation or on a specific matter, it is important to identify the matter which it relates to, so that the

Council can ensure that the petition is considered along with the original matter. See below for further guidance.

- 3.11. Please be aware any petition submitted to the Council will be publicly available and may form part of an agenda and published on the Council's website

What Makes a Petition Valid?

- 3.12. A petition must include:-

- a. what it is about – it must relate to a responsibility of the Council (this must be on each page of the petition)
- b. What the petitioner wants the Council to do (this must be on each page of the petition)
- c. name of everyone who supports the petition must be set out in an identifiable way
- d. For paper petitions the signature of each petitioner
- e. The name and contact details of the “petition organiser” or someone the petition organiser would like any correspondence about the petition to be sent. This can be either a postal or an email address

The Petition Organiser may include the addresses of petitioners, which may be useful to the Council, for example, in assessing the degree of local support or opposition to a particular matter, but this is not essential.

- 3.13. The Monitoring Officer may reject a petition if in their view:

- a. It is not relevant to Council functions
- b. It does not qualify under the scheme or does not comply with the above rules
- c. It is vexatious, abusive or otherwise inappropriate
- d. It is a duplicate or repeat petition
- e. It is a petition qualifying under another enactment
- f. It is excluded because for example:
 - i. It relates to a planning decision and/or ancillary applications and decisions and/or follow on decisions;
 - ii. It relates to a licensing decision;
 - iii. It relates to any other matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment.

- 3.14. In the period immediately before an election or referendum the Council may need to deal with the petition differently – if this is the case the Petition Officer will explain the reasons and discuss the revised timescale which will apply. Political impartiality must be maintained during the pre-election (purdah) period. If the petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In this case, the Petitions Officer will write to the Petition Organiser to explain the reasons.

Different Types of Petition

- 3.15. There are different types of petitions which are submitted for various reasons:-

- a. Consultation - Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal. The petition will be taken into

account either by the appropriate body, officer, or the Cabinet Member taking the decision.

- b. Council-wide - the Petition will be presented at full Council. The Council will not debate the petition. The relevant Local Councillor will be allowed 3 minutes to present the petition at the meeting. Except with the consent of the Chairman only one person may speak to present a petition. At any one meeting, no councillor may present more than two petitions unless approved at the time of receipt by the Monitoring Officer in consultation with the Chairman. The full Council may refer the petition to the relevant Cabinet Member for consideration. The Cabinet Member may provide an immediate verbal response to the petition, or refer it to a relevant Committee, Community Board or the Cabinet for further consideration. Presentations at Committees may be made by the relevant councillor or the petition organiser. The relevant councillor or the petition organiser will be allowed **3 minutes** to present the petition unless otherwise agreed by the Chairman.
- c. Petitions on Local issues will normally be presented to and dealt with by the Community Boards ([link](#)). A report will be written giving an officer response to the petition which will be considered by the Community Board. (If there is a deadline to respond to the petition before the meeting the petition could be considered by the officer, Local and Cabinet Member). If the Board does not agree with the officer response they can decide to refer the issue to the relevant Cabinet Member for reconsideration with an explanation of their reasoning. If there is a petition relating to a local issue which is currently being consulted upon the Petitions Officer may consider that the best route for this petition is via the Council or Consultation route as explained above to be taken into account by the decision taker rather than being submitted to the Community Board.

The Petitions Website

- 3.16. The Council maintains a petitions website at [[link](#)]
- 3.17. As soon as it is decided who the petition will be considered by within the Council, and when that consideration will occur, this information will be entered on the website at the same time as it is sent to the Petition Organiser. Once the petition has been considered, the Council's decision will be notified to the Petition Organiser and put on the website.
- 3.18. Petitions are presented on the petitions website in the order in which they are received. All petitions are kept on the website for two years from the date of receipt. Names will only be published on e-petitions and for paper petitions a record will be kept of the number of signatures.
- 3.19. **What can the Petition Organiser do if they feel their petition has not been dealt with properly?**
 - a. Contact their local councillor; or
 - b. Go through the Council's complaints procedure;

The Petitions Officer (Monitoring Officer)
Buckinghamshire Council
Walton Street
Aylesbury
Buckinghamshire
HP20 1UA

Part C – Council

Section 1 Role of Council

Section 2 Budget and Policy Framework

Section 3 Council Procedure Rules

Section 4 Budget and Policy Framework Procedure Rules

Full Council is the term given to a meeting which all councillors attend. This Part deals with what full Council does and how these meetings are run. The Rules include how questions are put to councillors, how votes are taken and how councillors are appointed to serve on committees or sub committees.

These Rules are written in formal language. If you have specific questions our democratic services team will be happy to help you

1. Role of Council

Council Functions

1.1. The Council's functions are:

- adopting and amending the Council's Constitution;
- approving or adopting the Council's budget and policy framework;
- subject to the urgency procedure of the Council's Budget and Policy Framework Procedure Rules, making decisions which relate to an executive function which is covered by the budget and policy framework, when the decision would be contrary to, or not wholly in accordance with the budget, or would be contrary to the policy framework;
- appointing and removing the Leader of the Council;
- deciding the composition of a Council Committee; appointing Members to be on a Committee, and agreeing and / or amending the terms of reference of a Committee;
- appointing councillors to represent the Council on outside bodies (unless the appointment is an executive function, or it has been delegated by the Council to an individual or council body);
- adopting, amending, revoking or replacing the Member Code of Conduct and the Council's Arrangements for Dealing with Standards Complaints;
- adopting, amending, revoking or replacing a Member allowance scheme;
- passing byelaws and local legislation;
- public health functions including promoting healthier lifestyles and scrutinising and challenging the NHS and other partners to promote better health and ensure threats to health are addressed;
- confirming and terminating the appointment of the Council's Head of Paid Service (Chief Executive) and Statutory Officers;
- the non-executive functions specified in this Constitution as being the responsibility of the Council;
- appointing Honorary Aldermen;
- all other functions which by law must be reserved to the Council.

2. Budget and Policy Framework

2.1. **Policy Framework** means the following plans and strategies:

- a. Corporate Plan
- b. Local Plans including the Minerals and Waste plans
- c. Community Infrastructure Levy (CIL) Charging Schedule
- d. Treasury Management Strategy
- e. Capital and Investment Strategy
- f. Youth Justice Plan
- g. Housing Strategy
- h. Licensing Authority Statement of Licensing Policy
- i. Statement on Gambling Policy
- j. Policy on Pay

2.2. **Budget.** The budget including:

- Allocating financial resources to different services and projects
- Setting Council Tax

3. Council Procedure Rules

Annual Meeting of the Council

Timing and Business

- 3.1. In a year where there is an ordinary election of Councillors, the annual meeting will take place within **21 days** of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in May.
- 3.2. The annual meeting will:
 - elect a person to preside if the Chairman of the Council is not present;
 - elect the Chairman of the Council;
 - elect the Vice-Chairman of the Council;
 - approve the minutes of the last meeting;
 - receive any announcements from the Chairman and / or the Head of Paid Service and/or Returning Officer;
 - Subject to Part E Section 2 elect the Leader in the year of an ordinary election of councillors;
 - appoint the Select Committees and such other committees and sub-committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions;
 - agree the scheme of delegations or such part of it as the Constitution determines it is for the Council to agree; and
 - approve a programme of ordinary meetings of the Council for the year.

Selection of Councillors on Committees and Outside Bodies

- 3.3. At the annual meeting, the Council will:
 - decide which committees and sub-committees to establish for the municipal year;
 - decide the size and terms of reference for those committees;
 - decide the allocation of seats to political groups in accordance with the political balance rules;
 - make appointments to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.
 - Receive a report from the Leader about Cabinet Member appointments

Ordinary Meetings

- 3.4. Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. The Chairman of the Council and the Leader of the Council may jointly agree to vary the time or date of any ordinary meeting or to cancel any ordinary meeting. If they decide to do so, the decision must be agreed and notified to the Monitoring Officer no less than one month before the date that the meeting was due to take place, unless the variation or cancellation is due to exceptional and unforeseen circumstances.
- 3.5. The order of business at ordinary meetings will be as set out below.

3.6. The Chairman has discretion to vary the order of business or add items at any meeting. Such a variation may not displace business falling under items a, b, c, d, e or f. The Chairman has discretion to invite a speaker to address the Council meeting, or to permit an Officer of the Council to attend the meeting and present a briefing paper or report on any matter before the Council.

- Council prayer
- elect a person to preside if the Chairman and Vice-Chairman are not present (this cannot be a Cabinet Member);
- approve the minutes of the last meeting;
- receive any apologies
- receive any declarations of interest from Councillors;
- receive any announcements from the Chairman;
- receive a report from the Leader and receive questions and answers on the report;
- receive petitions in relation to matters which in the opinion of the Chairman are relevant to the Council's functions;
- receive reports from Cabinet Members and receive questions and answers on the reports;
- receive reports from the Council's committees and receive questions and answers on those reports;
- receive any reports from the Council's Select Committees and receive factual questions and answers on those reports;
- receive reports from statutory officers
- receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework
- consider motions; and
- deal with questions from Councillors in accordance with Rule X.

Extraordinary Meetings

Calling Extraordinary Meetings

3.7. The Monitoring Officer may call Council meetings in addition to ordinary meetings and those listed below may request the Monitoring Officer to call additional Council meetings:

- the Council by resolution;
- the Chairman of the Council;
- 5 councillors if they have signed a requisition presented to the Chairman of the Council and the Chairman of the Council has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

Business

- 3.8. The business to be conducted at an extraordinary meeting shall be restricted to the item of business contained in the request for the extraordinary meeting except that the Chairman may at their absolute discretion permit on the grounds of urgency other items of business to be conducted for the efficient discharge of the Council's business.

Time and Place of Meetings

- 3.9. The time and place of meetings will be determined by the Monitoring Officer and notified in the summons.

Notice of and Summons to Meetings

- 3.10. The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least **5 clear working days** before a meeting, the Monitoring Officer will send a summons signed by them to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

Chairman of Meeting

- 3.11. The person presiding at the meeting may exercise any power or duty of the Chairman

Quorum

- 3.12. The quorum of a meeting will be one quarter of the whole number of councillors. If a quorum is not present within 10 minutes of the scheduled start of the meeting or such longer time as allowed by the Chairman, or if during any meeting if the Chairman counts the number of councillors present and declares there is not a quorum present, the meeting will be adjourned. Remaining business will be considered at a time and date fixed by the Chairman. If the Chairman does not fix a date, the remaining business will be considered at the next ordinary meeting.

Questions by Councillors

Questions Without Notice

- 3.13. Any councillor may ask
- a Cabinet Member or the Chairman of a committee any question on an agenda item. Any questions directed to the Chairman of the Audit and Governance Committee must be factual only.
 - any Cabinet Member any question on any issue relevant to their portfolio.
- 3.14. Questions are normally limited to 1 minute per councillor unless the Chairman consents to a longer period.
- 3.15. Supplementary questions can only be asked with the consent of the Chairman.

Questions on Notice

- 3.16. Subject to Rule x, a Member of the Council may ask:
- the Chairman;
 - a member of the Cabinet;
 - or the chairman of any committee or sub-committee

a question on any matter in relation to which the Council has powers or duties or which affects the County,

Notice of Questions

- 3.17. A councillor may ask a question under Rule 3.17 (questions on notice) if either:
- they have given notice of the question in writing or by e-mail no later than midday 5 clear working days before the day of the meeting to the Monitoring Officer; or
 - the question relates to urgent matters, they have the consent of the Chairman or councillor to whom the question is to be put and the content of the question is received by the Monitoring Officer in writing or by e-mail by **9.00 a.m. on the day of the meeting**.

Content of Questions

- 3.18. All questions must, in the opinion of the Chairman:
- not be unreasonable;
 - contain no expressions of opinion;
 - relate to matters on which the Council has or may determine a policy;
 - not relate to questions of fact;
 - not require the disclosure of confidential or exempt information;
 - not relate to a matter which is of purely personal concern to an individual/family member.

Time Allowed for Member Questions Without Notice at Council Meetings

- 3.19. The number of questions asked under Rule 3.13 (without notice) and the total time allowed for consideration of such questions shall be determined by the Chairman;
- 3.20. At the conclusion of the response to the question under consideration or at the expiry of such time period as determined by the Chairman from the time when the first questioner started to speak, the Chairman shall conclude the meeting or proceed to the next item of business.
- 3.21. Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council.

Generally

Record of Questions

- 3.22. The Monitoring Officer will send a copy of any question received under Rule 3.17 (on notice) to the Councillor to whom it is to be put. Copies of all questions under Rule 3.17 (on notice) will be available to all councillors and the public attending the meeting.
- 3.23. Rejected questions under Rule 3.17 (on notice) will be returned to the questioner with the reasons for rejection.

Order of Questions

- 3.24. Questions from Councillors received in accordance with Rule 3.13 (without notice) will be asked in the order determined by the Chairman except that if the opposition Group Leader has a question they will be invited to put it first.

Response

- 3.25. An answer to a question under Rule 3.13 (without notice) may take the form of:
- a direct verbal answer;
 - where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - where the reply cannot conveniently be given verbally, a written response will be provided no later than 5 clear working days after the meeting.
- 3.26. The response to a question under Rule 3.17 (on notice) will be in writing which will be provided to the questioner within 5 clear working days of the meeting.
- copies of all questions and responses will be available on the Council's website with the minutes for the relevant meeting.

Reference of Question to the Cabinet or a Committee

- 3.27. Unless the Chairman decides otherwise, no discussion will take place on any question, but any councillor may move that a matter raised by a question be referred to the Cabinet or the appropriate Committee or sub-Committee as necessary. Once seconded, such a motion will be voted on without discussion.

Motions on Notice

Application of Rules

- 3.28. Rules 10.2 to 10.6 do not apply to motions on notice under rule 10.7

Notice

- 3.29. Except for motions which can be moved without notice under Rule 11, written notice of every motion, must be delivered by hand or e-mail to the Monitoring Officer not later than 7 clear working days before the Council meeting at which it is to be considered.
- 3.30. Except for amendments which can be moved without notice under Rule 11 or are allowed under Rule 12.6, written notice of amendments to a motion must be delivered by hand or e-mail to the Monitoring Officer not less than 24 hours before the start of the Council meeting at which the motion to which it relates is to be considered.
- 3.31. Once approved by the Monitoring Officer copies of the amendment will be provided to Group Leaders.

Motion Set Out in Agenda

- 3.32. Motions for which notice has been given will be listed on the agenda in the order in which they were received.

Scope

- 3.33. Motions must be about matters for which the Council has a direct responsibility or duty.
- 3.34. It shall be the duty of the Monitoring Officer, after consultation with the Chairman, to refuse to accept any motion or amendment to a motion which they deem to be illegal, improper, vexatious or out of order.

Order of and Time Allowed for Motions

- 3.35. Notwithstanding the order of Motions within the Agenda the Chairman will decide the order that Motions will be considered and the time allowed for consideration of motions

on the Agenda. At the conclusion of such period allowed, the Chairman shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:

- if any speech to be concluded is a speech proposing a motion, the Chairman shall allow the motion to be formally seconded (without comment);
- if any speech to be concluded is a speech moving an amendment, the Chairman shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise their right of reply; and
- otherwise, the Chairman shall allow the mover of the motion to exercise their right of reply.

3.36. Any remaining motions submitted under this Rule shall be deferred to the next ordinary meeting of the Council, Committee or Sub-Committee and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

Motions to Amend Budget and Policy Framework

3.37. Written notice of a motion to move an amendment of the Cabinet's proposals for the Council's Budget and Policy Framework, subject to the Budget and Policy Framework Procedure Rules, must be delivered to the Monitoring Officer **not later than midday 3 working days before the Council meeting at which it is to be considered**. Motions received after that deadline will only be considered in exceptional circumstances and with the approval of the Chairman, S151 Officer and Monitoring Officer. Subject to Rule 12.4 the Chairman has discretion on how to deal with motions under this Rule.

Motions Without Notice

3.38. The following motions may be moved without notice:

- to appoint a Chairman of the meeting at which the motion is moved;
- in relation to the accuracy of the minutes;
- to change the order of business in the agenda;
- to refer something to an appropriate body or individual;
- to appoint a committee or member arising from an item on the summons for the meeting;
- to receive reports or adoption of recommendations of committees or officers and any resolutions following from them;
- to withdraw a motion;
- to proceed to the next business;
- that the question be now put;
- to adjourn a debate;
- to adjourn a meeting;
- to suspend a particular Council Procedure Rule;
- to exclude the public and press in accordance with the Access to Information Rules;

- to not hear further a councillor named under Rule 18.3 or to exclude them from the meeting under Rule 18.4; and
- to give the consent of the Council where its consent is required by this Constitution.

Rules of Debate

No Speeches Until Motion Seconded

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

Right to Require Motion in Writing

- 3.40. Unless notice of the motion has already been given or the motion is one detailed under Rule 11, the Chairman will require it to be written down in sufficient time to circulate to all members before it is discussed. The Chairman will decide whether there is sufficient time to propose a motion without notice.

Secunder's Speech

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

Content and Length of Speeches

- 3.42. Speeches must be directed to the motion under discussion or to a personal explanation or point of order.
- 3.43. Subject to Rule 3.46 below A speech by the mover of a motion may not exceed 5 minutes without the consent of the Chairman.
- 3.44. Subject to Rules 3.45 and 3.46 below, speeches by other Councillors, including those councillors seconding or speaking during their right to reply, may not exceed 2 minutes without the consent of the Chairman.
- 3.45. When the Council's annual budget is under discussion, the Leader of each political group, apart from the Leader of the Council and the Leader of the largest opposition political group, on the Council may speak for up to 5 minutes or such longer period as the Chairman shall allow.
- 3.46. Any speeches by the Leader of the Council or the Leader of the largest opposition political group will not be limited.

When a Councillor May Speak Again

- 3.47. A councillor who has made a speech on a motion may not speak again whilst it is the subject of debate, except:
- to speak once on an amendment moved by another councillor;
 - to move a further amendment if the motion has been amended since they last spoke;
 - if their first speech was on an amendment moved by another councillor, to speak on the main issue (whether or not the amendment on which they spoke was carried);
 - in exercise of a right of reply;
 - on a point of order; or
 - by way of personal explanation.

Amendments to Motions

- 3.48. An amendment to a motion must be relevant to the motion and will either be:
- to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - to leave out words;
 - to leave out words and insert or add others; or
 - to insert or add words
- as long as the effect of b. to d. is not to negate the motion or to introduce a new motion.
- 3.49. 12.6 Amendments must be in writing and on notice under Rule 10.2 unless the amendment arises during the debate and could not have been reasonably foreseen. The Chairman's ruling on the validity of an amendment is final
- 3.50. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- 3.51. If an amendment is not carried, other amendments to the original motion may be moved.
- 3.52. If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 3.53. After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

Alteration of Motion

- 3.54. A councillor may alter a motion of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 3.55. A councillor may alter a motion which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- 3.56. Only alterations which could be made as an amendment may be made.

Withdrawal of Motion

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

Right of Reply

- 3.58. The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- 3.59. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- 3.60. The mover of the amendment has no right of reply to the debate on their amendment. If their amendment is carried, they can have the penultimate speech on the amended motion.

Motions Which may be Moved During Debate

- 3.61. When a motion is under debate, no other motion may be moved except the following procedural motions:
- to withdraw a motion;
 - to amend a motion;
 - to proceed to the next business;
 - that the question be now put;
 - to adjourn a debate;
 - to adjourn a meeting;
 - to exclude the public and press in accordance with the Access to Information Rules; or
 - to not hear further a councillor named under Rule 18.3 or to exclude them from the meeting under Rule 18.4.

Closure Motions

- 3.62. A councillor may move, without comment, the following motions at the end of a speech of another councillor:
- to proceed to the next business;
 - that the question be now put;
 - to adjourn a debate; or
 - to adjourn a meeting.
- 3.63. If a motion to proceed to next business is seconded and the Chairman considers the item has been sufficiently discussed, the Chairman will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- 3.64. If a motion that the question be now put is seconded and the Chairman considers the item has been sufficiently discussed, the Chairman will put the procedural motion to the vote. If it is passed the Chairman will give the mover of the original motion a right of reply before putting their motion to the vote.
- 3.65. If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman considers the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, the Chairman will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

Point of Order

- 3.66. A councillor may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Procedure Rules or the law. The councillor must indicate the Rule or law and the way in which they consider it has been breached. The ruling of the Chairman on the matter will be final.

Personal Explanation

- 3.67. A councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the councillor which may appear

to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

Voting

Majority

- 3.68. Any matter will be decided by a simple majority of those councillors voting and present in the room at the time the question was put unless the law provides otherwise.

Chairman's Casting Vote

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

Method of Voting

- 3.70. Unless a recorded vote is demanded under Rule 3.71 the Chairman will take the vote by show of hands, or by use of the Council's electronic voting system, if any, or if there is no dissent, by the affirmation of the meeting.

Recorded Vote

- 3.71. If 15% of councillors (rounded up) present at the meeting request it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and included in the minutes.

Right to Require Individual Vote to be Recorded

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

Voting at a Budget Decision Meeting

- 3.73. Immediately after any vote is taken at a budget decision meeting of the Council there must be recorded in the minutes of the proceedings of that meeting the names of the councillors who cast a vote for the decision or against the decision or who abstained from voting.

Note: Budget decision means calculation of the council tax requirement, calculation of the basic amount of council tax, additional calculations where special items relate to part only of the area administered by the Council, calculation of council tax for different variation bands, substitute calculations and calculation of the amount payable by billing authorities.

A councillor who has council tax arrears is not eligible to vote on budget decisions.

Minutes

- 3.74. Minutes will contain all motions and amendments in the form and order they were put.

Signing the Minutes

- 3.75. The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting

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

Record of Attendance

- 3.77. All councillors present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance where appropriate.

Exclusion of Public

- 3.78. Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part D of this Constitution or Rule 19 (Disturbance by Public).

Councillors' Conduct

Speaking at Meetings

- 3.79. When a councillor speaks they must address the meeting through the Chairman. If more than one councillor signifies their intention to speak, the Chairman will ask one to speak. Other councillors must remain silent whilst a councillor is speaking unless they wish to make a point of order or a point of personal explanation.

Chairman Speaking

- 3.80. When the Chairman speaks during a debate, any councillor speaking at the time must stop.

Councillor Not to be Heard Further

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

Councillor to Leave the Meeting

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

General Disturbance

- 3.83. If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as they consider necessary.

Suspension and Amendment of Council Procedure Rules

Suspension

- 3.84. Any of these Council Procedure Rules except Rules 3.72 (right to require individual vote to be recorded) and 3.75 (signing the minutes) may be suspended by motion on notice or

without notice if at least one half of the whole number of members of the Council are present. Suspension can either be for an item or for the duration of the meeting.

Amendment

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

Application of these Rules

- 3.86. None of the Council Procedure Rules apply to meetings of the Cabinet, Committees or Sub-Committees, Joint Committees or other Body of the Council.

DRAFT

DRAFT

4. Budget and Policy Framework Procedure Rules

The Framework for Executive Decisions

- 4.1. The Council is responsible for the adoption of its Budget and Policy Framework as set out in Section 2 above. Once a Budget and the Policy Framework are adopted by Council, it is the responsibility of the Cabinet to implement the executive functions within that Budget and Policy Framework.

Process for Developing the Budget and Policy Framework

- 4.2. After an appropriate consultation with the community and other stakeholders, the Cabinet will draft initial proposals in relation to any plan, strategy or budget which forms part of the Council's Budget and Policy Framework.
- 4.3. When the initial proposals have been drafted by the Cabinet, they will provide a copy to the Chairman of the Select Committee with responsibility for the issue under consideration ("the relevant Select Committee") (unless it has already considered the initial proposals in accordance with the Select Committee Procedure Rules set out at Part G of this Constitution).
- 4.4. At the same time the Cabinet will notify the relevant Select Committee of the dates and/or proposed timetable within which the Cabinet intend to develop the proposal and submit them to full Council for approval. The timetable will allow as far as possible for both the Cabinet and relevant Select Committee to consider the proposals at ordinary planned meetings.
- 4.5. The relevant Select Committee will have three weeks to make its response unless the Cabinet or relevant Cabinet member has agreed a longer period with the Chairman of the relevant Select Committee.
- 4.6. The Cabinet will finalise its proposals for consideration by full Council taking into account the recommendations (if any) of the relevant Select Committee. The report to full Council will include the recommendations (if any) of the relevant Select Committee, Cabinet's response to those recommendations (if any) and the extent to which they have been accepted by the Cabinet.
- 4.7. Full Council will consider the final proposals of the Cabinet and may:
 - adopt them without amendment;
 - amend them after a motion to amend is put by the Leader and seconded;
 - refer them back to the Cabinet for further consideration; or
 - substitute its own proposals in their place.
- 4.8. If the Council accepts the Cabinet proposals with or without amendment the decision shall be effective immediately.
- 4.9. If the Cabinet proposals are not accepted, the Democratic Services Manager will inform the Leader of the Council's objections and require him/her to reconsider the Cabinet proposals. The Leader will have 5 clear working days from receipt of the notification to submit a revised proposal or inform the Council of the Cabinet's disagreement with the objections. The Council's decision will become effective on the expiry of 5 clear working days after notification of the Council's objections unless the Leader submits revised proposals and/or formally objects in that period.
- 4.10. If the Leader wishes to submit revised proposals and or disagree with the objections of the Council written notice will be given to the Democratic Services Manager to that effect

prior to the date upon which the decision is to be effective. The written notice must state the reasons for the revised proposals and/or the disagreement. Where such notice is received the Democratic Services Manager shall convene a further meeting of the Council to reconsider its decision and the decision shall be effective pending that meeting.

- 4.11. The Council meeting must take place within 10 working days of the receipt of the Leader's written notice unless the Chairman of the Council and Leader agree that the matter can wait until the next programmed meeting of the Council. At that Council meeting the decision of the Council shall be reconsidered in the light of any revised proposals submitted and the reasons for those revisions and/or the Cabinet disagreement and reasons for that disagreement which shall be available in writing to the Council.
- 4.12. The Council shall at that meeting make its final decision on the matter on the basis of a simple majority.

Decisions Outside the Budget or Policy Framework

- 4.13. Subject to the provisions of the Financial Procedure Rules, the Cabinet, individual Members of the Cabinet, delegated officers, committees or joint arrangements discharging executive functions may only take decisions which are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision which is contrary to the Policy Framework, or contrary to the Budget approved by full Council, then that decision may only be taken by the Council, subject to Rule 4 below.
- 4.14. If the Cabinet, individual Members of the Cabinet, delegated officers, committees or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Section 151 Officer as to whether the decision they want to make would be contrary to the Budget and/or Policy Framework. If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to full Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule 4 (urgent decisions outside the Budget and Policy Framework) below shall apply.

Urgent Decisions Outside the Budget or Policy Framework

- 4.15. The Cabinet, an individual Cabinet member or officers, committees or joint arrangements discharging executive functions may take a decision which is contrary to the Council's Policy Framework or contrary to or not wholly in accordance with the Budget approved by full Council only if the decision is a matter of urgency. However, the decision may only be taken:
 - if it is not practical to convene a quorate meeting of the full Council; and
 - if the Chairman of a relevant Select Committee agrees that the decision is a matter of urgency.
- 4.16. The reasons why it is not practical to convene a quorate meeting of full Council in time and the consent of the Chairman of the relevant Select Committee to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chairman of a relevant Select Committee the consent of the Chairman of the Council or, in his/her absence, the consent of the Vice-Chairman of the Council will be sufficient.
- 4.17. Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

Call-In of Decisions Outside the Budget or Policy Framework

- 4.18. Where a Select Committee is of the opinion that a decision is, or if made would be, contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, it shall seek advice from the Monitoring Officer and/or Section 151 Officer.
- 4.19. In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Section 151 Officer's report shall be made to the Cabinet with a copy to every councillor. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and/or the Section 151 Officer's report. It shall prepare a report to full Council in the event that the Monitoring Officer or the Section 151 Officer conclude that the decision was a departure or prepare a report to the Select Committee if the Monitoring Officer or the Section 151 Officer conclude that the decision was not a departure.
- 4.20. If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Section 151 Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the Select Committee may refer the matter to full Council. In such cases, no further action will be taken in respect of the decision or its implementation until full Council has met and considered the matter. The full Council shall meet within 21 working days of the request or referral by the Select Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Section 151 Officer. The Council may either:
- endorse a decision or proposal as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
 - amend the Council's Budget or Policy concerned to encompass the decision or proposal and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
 - where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget and does not amend the existing Framework or Budget to accommodate it, require the Cabinet or the decision-taker to reconsider the matter in accordance with the advice of the Monitoring Officer and/or Section 151 Officer.

Part D – Committees

Section 1 Committee Structure

Section 2 Committee Procedure Rules

Section 3 Planning Committee Procedure Rules

Section 4 Regulatory Committees Terms of Reference

Section 5 Standards and General Purposes Committee Terms of Reference

Section 6 Audit and Governance Committee Terms of Reference

Section 7 Pension Committee Terms of Reference

Section 8 Health and Wellbeing Board Terms of Reference

Section 9 Senior Appointments and Pay Committee Terms of Reference

Section 10 High Wycombe Town Committee Terms of Reference

Some matters are dealt with by specific committees. These are specific groups of councillors who meet regularly to make decisions about defined parts of the Council's work such as planning and standards. The Council as a whole decides how these committees are made up and who will serve on each committee.

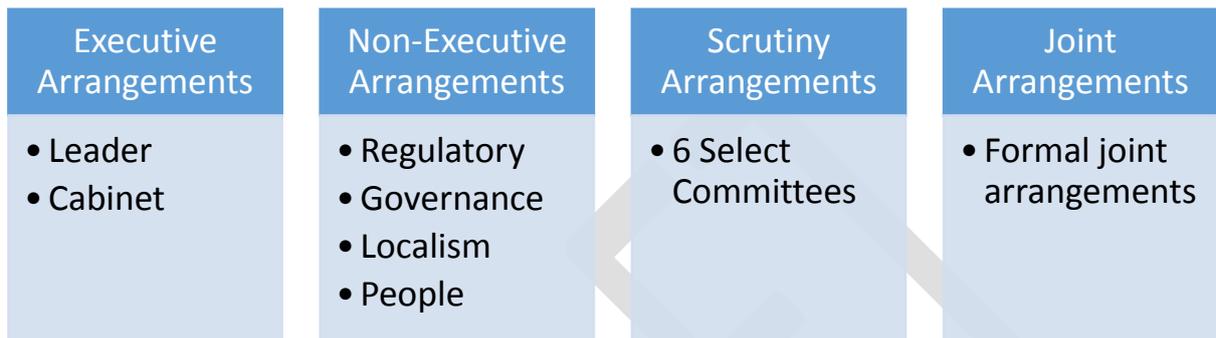
This section sets out the committees in Buckinghamshire Council, the scope of their delegated powers, their terms of reference as well as the rules about how committee meetings are run and decisions are made.

These rules are written in formal language. If you have specific questions our democratic services team will be happy to help you.

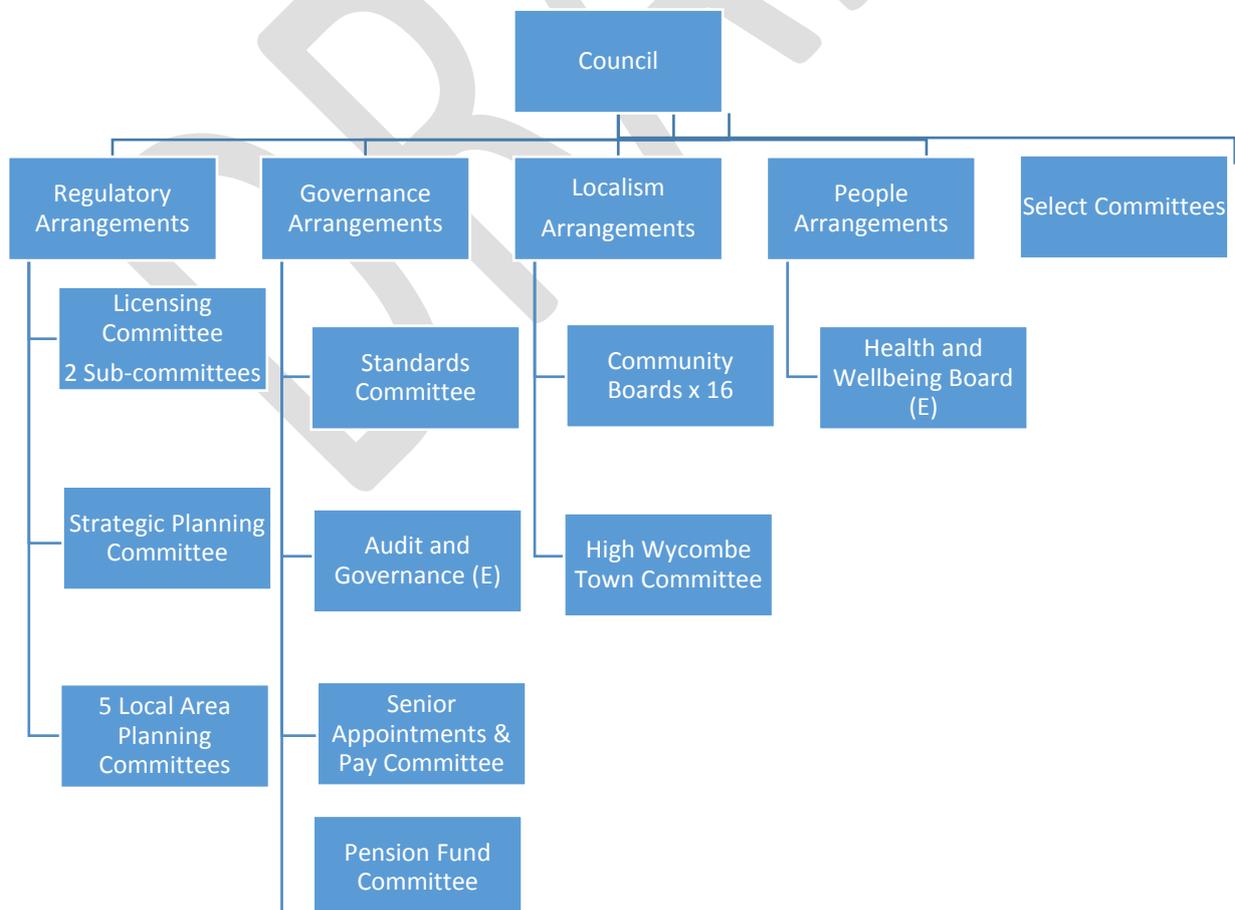
1. Committee Structure

1.1. The Council has decided that certain non-executive functions which are not reserved to the Council as a whole will be the responsibility of the Committees listed below and further detailed in this Constitution by way of the Scheme of Delegation at Part XXXX. Responsibility for some non-executive functions is also delegated to Corporate Directors and other senior Officers by way of the Scheme of Delegation in Part XXXX. In addition to committees, some advisory and operational matters may also be carried out by panels, boards or forums.

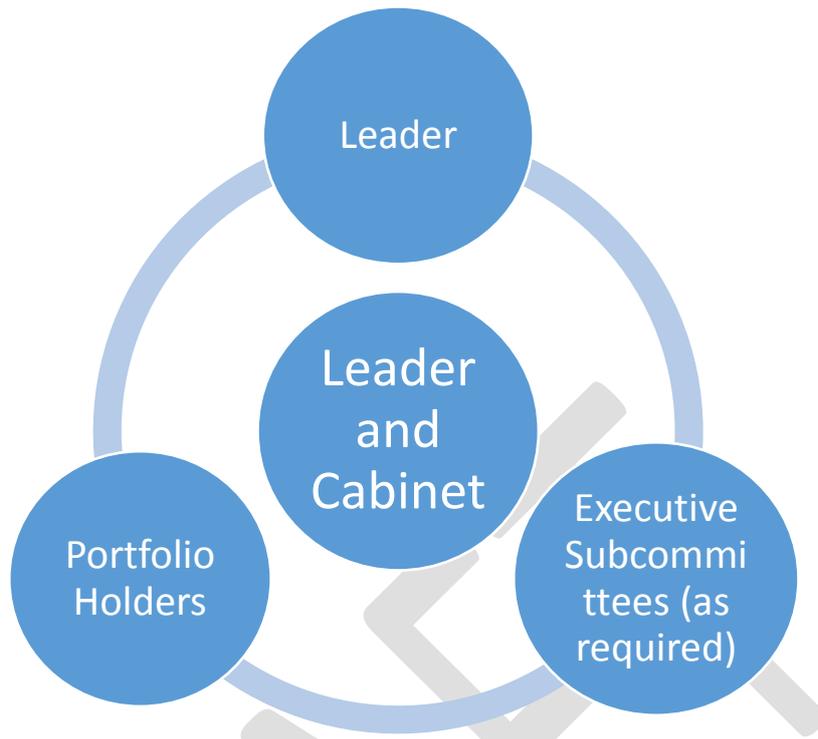
Decision Making



Council and Committees



Executive Arrangements



DRAFT

2. Committee Procedure Rules

Scope

- 2.1. The Council will from time to time appoint such committees as it considers appropriate for the discharge of its functions, in accordance with this Constitution. A duly constituted committee acting in the exercise of its delegated powers and in accordance with its terms of reference shall be entitled to take all necessary action to fulfil its duties.
- 2.2. These Committee Procedure Rules apply to meetings of all Committees and Sub-Committees, with the exception of Select Committees and their Sub-Committees and Planning Committees.
- 2.3. In the case of the Licensing Committee and its Sub-Committees these Rules are subject to and applied as stated in the Licensing Act 2003 (Hearings) Regulations 2005.
- 2.4. Joint Committees and their Sub-Committees will follow these Procedure Rules unless other Rules have been agreed within their terms of reference.

Summons and Agenda

- 2.5. At least **5 clear working days** before a meeting, the Monitoring Officer will send a summons signed by them to every Member of the Committee. The summons will give the date, time and place of the meeting and specify the business to be transacted and will be accompanied by such reports as are available.
- 2.6. Any additions or amendments to an agenda that has been sent to Councillors and/or any supplemental agenda must be approved by the Democratic Services Manager and the Chairman of the Committee. Approval will only be given where there is a good reason for the addition or amendment and where the need for it could not reasonably have been foreseen at the time when the agenda was compiled.
- 2.7. The Monitoring Officer will give notice to the public of the time and place of any meeting as determined by them in accordance with the Access to Information Rules together with additions or amendments to the agenda that have been sent to Councillors.

Chairmen

- 2.8. Every committee shall, at its first meeting after appointment and at its first meeting after the annual meeting of the Council or as soon as practicable thereafter, elect a Chairman who, once elected will appoint a Vice-Chairman, both of whom shall hold office for a year or until their successors are elected or appointed.
- 2.9. 8. If both Chairman and Vice-Chairman are absent from a meeting a Chairman for the meeting will be elected. The person presiding at the meeting may exercise any power or duty of the Chairman. (see Voting below for nomination rules)
- 2.10. 9. No person shall hold the office of Chairman or Vice-Chairman unless they are a member of the committee in question and are also a councillor of the Council unless otherwise allowed under the terms of reference of that committee.
- 2.11. 10. A councillor can be voted to be a Chairman of a committee in their absence, provided they remain a member of that committee.

Meetings

- 2.12. The quorum for a committee or sub-committee is one quarter of the total number of members of the committee or sub-committee unless otherwise detailed in the relevant terms of reference but shall not be less than three voting councillors.

- 2.13. If a quorum is not present within 10 minutes of the scheduled start of the meeting or such longer time as allowed by the Chairman, the business of the meeting will be adjourned to the next meeting.
- 2.14. All councillors present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance where appropriate.

Minutes

- 2.15. The Chairman will sign the minutes of the proceedings at the next suitable meeting. The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.
- 2.16. 15. Minutes will contain all motions and amendments in the form and order the Chairman put them.

Questions

- 2.17. Subject to Rule x.9, a member of a committee or sub-committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affects the Buckinghamshire Council administrative area and which falls within the terms of reference of that committee or sub-committee.

Notice of Questions

- 2.18. 17.A councillor may ask a question under Rule x.8 if either:
 - a. they have given notice of the question in writing or by e-mail no later than midday 5 clear working days before the day of the meeting to the Monitoring Officer; or
 - b. the question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is received by the Monitoring Officer in writing or by e-mail by **9.00 a.m. on the day of the meeting**.

Content of Questions

- 2.19. Questions under Rule x.8 must, in the opinion of the Chairman:
 - a. not be unreasonable;
 - b. contain no expressions of opinion;
 - c. relate to matters on which the Council has or may determine a policy;
 - d. not relate to questions of fact;
 - e. not require the disclosure of confidential or exempt information;
 - f. not relate to a matter which is of purely personal concern to an individual/family member.

Time Allowed for Councillor Questions at Committee and Sub-Committee Meetings

- 2.20. The number of questions and the total time allowed to ask and for consideration of such questions submitted under Rule x.8 shall be determined by the Chairman.

Order of Questions

- 2.21. Questions will be asked in the order determined by the Chairman of the Committee or Sub-Committee.

Written Responses

- 2.22. Any question which cannot be dealt with during question time or to which a response cannot conveniently be given verbally to a question, will be dealt with by a written response provided within 5 clear working days of the meeting.

Record of Questions

- 2.23. The Monitoring Officer will send a copy of any question received to the Chairman of the Committee or Sub-Committee to whom it is to be put. Rejected questions will include reasons for rejection. Copies of all questions will be available to the councillors and the public attending the meeting. After the meeting, copies of the questions asked at the meeting and the responses will also be available on the Council's website with the minutes for the relevant meeting.

Motions

Motions on Notice

- 2.24. Any member of a committee or sub-committee may propose a motion by giving not less than 7 clear working days notice of it to the Monitoring Officer. Motions must be framed in appropriate language and must, in the opinion of the Monitoring Officer in consultation with the Chairman of the Committee or Sub-Committee be about matters for which the Committee or Sub-Committee has a direct responsibility or duty and motions which they deem to be illegal, improper, vexatious or out of order shall be rejected.

Motions Without Notice

- 2.25. The following motions may be moved without notice:
- a. to appoint a Chairman of the meeting at which the motion is moved;
 - b. in relation to the accuracy of the minutes;
 - c. to approve the minutes as a correct record;
 - d. to change the order of business in the agenda;
 - e. to refer a sub-committee's report or any item in it, or any other item, back to a sub-committee;
 - f. to appoint sub-committee members if this arises from an item in the agenda of the meeting;
 - g. to adopt a report or recommendation of the Cabinet, another committee, a sub-committee or an officer;
 - h. to take an action recommended in an Officer's report, or other report submitted to the Committee or Sub-Committee;
 - i. to withdraw a motion or amendment;
 - j. to proceed to the next business;
 - k. that the question be now put;
 - l. to adjourn a debate;
 - m. to adjourn the meeting;
 - n. to suspend a particular Committee Procedure Rule;
 - o. to exclude the public and press in accordance with the Access to Information Rules;
 - p. to not hear further a councillor or to exclude them from the meeting for disorderly conduct.

Motions Set Out in the Agenda

- 2.26. Motions for which notice has been given will be listed on the agenda in the order in which they were received.

Order and Time Allowed for Motions

- 2.27. Notwithstanding the order of Motions within the Agenda the Chairman will decide the order that Motions will be considered and the time allowed for consideration of motions. At the conclusion of the speech being delivered or at the expiry of such time as decided by the Chairman from the commencement of the consideration of the first such motion at the meeting, the Chairman shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:
- a. if the speech to be concluded is a speech proposing a motion, the Chairman shall allow the motion to be formally seconded (without comment);
 - b. if the speech to be concluded is a speech moving an amendment, the Chairman shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise their right of reply; and
 - c. otherwise, the Chairman shall allow the mover of the motion to exercise their right of reply.
- 2.28. Any remaining motions shall be deferred to the next ordinary meeting of the Committee or Sub-Committee and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

Rules of Debate

- 2.29. The following rules apply to a particular meeting to the extent that the Chairman considers appropriate.

No Speeches Until Motion Seconded

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

Right to Require Motion in Writing

- 2.31. Unless notice of the motion has already been given or the motion is one which can be given without notice, the Chairman may require it to be written down in sufficient time to circulate to all members before it is discussed. The Chairman will decide whether there is sufficient time to propose a motion without notice.

Secunder's Speech

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

Content and Length of Speeches

- 2.33. Speeches must be directed to the motion under discussion or to a personal explanation or point of order.
- 2.34. A speech by the mover of a motion may not exceed **5 minutes without the consent of the Chairman.**
- 2.35. Subject to paragraph (d) below, speeches by other Councillors, including those councillors seconding or speaking during their right to reply, may not exceed **3 minutes without the consent of the Chairman.**

When a Councillor May Speak Again

- 2.36. A councillor who has made a speech on a motion may not speak again whilst it is the subject of debate, except:
- a. to speak once on an amendment moved by another councillor;
 - b. to move a further amendment if the motion has been amended since they last spoke;
 - c. if their first speech was on an amendment moved by another councillor, to speak on the main issue (whether or not the amendment on which they spoke was carried);
 - d. in exercise of a right of reply;
 - e. on a point of order; and
 - f. by way of personal explanation.

Amendments to Motions

- 2.37. An amendment to a motion must be relevant to the motion and will either be:
- a. to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - b. to leave out words;
 - c. to leave out words and insert or add others; or
 - d. to insert or add words.

As long as the effect of b. to d. is not to negate the motion or to introduce a new motion.

- 2.38. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- 2.39. If an amendment is not carried, other amendments to the original motion may be moved.
- 2.40. If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- 2.41. After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

Alteration of Motion

- 2.42. A councillor may alter a motion of which they have given notice with the consent of the Committee. The Committee's consent will be signified without discussion.
- 2.43. A councillor may alter a motion which they have moved without notice with the consent of both the Committee and the seconder. The Committee's consent will be signified without discussion.
- 2.44. Only alterations which could be made as an amendment may be made.

Withdrawal of Motion

- 2.45. A councillor may withdraw a motion which they have moved with the consent of both the Committee and the seconder. The Committee's consent will be signified without discussion.
- 2.46. No councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

Right of Reply

- 2.47. The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- 2.48. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- 2.49. The mover of the amendment has no right of reply to the debate on their amendment. If their amendment is carried, they can have the penultimate speech on the amended motion.

Motions Which May Be Moved During the Debate

- 2.50. When a motion is under debate, no other motion may be moved except the following procedural motions:
 - a. to withdraw a motion;
 - b. to amend a motion;
 - c. to proceed to the next business;
 - d. that the question be now put;
 - e. to adjourn a debate;
 - f. to adjourn a meeting;
 - g. to exclude the public and press in accordance with the Access to Information Rules; and
 - h. to not hear further a councillor or to exclude them from the meeting for disorderly conduct.

Closure Motions

- 2.51. A councillor may move, without comment, the following motions at the end of a speech of another councillor:
 - a. to proceed to the next business;
 - b. that the question be now put;
 - c. to adjourn a debate; or
 - d. to adjourn a meeting.
- 2.52. If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, the Chairman will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- 2.53. If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, the Chairman will put the procedural motion to the vote. If it is passed the Chairman will give the mover of the original motion a right of reply before putting their motion to the vote.
- 2.54. If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, the Chairman will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

Point of Order

- 2.55. A councillor may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these Committee Procedure Rules or the law. The councillor must indicate the rule or law and the way in which they consider it has been breached. The ruling of the Chairman on the matter will be final.

Personal Explanation

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

Voting

- 2.57. Any matter will be decided by a simple majority of those councillors voting and present in the room at the time the question was put unless the law provides otherwise.
- 2.58. If a councillor arrives before the casting of votes has been commenced they are entitled to vote, unless the Committee or Sub-Committee is sitting in a quasi-judicial capacity (eg Licensing Committee) when a Councillor may not vote unless they have been present to hear all the evidence presented on an agenda item.
- 2.59. If there are equal numbers of votes for and against, the Chairman will have a second/casting vote. There will be no restriction on how the Chairman chooses to exercise a second/casting vote.
- 2.60. Unless a recorded vote is demanded under Rule 14.4 the Chairman will take the vote by show of hands, or by use of the Council's electronic voting system if any, or if there is no dissent, by the affirmation of the meeting.
- 2.61. Where any councillor requests it immediately after the vote is taken, their vote will be recorded in the minutes to show whether they voted for or against the motion or abstained from voting.
- 2.62. If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.
- 2.63. Where a vote is taken for the election of the Chairman of the Committee or Sub-Committee and the current Chairman is present in the room and not seeking re-election, the current Chairman will preside over the election of the new Chairman.
- 2.64. The Chairman of a Committee or Sub-Committee shall be deemed to have retired from that position immediately before the start of a meeting at which a Chairman is to be elected.
- 2.65. Subject to Rule X members of the Committee or Sub-Committee shall appoint one of their number to preside over the election of Chairman.
- 2.66. Officers shall not call for nominations for the election of the Chairman.

Rights of Access/Inspection of Documents

- 2.67. Rights of access to and inspection of documents will be as set out in the Access to Information Procedure Rules.

Councillors' Conduct

Speaking at Meetings

- 2.68. When a councillor speaks they must address the meeting through the Chairman. If more than one councillor signifies their intention to speak, the Chairman will ask one to speak. Other councillors must remain silent whilst a councillor is speaking unless they wish to make a point of order or a point of personal explanation.

Chairman Speaking

- 2.69. When the Chairman speaks during a debate, any councillor speaking at the time must stop.

Councillor Not to be Heard Further

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

Councillor to Leave the Meeting

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

General Disturbance

- 2.72. If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as they consider necessary.

Exclusion of the Public

- 2.73. Members of the public and press may only be excluded either in accordance with the Access to Information Rules or in accordance with the following Rules.
- 2.74. If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room.
- 2.75. If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

Appointment of Substitute Members on Committees and Sub-Committees

- 2.76. The substitution rules will not apply to meetings of the Cabinet, the Standards and General Purposes Committee, the Pension Fund Committee or the Audit and Governance Committee.
- 2.77. Subject to any other restrictions elsewhere in the Constitution, any councillor will be permitted to act as a substitute on a Council Body provided that they have been so appointed by Council to so act. The Proper Officer may consider a request from a councillor of a Council Body or the Leader of the political group of which the councillor is a member to appoint a substitute councillor. The proposed substitute councillor must be from the same political group as the councillor for whom they are substituting and must have been appointed by Council as a potential substitute for the Body concerned.

- 2.78. In order to be eligible to sit as substitutes on regulatory or administrative committees or panels or staff appointments or disciplinary bodies established by the Council, councillors must have received formal training in relevant procedures and the law.
- 2.79. 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.
- 2.80. Substitute members may attend meetings in that capacity only:
- a. to take the place of the councillor for whom they are designated substitute; and
 - b. where the ordinary councillor will be absent for the whole of the meeting; and
 - c. where the ordinary councillor or their group leader has notified the Monitoring Officer or the Democratic Services Manager of the intended substitution by no later than 24 hours before the start of the relevant meeting, or in exceptional circumstances and with the consent of the Monitoring Officer, no later than one hour before the start of the relevant meeting.

Suspension of Committee Procedure Rules

- 2.81. All of these Rules of Procedure except Rule, 14.5 and 15.2 may be suspended by the Chairman or by motion on notice or without notice if at least one half of the whole number of members of the Committee or Sub-Committee, are present. Suspension can either be for an item or for the duration of the meeting.

3. Planning Committee Procedure Rules

The procedures at the Area Planning Committee meetings and the Strategic Sites Committee meetings (“The Planning Committee”) will be as follows.

General

- 3.1. The Area Planning Committee will be comprised of 12 members (10 for South Buckinghamshire Area Planning Committee) or as otherwise detailed in the Area Planning Committee Terms of Reference
- 3.2. The quorum for all meetings of the Area Planning Committee will be 7 members (6 for South Buckinghamshire Area Planning Committee) or as detailed in the Area Planning Terms of Reference and no business will be transacted if any meeting or part of a meeting will not be quorate.
- 3.3. The members and substitute members for Area Planning Committees will be drawn from the area which that committee covers wherever possible.
- 3.4. The Strategic Sites Committee will be comprised of 12 members.
- 3.5. The quorum for all meetings of the Strategic Sites Committee will be 7 members and no business will be transacted if any meeting or part of a meeting is not quorate.
- 3.6. For the Area Planning Committees and the Strategic Sites Committee substitutes will be permitted, provided the substitute has attended the relevant training required in the committee terms of reference and the Planning Protocol. The notice requirements relating to notice of substitutes detailed in Committee Procedure Rule 2.80 above must also be complied with.
- 3.7. The relevant Planning Committee will meet at times and places appointed and published in accordance with the requirements of the Access to Information Rules
- 3.8. Substitute councillors may attend meetings in that capacity only to take the place of the Committee member for whom they are the designated substitute where the ordinary member will be absent for the whole of the meeting and where the member has notified the Democratic Services Manager or the Monitoring Officer of the intended substitution by no later than 24 hours before the start of the relevant committee meeting, or in exceptional circumstances and with the consent of the Chairman, no later than one hour before the start of the relevant meeting.
- 3.9. The Chairman will preside over meetings of the Planning Committee and, where the Chairman is absent for the whole or part of the meeting, the Vice-Chairman will preside over the meeting or that part of it. In the absence of both the appointed Chairman and Vice-Chairman for either the whole of or part of a meeting, the Planning Committee will appoint from those Councillors then present a person to act as Chairman for the duration of that meeting or part of it. (All references to 'Chairman' in these rules will be read as referring to the person acting as Chairman at the relevant meeting or part of it).
- 3.10. The Chairman of the Planning Committee meeting will be responsible for:
 - a. calling items for consideration as they appear on the Agenda,
 - b. calling and allowing persons to speak at the Planning Committee meeting,
 - c. maintaining good order at the Planning Committee meeting. For this purpose, the Chairman has the right to curtail any speaker (including a Councillor of the Committee), or to suspend the Planning Committee meeting, in cases of disorder, until good order has been restored.

- 3.11. In all matters of procedure and interpretation of these rules, the Chairman's decision will be final.
- 3.12. Decisions of the Planning Committee are not subject to scrutiny arrangements/call-in to Select Committee
- 3.13. The order of business for each meeting of the Planning Committees:
 - a. Opening matters;
 - b. Apologies;
 - c. Substitutes;
 - d. Minutes;
 - e. Declarations of interest,
 - f. Planning Applications (the planning applications will be listed in chronological order but will be considered in such order as determined by the Chairman)
 - g. Other matters requiring consideration by the committee
- 3.14. Prior to the Planning Committee meeting, the Chairman and Vice-Chairman will whenever possible meet with officers to discuss the process and speaking arrangements for each item to be heard at the meeting. Officers present should usually include planning and legal officers.
- 3.15. Where there is no provision made in these Planning Committee Procedure Rules the requirements of the Committee Procedure Rules will be followed at the discretion of the Chairman.

Minutes

- 3.16. Minutes will contain all motions and amendments in the form and order they were put.

Approval of Minutes

- 3.17. At every meeting of the Planning Committee the Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

Declarations of Interests

- 3.18. Declarations will be made in accordance with the Code of Conduct. These declarations will be made at the outset of the meeting under the item listed as 'declarations' on that Planning committee's agenda or as soon as the interest comes to light.

Consideration of Business on the Public Agenda

- 3.19. All Planning Applications to be decided by Planning committee will be dealt with as follows:
 - a. The Chairman will announce the agenda item number.
 - b. The Planning Officer will introduce the application with any relevant updates and provide a visual presentation to aid members' understanding of the context of the application.
 - c. The Chairman will call on public speakers in accordance with the Public Speaking Arrangements.
 - d. The Chairman will then ask members if they have technical questions of officers

- e. The entire committee will then discuss/debate the application.
- f. Members may seek further clarification of
 - i particular points from officers, regarding the application, or
 - ii on points raised by speakers, in the main debate, through the chair. Officers will respond to issues and questions raised by members.
- g. The Committee will then make a decision by vote.

Public Speaking Arrangements

- 3.20. The following will be invited to speak at the first Planning Committee meeting at which a matter is considered:
- a. Members of the public who have previously made written representations objecting to or in support of the application;
 - b. Town or parish councils who have been consulted on the application and where they have made a written representation;
 - c. Members of the Council; and
 - d. The applicant or agent.
- 3.21. Anyone interested in speaking at Planning Committee must register in advance of the meeting. Details on how to register will be provided in the invitation to speak. The circulation of documentation including photographs or presentation materials will not be permitted at the Planning Committee meeting. Where an application is deferred for consideration to a subsequent meeting and in the opinion of the lead planning officer there are no significant amendments or changes to the substance of the application, there will be no further public speaking when the application is brought back to the relevant Planning Committee.
- 3.22. The order of speaking and time limits will be as follows:

a. **Area Planning Committees**

Councillor/Local Member(s)	Parish/Town Council(s)	Objector(s)	Supporter(s)	Agent/Applicant
3 minutes each	3 minutes shared	3 minutes shared	3 minutes shared	3 minutes shared

Where speaking times are shared, there is an overall time limit of three minutes in total, not three minutes each. Speakers in the above categories will be encouraged to coordinate with each other so that repetition can be avoided. A speaker may nominate a single spokesperson to speak on their behalf. Members will be permitted to ask the speaker questions/ points of clarification based on the points covered in the speakers' presentation AND FOR THE AVOIDANCE OF DOUBT this does not include questions based on matters not addressed by the speaker.

b. **Strategic Committee**

Speaking arrangements for the Strategic Sites Committee will be the same as the Area Planning Committees, however, there may be more flexibility applied, dependent upon the nature of the application, at the Chairman's discretion.

Voting

- 3.23. In order to vote on an application, a member of the Committee must be present throughout the entire presentation and subsequent debate on an individual application.

- 3.24. All members of the Committee will have one vote. The Chairman will have an extra casting vote in the event of the votes cast being tied. Matters subject to a vote will be decided by a simple majority of the votes cast.
- 3.25. Voting will be either for the recommendation as it appears in the written report (or as amended by the Planning Officer verbally at the meeting) or for the amendment to the recommendation (as proposed by a member of the Committee). Where there is more than one amendment proposed, they will be voted on in the order in which they are proposed.
- 3.26. Any Councillor of the Committee may request that their name be recorded in the Minutes of the meeting recording the way they have voted in respect of any item.
- 3.27. Where there is ambiguity in the way votes are cast, the Chairman may request Committee members to confirm their votes before the Committee's decision is recorded.

Site Visits

- 3.28. Area Planning and Strategic Development Committees may visit sites at the discretion of the chairman prior to the meeting at which the Planning Application is to be considered. A site visit may be appropriate where:
 - a. Matters of judgement are involved on the context of the site such as the effect on landscape, impact on character, residential amenity, or highway considerations rather than purely on principle;
 - b. Finely balanced cases; or
 - c. Contentious applications where there are strong local views
- 3.29. The primary aim of a site visit is to enable members to see for themselves the impacts of development and appreciate the issues involved. All members of Planning Committee are encouraged whenever possible to attend the site visits. Site visits will only be attended by Planning Committee members and officers, no representations will be permitted during the site visit from parishes, members of the public, applicants or agents. The member responsible for calling the application into Planning Committee may wish to attend the site visit to explain why they called the application in to Planning Committee.

Other Matters

- 3.30. From time to time the Committee may consider reports on other items falling within the Committee's terms of reference, such as performance reports or on proposed changes to national or regional planning policy.
- 3.31. In those circumstances the procedure to be followed will be as described for public items above except that, there being no Planning Committee Procedure Rules application for the Committee to determine, there will be no provision for public speaking before the Committee.

Call-In

- 3.32. The call-in process of bringing Planning Applications to Planning Committee rather than delegating their determination to officers is open to all members of the Council.
 - a. Within 28 days of being notified of a Planning Application, members must use Public Access to notify the planning officer that they may wish to call-in the Planning Application to the relevant Planning Committee.
 - b. Once the officer has reached a recommendation they will inform the local member as well as the member who has requested the call-in (if different)

- c. The member requesting the call-in has 7 days in which to provide material planning reasons via Public Access, confirming their request for the Planning Application to be determined by committee.
- d. At that time, the member requesting the call-in must also disclose whether they have a Disclosable Pecuniary Interest, personal interest or any personal bias in the Planning Application being called-in.
- e. The Service Director in consultation with the Chairman (or, in his absence, the Vice-Chairman) of the relevant planning committee will determine whether or not the matter called-in by a member should be considered by Planning Committee, or whether the exercise of delegated powers is appropriate.

DRAFT

4. Regulatory Committees – Terms of Reference

Licensing Committee

General

- 4.1. A regulatory Committee of the Council established to be responsible for licensing and registration functions under the Licensing Act 2003 and s.101 Local Government Act 1972 and external Health & Safety at Work functions.

Membership, Chairmanship and Quorum

Number of Members	15
Substitute Members Permitted	Yes
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	Cabinet Leader may not be a member. The undertaking of such training as determined by the Monitoring Officer on licensing and regulatory functions and procedures is a pre-requisite to membership of, and substitutes for, this Committee
Restrictions on Chairmanship/Vice-Chairmanship	Cabinet Members or Deputy Cabinet Members may not hold these offices
Quorum	4
Number of ordinary meetings per Council Year	At least two per year
Standing Sub-Committees	Licensing Sub-Committee and Regulatory Sub-Committee

Terms of Reference

- 4.2. To exercise the Council's responsibilities and functions relating to licensing, registration and other miscellaneous functions as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (No 2853) as amended or updated ("2000 Regulations"), insofar as such functions are not the responsibility of any other local authority.
- 4.3. For the avoidance of doubt, in relation to the grant or issue by the Committee of any approval, consent, licence, permission or registration, the exercise of the responsibilities for the functions referred to above includes responsibility for:-
- The imposition or amendment, modification or variation of any term, condition, limitation or restriction.
 - The decision to take enforcement or other action in respect of a breach of any term, condition, limitation or restriction.
 - The decision to revoke, vary or modify any approval, consent, licence, permission or registration.

- d. Where permissible by law, the decision to impose a charge and the amount of any such charge.
 - e. Where permissible by law, to determine and set the fees and charges in respect of any approval, consent, licence, permission or registration including consideration of any representations thereon or objections thereto.
- 4.4. To exercise the Council's functions under the Gambling Act 2005 as amended not covered by the 2000 Regulations including those functions under Part 8 of the Gambling Act 2005 except the adoption of the Section 349 Gambling Act 2005 Statement of Principles (adoption by full Council) and the passing of a S166 of the Gambling Act 2005 resolution not to issue a casino premises licence (resolution by full Council - S154 (2)(a) of the Gambling Act 2005) having first sought the views of Cabinet.
 - 4.5. To exercise the Council's licensing and registration functions under the Local Government (Miscellaneous Provisions) Act 1982, as amended including licensing of Sex Establishments and Sexual Entertainment Venues, the setting of fees and standard conditions and the licensing of premises for acupuncture, tattooing, ear-piercing and electrolysis.
 - 4.6. To exercise the Council's licensing and registration functions under the Scrap Metal Dealers Act 2013 including the setting of fees.
 - 4.7. To exercise the Council's licensing and registration functions under the Caravan Site Act 1968 and Mobile Homes Act 2013 and related legislation including the setting of fees.
 - 4.8. To develop, review and submit to full Council for adoption Policies in relation to the functions undertaken by this Committee including Policies for Hackney Carriage and Private Hire, Classification of Films, Sex Establishments and Mobile Homes Fees.
 - 4.9. To consider any matter referred to the Committee by the Council, another Committee, the Cabinet or a Cabinet Member which relates to functions for which the Committee is responsible.
 - 4.10. To establish a standing Sub-Committee to be known as the Regulatory Sub-Committee to consider and determine any applications and/or matters that by law or in accordance with the Council's adopted Policies or this Constitution require a hearing to be conducted.
 - 4.11. To establish a standing Sub-Committee to be known as the Licensing Sub-Committee to consider and determine any applications and/or matters that by law or in accordance with the Council's adopted Licensing Policy and Gambling Statement of Principles or this Constitution require a hearing to be conducted.

Delegations

- 4.12. All functions are delegated to the Licensing Committee other than any matter delegated to a named Officer in the Scheme of Delegations to Officers set out in Section x of Part x of this Constitution.

Regulatory Sub-Committee

General

- 4.13. A regulatory sub-committee of the Licensing Committee established to conduct hearings and make determinations in respect of the Councils regulatory licensing functions.

Membership, Chairmanship and Quorum

Number of Members	Three
Substitute Members Permitted	Yes
Political Balance Rules apply	No
Appointments/Removals from Office	By the Democratic Services Manager subject to member's availability and when reasonably practical, on the basis of appropriate geographical representation.
Restrictions on Membership	Only members of the Licensing Committee are eligible
Restrictions on Chairmanship	None
Quorum	Three
Number of ordinary meetings per Council Year	Hearings/ meetings will be called as required

Terms of Reference

- 4.14. To conduct hearings and make determinations under or in respect of the following legislation and functions as required by law or in circumstances where the appropriate Service Director is unable or unwilling to make a decision under the terms of the Scheme of Delegations to Officers:-
- a. licensing of Hackney Carriage and Private Hire Drivers, Vehicles, Operators and related enforcement
 - b. classification of films
 - c. licensing of sex establishments and venues
 - d. licensing of premises for acupuncture, tattooing, ear-piercing and electrolysis
 - e. licensing of Scrap Metal Dealers
 - f. licensing of caravan sites
 - g. licensing of Street Trading and
 - h. such other matters as the Sub-Committee may be required by law or in connection with the discharge of any of the matters referred to in these Terms of Reference

Delegations

- 4.15. Decisions on all matters falling within these terms of reference.

Notes

- 4.16. The Democratic Services Manager is authorised to constitute the Sub-Committee from the membership of the Licensing Committee having regard to member availability, together with a standby in case a member of the Sub-Committee is unable to participate or continue for any reason.

- 4.17. When reasonably practical, a sub-committee meeting should be held at the council facility which is closest to the premises or issue that is the subject of the meeting'
- 4.18. Members are appointed for a single meeting/hearing only.

DRAFT

Licensing Sub-Committee

General

- 4.19. A licensing sub-committee of the Licensing Committee established to conduct hearings and make determinations in respect of the Councils statutory licensing functions.

Membership, Chairmanship and Quorum

Number of Members	Three
Substitute Members Permitted	Yes
Political Balance Rules apply	No
Appointments/Removals from Office	By the Democratic Services Manager subject to member's availability and when reasonably practical, on the basis of appropriate geographical representation.
Restrictions on Membership	Only members of the Licensing Committee are eligible
Restrictions on Chairmanship	None
Quorum	Three
Number of ordinary meetings per Council Year	Hearings/ meetings will be called as required

Terms of Reference

- 4.20. To conduct hearings and make determinations under or in respect of the following legislation and functions as required by law or in circumstances where the appropriate Service Director is unable or unwilling to make a decision under the terms of the Scheme of Delegations to Officers:-
- Licensing Act 2003;
 - Gambling Act 2005;
 - Such other matters as the Sub-Committee may be required by law or in connection with the discharge of any of the matters referred to in these Terms of Reference

Delegations

- 4.21. Decisions on all matters falling within these terms of reference.

Notes

- 4.22. The Democratic Services Manager is authorised to constitute the Licensing Sub-Committee from the membership of the Licensing Committee having regard to member availability, together with a standby in case a member of the Sub-Committee is unable to participate or continue for any reason.
- 4.23. When reasonably practical, a sub-committee meeting should be held at the council facility which is closest to the premises or issue that is the subject of the meeting
- 4.24. Members are appointed for a single meeting/hearing only.

Strategic Sites Committee

General

- 4.25. The Role of the Strategic Sites Committee is to exercise the Council's functions as local planning authority as specified in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and any subsequent Regulations modifying or replacing those Regulations, insofar as such functions are not the responsibility of any other local authority or fall under the remit of the Area Planning Committee(s).
- 4.26. The scope of the committee is to deal with wider strategic development, sites which have a significant impact beyond the specific local area and sites fundamental to the implementation of an adopted or emerging Local Plan.
- 4.27. The Strategic Sites Committee will also determine all public rights of way, Common Land and Town or Village Green applications where the Service Director of Planning and Environment elects not to exercise delegated authority and refers the application to committee.

Membership, Chairmanship and Quorum

Number of Members	12
Substitute Members Permitted	Yes
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	Cabinet Members or Deputy Cabinet Members may not be a member of this Committee The undertaking of such training as determined by the Monitoring Officer on: 1) planning functions and procedures; 2) rights of way and village green matters; and 3) probity in decision making is a pre-requisite to membership of, and substitutes for, this Committee
Restrictions on Chairmanship/Vice-Chairmanship	None
Quorum	7
Number of ordinary meetings per Council Year	At least two per year
Standing Sub-Committee	None

Terms of Reference

- 4.28. 1.3.1 To exercise the Council's functions as local planning authority as specified in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and any subsequent Regulations modifying or replacing those Regulations, insofar as such functions are not the responsibility of any other local authority or fall under the remit of the Area Planning Committees.
- 4.29. Responsibility for:
- wider strategic development;
 - sites which have a significant impact beyond the specific local area; and

- c. sites fundamental to the implementation of an adopted or emerging Local Plan. This will include:
 - i Major infrastructure;
 - ii Minerals and Waste;
 - iii Secondary Schools;
 - iv Large Scale Major Development comprising:
 - o Housing (approx. 400 dwellings or more)
 - o Employment (approx. 10,000 sq m or 2 hectares or more)
 - o Retail (approx. 10,000 sq m or 2 hectares or more)
- 4.30. The Council's functions include but are not limited to the responsibility for:-
- a. imposing any condition, limitation or restriction, or determining any other terms, on an approval, consent, licence, permission or registration granted in the exercise of its functions;
 - b. revoking any approval, consent, licence, permission or registration granted in the exercise of its functions;
 - c. amending, modifying or varying any approval, consent, licence, permission or registration granted in the exercise of its functions or any condition, limitation, restriction or term to which it is subject;
 - d. determining whether a charge should be made, and the amount of any such charge, for any approval, consent, licence, permission or registration.

Rights of Way Functions

- 4.31. Power to require information as to interests in land.
- 4.32. Power to create footpaths and bridleways.
- 4.33. Power to stop up footpaths and bridleways.
- 4.34. Power to divert footpaths and bridleways.
- 4.35. Duty to assert and protect the rights of the public to use, and enjoyment of, highways.
- 4.36. Duty to keep a definitive map and statement under review.
- 4.37. Duty to reclassify roads used as public paths.
- 4.38. Power to authorise creation of stiles etc. on footpaths or bridleways.
- 4.39. Powers relating to the removal of things so deposited on highways as to be a nuisance.
- 4.40. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:
 - a. an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c.67); or
 - b. an order under section 147 of the Inclosure Act 1845 (c.8 & 9 Vict. c.118)
- 4.41. Power to register variation of rights of common.
- 4.42. Power to make, amend, revoke, re-enact or enforce by-laws.

Speaking and Other Procedural Arrangements Including Site Visits etc.

- 4.43. Speaking and other procedural arrangements are detailed in the Planning Committees Procedure Rules.

Delegations

- 4.44. [All functions are delegated to the Strategic Sites Committee as set out in Section x of Part x of this Constitution.]

DRAFT

Area Planning Committees

4.45. Five Committees as follows:

North Buckinghamshire Area Planning Committee; Central Buckinghamshire Area Planning Committee; West Buckinghamshire Area Planning Committee; East Buckinghamshire Area Planning Committee; and South Buckinghamshire Area Planning Committee.

General

4.46. The Role of each of the Area Planning Committees is to exercise the Council's functions as local planning authority as specified in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and any subsequent Regulations modifying or replacing those Regulations, insofar as such functions are not the responsibility of any other local authority or fall under the remit of the Strategic Sites Committee for their area. The geographical locations of the 5 Area Planning Committees is available on the Council's website link

Membership, Chairmanship and Quorum

Number of Members	12 (10 for South Buckinghamshire Area Planning Committee Planning Committee)
Substitute Members Permitted	Yes
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	Cabinet Members and Deputy Cabinet Members may not be a member of these Committees Chairman of Strategic Sites Committee may not sit on any Area Planning Committee The undertaking of such training as determined by the Monitoring Officer on: 1) planning functions and procedures; 2) probity in decision making is a pre-requisite to membership of, and substitutes for, this Committee
Restrictions on Chairmanship/Vice-Chairmanship	None
Quorum	7 (6 for South Buckinghamshire Area Planning Committee)
Number of ordinary meetings per Council Year	At least two per year
Standing Sub-Committee	None

Terms of Reference

4.47. To exercise the Council's functions as local planning authority as specified in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and any subsequent Regulations modifying or replacing those Regulations, insofar as such functions are not the responsibility of any other local authority or fall under the remit of the Strategic Sites Committee.

4.48. The Committee's functions include but are not limited to the responsibility for:-

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

Speaking and Other Procedural Arrangements Including Site Visits etc.

- 4.49. Speaking and other procedural arrangements are detailed in the Planning Committees Procedure Rules.

Delegations

- 4.50. [All functions are delegated to the Strategic Sites Committee as set out in Section x of Part x of this Constitution.]

5. Standards and General Purposes Committee Terms of Reference

General

- 5.1. The purpose of the Standards and General Purposes Committee is to oversee and develop the Council's Code of Conduct and the overall standards of conduct and ethics of Members and co-opted Members of Buckinghamshire Council. The Standards and General Purposes Committee will have the roles and responsibilities as set out in the below Terms of Reference.

Membership, Chairmanship and Quorum

Number of Members	14
Substitute Members Permitted	No
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	Cabinet Members and Deputy Cabinet Members may not be a member of this Committee
Restrictions on Chairmanship/Vice-Chairmanship	None
Quorum	One quarter of the membership
Number of ordinary meetings per Council Year	At least two per year
Standing Sub-Committees	Hearings Sub-Committee

Terms of Reference

- 5.2. Promote and maintain high standards of conduct by Members and co-opted Members of the Council.
- 5.3. Keep the Member Code of Conduct and where appropriate the Planning Protocol under review and make recommendations to Council on any amendment or revisions to the Code and Protocol when appropriate.
- 5.4. Monitor the operation of the Member Code of Conduct, and where appropriate, the Planning Protocol.
- 5.5. Assist Members and co-opted Members of the Council to observe the Member Code of Conduct, and where appropriate, the Planning Protocol.
- 5.6. Advise, train or arrange training for Members and co-opted Members of the Council, including assisting Parishes to train their own Councillors, on matters relating to the Member Code of Conduct and the Planning Protocol.
- 5.7. Give general guidance and advice to Members and Co-opted Members of the Council on Member's interests and keep under review the Register of Members' Interests maintained by the Monitoring Officer.
- 5.8. Grant dispensations to Members and co-opted Members from requirements relating to interests as set out in the Member Code of Conduct, and where appropriate, the Planning Protocol. This function has also been delegated to the Monitoring Officer in relation to all grounds of dispensation with a power to refer back to the Standards and General Purposes Committee.

- 5.9. Exercise the Council's functions under Chapter 7 (sections 26 to 37) of the Localism Act 2011 relating to Ethical Standards.
- 5.10. Give general guidance and advice to Members and Co-opted Members of the Council on gifts and hospitality.
- 5.11. Keep the Council's Arrangements for Dealing with Standards Complaints under review and make recommendations to Council on any amendment or revisions to the Arrangements when appropriate.
- 5.12. In accordance with the Council's Arrangements for Dealing with Standards Complaints, to assess and / or refer for investigation allegations of misconduct on the part of Members and co-opted Members of the Council, Parish and Town Councils if so requested by the Monitoring Officer.
- 5.13. The determination of allegations of misconduct on the part of Members and co-opted Members of the Council, Parish and Town Councils.
- 5.14. Make recommendations to Council with regard to the appointment of Independent Persons.
- 5.15. Overview of the Council's Protocol on Member / Officer Relations.
- 5.16. Receive an annual report from the Monitoring Officer detailing complaints received, complaints dealt with and resolutions achieved.
- 5.17. Support the Monitoring Officer in discharging his / her role in respect of standards of conduct and behaviour.
- 5.18. Recommend changes to the Council's Constitution to full Council which includes ensuring all significant amendments are proposed in writing before being agreed.
- 5.19. Consider electoral arrangements and any relevant issue referred to it by the Chief Executive, Section 151 Officer, Chief Internal Auditor or Monitoring Officer.
- 5.20. Receive on behalf of the Council reports issued by the Local Government Ombudsman into investigations that the Council's actions have amounted to maladministration causing injustice.
- 5.21. Exercise any functions in relation to parishes, parish meetings and parish councils including changing the name of a parish.
- 5.22. Make, amend or revoke bylaws by recommendation to Full Council.
- 5.23. Deal with all other non-executive functions which are not reserved to full council and which are not otherwise delegated.

Membership

- 5.24. Comprises 14 Members as follows:
 - a. 12 councillors from Buckinghamshire Council
 - b. Up to two Independent Persons appointed by Buckinghamshire Council as non-voting members

6. Audit and Governance Committee Terms of Reference

General

- 6.1. The purpose of the Audit and Governance Committee is to:
- a. Provide independent assurance as to the Council's governance, risk management framework and associated control environment.
 - b. Provide independent scrutiny of the Council's financial and non-financial performance to the extent that it affects the Council's exposure to risk and weakens the control environment.
 - c. Oversee the Council's financial reporting process.
 - d. Approve the Council's Final Accounts.
 - e. Provide assurance on the adequacy of the Council's Treasury Management risk framework and associated control environment.
 - f. Act as an advisory committee to the Council and the Cabinet on audit and governance issues.

Membership, Chairmanship and Quorum

Number of Members	12
Substitute Members Permitted	No
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	Cabinet Members or Deputy Cabinet Members may not be a member of this Committee.
Restrictions on Chairmanship/Vice-Chairmanship	None
Quorum	One quarter of the number of members rounded up
Number of ordinary meetings per Council Year	At least two per year

Terms of Reference

Audit

- 6.2. Consider the Chief Internal Auditor's annual plan and annual report (including a summary of internal audit activity and the level of assurance it can give over the Council's governance arrangements).
- 6.3. Consider summaries of specific internal audit reports and the response of the Chief Executive to such reports.
- 6.4. Consider reports dealing with the management and performance of internal audit service providers.
- 6.5. Consider the external auditor's annual letter, relevant reports and the report to those in charge of governance.
- 6.6. Consider specific reports as agreed with the Section 151 Officer, Chief Internal Auditor, and Monitoring Officer, Chief Executive or external auditor.

- 6.7. Comment on the scope and depth of external audit work and ensure it provides values for money.
- 6.8. Commission work from internal and external audit in accordance with guidelines.
- 6.9. Such other matters as required by law or guidance to be the proper remit of the Audit and Governance Committee.

Governance

- 6.10. Maintain an overview of aspects of the Council's Constitution relating to decision-making, contract procedure rules and Financial Procedure Rules. Any proposed changes to the Council's Constitution are to be recommended to Council via the Standards and General Purposes Committee.
- 6.11. Review any issue referred to it within these Terms of Reference by the Chief Executive, Section 151 Officer or any body of the Council.
- 6.12. Consider and monitor the Council's Risk Registers and refer matters for consideration to Cabinet and Council.
- 6.13. Monitor the effective development and operation of risk management and corporate governance within the Council.
- 6.14. Approve and monitor the Council's 'whistle-blowing', anti-fraud and anti-corruption policies.
- 6.15. Review and make recommendations on the Council's Annual Governance Statement.
- 6.16. Consider the Council's corporate governance arrangements and make recommendations to ensure compliance best practice.
- 6.17. Monitor the Council's compliance with its own and other published standards and controls.
- 6.18. Consider reports dealing with risk management across the organisation and those reports which identify key risks the Council faces, seeking assurance of appropriate management action.
- 6.19. Such other matters as required by law or guidance to be the proper remit of the Audit and Governance Committee.
- 6.20. Receive annually statistical reports and details of complaints received and investigated through the Council's Corporate Complaints Procedure which have resulted in payments or other benefits being provided by the Council in cases of maladministration.

Financial Reporting

- 6.21. View the Council's annual statement of accounts and specifically consider whether appropriate accounting policies have been followed, and whether there are any concerns arising from the financial statements, or the audit which should be brought to the attention of the Council.
- 6.22. Consider reports of the external auditor to those in charge of governance on issues arising from the audit of the accounts.

Membership

- 6.23. 12 Members

7. Pension Fund Committee Terms of Reference

Role and Function

- 7.1. To be responsible for the Council’s statutory function as administering authority (also including investment matters) under the Local Government Pension Scheme Regulations and associated legislation under Sections 7, 12 and 24 of the Superannuation Act 1972. The committee will be established under s101 of the Local Government Act 1972.
- 7.2. The Pension Fund Committee will be provided with full-delegated powers to discharge the following functions on behalf of the Council:
 - a. To deal with all matters arising relating to the Buckinghamshire Local Government Pension Scheme;
 - b. To instruct the S151 Officer on the management and investment of the Buckinghamshire Pension Fund (“the Pension Fund”)
 - c. To constitute a Pension Fund Board in accordance with the Pension Fund Board’s terms of reference.

Membership, Chairmanship and Quorum

Number of Members	9
Substitute Members Permitted	No
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	Cabinet Leader may not be a member.
Restrictions on Chairmanship/Vice-Chairmanship	None
Quorum	3 (including the Chairman or Vice-Chairman)
Number of ordinary meetings per Council Year	At least four per year

Terms of Reference

- 7.3. To agree and ensure the continual review of:
 - a. The Statement of Investment Principles,
 - b. The strategic benchmarks for the performance of the Pension Fund against which the actual performance is to be measured,
 - c. The strategic targets against which the performance of the Fund Managers is to be measured.
- 7.4. To agree the appointment and termination of:
 - a. Fund Managers to deliver the Pension Fund’s investment strategy, where not available through the Brunel pension pooling arrangements
 - b. The Actuary
 - c. Firms or individuals to provide investment and actuarial advice for the Fund
- 7.5. On a quarterly basis, review the performance of the Pension Fund and the Fund Managers against the objectives, benchmarks and targets set and to consider if, and to what extent,

any change may be necessary to ensure the efficient and effective performance of the Pension Fund. This may include:

- a. The dismissal, selection, appointment and enhanced performance monitoring of, the Managers of the Pension Fund
 - b. Reviewing the allocation of the assets of the Pension Fund and the generic selection of asset portfolios in order to meet the objectives of the Pension Fund.
 - c. To agree from time to time any restrictions to be placed on any one or more Managers of the Pension Fund as to particular classes of authorised investment or decisions they may take on behalf of the Pension Fund or as to the exercise of voting rights;
 - d. Reviewing the structure of the management arrangements necessary to achieve the effective management of the Pension Fund to meet its objectives.
 - e. Reviewing the Pension Fund Risk Register (every six months).
- 7.6. On an annual basis (or more frequently as required by the Committee), review the performance of the Pension Fund and the Fund Managers against the strategic objectives, benchmarks and targets set by them and to consider if, and to what extent, any change may be necessary to ensure the efficient and effective performance of the Pension Fund.
- 7.7. To approve the Pension Fund Annual Accounts and Governance Compliance Statement
- 7.8. Review the formal Actuarial Valuation and to consider if, and to what extent, any change may be necessary to ensure the efficient and effective performance of the Pension Fund.
- 7.9. To consider the admission of employing organisations to the Fund where there is discretion to do so and as escalated by the S151 Officer.
- 7.10. To have due regard to the advice of the S151 Officer and to the advice of Consultants appointed by the Committee. If the Pension Fund Committee shall disregard the advice of Consultants, its reasons for so doing shall be recorded in the minutes of the Committee.
- 7.11. To receive auditor reports as appropriate and seek assurance that any action points arising are implemented.
- 7.12. To deal with any other matters arising in respect of Local Government Pensions.

Reporting

- 7.13. Minutes of the Committee will be reported to Council under the existing Council Committee framework.
- 7.14. Detailed performance reports will remain confidential items on Committee agenda as will any other item deemed as such by the Chairman although the Committee aims to operate as transparently as feasible.
- 7.15. The Chairman shall consult with the Council's Monitoring Officer (and that of any relevant partner organisation) where any member misses three Committee meetings in a row (to include formal training sessions).

Membership

- 7.16. Comprises nine members, all with voting rights, as follows:
- a. Seven Members from Buckinghamshire Council
 - b. One Co-Opted Member from Milton Keynes Council
 - c. One Police and Crime Commissioner (PCC) or deputy PCC from Thames Valley

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

7.18. The quorum for this Committee is three Members, one of which must be either the Chairman or Vice-Chairman.

Frequency

7.19. Five meetings will be scheduled each year, additional meetings may be scheduled for appointing fund managers, global custodian or the Fund's actuary. Formal Committee meetings are supplemented by Committee Training Days.

DRAFT

8. Health and Wellbeing Board Terms of Reference

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

Composition

NB subject to further verification of ToRs and Board membership as agreed by the Board current ToRs available at <https://democracy.buckscc.gov.uk/mgConvert2PDF.aspx?ID=20219>

- 8.2. In accordance with the Health and Social Care Act 2012, the Board will comprise:
- a. Three Cabinet Members nominated by the Leader of the Council to include the Cabinet Members with responsibility for adult social care, children's services and public health
 - b. The Corporate Director for Adults, Health and Housing
 - c. The Corporate Director for Children's Services
 - d. The Director of Public Health
 - e. Such representatives of the Integrated Care Partnership operating within the Council's area as decided by the Board
 - f. A representative of Local Health Watch
- 8.3. It is expected that a Council Elected Member will be the Chairman of the Board and a delegate of the Integrated Care Partnership will be the Vice Chairman. In the absence of a Vice Chairman, the Integrated Care Partnership will be asked to nominate another for the role of Vice Chairman.
- 8.4. The Board may be joined by a member of the NHS Commissioning Board:
- a. When it is preparing the Joint Strategic Needs Assessment and the Joint Health and Wellbeing Strategy for the Council's area,
 - b. When it is considering any matter relating to the exercise or proposed exercise of the NHS Commissioning Board's functions in the area, and
 - c. When requested to do so by the Health and Wellbeing Board.

Co-Optees

- 8.5. The Board may co-opt such other parties, either to be standing members of the Board or for particular areas of its work as it sees fit.

Delegation to Sub-Committee/s and Officers

- 8.6. The Board may arrange for the discharge of any of its functions by a sub-Committee or an Officer of the Authority
- 8.7. Unless the Board otherwise directs, the sub-Committee may arrange for the discharge of any of those functions by an Officer of the Authority
- 8.8. The Board may appoint one or more sub Committees of the Board to advise the Board with respect to the discharge of functions by the Board.
- 8.9. In accordance with the terms of the Health and Social Care Act 2012 all statutory members of the Health and Wellbeing Board have the right to vote on any decision in accordance with the Council's Standing Orders on Committees.

- 8.10. The Board may form such sub Committees, other panels and working groups as the Board considers necessary to carry out its functions.
- 8.11. The Proportionality rules in the Local Government and Housing Act 1989 will not apply to this Committee.

Role and Functions

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

Additional Provisions

- 8.13. The Leader of the Council has the power to nominate to the Board any Member to substitute for the Cabinet Members in the event that one of the appointed members is not able to attend.
- 8.14. In accordance with powers under Part X of this Constitution, the Chief Executive has the power to appoint to the Board any temporary or permanent substitutes for the Officer members of the Board.
- 8.15. The Board will agree a protocol to ensure that the members of the Board work together in a constructive and productive way. The Board shall review its operation as required and inform the Council of any proposed changes of operation.

Voting Members

- a. Cabinet Members with lead responsibility for Adult social care, children's services and public health

- b. Corporate Director for Adults, Health and Housing
- c. Corporate Director for Children's Services
- d. Director of Public Health,
- e. Buckinghamshire Integrated Care Partnership (up to 2 votes),
- f. Representative of the local Healthwatch

DRAFT

9. Senior Appointments and Pay Committee Terms of Reference

Membership, Chairmanship and Quorum

Number of Members	7
Substitute Members Permitted	Yes
Political Balance Rules apply	Yes
Appointments/Removals from Office	By resolution of full Council
Restrictions on Membership	Must include at least one Cabinet Member
Restrictions on Chairmanship/Vice-Chairmanship	Deputy Cabinet Members may not hold these offices
Quorum	3
Number of ordinary meetings per Council Year	At least two per year

Terms of Reference

- 9.1. The Senior Appointments and Pay Committee shall be primarily responsible for:
- a. undertaking the selection process for the appointment, and formulating recommendations to the full Council in relation to the appointment and dismissal of the Head of Paid Service of Buckinghamshire Council in accordance with the appropriate procedures;
 - b. undertaking the selection process for the appointment and making the appointment and dismissal of any other statutory Chief Officer or Chief Officer of Buckinghamshire Council in accordance with the appropriate procedures and requirements below;
 - c. Ensure that the appropriate policies, guidelines and timescales are adhered to in dealing with Senior Managers including the application of any legislation relevant to the office and in line with Buckinghamshire Council Senior Management Procedures;
 - d. Act as the Hearing Body for cases involving the Chief Executive, Monitoring Officer, and Section 151 Officer, where dismissal is not the likely outcome;
 - e. Where dismissal is a possibility for the Chief Executive, Monitoring Officer or Section 151 Officer, appoint a Panel in line with legislative requirements outlined in the Local Authorities (Standing Orders) (England) Regulations 2001 & Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 which set out some particular matters with relation to employment processes for Statutory Officers and these terms of reference;
 - f. To advise the Council in relation to any proposed dismissal of the Head of Paid Service, Monitoring Officer or S151 Officer. To carry out this role by appointing a Panel to consider any disciplinary action in relation to the three statutory officers – Head of Paid Service, Monitoring Officer and S151 Officer. The membership of the Panel shall be determined by the Committee. The Panel membership must include up to two of the Independent Persons appointed by Council (who shall be full voting members of the Panel) and may include any number of additional Panel members so long as those members are from within the membership of the Committee and the proportionality rules shall apply to such a Panel;
 - g. Forward the outcome of the Hearing Panel to Council for their consideration;
 - h. Have overview of the Council's Officer Code of Conduct;

- i. Deal with any personnel or pension matters not covered by any other Committee or by officer delegation;
- j. Deal with any functions relating to the designation of a proper officer;
- k. Hear appeals on decisions made by the Chief Executive from a Corporate Director;
- l. To consult on, and determine pay awards to employees on locally agreed Pay Conditions (after taking into account any representations made by recognised Trade Unions and staff).

DRAFT

10. High Wycombe Town Committee Terms of Reference

Role and Function

- 10.1. To consider and advise the Council, the Cabinet or relevant Committee on any issues affecting the High Wycombe Town Area. The Committee is an advisory body and does not have decision making powers in respect of either executive or non-executive functions;
- 10.2. Subject to section 3 the Committee will make recommendations to either Cabinet or Council as appropriate on any issues as above;

Membership, Chairmanship and Quorum

Number of Members	24
Substitute Members Permitted	No
Political Balance Rules apply	No
Appointments/Removals from Office	Membership is automatic based on election to the Wards/Divisions named below
Restrictions on Membership	Membership is restricted to those councillors representing the following wards: Abbey; Booker, Cressex and Castlefield; Downley; Ryemead and Micklefield; Terriers and Amersham Hill; Totteridge and Bowerdean; Tylers Green and Loudwater; West Wycombe
Restrictions on Chairmanship/Vice-Chairmanship	Cabinet Members or Deputy Cabinet Members may not hold these offices
Quorum	One quarter of the number of members
Number of ordinary meetings per Council Year	At least two per year

Terms of Reference

- 10.3. To consider and advise the Council, the Cabinet or relevant Committee on any issues affecting the High Wycombe Town Area. Add link to map
- 10.4. To consider any issue referred to it by the Council, the Cabinet, or a Committee.
- 10.5. To initiate consideration of any issue, which in the opinion of the Chairman, or at least 5 members of the Committee, is of particular relevance/ importance to the residents of High Wycombe town.
- 10.6. Recommendations to the Cabinet/ full Council as to (i) which services should be deemed a Special Expense (ii) the right to be consulted on any scheme or proposal that would alter significantly the level of Special Expenses (iii) to recommend to Cabinet each year the amount required to be raised for Special Expenses purposes.
- 10.7. To monitor and review those services provided under Special Expenses and make any recommendations for change or improvement to the Cabinet, appropriate Committee or Service Director.

Part E – Executive (Cabinet)

Section 1 Role of Cabinet

Section 2 Cabinet Arrangements

Section 3 Cabinet Procedure Rules

The Cabinet is a group of councillors who take most of the decisions about what Buckinghamshire Council does. The Cabinet is made up of the Leader of the Council, who is chosen by the full Council, and up to 9 other councillors, appointed by the Leader, called Cabinet members.

A specific area of responsibility is called a portfolio and where a Cabinet member is assigned that area of responsibility they are the Portfolio Holder.

Apart from the specific functions listed on page * all other responsibilities rest with the Leader and the Cabinet. These are called executive functions.

The Cabinet meets on a regular basis. Members of the public can attend or watch all Cabinet meetings.

This section sets out in detail what functions are executive functions, the rules which govern how the Cabinet makes decisions and how meetings are run.

These rules are written in formal language. If you have specific questions our democratic services team will be happy to help you.

1. The Role of Cabinet

Functions

- 1.1. The Local Government Act 2000 provides that the functions of a local authority are the responsibility of its Cabinet (referred to in the Act as the Executive) except for those which the law requires to be performed by the Council; always provided that such a decision is within the Council's Budget and Policy Framework.
- 1.2. The Local Authorities (Functions and Responsibilities) (England) (Regulations) 2000 is the main piece of legislation governing this; and it lists the different functions which can be categorised as:
 - Schedule 1: Functions which must not be the responsibility of the Cabinet
 - Schedule 2: Functions which may be the responsibility of the Cabinet or of the Council - these are known as "Local Choice" functions:
 - Schedule 3: Functions which may not be the sole responsibility of the Cabinet
 - Schedule 4: Circumstances in which functions which would normally be the responsibility of the Cabinet, are not to be the responsibility of the Cabinet.
- 1.3. As such, the Council has the discretion to decide which of the functions that fall into Schedule 2 will be the responsibility of the Council (Council Functions) and which will be the responsibility of the Cabinet (Executive Functions): The Council can decide whether they will be Council Functions or Executive Functions.
- 1.4. There are some other pieces of legislation which provide that certain matters must be dealt with by the full Council. These include:
 - a. Approving the Councils policy on pay;
 - b. Approving the Councils Capital and Investment Strategy.

Executive Functions

- 1.5. Except those Council Functions listed at XXX above, the Council has decided that all other functions, including local choice functions, are to be Executive Functions.
- 1.6. Responsibility for Executive Functions rests with the Leader who will decide which functions he/she will perform personally, and which will be delegated to the Cabinet as a whole; to a Cabinet Committee; individual Cabinet Members or to Officers.
- 1.7. A decision on any delegated executive function may be referred to the whole Cabinet when: -
 - a. The Leader, Cabinet Committee, Cabinet Member or Officer believes that due to the contentious or 'political' nature of the matter it should be considered and decided by the whole Cabinet;
 - b. The Cabinet Member takes a different view of the proposal in question and feels unable to be associated with it;
 - c. The Cabinet Member or Officer believes that they are conflicted or may be accused of bias.
- 1.8. Under the provisions of the Localism Act 2011 a Cabinet member cannot deal with any matter in which they have a Disclosable Pecuniary Interest and must take no action other than referring the matter to the Monitoring Officer and Leader.

Executive Arrangements

1.9. The following parts of this Constitution constitute the Cabinet arrangements: -

- a. Cabinet Procedure Rules
- b. Access to Information Procedure Rules
- c. Joint Arrangements
- d. Responsibility for Functions
- e. Decision Making

DRAFT

2. Cabinet Arrangements

Role

- 2.1. The Cabinet will carry out all of the executive functions

Form and Composition

- 2.2. The Cabinet will consist of the Leader together with such number of Elected Members of the Council not exceeding nine as he/she may appoint to the Cabinet.

Leader of the Council

- 2.3. The Leader will be a Member elected by Council for such term, not exceeding four years, except for the period from the creation of the Council when the term will be five years, as Council may determine. Council has determined that the Leader shall be elected for an initial term of five years until May 2025 and thereafter every four years. The Leader will hold office until:
 - a. He/she resigns from the office; or
 - b. He/she is no longer an Elected Member of the Council; or
 - c. He/she is removed from office by resolution of the Council on receipt of a Notice of Motion in accordance with the requirements for Motions in the Council Procedure Rules; or
 - d. He/she is removed from office by simple resolution of the Council at the meeting of Council following a change in political control of the Council, as signalled to the Monitoring Officer. A change in political control is a change in the composition of the various political groups such that a different group or combination of groups now comprise a majority of the membership of the Council;
 - e. He/she is disqualified from being a councillor
- 2.4. Should a situation arise where the Leader no longer holds office as mentioned above, a Deputy Leader will carry out the role and duties of Leader until such time as the Council elects a Councillor to the position of Leader.

Deputy Leader

- 2.5. The Leader following his or her election will appoint up to two of the Members of the Cabinet as his/her Deputy.
- 2.6. The Deputy Leader(s) may not vary the arrangements made by the Leader or alter any arrangements made by the Leader under this Constitution for the exercise of executive functions, except for:
 - a. changes consequent upon the dismissal of a Leader during the period until the new Leader is elected; or
 - b. where, in the opinion of the Chief Executive, the Leader is incapacitated for such a period of time that the efficient operation of the Council would be significantly impaired.
- 2.7. The Deputy Leader(s) shall be appointed annually by the Leader and shall hold office until:
 - a. the next annual meeting of the Council;
 - b. he/she resigns from office; or
 - c. until the end of the Leader's term of office and the new Leader has been elected; or

- d. he/she is no longer a Member; or
- e. he/she is removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive
- f. he/she is disqualified from being a councillor.

Other Executive Members

Appointment of Cabinet

- 2.8. Following his/her election, the Leader will appoint up to nine further Members of the Cabinet and up to two of those Members can be appointed as Deputy Leaders.
- 2.9. Only Members of Council may be appointed to the Cabinet. There may be no co-optees or substitutes for Cabinet Members. Neither the Chairman nor Vice Chairman of the Council may be appointed to the Cabinet, and Members of the Cabinet (including the Leader) and deputy Cabinet members may not be Members of the Select Committees.
- 2.10. Cabinet Members shall be appointed annually by the Leader and shall hold office until:
 - a. the next annual meeting of the Council; or
 - b. they resign from office; or
 - c. they are no longer Members; or
 - d. they are removed from office by the Leader who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

Proceedings of the Cabinet

- 2.11. Proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules set out below in this Constitution.

Responsibility for Functions

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

Children's Services - Lead Member arrangements

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

Deputy Cabinet Members

- 2.15. The Leader may appoint non-executive Members as Deputy Cabinet Members provided that the total number of Deputy Cabinet Members does not exceed the number of Cabinet

Members to advise and assist Cabinet Members in the discharge of his/her duties within their portfolio(s). In the absence of a Cabinet Member a key decision may be taken by a Corporate Director or relevant senior Officer in consultation with the appropriate Deputy Cabinet Member but a Deputy Cabinet Member is not authorised to make any decision normally made by a Cabinet Member.

Scheme of Delegation to Cabinet Portfolio Holders

- 2.16. Where Executive functions are not reserved to the Council, to Cabinet or delegated to officers, they are Cabinet Member matters in accordance with this scheme and according to their portfolios.
- 2.17. The Monitoring Officer, in consultation with the Leader, shall determine the appropriate Cabinet Member to deal with a matter in cases of uncertainty.
- 2.18. The following areas of responsibility are included in the matters which may be determined by the appropriate Cabinet Member:
 - a. To consider reports prepared by officers and to make any decisions in accordance with the requirements of this Constitution;
 - b. To consider draft reports to the Cabinet with the relevant Corporate Director and/or other relevant senior Officer;
 - c. To determine how expenditure on services should be undertaken within approved budgets;
 - d. To agree annual reports;
 - e. To develop and approve service plans of services, including future budget requirements;
 - f. To monitor the budget and performance for particular services;
 - g. To determine policies for particular services, which are consistent with the Policy Framework;
 - h. To agree responses to consultation papers (except for planning consultation papers);
 - i. To make payment of grants to outside bodies within the list approved by the Cabinet, except those which fall to the Cabinet itself to decide;
 - j. To approve decisions affecting a particular locality (i.e. which are not service-wide, council-wide or otherwise corporate)

3. Cabinet Procedure Rules

The Cabinet

Decision Making

- 3.1. The Leader may decide how the Cabinet performs its Executive Functions which may include decisions being made by:
 - a. the Cabinet as a whole;
 - b. a Cabinet Committee;
 - c. one or more Cabinet Members individually or jointly
 - d. an Officer (subject to the Officers Scheme of Delegation);
 - e. joint arrangements
 - f. another local authority.

Delegation by the Leader

- 3.2. Each year the Leader will prepare a written record of the delegations of executive functions. The record of delegations will detail the executive functions which the Leader has delegated to the Cabinet, Cabinet Committees, specific Cabinet Members or Officers. The record of delegations will be presented to the Council at the Council's annual meeting and will be included into the Council's Scheme of Delegation which can be found at Part XXXX of this Constitution. The record of executive functions delegations will include:-
 - a. The names, contact details and electoral area of those Members appointed to the Cabinet by the Leader;
 - b. The executive functions to be performed by the Cabinet;
 - c. The executive functions to be performed by a specific Cabinet Member (including any limitations on his / her authority);
 - d. The terms of reference and constitution of any Cabinet Committee the Leader has appointed and the names of the Cabinet Members appointed by the Leader to serve on any Cabinet Committee;
 - e. The nature and extent of any executive function delegated to any joint committee or body or any other local authority along with the names of the Cabinet Members appointed to any Joint Committee for the coming year;
 - f. Any changes to any of the delegations of Officers, the title of the Officer(s) to whom the delegation is made and any limits on their authority.

Sub-Delegations of Executive Functions

- 3.3. Unless the Council says otherwise, where the Cabinet or an individual Cabinet Member is responsible for performing an executive function, they may sub-delegate its performance to an Officer.
- 3.4. Where an executive function has been sub-delegated it may still be performed by the person or body who made the sub-delegation.

The Council's Scheme of Delegation and Executive Functions

- 3.5. The record of delegation of executive functions to Cabinet Members may be amended by the Leader at any time during the year, but written notice must be provided to the Monitoring Officer and the Cabinet Member, body or Committee concerned. The notice

must set out the extent of the amendment and whether it involves the withdrawal of a delegation from the Cabinet Member, body or Committee concerned, or the Cabinet as a whole. Where the amendment concerns a change to the delegation to a joint Committee or other joint working arrangement, the Monitoring Officer will present to the Council at its next meeting the amendments made by the Leader.

- 3.6. Where the Leader seeks to withdraw a delegation from a Committee, notice to do so will be considered as having been given to the Committee concerned when the Leader has given the notice to the Chairman of the Committee.

Conflicts of Interest

- 3.7. Where the Leader has a conflict of interest he/she must ensure that he/she does not influence the decision to be taken and that the decision is taken by a Cabinet Member who does not have such a conflict of interest.
- 3.8. If every Cabinet Member has a conflict of interest, consideration must be given to delegating the decision to the Chief Executive, appropriate Executive Director or Senior Officer, or to seeking a dispensation to taking the decision ¹
- 3.9. Where a decision is being taken regarding a service which is commissioned by a Cabinet Member from an external service provider, Cabinet Members must be mindful of potential conflicts of interest arising if they also sit on the Board or are otherwise involved in the governance of the external provider. In such circumstances Cabinet Members should seek advice from the Monitoring Officer before agreeing to sit on such a Board or governance structure.
- 3.10. If the performance of an executive function has been delegated to an individual Cabinet Member or Officer and a conflict of interest arises, in the first instance the executive function will be performed by the person or body by whom the delegation was made.

Cabinet Meetings

- 3.11. Cabinet Meetings are convened and conducted in accordance with the Access to Information Procedure Rules which can be found at Part 5.4 of this constitution.

Time and Place of Cabinet Meetings

- 3.12. The Cabinet will usually meet at least 2 times a year. The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least **5 clear working days** before a meeting, the Monitoring Officer will send a summons signed by him / her to every Member of the Council. The summons will give the date, time and place of each meeting; specify the business to be transacted and will be accompanied by such reports as are available.

Quorum for Cabinet Meetings

- 3.13. The quorum for any Cabinet meeting is 50% of the Cabinet members, not including Deputies. If a quorum is not present within 10 minutes of the scheduled start of the meeting or such longer time as allowed by the Chairman, the business of the meeting will be adjourned to the next Cabinet meeting.

How the Cabinet Makes Decisions

- 3.14. Decisions as to the executive functions which have been delegated to the Cabinet will be decided by the Cabinet as a whole, and where a Key Decision is involved in accordance

¹ Dispensations are not available for single member decision making

with the rules on Key Decision Making by the Cabinet and Individual Cabinet Members, which can be found at Part 5.4 of this constitution.

Chairman of Cabinet Meetings

- 3.15. The Leader, or in his / her absence a Deputy Leader, will chair Cabinet meetings. In the absence of both the Leader the Deputy Leaders, the Cabinet Members present at the meeting will choose from amongst themselves someone to preside. The person presiding may exercise any power or duty of the Chairman.

Attendance at Cabinet Meetings

- 3.16. Members of the public and the press may attend all Cabinet Meetings in accordance with Council's Access to Information Procedure Rules, except:-
- a. When the Cabinet has decided that the public and the press should be excluded for all or part of the meeting because a matter to be considered is likely to result in the disclosure of exempt or confidential information.
 - b. The person attending the meeting has been removed on the order of the person presiding so as to prevent the disruption of the meeting.
- 3.17. Any non-Cabinet Member may attend a Cabinet Meeting as a member of the public in accordance with the Council's Access to Information Procedure Rules, except where excluded in accordance with paragraph (a) above.
- 3.18. A non-Cabinet Member may only speak at a Cabinet Meeting if invited to do so by the person presiding and if asking a question under Rule X.
- 3.19. Officers may attend Cabinet Meetings as follows:-
- a. The Chief Executive and the Deputy Chief Executive may attend Cabinet Meetings. Other Corporate Directors may attend Cabinet Meetings at the invitation of the appropriate Cabinet Member.
 - b. The Statutory Officers of the Council or their nominees may attend Cabinet Meetings and speak on issues affecting their statutory responsibilities as of right, or otherwise when requested to do so by the person presiding.
- 3.20. Cabinet Members may not appoint substitutes to attend Cabinet Meetings in their place. The absence of a Cabinet Member will not prevent the consideration or making of decisions in respect of a matter. If a matter has been delegated to an absent Cabinet Member, it may be referred to the Cabinet as a whole for consideration and decisions to be made. An absent Cabinet Member may ask a Deputy Cabinet Member to speak on his / her behalf, if permitted by the Chairman but Deputy Cabinet Members are not able to vote at Cabinet Meetings.

Order of Business of Cabinet Meetings

- 3.21. The following business will be conducted at each Cabinet Meeting:-
- a. elect a person to preside if the Chairman and Vice-Chairman are not present;
 - b. approve the minutes of the last meeting;
 - c. receive any apologies for absence;
 - d. receive any declarations of interest from Members;
 - e. receive any statements from the Leader;

- f. at the Chairman's discretion, the allocation of time for non-cabinet Members to question Cabinet Members
- g. consider petitions referred by full Council which relate to executive functions;
- h. consider other matters set out in the meeting agenda. The agenda will indicate any matters which key decisions are or matters which are exempt or confidential and require the exclusion of the public and / or press.

The Agenda for Cabinet Meetings

- 3.22. Except in the case of an urgent Cabinet Meeting, the Monitoring Officer will deliver to Cabinet Members and make available to the public, the agenda for a Cabinet Meeting along with the summons setting out the date, time and place of the meeting at least **5 clear working days'** before it takes place.

Urgent Cabinet Meetings

- 3.23. In accordance with the Access to Information Procedure Rules, an urgent Cabinet Meeting may be held without **5 clear working days'** notice if an urgent matter requires consideration.

Consultation

- 3.24. All reports to the Cabinet from any Cabinet Member or an Officer which concern the Budget and Policy Framework or proposals which otherwise require a consultation, must include details as to the extent of the consultation and its outcome. The extent of a statutory consultation will be as required by the law; the extent of non-statutory consultations will be as appropriate.

Minutes of Cabinet Meetings

Signing the Minutes

- 3.25. The Chairman will sign the minutes of the proceedings at the next Cabinet Meeting. The Chairman will move that the minutes of the previous Cabinet Meeting be signed as a correct record. The only part of the Minutes which can be discussed is their accuracy.

No Requirement to Sign Minutes of Previous Meeting at an Urgent Cabinet Meeting

- 3.26. Where an urgent Cabinet Meeting is called in accordance with Rule 2.8, there is no requirement for the minutes of the previous Cabinet Meeting to be signed at the urgent meeting.

Form of Minutes

- 3.27. Minutes will contain all motions and amendments in the form and order the Chairman put them.

Appointment of Substitute Members at Cabinet Meetings

- 3.28. The substitution rules do not apply to Cabinet Meetings.

Generally

Disturbance by the Public

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

Exclusion of the Public

- 3.30. Members of the public and press may only be excluded from a Cabinet Meeting either in accordance with the Access to Information Procedure Rules in Part 5.4 of this Constitution or Rule 19 in Part 3.3.

Questions

Questions on Notice

- 3.31. Subject to Rule X, any councillor may ask questions of the Cabinet a question on any matter in relation to which the Council has powers or duties or which affects the County.

Notice of Questions

- 3.32. A councillor may ask a question under Rule x if either:
- a. they have given notice of the question in writing or by e-mail no later than midday 5 clear working days before the day of the meeting to the Monitoring Officer; or
 - b. the question relates to urgent matters, they have the consent of the Leader and the content of the question is received by the Monitoring Officer in writing or by e-mail by 9.00 a.m. on the day of the meeting.

Content of Questions

- 3.33. All questions must, in the opinion of the Leader:
- a. not be unreasonable;
 - b. contain no expressions of opinion;
 - c. relate to matters on which the Council has or may determine a policy;
 - d. not relate to questions of fact;
 - e. not require the disclosure of confidential or exempt information;
 - f. not relate to a matter which is of purely personal concern to an individual/family member.

Time Allowed for Councillor Questions

- 3.34. The number of questions asked under Rule x and the total time allowed for consideration of such questions shall be determined by the Leader;
- 3.35. At the conclusion of the response to the question under consideration or at the expiry of such time period as determined by the Chairman from the time when the first questioner started to speak, the Leader shall conclude the meeting or proceed to the next item of business.
- 3.36. Any remaining questions shall be responded to in writing before the next ordinary meeting of the Cabinet.

Generally

Record of Questions

- 3.37. The Monitoring Officer will send a copy of any question received under Rule x to the Leader. Copies of all questions will be available to all councillors and the public attending the meeting.
- 3.38. Rejected questions will be returned to the questioner with the reasons for rejection.

Order of Questions

- 3.39. Questions from Councillors will be asked in the order determined by the Leader except that if the opposition Group Leader has a question they will be invited to put it first.

Response

- 3.40. An answer to a question may take the form of:
- a. a direct verbal answer;
 - b. where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - c. where the reply cannot conveniently be given verbally, a written response will be provided no later than 5 clear working days after the meeting.
 - d. copies of all questions and responses will be available on the Council's website with the minutes for the relevant meeting.

Suspension and Amendment of Cabinet Procedure Rules

Suspension

- 3.41. Where allowed by law all of these Cabinet Procedures may be suspended by motion on notice or without notice if at least one half of the whole number of Cabinet Members are present. Suspension can only be for a single item or the duration of the Cabinet Meeting.

Amendment

- 3.42. Any motion to add to, vary or revoke these Executive Procedure Rules will, when proposed and seconded, stand adjourned without discussion to the next Cabinet Meeting.

Application of Cabinet Procedure Rules

- 3.43. All of the Cabinet Procedure Rules apply to Cabinet Meetings.
- 3.44. None of the Cabinet Procedure Rules apply to meetings of full Council, Committees or Sub-Committees.

Application of Access to Information Procedure Rules to Cabinet

- 3.45. The Access to Information Procedure Rules apply to the Cabinet. If the Cabinet meets to take a key decision then it must comply with rules 5-8 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is defined in Part 1 of this Constitution.

Procedure Before Taking Key Decisions

- 3.46. Subject to Standing Order 15 (general exception) and Standing Order 16 (special urgency), a key decision may not be taken unless:
- a. at least 28 clear days' notice has been published in connection with the matter in question (for Buckinghamshire Council this Notice will be given by means of the Forward Plan);
 - b. at least five clear days have elapsed since the publication of the notice of the decision, unless the decision taker has resolved that implementation of the decision is urgent in which case the decision can be implemented without delay;
 - c. where the decision is to be taken at a meeting of the Cabinet or a Committee, notice of the meeting has been given in accordance with Standing Order 4 (notice of meetings).

The Forward Plan

- 3.47. The Leader will ensure that notice of all key decisions (by the Cabinet and by individual Cabinet Members) is given at least 28 clear days before they are due to be taken.
- 3.48. For ease the Council will list all key decisions once a month in a Forward Plan indicating which decisions the Cabinet anticipate that they will take during the next four months, together with any particularly significant Key Decisions which they anticipate that they will take within the next four to 12 months. The Monitoring Officer may also include in the Forward Plan reference to such other decisions, which are to be taken by the Council or any of its Committees or Sub-Committee or officers as he or she considers appropriate.
- 3.49. The Forward Plan shall include the following information in respect of each Key Decision:
- a. the matter in respect of which the decision is to be taken
 - b. the person or body by whom the decision is to be taken
 - c. the date on which, or the period within which, the decision is to be taken
 - d. notice, if appropriate, that the Council intends to take a decision in private because the decision contains confidential or exempt information.
- 3.50. Where the Cabinet anticipate taking a Key Decision on a matter, and inclusion of the matter within the Forward Plan would disclose confidential or exempt information and so prejudice the conduct of the Council's business, the Cabinet may limit the entry in the Forward Plan to such information as may be disclosed without prejudice provided that notice under h above has been given.
- 3.51. The Cabinet shall normally review and update the Forward Plan at least once in every calendar month, and shall make arrangements for the revised Forward Plan to be made available on its website.

General Exception

- 3.52. If a matter which is likely to be a key decision has not been advertised for a minimum of 28 clear days on the Council's website, then subject to Standing Order 16 (special urgency), the decision may still be taken if:
- a. the decision must be taken by such a date that it is impracticable to defer the decision until it has been possible for 28 clear days' notice to be given.
 - b. the Monitoring Officer has informed the relevant Select Committee chairman in advance in writing and made copies of that notice available to the public at the offices of the Council; and on the Council's website and
 - c. at least five clear days have elapsed since the Proper Officer complied with (a) and (b).

Special Urgency

- 3.53. If by virtue of the date by which a decision must be taken Standing Order 15 (general exception) cannot be followed and the five clear days' notice of the decision cannot be given then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Leader and the Chairman of the relevant Select Committee that the taking of the decision cannot be reasonably deferred. Notice in writing of the application to the Chairman of the appropriate Select Committee must be published on the Council's website and copies made available to the public at the offices of the Council. If there is no Chairman of a relevant Select Committee, or if the Chairman of the relevant Select Committee is unable

to act, then the agreement of the Chairman of the Council, or in their absence the Vice Chairman will suffice.

Major Emergencies

- 3.54. In a major emergency listed below, the Leader or Deputy Leader or in their absence the relevant Cabinet Member or, if appropriate, the Chief Executive or a Corporate Director may take any immediate urgent decision required without consultation.
- 3.55. For the purposes of this Standing Order, a major emergency is any event or circumstance (happening with or without warning) that causes or threatens death or injury, disruption to the community, or damage to property or to the environment on such a scale that the effects cannot be dealt with by the emergency services, local authorities and other organisations as part of their normal, day-to-day activities.

Report to Council

When a Select Committee Can Require a Report

- 3.56. If a Select Committee believes that a decision has been taken which:
- a. was not publicised to ensure that appropriate notice was given of the decision or
 - b. was the subject of the general exception procedure; or
 - c. was the subject of an agreement with a relevant Select Committee Chairman, or the Chairman/Vice Chairman of the Council under Standing Order 16; or
 - d. was taken during a major emergency in accordance with Standing Order 17;
- the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies setting out the reasons for such urgency. The power to require a report rests with the Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by at least 50% of the Members of the Select Committee. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Select Committee.

Quarterly Reports on Special Urgency Decisions

- 3.57. In any event the Leader will submit quarterly reports to the Council on the key decisions taken in the circumstances set out in Standing Order 16 (special urgency) and/or Standing Order 17 (major emergencies) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken and the reasons for urgency.

Record of Decisions

- 3.58. After any meeting of the Cabinet, the Monitoring Officer, or, where no Officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include the date such a decision was made, a statement of the reasons for each decision and, where appropriate, any alternative options considered and rejected at that meeting. The Notice will also advise whether the Monitoring Officer has agreed to make a dispensation where a conflict of interest was declared before the decision was taken.
- 3.59. Where an Officer under delegated powers takes an executive decision, a written statement will be produced and published on the Council's internet site recording the reasons for this decision.

Cabinet Meetings Relating to Matters Which Are Not Key Decisions

- 3.60. The Cabinet have decided that meetings of Cabinet shall be held in public even when not relating to matters which are Key decisions.
- 3.61. Where a Cabinet Member or Officer takes a decision other than a Key decision he/she shall keep such notes and records of the decision as s/he considers appropriate in the circumstances and taking into account any requirements to produce such information to a Select Committee, if requested to do so.

Decisions by Individual Members of the Cabinet or by Corporate Directors and Service Directors (or Relevant Senior Officers)

Reports Intended to be Taken into Account

- 3.62. Except as referred to in Rule 17 where an individual Member of the Cabinet receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least five clear days after the receipt of that report.

Provision of Copies of Reports to Select Committees

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

Record of Individual Decision

- 3.64. As soon as reasonably practicable after any decision has been taken by an individual Member of the Cabinet or Corporate Director, Service Director or relevant senior Officer after consultation as appropriate with the relevant Members, after a decision which would, if taken by a Member, be an Executive decision or has been taken by an Officer, he/she will prepare, or instruct the proper Officer to prepare, and publish, a record of the decision; and, as appropriate, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Cabinet, or to a decision taken by an Officer. This does not require the disclosure of exempt or confidential information.

Select Committees' Access to Documents

Rights to Copies

- 3.65. Subject to paragraph 4.51 below, a relevant Select Committee (including any Sub-Committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its Committees and which contains material relating to a any business transacted at a meeting of the Cabinet or its Committees; or b any decision taken by an individual Member of the Cabinet.

Limit on Rights

- 3.66. A Select Committee will not be entitled to scrutinise:
- any document that is in draft form and not yet formally available for consideration by the Cabinet or an individual Cabinet Member except when this has been agreed by Cabinet or the Cabinet Member;
 - any part of a document that contains exempt or confidential information, unless the Monitoring Officer has determined that the information is relevant to an action or

decision they are reviewing or scrutinising or is relevant to a decision which they have given notice of their intention to scrutinise.

Additional Rights of Access for Councillors

Material Relating to Previous Business

- 3.67. All Councillors will be entitled to inspect any document which is in the possession or under the control of the Cabinet and contains material relating to any business previously transacted, except to the extent that it contains any exempt information as described in Standing Order 10.

Material Relating to Key Decisions

- 3.68. Five clear days before a meeting of the Council's executive, all Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its Committees which relates to any key decision unless Standing Order 22.2(a) or (b) above applies.

Nature of Rights

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

DRAFT

Part F – Joint Arrangements

Section 1 Joint Authorities

Section 2 Statutory Bodies

Section 3 Joint Committees

Buckinghamshire Council works with a wide range of other organisations to promote the economic, social or environmental well-being of its residents and businesses. These arrangements can take a variety of forms including formal agreements, joint working, appointments to joint committees and cooperation with third parties.

More detail can be obtained from xxxx

DRAFT

1. Joint Authorities

Buckinghamshire & Milton Keynes Fire Authority

- 1.1. Buckinghamshire Fire & Rescue Service covers the area served by Buckinghamshire Council and Milton Keynes Council. These two councils appoint members to Buckinghamshire & Milton Keynes Fire Authority to oversee the service.
- 1.2. Their numbers are proportional to the populations they represent, with 11 councillors from Buckinghamshire Council and six from Milton Keynes Council.
- 1.3. Buckinghamshire & Milton Keynes Fire Authority is a publicly accountable body which manages Buckinghamshire Fire & Rescue Service on behalf of the communities it serves. Councillors make decisions on policy, finance and resources. Its role is to:
 - a. Set the annual budget.
 - b. Agree the staff, vehicle and other resources needed to deliver an efficient service.
 - c. Approve Buckinghamshire Fire & Rescue Service's plans, policies and strategies.
 - d. Approve the composition of committees and sub-committees.
- 1.4. Buckinghamshire & Milton Keynes Fire Authority normally meets four times a year, with an annual meeting held in June. At this meeting the Chairman is elected and the Vice-Chairman appointed, and committee membership decided.
- 1.5. Representation: 11 Members

Additional Information

- 1.6. [Terms of Reference](#) (from Fire Authority website)
- 1.7. Note: There is also an Executive Committee and an Overview & Audit Committee, membership of which is pulled from the main membership.

Thames Valley Police and Crime Panel

- 1.8. Link to website and details.

DRAFT

2. Joint Committees

- 2.1. Buckinghamshire Council has established the following joint committees:

[London Housing Consortium \(LHC\) Joint Committee](#)

- 2.2. [Link to website and details](#)

[PATROL Adjudication Joint Committee](#)

- 2.3. [Joint Committee details](#) (from PATROL website)

[Buckinghamshire Council and Surrey County Council Joint Trading Standards Service Committee](#)

- 2.4. Surrey County Council and Buckinghamshire Council have established a Joint Committee to take responsibility for executive Trading Standards functions of both authorities. [Link to website.](#)

- 2.5. [Terms of Reference available via link](#)

[Buckinghamshire Growth Board](#)

Purpose of the Buckinghamshire Growth Board

- 2.6. The purpose of The Board is to provide a single forum working across the public and private sector for the development and oversight of a Buckinghamshire Growth Agenda and other associated place-shaping initiatives. It will provide a single point of reference for engagement with government on local and regional growth issues.

Membership

- 2.7. The Chairman of The Board will be the Leader of Buckinghamshire Council. The Deputy Chairman will be a Deputy Leader of the Council.

- 2.8. Core Members (Local) -10 Members

- a. Cllrs XX
- b. Chief Executive of Buckinghamshire Council
- c. Co-Chairs of the Housing Growth and Economy Board
- d. BLEP Chief Executive
- e. Accountable Officer Buckinghamshire CCG

- 2.9. Core Members (Gov't) – up to 8 Members

- a. Ministry of Housing, Communities, and Local Government
- b. Homes England
- c. Department for Business Energy and Industrial Strategy
- d. Department for Health
- e. Highways England
- f. Natural England

- 2.10. Other Members – as required – 4 Members

- a. Education Authority
- b. Skills Board Chairman(LEP)

- c. Buckinghamshire and Milton Keynes Natural Environment Partnership Chair
 - d. Chief Constable Thames Valley Police
- 2.11. The Board has no formal decision-making powers but can form collective views and develop a shared position / view on specific topics. The terms and reference and membership of the Board are available on the council's website ([link](#)).

DRAFT

Part G – Scrutiny

Section 1 Select Committee Arrangements

Section 2 Procedure Rules

Every council with an executive management structure has to have an overview and scrutiny function. Buckinghamshire Council has appointed select committees to perform this function.

The select committees each fulfill a check and challenge function for decisions and policies made by the Cabinet.

This section gives more details about these committees and the rules which govern how they work.

These rules are written in formal language. If you have specific questions our democratic services team will be happy to help you.

DRAFT

1. Select Committee Arrangements

Introduction

- 1.1. The Council will operate a scrutiny structure comprising a number of Select Committees. At the annual meeting of the full Council, the Chief Executive will propose for the agreement of the Council, the number of Select Committees, the Terms of Reference and the number of scrutiny seats required to perform the scrutiny function for the forthcoming year.

Principles

- 1.2. The Select Committees are committed to the developing of a respectful relationship between themselves, the Cabinet and external partners. The work of the Select Committees is underpinned by the following six principles:-
 - a. To contribute to sound decision-making in a timely way by holding Members and key partners to account as a 'critical friend'.
 - b. Contribute to and reflect the vision and priorities of the Council.
 - c. Enable the voice and concerns of the public to be heard and reflected in the Council's decision-making process.
 - d. Engage in policy development at an appropriate time to be able to influence the development of policy.
 - e. To be agile and able to respond to changing and emerging priorities at the right time with flexible working methods.
 - f. For scrutiny to be a Member led and owned function which seeks to continuously improve through self-reflection and development.
- 1.3. In addition to the principles set out at 1.2 above, in conducting its proceedings a Select Committee will have regard to the following principles:-
 - a. At all times, while conducting its business in a tenacious matter, to do so with respect, equity, fairness, dignity and with regard to the principles of natural justice.
 - b. To ensure that all Members are given the opportunity to contribute to and speak at Select Committee meetings and to ask questions of those attending.
 - c. To conduct its business in a consensual, open, responsible and transparent manner across political divides and to avoid expressing views based purely on political considerations.
 - d. To conduct its business so as to maximise its efficiency.
 - e. Not to seek to hold Officers and non-executive Members to account for decisions taken by executive Members.
 - f. To recognise that any question of Officer discipline which may arise is to be dealt with through the appropriate employment procedures.

Scrutiny Functions

General Terms of Reference

- 1.4. Within their agreed remit Select Committees will:
 - a. Review and / or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;

- b. Make reports and/or recommendations to the Council and /or the Leader/Cabinet Member in connection with the discharge of any functions; make reports and/or recommendations to partners;
 - c. Exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Leader/Cabinet Member or Executive director, Director, or relevant senior Officer jointly with a Deputy Cabinet Member or by any other Officer;
 - d. Consider any matter affecting the Buckinghamshire Council administrative area or its inhabitants;
 - e. Work to ensure that communities are engaged in the scrutiny process; and consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
 - f. Promote equality and diversity across all of its work and the work of the Council.
- 1.5. They will also carry out specific roles:

Scrutiny

- a. Review and scrutinise the decisions made by and performance of the Leader/Cabinet/Cabinet Member or council Officers in relation to individual decisions and over time;
- b. Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- c. Question the Leader and all Cabinet Members and senior officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- d. Scrutinising the work of partnerships and partnership bodies in the local area;
- e. Make recommendations to the Cabinet/Leader/Cabinet Member, Council or Partners, arising out of the Scrutiny process;
- f. Question and gather evidence from any person (with their consent).

Policy Review and Development

- g. Reviewing current policies and strategies and making recommendations to the Leader/Cabinet and Council;
- h. Undertaking in depth analysis of policy issues and options to assist the Council and the Leader/Cabinet in the development of its budget and policy framework;
- i. Considering matters referred to them by the Leader/Cabinet and reporting to the Leader/Cabinet with proposals and/or options;
- j. Questioning Members of the Cabinet and/or Committees and Senior Officers from the Council about their views on issues and proposals affecting the area; and
- k. Liaising with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and
- l. Considering the impact of policies to assess if they have made a difference.
- m. In performing the policy review and development function, a Select Committee will review Council and Cabinet policies and recommend to the Council and Cabinet:-
 - i. Whether new policies are required.

- ii Whether existing policies are no longer required.
- iii Whether existing policies require amending, updating or developing.
- iv Whether existing policies may be made more effective.

Review of External Organisation Performance

- 1.6. A Select Committee will establish arrangements for its review of the performance of relevant external organisations which affect the Council's functions and services. The Select Committees will submit to the Council reports by the Cabinet and external organisations after appropriate comment.

Scrutiny of Education Matters

- 1.7. One Select Committee will carry out the functions of the designated Education Select Committee. When sitting as an Education Select Committee it shall include in its membership the following representatives:-
- a. One representative from the Church of England Diocese;
 - b. One representative from the Roman Catholic Diocese;
 - c. Three Parent Governor Representatives.
- 1.8. These co-optees will receive agendas and reports relating to all items being considered by the Committee, but may vote only on matters pertaining to the education and not on any other matters considered by the Committee at the same meeting.

Scrutiny of Health and/or Adult Social Care

- 1.9. A Select Committee with responsibility for health and / or adult social care will have the following additional functions:-
- a. To review and scrutinise any matter relating to the planning, provision and operation of health and / or adult social care services.
 - b. To review and scrutinise the impact of the Council's service and key partnerships on the health and / or adult social care of residents.
 - c. To respond to consultations on any proposal for a substantial development or variation of health and / or adult social care services.
- 1.10. A Select Committee with responsibility for health and/or adult social care shall include in its membership a representative from Healthwatch and any other co-opted members required by law

Scrutiny of Crime and Disorder

- 1.11. In accordance with s19 of the Police and Justice Act 2006 one of the Select Committees will carry out the statutory responsibilities to scrutinise crime and disorder issues by:
- a. Reviewing or scrutinising decisions made, or other action taken in connection with the discharge by the responsible authorities of their crime and disorder functions;
 - b. Making reports or recommendations to the local authority with respect to the discharge of those functions.

Call for Action

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

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

- 1.13. At the meeting the Member who has put the matter on the agenda may address the Committee on the matter. Members of the Committee should consider whether the issue raised is best addressed under the Councillor Call for Action (CCfA) procedure or another procedure (for example Call-In). In normal circumstances, the same issue will only be considered under one of these procedures. The proper Officer for Scrutiny can advise Members on this matter if requested.
- 1.14. Once determined as a CCfA matter, the following, in the order they appear on this list, (and if present) shall then respond:
 - a. The relevant Cabinet Member and/or the Deputy Cabinet Members;
 - b. Another Cabinet Member;
 - c. A Senior Officer with functional responsibility for the matter.
 - i. All speakers may address the Committee for up to five minutes as determined by the chairman unless otherwise agreed by the Chairman. The Chairman shall then invite Members of the Committee to discuss the matter to question and to consider any recommendation which has been submitted by the Member as part of the agenda item.
- 1.15. The Committee may then:
 - a. Resolve not to consider the matter further;
 - b. Resolve to take no further action as the issue is one where an individual or body has a statutory right to a review or appeal (including matters relating to a planning decision);
 - c. Resolve to take no further action but at the meeting advise the Member raising the matter what further action, if any, the Member should take to resolve the matter;
 - d. Refer the matter to the Cabinet Member or Officer with responsibility for the matter to ask what can be done to resolve the matter;
 - e. Place the item on its agenda for consideration by the full Committee at a later meeting;
 - f. Consider whether to commission a scrutiny inquiry to consider the matter further;
 - g. Make a report or recommendation to the Cabinet or full Council of the Authority, or to the appropriate executive body of any partner organisation.

Council and Cabinet Policies

- 1.16. The Select Committees may review the policies of the Council and the Cabinet and to recommend to the Council or the Cabinet:
 - a. Whether any new policies are required.
 - b. Whether any existing policies are no longer required.
 - c. Whether any changes are required to any existing policies
 - d. Whether any action is required to make the policies more effective.

Cabinet Functions

- 1.17. The Select Committees may review the Cabinet's performance of its executive functions and where necessary recommend to the Cabinet or the Council:-
- a. Whether any action should be taken to improve the economy, efficiency and effectiveness of these functions.
 - b. Whether any action should be taken to improve the co-ordination of the functions within the Council or the functions of other persons or bodies.
 - c. Whether any functions should be performed in another way or by another person or body.
 - d. Whether the performance of the function should cease.

Consideration of Matters and the Performance of Functions in the Council's Area

- 1.18. The Select Committees will consider:
- a. Any matters which affect the Council or its administrative area or the residents of that area and to make recommendations to the Council or the Cabinet on issues arising from that consideration.
 - b. The performance of functions by any other public body within the Council's administrative area.

Referrals from the Council or the Cabinet

- 1.19. The Select Committees will consider any matter referred to them by the Council or the Cabinet and recommend any appropriate action. The Cabinet may request a Select Committee to look at topics to assist and inform Cabinet decision-making.
- 1.20. The following matters will automatically be referred to a Select Committee:-
- a. Draft policies, plans and strategies which are recommended by the Council or the Cabinet for approval.
 - b. The draft budget which is recommended to the Council by the Cabinet.
- 1.21. In reviewing draft policies, plans strategies and the draft budget, a Select Committee will in particular consider:-
- a. Whether any appropriate criteria has been used
 - b. Whether consultation (if any) responses and engagement conclusions have been taken into account.
 - c. Whether the decision is in accordance with the Council's policy framework.
 - d. Whether the decision is within the powers of the Council.
 - e. Whether the decision is lawful.
 - f. Whether the decision contributes to the efficient, effective and economic performance of the function in question.

Scrutiny Ways of Working

Select Committee Business

- 1.22. A Select Committee will consider any business in accordance with its Terms of Reference or as included in an agenda for its meeting and as provided for by these Select Committee Procedure Rules and the Access to Information Procedure Rules at Part 5.4 of this Constitution (provide link)

- 1.23. In conducting its business a Select Committee may:-
- a. Undertake in depth analysis of a policy issue.
 - b. Receive briefings and presentations on issues under consideration.
 - c. Undertake research, community and other public engagement, particularly in the analysis of policy issues and possible options.
 - d. Consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
 - e. Hold inquiries, workshops, public meetings and conduct public surveys.
 - f. Invite advisors and assessors to assist them.
 - g. Question Cabinet Members, Deputy Cabinet Members and seek their views on issues and proposals affecting the Council's area.
 - h. Question senior Officers, and where appropriate suppliers and seek their professional views on issues, and / or their decisions and performance either in relation to service plans or in relation to particular decisions, initiatives or project.
 - i. Liaise with national, regional or local external organisations operating in the Council's area so as to ensure that the interests of local people are enhanced by collaborative working.
 - j. As part of any investigation, review and scrutinise the decisions made by, and performance of, the Cabinet, Cabinet Members and senior Officers as regards both individual decisions and over time.
 - k. Question and collect evidence from any person (with their consent) and invite witnesses to attend Select Committee Meetings, proceedings or events.
- 1.24. The Select Committee with responsibility for health and / or adult social care may call for information and explanations, questions and proposed plans from health and / or adult social care providers, and invite the senior managers of such service providers to attend meetings and give evidence.

Work Programme

- 1.25. All Select Committees will develop their own annual work programme in consultation with the Members, Cabinet, Officers, external bodies, residents and any other appropriate stakeholder.
- 1.26. Where a Select Committee considers that a particular matter should be included in the Cabinet's forward plan, it may recommend its inclusion and require the Cabinet to report on the matter. However, in such a case the final decision remains with the Cabinet.
- 1.27. Select Committees may use a variety of creative methods to undertake in depth inquiries to review functions and their performance, and make recommendations to the Cabinet.
- 1.28. The Select Committee with responsibility for Health matters will positively and proactively scrutinises NHS functions in the Council area.

Reports from Select Committees

- 1.29. All Select Committee reports will be referred to the Cabinet for consideration. This affords the Cabinet an opportunity to discuss the report and its recommendations with the Select Committee (if necessary) before the report and the Cabinet's views are submitted to the Council for its consideration. Every effort will be made to avoid undue delay.

- 1.30. Where a Select Committee cannot agree on a single, final report to the Cabinet then one minority report may be submitted to the Cabinet with the majority report.
- 1.31. All representations from a Select Committee to a Cabinet Member regarding their responsibility, whether made verbally or in the form of a report, letter, email or other written format, must be formally reported to the Cabinet by the Cabinet Member concerned, either verbally or in writing, when the relevant item is being considered. Select Committees must clearly identify that such a representation is a formal representation.

Ensuring Cabinet Considers Select Committee Reports

- 1.32. Where appropriate, before submitting a report to the Cabinet, a Select Committee may prepare a draft report to allow the relevant Cabinet Member and the Chief Executive to comment on emerging themes and recommendations. The relevant Cabinet Member and relevant Officers are able to attend the meeting of the Select Committee where the draft report is considered.
- 1.33. Once a Select Committee report on a matter which is a responsibility of the Cabinet has been finalised it will be included on the agenda of the next available Cabinet meeting unless the subject of the report is due to be considered by the Cabinet within two weeks of the report being finalised. In such a case the report will be considered when the Cabinet considers the subject of the report.
- 1.34. Where for any reason the Cabinet does not consider a Select Committee report at its next scheduled meeting or within four weeks of the report being submitted for the Cabinet's consideration, the Monitoring Officer may call a meeting of the Council to review the matter and make a recommendation to the Cabinet.
- 1.35. The Cabinet will respond to the report and recommendations within XXXX and then provide updates to the relevant Select Committee on the implementation of the recommendations if required. Upon receipt of the Cabinet updates the relevant Select Committee will review the progress towards the implementations of the recommendations.

2. Select Committee Procedure Rules

Select Committee Proceedings

Who may sit on a Select Committee?

- 2.1. A Select Committee will comprise no more than fifteen Members, but the number of seats on a given Select Committee may vary depending on its remit and workload. The composition of the Select Committees will be politically proportionate.
- 2.2. All Members except Cabinet and Deputy Cabinet Members may be members of a Select Committee. Substitutes on Select Committees are permitted. However, no Member may be involved in scrutinising a decision in which they have been directly involved.

Co-optees

- 2.3. Each Select Committee may appoint a maximum of two people as non-voting co-optees either as standing members of the Committee or on a time limited basis. Where the membership of a specific Select Committee include the appointment of co-optees with voting rights this is detailed for example Education co-optees may vote on education functions.

Who Chairs the Select Committee meetings?

- 2.4. Each Select Committee shall, at its first meeting after appointment and at its first meeting after the annual meeting of the Council or as soon as practicable thereafter, elect a Chairman who, once elected will appoint a Vice-Chairman, both of whom shall hold office for a year or until their successors are elected or appointed.
- 2.5. If both Chairman and Vice-Chairman are absent from a meeting a Chairman for the meeting will be elected. The person presiding at the meeting may exercise any power or duty of the Chairman.
- 2.6. No person shall hold the office of Chairman or Vice-Chairman unless they are a member of the Committee in question and are also a Councillor of the Council.
- 2.7. A Member of the Council can be voted to be a Chairman of a Committee in their absence, provided they remain a member of that Committee.

Select Committee Meetings

- 2.8. A Select Committee should normally meet at least four times each year although additional meetings may be called as and when required.
- 2.9. A meeting may be called by the Chairman of the relevant Select Committee or by any three members of the committee or by the Proper Officer for Scrutiny if s/he considers it necessary.
- 2.10. Wherever possible a Select Committee meeting will be webcast.
- 2.11. The Select Committee will consider the following business:-
 - a. Minutes of the last meeting.
 - b. Declarations of interest.
 - c. The consideration of any matter referred to the committee for a decision relating to the Call-in of a decision.
 - d. Responses of the Cabinet to the reports of the committee.
 - e. The business otherwise set out in the agenda for the meeting.

Committee Meeting Procedure

- 2.12. A Select Committee will consider any business in accordance with its Terms of Reference or as included in an agenda for its meeting and as provided for by these Select Committee Procedure Rules and the Access to Information Procedure Rules at Part 5.4 of this Constitution (provide link)
- 2.13. It is not normal practice for a Select Committee to receive and consider motions.
- 2.14. Where the committee is considering the review or development of a policy in accordance with Rule 3.2 above it may request the attendance at the meeting of witnesses, assessors or advisors to give evidence. In such a case the meeting will be conducted in accordance with the following principles:-
 - a. That the matter is conducted fairly with all Members afforded the opportunity to ask questions and all attendees afforded the opportunity to speak and contribute.
 - b. That those assisting the committee by giving evidence be treated with respect and courtesy.
 - c. That the matter be conducted in such a manner as to maximise the efficiency of the investigation or review.

Quorum

- 2.15. The quorum for a Select Committee meeting is one quarter of its Members (rounded up).

Agenda Items

- 2.16. The agenda will include any item proposed under Rule X above as a Councillor Call for Action.
- 2.17. The Chairman of the committee, the appropriate Cabinet Member and any relevant Officer may reply to any item added to the agenda.
- 2.18. In the event of disagreement as to the inclusion of the agenda item, the committee shall decide on the inclusion at its next available meeting.

Select Committee Proceedings

Councillors, Officers and Others Giving Evidence

- 2.19. In addition to reviewing documents in fulfilling its role a Select Committee may require the attendance of the following at any of its meetings:-
 - a. Any Member of the Council.
 - b. Any other elected or co-opted Member.
 - c. The Head of Paid Service (Chief Executive), any Chief Officer and / or Head of Service to explain any matters within their remit.
 - d. With their consent those others it considers appropriate including but not limited to residents, relevant stakeholders and the Members or Officers of other public bodies.
- 2.20. A Select Committee may consider a Call-in, scrutinise and review decisions or actions taken in the performance of a Council function including, but not limited to:-
 - a. any particular decision or series of decisions.
 - b. The extent to which that actions taken implement a Council policy
 - c. The performance of those referred to at 5.3 1 above.

- d. The advice on which any decision should be made.
- 2.21. Where a Councillor or Officer is required to attend a meeting of a Select Committee under this provision, the Chairman of that committee will inform the relevant scrutiny support officer.
- 2.22. The scrutiny support officer will notify the Councillor or Officer in writing giving not less than ten working days' notice of the meeting in question.
- 2.23. The scrutiny support officer's notice will inform the Councillor or Officer of the nature of the agenda item on which they are required to attend and give an account and whether any papers are required to be produced for the committee. Where the committee will require the Councillor or Officer to prepare a report, sufficient notice will be given for the preparation of the report.
- 2.24. Where, in exceptional circumstances, the Councillor or Officer is unable to attend the meeting on the required date, then in consultation with the Councillor or Officer the Select Committee will arrange an alternative date for his / her attendance, or
- 2.25. The Councillor or Officer who is unable to attend may nominate another Councillor or Officer who is able to speak on the topic in question.

Rights of Select Committee Members to Documents

- 2.26. In general, a Member of a Select Committee will have access to information in accordance with the Access to Information Procedure Rules at Part XXXX of this Constitution (include link)
- 2.27. Additionally, for the purpose of fulfilling the scrutiny function, a Select Committee may have access to information otherwise than in accordance Access to Information Rules.
- 2.28. Such additional access will be on a "need to know" basis and will be at the discretion of the Monitoring Officer in consultation with the Leader whose consent will not be unreasonably withheld.
- 2.29. The following applies to Members of a Select Committee regarding additional access to information rights:-

A Select Committee:

- a. May within the limits of its budget (if any), commission research or advice (including from external organisations) to assist in any deliberations and may request that a budget for such work is provided.
 - b. Shall have access to all relevant papers of the Council. Select Committee members who have access to confidential material shall at all times respect the confidentiality of that material and shall not use it in a context other than the Committee examination without the permission of the Committee.
- 2.30. Select Committees will also have access to background information from a range of sources including but not limited to:
- a. Council plans, strategic and policies
 - b. The four month Forward Programme of work for the Cabinet
 - c. All documents listed on the Council's Policy Register
 - d. Business Unit plans

- e. External Audit Management Letters
 - f. Internal and External Audit Plans and Reports
 - g. Legislation and Government guidance
 - h. Government Reports and National Studies
 - i. National performance and comparative information e.g. CIPFA statistics
 - j. Complaints
 - k. Community plans and processes
 - l. Cabinet or Cabinet Member papers
 - m. Representations from the Community (Individuals, Community Groups, Councillors, Community Boards, Residents, Surveys, etc.)
 - n. Research published by other organisations or commissioned by any of the Select Committees
 - o. Evidence from expert witnesses at the Select Committees' request
 - p. Copies of minutes and papers received by any internal Council advisory board or group.
- 2.31. The right of access to documents rests with the Committee, and not with any individual Member.
- 2.32. Accordingly where a member of a Select Committee wishes to have access to particular documents for the purpose of the functions of the Committee, he/she may request (not require) access directly of the Officer who holds the documents. In the alternative, he/she may:
- a. Request the Monitoring Officer to make arrangements to enable him or her to inspect the documents, or
 - b. Make a request to the Chairman of the Select Committee, who may request the Monitoring Officer accordingly, or
 - c. Refer the matter for consideration by the Committee and recommend the Committee to instruct the Officer concerned to report thereon including copies of relevant documents.

Right of Speakers to the Papers

- 2.33. Any person required to attend and give evidence at a Select Committee meeting is entitled to see the public and background papers made available to the committee and any other relevant papers or information which are not public at the same time as decided is appropriate by the Monitoring Officer which may include but is not limited to:-
- a. External audit management letters
 - b. Internal and external audit plans and reports.
 - c. National performance and comparative information (i.e. CIPFA statistics)
 - d. Research published by other organisations or commissioned by other Committees of the Council.
- 2.34. Wherever possible anyone asked to speak at the meeting will be given access to the statements of those who have already spoken to the committee, but not those who have yet to do so.

- 2.35. Those in receipt of the papers will respect confidentiality of all confidential and / or exempt information included in them.
- 2.36. Except insofar as the papers include confidential and / or exempt information and are considered where the public and press have been excluded, those papers submitted to the committee by anyone speaking at a meeting of the committee will become public documents once the speaker has concluded their evidence
- 2.37. Those speaking at a meeting are entitled to request for their comment a copy of any draft minutes or other record taken of their contribution to the meeting. If the speaker considers that the draft minutes or record of their contribution is not accurate, they are able to make a written request asking that a correction be submitted at the next meeting of the committee.

Rights of Councillors to Attend a Select Committee Meeting and ask Questions

- 2.38. Any Councillor who is not a member of a Select Committee may attend a meeting of that committee and speak if permitted to do so by the Chairman.
- 2.39. Any Councillor may attend a meeting of a Select Committee and ask the Committee any question on an agenda item without notice. Questions are limited to 3 minutes unless the Chairman consents to a longer period. Supplementary questions can only be asked with the consent of the Chairman.

Questions

Questions on notice

- 2.40. Subject to Rulex.9, a Member of the Council may ask the Chairman of a Select Committee a question on any matter relevant to their terms of reference and responsibilities.

Notice of questions

- 2.41. A councillor may ask a question under Rulex.2 if either:
 - a. they have given notice of the question in writing or by electronic mail no later than midday 5 working days before the day of the meeting to the Monitoring Officer; or
 - b. the question relates to urgent matters, they have the consent of the Chairman or councillor to whom the question is to be put and the content of the question is received by the Monitoring Officer in writing or by electronic mail by **9.00 a.m. on the day of the meeting.**

Content of Questions

- 2.42. Questions under Rulex.2 must, in the opinion of the Chairman:
 - a. not be unreasonable;
 - b. contain no expressions of opinion;
 - c. relate to matters on which the Council has or may determine a policy;
 - d. not relate to questions of fact;
 - e. not require the disclosure of confidential or exempt information;
 - f. not relate to a matter which is purely of personal concern to an individual/family members.

Time Allowed for Member Questions at Select Committees

- 2.43. The number of questions and the total time allowed for consideration of such questions submitted under Rulex.1 shall be determined by the Chairman;
- 2.44. At the conclusion of the response to the question under consideration or at the expiry of such time period as determined by the Chairman from the time when the first questioner started to speak, the Chairman shall conclude the meeting or proceed to the next item of business.
- 2.45. Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council.

Generally

Record of questions

- 2.46. The Monitoring Officer will send a copy of any question received to the Chairman of the Select Committee to whom it is to be put. Copies of all questions will be available to all Councillors and the public attending the meeting. After the meeting, copies of the questions asked at the meeting and the responses will also be available on the Council's website with the minutes for the relevant meeting.
- 2.47. Rejected questions will be returned to the questioner with the reasons for rejection.

Order of questions

- 2.48. Questions from Councillors received in accordance with Rulex.1 will be asked in the order determined by the Chairman.

Response

- 2.49. An answer to a question under Rulex.1 may take the form of:
 - a. a direct verbal answer;
 - b. where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - c. where the reply cannot conveniently be given verbally, a written response will be provided no later than 5 working days after the meeting.
- 2.50. An answer to a question on notice under Rulex.2 will take the form of a written response provided within 5 working days of the meeting.
- 2.51. copies of the questions and responses will be available on the Council's website with the minutes for the relevant meeting.

Reference of question to the Cabinet or a committee

- 2.52. Unless the Chairman decides otherwise, no discussion will take place on any question, but any Councillor may move that a matter raised by a question be referred to Council, Cabinet or the appropriate Committee or sub-Committee as necessary. Once seconded, such a motion will be voted on without discussion.

Rights of the Public to Attend a Select Committee Meeting and ask Questions

- 2.53. The public may ask questions at Select Committee meetings on items set out in the Agenda for that meeting.

Time Allowed for questions

- 2.54. The time allowed for asking questions under this Rule shall not, without the consent of the Chairman, exceed 10 minutes with each question limited to **3 minutes per speaker/question**.

Notice of questions

- 2.55. A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Monitoring Officer no later than midday **5 working days** before the day of the meeting. Each question must give the name and address of the questioner.

Number of questions

- 2.56. At any one meeting no person may submit more than one question and no more than one question may be asked on behalf of one organisation.

Scope of questions

- 2.57. The Monitoring Officer may reject a question if in their view it:

- a. is not about a matter for which the Council has a direct responsibility or which affects the County;
- b. is defamatory, frivolous or offensive;
- c. is vexatious or abusive;
- d. is substantially the same or similar to a question which has been put at a meeting of the Council or Committee in the past six months;
- e. requires the disclosure of confidential or exempt information;
- f. is lengthy, or is not a question;
- g. relates to a matter which is of purely personal concern to an individual or family members;
- h. relates to court action or threatened court action between the Council and the person or group;
- i. is a request for compensation;
- j. contains a statement which is untrue;
- k. is an unintelligible question;
- l. relates to a matter on which the Council has, or may, determine a policy;

If not rejected by the Monitoring Officer the Select Committee Chairman will decide how the question will be dealt with.

Voting, Motions and Rules of Debate

- 2.58. It is not normal practice for a Select Committee to receive and consider motions.
- 2.59. Voting, motions and the rules of debate at Select Committee meetings will be as set out in the Council Procedure Rules at Part C of this Constitution (provide link)

Call-In Procedure

- 2.60. Call In procedure is a statutory right which can be applied to any decision which has been taken but not yet implemented (Section 21(3) LGA 2000). Call In is a procedure whereby

Members of the Council may question decisions taken by the Cabinet in exceptional circumstances and therefore may hold the Cabinet to account.

- 2.61. When a decision is a Key decision made by the Cabinet or an individual Member of the Cabinet, or an Executive decision made by an Officer with delegated authority, or any Committee under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two working days of being made. The Chairman of the relevant Select Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision unless the decision taker has certified that the decision is urgent and to be implemented immediately.
- 2.62. That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of three working days after the publication of the decision, unless either the decision maker has certified that the matter is urgent and requires implementation urgently or a call-in request has been received by, at the latest, 5.00pm on the third working day after the decision has been made. If a call-in request is received the decision will not be implemented until the call-in process is complete, unless the decision is urgent.
- 2.63. A decision which has been taken and implemented may still be reviewed by the Select Committees, but such a review will not delay the implementation of the decision.
- 2.64. A decision may only be called in once and a decision may not be called in where the substance of the decision has already been subjected to scrutiny by a Select Committee unless there have been substantial changes to the decision or where the Section 151 Officer has certified that a delay in the implementation of a decision will result in significant additional cost to the Council.
- 2.65. The grounds for a Call-In Request are:
 - a. The decision has not been made in accordance with this Constitution, Council policies or Council procedures and processes
 - b. The decision is outside of the Council's policy framework or the budget approved by the Council
 - c. The decision is outside of the powers of the Council
 - d. The decision is unlawful
- 2.66. Once a recommendation for a decision is published, any Member of the relevant Select Committee may ask to see the papers to be considered (except insofar as they contain confidential or exempt information) and take preliminary advice from officers supporting the Select Committee about the implications of the decision.
- 2.67. At least 15% (rounded up) of councillors representing the number of councillor seats on the Council must notify the Monitoring Officer within three working days of the publication of the decision of an intention to request the Select Committee to examine the decision and of any requirement for the attendance by a Cabinet Member or any Officer. Within two working days of the notification of the call in request the same number of Councillors must confirm whether they wish to proceed with the Call In Request and if so, provide the required details via the form.
- 2.68. The Monitoring Officer will decide whether the Call In Request is valid in accordance with paragraph 2.51 below within two working days (timescale). Once validated a Call In Request will be treated as a Call In Notice.

- 2.69. The Monitoring Officer will determine the call in request to be invalid if:-
- a. It relates to a matter which is to be determined by the Council or a Committee of the Council
 - b. It relates to a decision of the Cabinet/Cabinet Member taken as a matter of urgency and the Chairman of the appropriate Select Committee or such other person as detailed in the urgency rules had been consulted or a Select Committee had previously agreed the need for urgency.
 - c. It relates to a matter where the associated report has already been considered by a Select Committee.
 - d. if it has not been made in accordance with this procedure;
 - e. is not completed correctly;
 - f. it does not identify the decision,
 - g. it does not detail a valid ground for call in,
 - h. it does not provide clear written reasons why one of the valid grounds for call in applies
 - i. is not signed by the required number of councillors:-
 - j. The call-in form is received after the specified deadline
 - k. The reason for the call-in is unclear or does not relate directly to the decision specified on the call-in form
 - l. The reason for the call-in is a question, the answer to which can be found in the report relating to the decision which is being called in.
- 2.70. A call-in may only be withdrawn by notification in writing or electronically submitted to the Monitoring Officer from all the councillors who requested the call-in.
- 2.71. Once the deadline for [requesting] calling in items and the determination of the validity of call-ins has passed, the Monitoring Officer will inform all councillors of the call-in and will arrange for it to be considered at the next meeting of the appropriate Select Committee. The agenda for that meeting will show the written reasons given for the call-ins, the councillors who signed the call-in, and enclose the relevant documents.
- 2.72. Select Committee shall discuss the Call In Notice at its next regular meeting or at a Special Meeting whichever is sooner provided that the required five clear days notice can be given.
- 2.73. At least two of the councillors who called in a decision must be present at least one of whom will present their reasons for call-in at the meeting of the Select Committee which considers the call-in. If two councillors do not attend, the call-in will fail.

Call-In Notice

- 2.74. at the meeting where the Select Committee is considering the Call In Notice it should first take advice as to whether the request to call in the Cabinet decision is valid, consider whether there is a case for the decision to be called in [and whether any further information is required] by hearing from one of the Councillors who signed the call in request (and witnesses) and the decision maker who will explain the reasons for the decision. Once the Committee have considered the evidence provided during the meeting they will decide whether to uphold or reject the call-in Notice.

- 2.75. If, following discussion, the Select Committee agrees that the matter should be called in they may proceed either to examine the decision at that meeting or adjourn to investigate the decision at another meeting. . Upon calling-in a decision, a Select Committee may recommended to the Cabinet, Cabinet Member or Officer as appropriate:-
- a. Whether the decision should be reconsidered and if so, they can also recommend an alternative decision, actions or options or what matters or issues should be considered
 - b. That they are satisfied with the original decision
 - c. Whether any future action should be taken in light of a decision so as to ensure the better implementation of that decision.
 - d. Whether any further action should be taken in light of that decision so as to improve the manner or quality of future decision making
 - e. Refer to full Council

Consideration of decision after Call-In Notice

- 2.76. The Select Committee will have at its disposal the information which has been submitted to the Cabinet or Cabinet Member. They can require the relevant Cabinet Member(s) and appropriate officers to attend the meeting to answer questions about the issue. If the Select Committee accepts the original decision by the Cabinet or Cabinet Member it becomes immediately effective. If the Select Committee makes a recommendation to the Cabinet or Cabinet Member to amend a decision, this will be considered by the Cabinet at its next meeting or by the Cabinet Member as soon as reasonably practicable.
- 2.77. If the Cabinet or Cabinet Member disagree with the recommendation of the Select Committee to amend a decision they will inform the Select Committee. In such circumstances, the Select Committee may refer the matter to the next meeting of the Council for decision. In these circumstances the Council will have before them the views of both the Select Committee and the Cabinet or Cabinet Member. If the Cabinet or Cabinet Member decides further work needs to be done, they may defer the item for this to be carried out.
- 2.78. If the Committee agrees that further investigation or information is required, the Cabinet or Cabinet Member may agree to extend the time in which a final view may be expressed.
- 2.79. If, having considered the decision, the Select Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, or refer the matter to full Council. If referred to the decision maker he or she shall then reconsider within a further five working days, amending the decision or not, before adopting a final decision.
- 2.80. If the decision taker requires more time to consider, the Select Committee's recommendations the time may be extended by the Chairman of the Select Committee after agreement by one other member of the Committee.
- 2.81. If the decision taker is after reconsideration, not able to make changes to the decision in accordance with the Committees concerns the decision taker shall write to the Committee setting out reason why the decision taker is unable to accede to the Select Committee concerns.
- 2.82. If following an objection to the decision, the Select Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Select Committee meeting, or the expiry of that further five working day period, whichever is the earlier.

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

Call-In – Urgent Decisions

- 2.86. Decisions of the Cabinet or any Cabinet Member which are urgent (i.e. any delay likely to be caused by the call-in process would prejudice the Council's or the public's interest) will not be subject to call-in.
- 2.87. The records of such decisions will reflect the reasons for urgency and state that therefore they are not subject to call-in.
- 2.88. The Chairman of the appropriate Select Committee must agree the need for urgency unless the Select Committee has already given its approval to a decision being taken urgently so that call-in does not apply. In the absence of the Chairman the Chairman of Council or the Vice-Chairman will be invited to perform this role.
- 2.89. Any reports on which urgent decisions have been made are to be reported to Select Committee for it to understand the need for urgency, but this will not delay implementation of the urgent decision itself.

Part H – Councillors

Section 1 Roles of Councillors and Office Holders

Section 2 Code of Conduct for Councillors

Section 3 Process for the Investigation of Complaints against Councillors

Section 4 Member/Officer Protocol

Section 5 Planning Protocol

Section 6 Scheme of Member Allowances

Councillors are elected to serve on Buckinghamshire Council by local residents. This section sets out what is expected of them in carrying out their roles and duties, the rules they need to follow as councillors and how they are expected to behave when acting as a councillor. It also set out how Buckinghamshire Council will investigate any complaints made against councillors (including Town and Parish councillors). Councillors receive an allowance to cover their time representing and acting for the council through an allowance scheme which is also set out in this section.

You can find your local councillor here

This section is written in formal language. Our democratic services team can explain any details which may be unclear.

1. Roles of Councillors and Office Holders

Role Profile for All Councillors

Responsibilities

- 1.1. Be at the centre of community life:
 - a. Spend time out and about learning about the communities that you represent, supporting your residents, working with local organisations (such as GPs, schools, police, local businesses and voluntary organisations) developing a shared understanding of local issues and ensuring that communities make the most of all the opportunities available to them.
 - b. Build good working relationships and earn the trust and respect of local partners, other councillors and council officers
 - c. Be an active member of local networks and partnerships, for example by acting as a school governor.
 - d. Communicate regularly with your community including communicating council policy and decisions.
- 1.2. Contribute actively to the formation and scrutiny of the Council's policies, budgets, strategies and services.
- 1.3. Act as a 'corporate parent' to Buckinghamshire's looked-after children and care leavers.
- 1.4. Represent effectively the whole community with a special duty to their constituents, including those who did not vote for him or her.
- 1.5. Represent the Council on outside bodies as required.
- 1.6. Participate constructively in the good governance of the Council area.
- 1.7. Fulfil the statutory and locally determined requirements of an elected Member of a local authority. To comply with all relevant codes of conduct, regulations, protocols and procedures, and participate in those decisions and activities reserved for the full Council.

Key Tasks

- 1.8. Attend and participate effectively as a Member of any committee to which the Councillor is appointed.
- 1.9. Participate in the activities of any outside body to which the Councillor is appointed, providing two-way communication between the organisations, and reporting as required to the Council. To develop and maintain a working knowledge of the Council's policies and practices in relation to that body and of the community's needs and aspirations.
- 1.10. Participate in the scrutiny or performance review of the services of the Authority including where the Council so decides, the scrutiny of policies and budget, and their effectiveness in achieving the strategic objectives of the Council.
- 1.11. Participate in any advisory group to which the Councillor is appointed, as convened by the Cabinet from time to time.
- 1.12. Participate, as appropriate, in consultation with the community and with other organisations
- 1.13. Develop and maintain a working knowledge of the Council's services, management arrangements, organisation and activities, powers/duties, and constraints.

- 1.14. Contribute constructively to open government and democratic renewal through active encouragement to the community to participate in the governance of the District.
- 1.15. Maintain professional working relationships with all Councillors and Officers.
- 1.16. Identify and participate in opportunities for further development and training as a Councillor and keep abreast of developments in national and local government.

Additional Responsibilities and Tasks for Members of the Cabinet

- 1.17. These role profiles should be read in conjunction with the role profile for all councillors.

Cabinet Leader

1.18. Responsibilities

- a. Ensure efficient and effective services, where they are relevant to the needs of the community and the responsibility of Buckinghamshire Council, in the short, medium and long term.
- b. Provide visible political leadership in relation to residents, stakeholders and partners in the overall co-ordination of policies, strategies and service delivery affecting the locality.
- c. Lead the Cabinet in its work to develop the policy framework and budget of the Council within the agreed policy framework.
- d. Lead the development of local and regional strategic partnerships.
- e. Ensure the appropriate representation of the Council on key outside bodies.

1.19. Key Tasks

- a. Provide leadership to the Council and its political administration, and lead the presentation of the recommendations, plans, policies and decisions of the Cabinet and the Council.
- b. Represent the Council's political and strategic decision-making in the community and in discussions with regional, national and international organisations and others in order to pursue matters of interest to the Council and its communities and to keep the Council and the Cabinet informed accordingly.
- c. Appoint Members of the Cabinet and allocate Cabinet portfolios.
- d. Develop and maintain good working relations and effective channels of communication with the Chairman of each Select Committee
- e. Direct, manage and chair meetings of the Cabinet and to take responsibility, individually and/or collectively for any specific portfolio, including providing a political lead in proposing new policy, strategy, budget and service standards and reviews, as well as acting as spokesman for the Council.
- f. Meet regularly and provide policy direction to the Chief Executive and other relevant senior offices (with or without the Cabinet) to consider and recommend action within approved policies and strategies.
- g. Consider the development and training needs of the Cabinet and members generally and arrange for training sessions or suitable briefings as appropriate.
- h. Receive and act as appropriate upon representations from councillors, the public, organisations and senior officers.

- i. Promote good working relationships across the political groups that make up the Council.

All Cabinet Councillors with Portfolio

1.20. Responsibilities

- a. Take responsibility within the Cabinet on the basis of collective decision making and such individual delegation that may apply, for a portfolio of services or functions of the Council.
- b. Input into the Cabinet any information, intelligence or factors considered relevant to the issues under consideration by the Cabinet.
- c. Contribute actively through the portfolio and membership of the Cabinet to the formation, implementation, monitoring and scrutiny of the Council's policies, budgets, strategies and services.

1.21. Key Tasks

- a. Participate in the Cabinet and to implement agreed policies by taking responsibility individually and/or collectively for any portfolio allocated by the Leader of the Council, including proposing new policy, strategy, programming, budget and service standards, and leading performance review
- b. Develop a clear understanding and in depth knowledge of the respective portfolio, the scope and range of the relevant services for which he/she is responsible and an awareness of current agreed policies and budgetary implications in respect of those services.
- c. Consult and communicate with all members, council officers, key partners and the community as appropriate to ensure policies, strategies, budgets and decisions are well informed and that Council policies are widely understood and positively promoted.
- d. Ensure that the Council is briefed at the appropriate time on significant issues within the respective portfolio – i.e. those which have financial or other major resource implications or which will result in a change to established policy.
- e. Act as spokesman for the Council and answer and account to the Council and the community on matters within the portfolio.
- f. Work closely with the Chief Executive, Corporate Directors and other senior officers responsible for the services within the portfolio and the relevant Select Committee Chairman.
- g. Work with officers on the implementation of agreed plans, policies and programmes within the portfolio and inform the Cabinet of progress and performance.
- h. Participate in scrutiny or performance reviews of services as requested by a Select Committee.
- i. Represent the Council and the Cabinet in the community and elsewhere as required by the Leader.

Deputy Cabinet Members

1.22. To support the Cabinet Member in their roles and responsibilities above

1.23. To deputise and attend meetings and briefings in place of the Cabinet Member

Additional Responsibilities and Tasks for Non-Cabinet Councillors

Chairman of the Council

1.24. Responsibilities

- a. Uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary.
- b. Preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community.
- c. Ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members are able to hold the Cabinet to account.
- d. Promote public involvement in the Council's activities.
- e. Be the conscience of the Council, and act impartially.
- f. Attend such civic and ceremonial functions as the Council and/or he/she determines appropriate and take precedence at formal occasions.
- g. Ensure that the dignity of the office and Council is maintained at all times.

1.25. Key Tasks

- a. Chair all meetings of the full Council
- b. Chair major consultation meetings organised by the Council, as appropriate.
- c. Set the standard of conduct to be expected from all Councillors.
- d. Help represent the Council in the community and in discussions with regional, national and international organisations and others.
- e. Attend functions appropriate to the position of Chairman of the Council.
- f. Act as host to visiting Royalty, civic dignitaries and other important visitors.
- g. Meet with relevant officers to ensure the receipt of appropriate advice to enable effective decisions.

2. Code of Conduct for Councillors

Part 1 – General Provisions

Introduction

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

Scope

- 2.3. This Code of Conduct applies to you whenever you are acting in your capacity as a member of Buckinghamshire Council, including: –
 - a. at formal meetings of the Council, its Committees and Sub-Committees, its Cabinet and Panels
 - b. when acting as a representative of the authority
 - c. in taking any decision as a Cabinet member or a Ward Councillor
 - d. in discharging your functions as a Ward Councillor
 - e. at briefing meetings with officers
 - f. at site visits and
 - g. when corresponding with the authority other than in a private capacity
- 2.4. Where you act as a representative of the Council:-
 - a. on another authority, you must when acting for that authority, comply with that other authority's code of conduct; or
 - b. on any other body, you must, when acting for that other body, comply with this Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject
- 2.5. Where you are acting as a co-opted member of a Council Committee or Sub-Committee or Board or Panel of the Council
- 2.6. When using social media or the internet and/or in relation to your online presence if you refer in any way to your role as a councillor or could reasonably be perceived as acting in any of the above capacities when doing so.

General Obligations

- 2.7. You must –
 - a. provide leadership to the Council and communities within its area, by personal example and
 - b. respect others and not bully any person
 - c. recognise that officers (other than political assistants) are employed by and serve the whole Council

- d. respect the confidentiality of information which you receive as a councillor and member –
 - i not disclose confidential information to third parties unless required by law to do so or where there is a clear and over-riding public interest in doing so; and
 - ii not obstruct third parties' legal rights of access to information
- e.
- f. not conduct yourself in a manner which is likely to bring the council into disrepute
- g. use your position as a councillor in the public interest and not for personal advantage
- h. act in accordance with the Council's reasonable rules on the use of the resources of the Council for private or political purposes
- i. exercise your own independent judgement, taking decisions for good and substantial reasons –
 - i attaching appropriate weight to all relevant considerations including, where appropriate, public opinion and the views of political groups
 - ii paying due regard to the advice of officers, and in particular to the advice of the statutory officers, namely the Head of Paid Service, the Section 151 Officer and the Monitoring Officer and
 - iii stating the reasons for your decisions where those reasons are not otherwise apparent
- j. account for your actions, particularly by supporting the Council's scrutiny function
- k. ensure that the Council acts within the law.

Part 2 – Interests

Personal Interests

- 2.8. In addition to the statutory requirements under the Act in relation to Disclosable Pecuniary Interest's (DPI's) and as set out in Paragraphx below and save for the subject interest already having been declared as a DPI and the statutory provisions complied with, the following Paragraphs 5 to 8 shall also apply.
- 2.9. You have a personal interest in any business of the Council where either-
- a. it relates to or is likely to affect –
 - i Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
 - ii Any body –
 - 2.9.a.ii.1. Exercising functions of a public nature
 - 2.9.a.ii.2. Directed to charitable purposes; or
 - 2.9.a.ii.3. One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
 Of which you are a member or in a position of general control or management;
 - b. Any person or body who employs or has appointed you;
 - c. The interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

- d. A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected by the decision;
- 2.10. In sub-paragraph 2.8 b. above, a relevant person is –
- a. A member of your family or any person with whom you have a close personal association; or
 - b. Any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - c. Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - d. Any body of a type described in sub-paragraph 2.9 a. i or ii.

Disclosure of Personal Interests

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

Prejudicial Interest Generally

- 2.17. Subject to sub-paragraph (2), where you have a personal interest in any business of the council you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- 2.18. You do not have a prejudicial interest in any business of the council where that business—
 - a. does not affect your financial position or the financial position of a person or body described in paragraph 5;
 - b. does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 5; or

- c. relates to the functions of the council in respect of—
 - i an allowance, payment or indemnity given to members;
 - ii any ceremonial honour given to members; and
 - iii setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial Interests Arising in Relation to Overview and Scrutiny Committees

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

Effect of Prejudicial Interests on Participation

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

Disclosable Pecuniary Interest

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

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

Part 3 – Registration of Members’ Interests

Registration or Disclosure of Members’ Interests

- 2.23. Subject to paragraph 102, you must, within 28 days of your election or appointment to office register in the council’s register of members’ interests, maintained under Section 29 of the Act, details of any DPI which you or your spouse or civil partner (or person with whom you are living as spouse or civil partner) may have, together with your personal interests where they fall within a category mentioned in paragraph 5(1) (a), by providing written notification to the council’s monitoring officer.
- 2.24. Failure to register or disclose any DPI in accordance with section 30(1) or 31(2), (3) or (7) of the Act, or participating in any discussion or vote in contravention of section 31(4) of the Act, or taking any steps in contravention of section 31(8) of the Act, is a criminal offence and risks a fine not exceeding level 5 on the standard scale (currently £5,000) or disqualification as a member for a period not exceeding 5 years.
- 2.25. Subject to paragraph 12, you must, within 28 days of becoming aware of any new DPI and/or personal interest or change to any DPI and/or personal interest registered under paragraph (1), register details of that new DPI and/or personal interest or change by providing written notification to the council’s monitoring officer.
- 2.26. Subject to Paragraph 12, you are required to disclose the existence and nature of any DPI when it arises at a meeting even where already registered in the Register or pending registration so the minutes can be duly noted.

Sensitive Interest

- 2.27. Where you consider that you have a sensitive interest (whether or not a DPI), and the council’s monitoring officer agrees, if the interest is entered in the Council’s register, copies of the register that are made available for inspection and any published version of the register, must not include details of the interest (but may state that the member has an interest the details of which are withheld under section 32 (2) of the Act) and any public declaration required need only state the fact an interest arises without further detail.
- 2.28. You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer a sensitive interest, notify the Council’s monitoring officer asking that the interest be included in the Council’s register of members’ interests.
- 2.29. In this Code, “sensitive interest” means an interest, the nature of which is such that you and the Council’s monitoring officer consider that disclosure of the details of the interest could lead to you, or a person connected with you, being subject to violence or intimidation.

Dispensations

- 2.30. On a written request made to the Council’s Monitoring Officer, the Council may grant a dispensation for you to participate in a discussion and vote on a matter at a meeting even if you have a DPI or a prejudicial interest and that you be relieved of the obligation to otherwise withdraw from the room in which the matter is being considered if the Council considers that the number of members otherwise prohibited from taking part in the meeting would be so great a proportion of the body transacting the business that it would impede the transaction of the business; or the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote on the business; or it is in the interests of the inhabitants in the

Council's area to allow you to take part or that without the dispensation the Councils Executive would be prohibited from participating in the matter or it is otherwise appropriate to grant a dispensation.

DRAFT

Appendix A

Disclosable Pecuniary Interests

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

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

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

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

For this purpose –

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

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

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

“M” means a member of a relevant authority;

“member” includes a co-opted member;

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

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

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

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

Gifts and Hospitality

2.31. In addition to the registration of interests, the Council requires councillors to register any gifts and hospitality worth £25 or more they have received with the Monitoring Officer.

2.32. Councillors must:

- a. register any gifts and hospitality with the Monitoring Officer within 28 days of being elected or appointed to office.
- b. register any gifts and hospitality within 28 days of the Authority's Code of Conduct being adopted.
- c. register any gifts and hospitality with the Monitoring Officer within 28 days of receiving them.
- d. declare any gifts and hospitality at any meeting of the authority at which they are present, where a relevant matter is being considered.
- e. register any gifts and hospitality declared at a meeting, within 28 days of disclosing it.
- f. Details on how councillors should register interests and gifts and hospitality can be obtained from X

3. Process for the Investigation of Complaints against Councillors

Context

- 3.1. The Council is committed to promoting and maintaining high standards of conduct amongst its councillors and has adopted a Code of Conduct setting out the conduct it expects of its councillors as they carry out that role.
- 3.2. A copy of the Council's Code of Conduct for Councillors is set out in Part I Section 2 of this Constitution. It is also available for inspection on the Council's website.
- 3.3. The Code applies to councillors when they go about the work of the Council or their role as a councillor. The Council will not investigate complaints relating to a councillor's private life.
- 3.4. If anyone thinks a councillor has not complied with the Council's Code of Conduct for Councillors (or in relation to Town and Parish councillors has not complied with their Town or Parish Code of Conduct) a complaint can be made to the Monitoring Officer who will consider the complaint in the following way.

How We Deal with Complaints

Initial Assessment

- 3.5. The Monitoring Officer will carry out an Initial Assessment to determine whether the complaint is within the Code of Conduct and whether, having regard to the referral criteria below it should be progressed.

Stage One

- 3.6. If the Monitoring Officer determines that the complaint should be progressed we will tell the councillor that you are complaining about that we have received a complaint and provide them with details of your complaint which may include a copy – unless you have requested confidentiality (in which case your details will not be disclosed unless and until your request for confidentiality has been considered – see further below).
- 3.7. The councillor will be invited to respond within 20 working days – including in their response any suggestion to resolve the complaint.
- 3.8. Details of the response will be made available to you and you will be asked if you are satisfied – if yes, no further action will be taken or the action proposed by the councillor will proceed; if not, you will be asked if you wish your complaint to be considered further under Stage Two

Stage Two

- 3.9. In most cases your complaint will be considered by the Council's Monitoring Officer, or their Deputy, or by the Monitoring Officer and the Chairman/Vice- Chairman of the Councils Standards and General Purposes Committee if considered appropriate due to the seriousness of the alleged behaviour. An Independent Person may be consulted and their views taken into account. An Independent Person will be consulted if a referral for investigation is deemed appropriate or if the complaint can't be resolved informally. This will happen within an average of 20 working days of the date of the commencement of Stage Two.

Stage Three

- 3.10. If the decision at Stage Two is to investigate the complaint, the Monitoring Officer will appoint an investigator whose report will be considered by the Hearings Sub-Committee

of the Council's Standards and General Purposes Committee— or in some cases to the full Committee – who will decide whether a breach has taken place and if so the appropriate remedy, a formal hearing is necessary to determine whether a breach has occurred and/or the appropriate remedy, if and what any further action is appropriate.

Referral Criteria

- 3.11. Whilst each allegation will be considered on its individual merits, the following “Referral Criteria” will be used to decide whether to accept a complaint and as factors for consideration at each stage of the process.
- a. the public benefit in investigating the alleged complaint
 - b. the availability and cost of resources with regard to the seriousness of the alleged matter
 - c. is the information submitted, sufficient to make a decision as to whether to refer for investigation?
 - d. is the councillor complained about still a serving councillor?
 - e. is the complaint the same as or similar to a previous complaint?
 - f. the time passed since the alleged conduct occurred
 - g. the complaint involves conduct too trivial to warrant further action
 - h. does the complaint appear to be malicious, politically motivated or tit for tat?
 - i. whether the matter complained of is an individual act or part of a continuous pattern of behaviour which should be cumulatively considered
 - j. steps taken or proposed to remedy the action complained of
 - k. the complainant's view of the action taken or proposed.
- 3.12. The relevant parties will be kept informed at all stages of the complaint. Further details are available on the Council's website.
- 3.13. There is no right of appeal under any stage of this complaints procedure.
- 3.14. The remedies available may include –
- a. informal resolution (ie where a formal remedy may not be appropriate but a resolution is considered advisable. This is not limited to but may take the form of an apology or an explanation) (this may be by recommendation only)
 - b. Report to Council
 - c. Formal letter to subject councillor
 - d. Formal censure by motion
 - e. Recommendation to Leader/Group Leader or Town/Parish Council as applicable, that the councillor is removed from Special Responsibilities – i.e. Cabinet/Committees/Outside Bodies.
 - f. Press release or other publicity.
- 3.15. Please note the Council has no authority to withhold allowances or to suspend or remove a Councillor from office.
- 3.16. All decisions should be published unless the subject Member requests non-publication where it is found that the code of conduct has not been breached.

3.17. * An **Independent Person** is someone who has been appointed by the Council under Section 28 of the Localism Act 2011. Independent Persons must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the Council – i.e. by full Council.

3.18. A Person is considered not to be 'independent' if:-

- a. they are or have been in the previous 5 years an elected or co-opted member or officer of the District Council or any Parish in the area an elected or co-opted member of any committee or sub-committee of the District Council or any Parish in the area or
- b. they are a relative or close friend of a current elected or co-opted member or officer of the District Council or any Parish in the area – or any elected or co-opted members of any committee or sub-committee of such a Council.

DRAFT

4. Protocol on Member/Officer Relations

Introduction

- 4.1. A good relationship between Members and Officers is characterised by mutual respect and trust and is essential to the successful working of the organisation. Member and Officers should speak to each other openly and honestly; they are indispensable to each other. Nothing in this Protocol is intended to change this relationship.
- 4.2. The purpose of this Protocol is to help Members and Officers perform effectively by giving guidance on their respective roles and expectations and on their relationship with each other. It is intended to promote clarity and the smooth running of the council, impartial and objective advice is obtained.
- 4.3. The Protocol also gives guidance on what to do on the rare occasions when things go wrong. Responsibility for the operation of this Protocol lies with the Chief Executive of the Council and the Monitoring Officer.
- 4.4. The Protocol must be read and operated in the context of all relevant legislation, national and local Codes of Conduct, the Council's Codes of Conduct and other supporting procedures such as the Complaints and Whistleblowing procedures, commissioning and procedure for confidential reporting. Breach of this protocol may also constitute a breach of the Member, and the Employee, Code of Conduct.

Roles of Elected Members and Officers

- 4.5. The respective roles of Elected Members and Officers can be summarised as follows:
 - a. Elected Members and Officers are servants of the public and they are indispensable to one another. Their responsibilities are distinct. Elected Members are responsible to the electorate and set policy and direction. They are elected to serve a term of office. Officers are employed by and responsible to the whole Council. An Officer's job is to give advice to the Council, and to carry out the Council's work under the direction and control of the Council, the Executive, and relevant Committees, etc.
- 4.6. Mutual respect and co-operation between Members and Officers is essential to good local government.

Elected Members

- 4.7. Elected Members have the following main areas of responsibility:
 - a. contributing to determining the policy of the Council and giving it leadership,
 - b. monitoring and reviewing the performance of the Council in implementing that policy and delivering services,
 - c. representing the Council in their local areas and externally,
 - d. acting on behalf of their constituents.
- 4.8. All Elected Members should respect the impartiality of Officers' information and advice, must not ask them to undertake work of a party-political nature, or to do anything that would put them in difficulty in the event of a change in the political composition of the Council.
- 4.9. Elected Members should recognise that no Officer should be expected to give political advice, and those that are in 'politically restricted' posts are specifically debarred from engaging in active political work.

- 4.10. When dealing with Council business, Members should be mindful of the provisions relating to interests in the Member Code of Conduct and avoid involvement in matters that could be deemed to be breaches of these provisions. Members should also be aware of legislative constraints on their behaviour. For example, they should not visit certain Council establishments without the appropriate checks having been completed.

Members of the Cabinet and Chairmen

- 4.11. Members of the Cabinet and Chairmen and Vice Chairmen of Committees, Boards, Panels etc. have additional responsibilities and their relationships with Officers whilst carrying out those roles may be different from, and more complex than those of Members without those responsibilities.

Officers

- 4.12. An Officer's role is:
- a. to give advice and information to all Members on an impartial basis, using their professional expertise and
 - b. to implement the policies determined by the authority, provided the policies are within the law.
- 4.13. In all advice, including reports, it is the responsibility of the Officer to express his/her own advice in an objective and professional manner, and make recommendations based on this. An Officer may report the views of individual Members on an issue. If the Member wishes to express a view contrary to the recommendation, he/she must not pressure the Officer to make a recommendation contrary to the Officer's professional view.
- 4.14. Certain Officers E.g. Chief Executive of the Council, Monitoring Officer and Chief Finance Officer (Section 151 Officer) have responsibilities in law over and above their obligations to the Council and to individual Members. These obligations should be respected. These Officers must not be obstructed in the discharge of these responsibilities, and/or be victimised for discharging these responsibilities.
- 4.15. Officers who are professionally qualified may be bound to observe professional standards in giving advice and members must respect this. Officers will also be bound by the limits of their authority in the Council.

Expectations

- 4.16. Members can expect from Officers:
- a. A commitment to the Council as a whole, and not to any political group
 - b. A working partnership
 - c. An understanding of and support for respective roles, workloads and pressures
 - d. Timely response to enquiries and complaints
 - e. Objective advice, not influenced by political views or preference, which does not compromise the political neutrality of Officers
 - f. Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold
 - g. Awareness of and sensitivity to the political environment
 - h. Respect, courtesy and dignified behaviour appropriate to the occasion

- i. Training and development in order to carry out their role effectively
 - j. A high level of integrity and confidentiality, appropriate to the situation
 - k. Not to have Officers' personal issues raised with them outside the agreed procedures
 - l. That they will not attempt to influence improperly any Member to advance Officers' personal interests, those of others, or influence improperly a decision.
 - m. At all times compliance with the Code of Conduct for Officers
 - n. Support for the role of Elected Members as the local representatives of the Council, within any scheme of support for Members, which may be approved by the authority.
- 4.17. Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward or wards affected should, as a matter of course, be invited to attend the meeting unless a lead Councillor has been agreed. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the ward Members should be notified at the outset of the exercise.
- 4.18. Correspondence between an individual Member and an Officer should not normally be copied by the Officer to any other Member without that Member's consent. Officers should not be copied into political group correspondence.
- 4.19. Officers can expect from Members:
- a. A working partnership
 - b. An understanding of and support for respective roles, workloads and pressures; and of Officer work/life balance
 - c. Leadership and direction
 - d. Respect, courtesy and dignified behaviour appropriate to the occasion
 - e. A high level of integrity and confidentiality, appropriate to the situation
 - f. Not to be subject to intimidation, harassment or bullying
 - g. Not to have Members' personal issues raised with them outside the agreed procedures
 - h. Not attempt to influence improperly any Officer to advance their personal interests, or those of others, or influence improperly a decision
 - i. That Members will at all times comply with the Council's local Code of Conduct for Members
 - j. That Members will not comment adversely on the conduct or capability of an individual Council employee at meetings held in public
 - k. The members will not ask for support other than to assist in carrying out their roles in the Council

Limitations on Behaviour

- 4.20. The distinct roles of Members and Officers necessarily impose limitations upon behaviour.
- 4.21. By way of illustration, and not as an exclusive list:
- a. Close personal relationships between Members and Officers can confuse these separate roles and get in the way of the proper discharge of the Council's functions, not least in creating the perception in others that a particular Member or Officer may secure advantageous treatment for themselves, their group or otherwise. Where close

personal relationships do exist, it is necessary to ensure that confidential knowledge is respected and not discussed inappropriately.

- b. The need to maintain these separate roles means that there are limits to the matters on which Officers should be expected to give advice. Officers are unlikely to be able to give advice on personal matters and should not give advice on party political matters.
- c. Relationships with particular individuals or party groups should not be such as to give cause for suspicion that an Officer favours that Member or group above others. The issue of Officer attendance and advice to political groups is specifically covered below.

Political Groups²

- 4.22. The operation of political groups is an integral feature of local government, and such political groups have an important part to play in the development of policy and the political management of the Council. It is in the interests of the Council to support an effective operation of political groups, but the operation of political groups can pose difficulties in terms of the impartiality of Officers.

Officer Attendance

- 4.23. Any political group may request the Statutory Officers, Corporate Directors or Service Directors to attend a meeting of the group to advise on any particular matter relating to the Council.
- 4.24. An Officer may decline a request to attend if he/she is of the opinion that the particular issue is of such a political nature that it would be inappropriate to attend.
- 4.25. Officers' advice to political groups will be limited to a statement of material facts and identification of options and the merits and demerits of such options for the Council. Advice will not deal with any political implications of the matter or any option, and Officers will not make any political recommendation to a political group.
- 4.26. Where an Officer attends a political group, the Chief Executive of the Council will advise all other groups that the Officer has attended and the subject upon which he/she has advised and ensure that other groups are afforded the same opportunity.
- 4.27. Where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet, relevant Committee or Sub-Committee where the matter in question is concerned.
- 4.28. Officers will respect the confidentiality of any lawful matter, which they hear in the course of attending a political group meeting.

When Things go Wrong

- 4.29. From time to time the relationship between Members and Officers may break down or become strained. If this is the case, matters may be resolved informally, or through conciliation by an appropriate senior manager or Member. It is hoped that most issues will be dealt with informally where possible.

Procedure for Officers

- 4.30. Complaints against members must follow the Code of Conduct processes found elsewhere in the Constitution.

² The Cabinet is not a political group even if all members are from a single party

- 4.31. Before an Officer initiates a formal complaint under the Code of Conduct, he/she should consider raising their concerns about the behaviour of a given Member with the Monitoring Officer. Officers also have recourse to the Whistleblowing Procedure, or to the Council's Monitoring Officer, as appropriate to the circumstances. Complaints will be taken through the appropriate process, including investigation, under the Council's arrangements for Code of Conduct complaints.

Procedure for Members

- 4.32. Prior to a Member approaching the relevant Corporate Director, the Member should consider discussing the issue informally with the Leader or Deputy Leader of the Council or another appropriate Corporate Director.
- 4.33. In the event that a Member remains dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with an appropriate Corporate Director, usually one with authority over the officer concerned. Where the Officer concerned is a Corporate Director, the matter should be raised with the Chief Executive.
- 4.34. Where the employee concerned is the Chief Executive, the matter should be raised with the Monitoring Officer. If the matter cannot be resolved informally, it may be necessary to invoke the Council's Disciplinary Procedure.

5. Scheme of Member Allowances

(Insert once approved)

DRAFT

Part I – Officers

Section 1 Management Structure

Section 2 Scheme of Delegations

Section 3 List of Proper Officers

Section 4 Employee Code of Conduct

Section 5 Staff Employment Procedure Rules

Section 6 Contract Procedure Rules

Section 7 Financial Procedure Rules

Section 8 Property Procedure Rules

The Council's employees (called 'officers') give advice, implement decisions and manage the day-to-day delivery of its services and activities.

Where decisions are made by the Council, the Cabinet or under delegated powers the role of officers is to provide information and professional advice to provide a proper basis for decision-making.

The Chief Executive is the Head of Paid Service and is responsible for all staff in the authority. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely.

A protocol governs the relationships between officers and councillors.

This section sets out the rules which govern key procedures and includes the code of conduct which officers (staff of the council) have to follow.

1. Management Structure

Tiers 1 and 2 operational structure



2. Scheme of Delegation to Officers

The Scheme:

Introduction
Limitations
Member Consultation
Using a Delegation
Matters which are not delegated
Restrictions
General Delegations
Specific Delegations
Areas of Responsibility
Exceptions
Statutory and Proper Officer powers

Introduction

- 2.1. The Council has adopted a vision expressed in the Corporate Plan XXXX. To support delivery of the Corporate Plan, managerial and operational decisions are taken, within a framework of democratic accountability, at the most appropriate level, which is usually the closest point of contact to the resident. This scheme is to be interpreted widely to give effect to this overall purpose by empowering staff to carry out their functions and deliver the Council's services within the Budget and Policy Framework set by the Council, and subject to the guidelines set by the Council, the Cabinet and the Council's management team.

Limitations

- 2.2. Any exercise of delegated powers is subject to the overriding limitations set out in paragraphs 2.3 to 2.9 below.

Member Consultation

- 2.3. Officers set out in the scheme are expected to:-
 - a. maintain a close liaison with the appropriate portfolio holder or in their absence the Deputy Portfolio Holder, Deputy Leader or Leader;
 - b. consult relevant portfolio holders when exercising temporary or specific delegations resolved at council or a Committee or Sub-Committee meeting where appropriate;
 - c. ensure the Ward Councillors are consulted or advised of the exercise of delegated powers relevant to their area where appropriate; and
 - d. ensure that the Chief Executive (Head of Paid Service), Director of Corporate Finance (s151 Officer) and the Deputy Chief Executive (Monitoring Officer) are consulted and advised of any decisions as necessary.
- 2.4. Portfolio holders for the relevant area should be consulted on the exercise of a delegated power in all cases where :-
 - a. there is likely to be opposition from members of the public save that this does not relate to objections to planning applications, building control applications, decisions on planning enforcement, or licensing decisions unless 2.4.(b), 2.4.(c) or 2.4.(d) also apply;
 - b. where there are political sensitivities;

- c. there is likely to be media (including social media) interest or
- d. expenditure is unusual for the budget area.

Using a Delegation

- 2.5. Before exercising any delegated power, officers must consider whether to consult with the relevant portfolio holder on the exercise of delegated powers or not to exercise delegated powers but to refer the matter to the relevant councillor or Council Body to decide.
- 2.6. The Leader or any Cabinet Member may at any time, following consultation with the Chief Executive and relevant officer, require a particular issue or any aspect of delegated powers to be referred to the appropriate Council Body for a decision.
- 2.7. This does not limit the general requirements set out elsewhere in the constitution to consult with relevant ward members, select committee chairmen and interested groups in reaching decisions.

Matters Which Are Not Delegated

- 2.8. The scheme does not delegate to officers:-
 - a. any matter reserved to full Council;
 - b. any matter which by law may not be delegated to an officer;
 - c. any Key Decision; or
 - d. any matter expressly withdrawn from delegation by the Council, Committees, Leader or Cabinet.

Restrictions

- 2.9. Any exercise of delegated powers is subject to
 - a. any statutory restrictions;
 - b. the budget and policy framework;
 - c. any provision contained in this Constitution including the Procedure Rules;
 - d. any financial limits set out in the revenue or capital budgets except as set out in the Financial Procedure Rules;
 - e. any policy set by the Council or its committees, the Cabinet or the Chief Executive; and
 - f. the Code of Conduct for Employees.

Delegation

- 2.10. This scheme delegates to the Corporate and Service Directors all executive and non-executive powers and duties relevant to their areas of responsibility detailed within the areas of responsibility table below or as assigned from time to time that rest with the Council or which have been delegated or granted to the Council, subject to the limitations, restrictions, reservations and requirements for consultation set out above. This includes all powers and duties under all legislation present and future relating to their area of responsibility and all powers and duties incidental to that legislation including but not limited to X below in addition to any further specific delegations detailed.

Powers in Relation to Staff

- 2.11. Take any action in accordance with the Council's agreed policies and procedures with respect to the recruitment, appointment, promotion, training, grading, discipline,

determination of wages and salary scales, determination of allowances, determination and application of conditions of service, including but not limited to allocation of leave, honorariums, ill health retirement and determination of establishment except as detailed in the Staff and Employment Exceptions chart.

Powers in Relation to Contracts and Property

- 2.12. Powers in relation to contracts and property agreements to negotiate, put out to tender, bid, submit tenders, vary, terminate, dispute, extend and renew and in relation to contracts to buy and sell and in relation to property to acquire, dispose of, let and licence subject to the Contract Procedure Rules, Financial Procedure Rules and Property Procedure Rules.

Powers in Relation to Finance

- 2.13. Powers to incur capital and revenue expenditure, to seek recovery of amounts owed, to exercise discretion in recovery, alter or waive repayment periods, or approve exemptions in relation to repayments, agree refunds, reduce or remit payments and waive fines, subject to the requirements of the Financial Procedure Rules or the Legal Exceptions Chart.

Powers in Relation to Legal Action

- 2.14. Subject to obtaining legal advice where appropriate, powers to authorise, appoint or nominate officers and to investigate, prosecute, enforce, lay summons, require individuals to disclose information, serve requisitions for information, publish information, apply to a court, sign notices, issue, serve, vary, revoke and publish notices, including fixed penalty notices and serve documents, make prohibition notices or orders, suspend or vary a prohibition order, take emergency remedial action, carry out works in default, issue certificates, issue consents, issue licenses and license applications, issue permits, refuse, vary or revoke licensing applications, issue temporary exemption notices, obtain, introduce, operate, amend, extend, vary and revoke orders, impose conditions, introduce and maintain registers, exercise powers of entry without force, apply for a warrant, make, vary or revoke and in relation to land relevant to service functions to note applications for licences, planning, consents and approvals, a declaration and grant, vary, revoke and attach conditions to consents, charge property except as detailed in the Legal Exceptions Chart.

Specific Delegations

The Chief Executive

- 2.15. The Chief Executive may carry out the powers and duties of the Deputy Chief Executive and Corporate Directors in their absence or in consultation with them and will also have the following additional powers to those detailed in paragraph 2.10 above:
- a. to carry out the powers and duties of any of the officers in their absence or in consultation with them;
 - b. to incur expenditure in the event of a civil emergency;
 - c. in cases of urgency to take any decision which could be taken by the Council, the Cabinet or a committee, in consultation with the Leader;
 - d. to alter the areas of responsibility of the Corporate Directors set out in the areas of responsibility table below;

- e. to make arrangements for the appointment of Chief Officer roles and to make appointments to Deputy Chief Officer roles.
- f. to agree the Human Resources Policies following relevant consultation.
- g. to make any changes necessary to the Employee Code of Conduct following relevant consultation.

The Monitoring Officer

- 2.16. In addition to any powers delegated under section 2.10 above the Monitoring Officer has delegated authority to:
- a. grant dispensations to councillors in accordance with the Localism Act 2011 with the power to refer any request for a dispensation back to the Standards and General Purposes Committee.

The Section 151 Officer

- 2.17. In addition to any powers delegated under section 2.10 above the s151 Officer has delegated authority to carry out those responsibilities set out as delegated to him/her in the Financial Procedure Regulations within this Constitution.

Corporate Director or Directors with Responsibility for Planning

- 2.18. For clarification the powers delegated in section 2.10 above to the Corporate Director or Directors with responsibility for planning includes delegated powers and duties to deal with all matters relating to development management including but not limited to:
- a. Determine all applications, grant permission, refuse permission, to publicise applications, to comment or make representations on applications, notifications and consultations, to raise objections, to require documentation and information, to take appropriate action on enforcement; to negotiate, authorise sealing, complete, vary, discharge or amend planning obligations and agreements; process and determine all decisions relating to neighbourhood planning and other planning functions.
 - b. deal with applications in respect of building regulations including setting charges, the relaxation of building regulations and any necessary enforcement action. To enter into LABC cross boundary agreements with other authorities as required to deliver building control projects.
 - c. prepare all necessary and appropriate plans and strategies relating to planning and development.
 - d. deal with all matters relating to the following functions of the council not dealt with above including:
 - i Street naming and numbering
 - ii Heritage and conservation
 - iii Tree Preservation
 - iv Planning Policy
 - v Building Control
 - vi Sustainable Urban Drainage Systems
 - vii Community Infrastructure Levy and enforcements

- e. Determination of any submissions pursuant to Schedule 17 of the High Speed Rail (London – West Midlands) Act 2017.
- f. Determination of any submission pursuant to conditions attached to any Schedule 17 approval that have been imposed by the Local Planning Authority [Secretary of State] .
- g. Determination of any request for nonmaterial changes to approvals under paragraph 21 of Part C of Schedule 17 of the High Speed Rail (London – West Midlands) Act 2017.
- h. Decisions to be made pursuant to Undertaking and Assurances (U&As) under the High Speed Rail (London-West Midlands) Act 2017 given by the Secretary of State to the Council.

Except as detailed in the Legal Exceptions Chart

Corporate Director or Directors with Responsibility for Highways

- 2.19. For clarification the powers delegated in section 2.10 above to the Corporate Director or Directors with responsibility for highways includes delegated powers and duties to exercise the functions of the Council relating but not limited to:
- a. highways and public rights of way that are specified in the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (“the Regulations”);
 - b. common land, and town and village greens, as specified in the Regulations;
 - c. the making of agreements for the execution of highways works under the Highways Act 1980 including powers to negotiate, authorise sealing, complete, vary, discharge or amend highways agreements
 - d. the exercise of the Council’s statutory function of Traffic Manager in accordance with the Traffic Management Act 2004;
 - e. determination of any submissions or matters pursuant to Clause 20, Schedule 4, Schedule 17 and Schedule 33 of the High Speed Rail (London – West Midlands) Act 2017;
 - f. determination of any submission pursuant to conditions attached to any approval that have been imposed by the Secretary of State in relation to 2.19.(e) above;
 - g. determination of any request for nonmaterial changes to approvals under the High Speed Rail (London – West Midlands) Act 2017;
 - h. decisions to be made pursuant to Undertaking and Assurances (U&As) under the High Speed Rail (London-West Midlands) Act 2017 given by the Secretary of State to the Council.

Except as detailed in the Legal Exceptions Chart

General

Deputy Chief Executive and Corporate Directors

- 2.20. The Deputy Chief Executive and Corporate Directors including the Director of Adult Social Services and the Director of Children’s Services may carry out the powers and duties of any Director within their area of responsibility in their absence or in consultation with them.

Officer Delegation

- 2.21. Any delegation to a Corporate or Service Director or an officer includes authority for any further delegation within the relevant Area of Responsibility. Officers shall devolve responsibilities for service delivery and management to those staff who represent the nearest practicable point of delivery to the service user.

Written Records and Publicity

- 2.22. An Officer making a decision under delegation, will need to publish a written record of:
- 2.23. any decision which is sufficiently important or sensitive that the public would expect that decision to have been taken by an Elected-Member decision-making body, such as Cabinet rather than an Officer using delegated powers;
- 2.24. any decision which :-
- is a specific expressed power rather than general delegation except that this does not apply to sections 2.15 to 2.19 unless 2.23 also applies;
 - grants a permission or licence;
 - affects the right of an individual; or
 - awards a contract, or incurs expenditure which, in either case, materially affects the Council's financial position.
- 2.25. If a written decision record of a decision is required, it must be completed as soon as is reasonably practicable after the decision has been made. The decision must be publicly available for inspection and posted on the Council's website (together with any background papers). The decision record must include, the date of the decision, the reasons, details of any alternative options considered and rejected and details of any conflict of interest declared (for instance of a Cabinet Member who may have been consulted).

Areas of Responsibility

Chief Officers

Post	Main Functions and Areas of Responsibility of Service Directors
Deputy Chief Executive (Monitoring Officer)	<ul style="list-style-type: none">• Policy and Communications• Legal and Democratic• Localism and Strategic Partnerships• Service Improvement
Corporate Director Resources	<ul style="list-style-type: none">• Corporate Finance and s151 Officer• Human Resources & Organisational Development• Service Finance• Information Communication Technology• Business Operations
Corporate Director Communities	<ul style="list-style-type: none">• Neighbourhood Services (including licensing)• Highways & Technical Services• Transport Services• Culture, Sport & Leisure
Corporate Director Planning, Growth & Sustainability	<ul style="list-style-type: none">• Planning & Environment• Strategic Transport and Infrastructure• Property & Assets

	<ul style="list-style-type: none"> • Economic Growth & Regeneration
Corporate Director Adult Services, Health & Culture (DASS)	<ul style="list-style-type: none"> • Adult Social Care • Public Health, Early Help and Prevention • Quality Standards & Performance • Integrated Commissioning • Housing and Regulatory Services
Corporate Director Children's Services (DCS)	<ul style="list-style-type: none"> • Children's Social Care • Education • Quality & Improvement

Exceptions

- 2.26. Contract Exceptions – refer to Contract Procedure Rules
- 2.27. Financial Exceptions – refer to Financial Procedure Rules
- 2.28. Property Exceptions – refer to Property Procedure Rules

DRAFT

Exceptions – Legal Exceptions

2.29. (In exercising delegated powers, officers are reminded to take account of the overall limitations of the Scheme, as detailed in the introduction to the scheme.)

Function	Officer	Area Planning Committee/Strategic Development Committee	Cabinet
Determination of outline full or reserved matters and planning applications in relation to:			
Applications submitted by the Council, a councillor, a Chief Officer, Corporate Director, Service Director or a Planning Office		Area Planning Committee or Strategic Sites Committee as appropriate	
Application submitted by officers other than a Corporate or Service Director or Planning Officer	By appropriate Officer where Service Director Planning and Environment in consultation with Chairman of relevant Area Planning Committee or Strategic Sites Committee considers appropriate	Appropriate Area Planning Committee or Strategic Sites Committee if referred by Service Director Planning and Environment in consultation with the Chairman of the relevant Area Planning Committee	
Applications called in by a councillor provided in writing, giving material planning related reasons	By appropriate Officer where Service Director Planning and Environment determines the reasons for call in are not valid material planning related reasons	The appropriate Area Planning Committee or Strategic Sites Committee as appropriate where the Service Director Planning and Environment determines the reasons for call in are valid material planning related reasons	
Authority to decide whether it is expedient to take enforcement action and to prepare, issue, serve, amend or withdraw (i). Enforcement Notices, including Listed Building	Service Director – Planning & Environment in consultation with the Service Director – Legal and Democratic Services where		

Function	Officer	Area Planning Committee/Strategic Development Committee	Cabinet
Enforcement Notices; (ii). Stop Notices including Temporary Stop Notices; (iii). Notices under Section 215 of the Town & Country Planning Act 1990 Act relating to untidy land; (iv). Breach of Condition Notices under Section 187A of the Town & Country Planning Act 1990; and (v) Article 4 Directions under the General Permitted Development Order 2015.	appropriate.		
Institute any proceedings, prosecute, defend, conduct, withdraw, settle (up to the value of £500,000) or appeal any legal proceedings or process on behalf of the Council	Service Director – Legal & Democratic Services		Over £500,000
Authorise any Officer of the Council to prosecute, or defend on its behalf, or to appear on its behalf in, proceedings before a Magistrates Court, in accordance with Section 223 of the Local Government Act 1972	Service Director – Legal & Democratic Services		
Instruct where necessary any Barrister or outside Solicitors	Service Director – Legal & Democratic Services		
Sealing Documents	Monitoring Officer or Service Director – Legal & Democratic Services or any officer authorised by the Chief Executive		

Exceptions – Staff and Employment

	Officer Delegation	Statutory Cabinet Member Consultation	Member Decision	Council Decision
NB This element of the scheme is dictated by 2 LGHA 1989 and the Standing Orders Regulations				
The appointment of the Chief Executive	No (cannot be carried out by officers.	Yes, through the MO	Yes must be made by Full Council	On recommendation from Senior Appointments and Pay Committee
The appointment of Chief Officers (Corporate Directors)	No (possible exception where there is change management and the appointment is internal.)	Yes, through the MO	Senior Appointment and Pay Committee	Only if required by Council
The appointment of Deputy Chief Officers (Service Directors)	Yes	No	No	No
Appointment below Deputy Chief Officer (DCO)	Yes	Members cannot be involved in the appointments below DCO	Members cannot be involved in the appointments below DCO	Members cannot be involved in the appointments below DCO
The dismissal of the Chief Executive (as Head of Paid Service)	Cannot be delegated to officers	Yes	An independent report must be prepared before a decision can be made	Special Meeting of Council must be convened
Dismissal of the s151 Officer and the Monitoring Officer	Cannot be delegated solely to officers	No	In accordance with prescribed procedure	In accordance with prescribed procedure
The dismissal of Chief Officer	Not delegated solely to officers	No	In accordance with prescribed procedure	In accordance with prescribed procedure
Dismissal by way of redundancy or voluntary redundancy for Chief Officers	No	No	In accordance with prescribed procedure	In accordance with prescribed procedure
Dismissal of staff below Chief Officer (Corporate Director)	Chief Executive for Corporate Director including Deputy Chief Executive; Corporate Directors for Service	No	No	No

	Directors; Service Directors for all other staff; Dismissal appeals to be heard at the same level or one Tier higher			
Determine Appeals against final written warnings below DCO	Relevant authorised managers.	No	No	No
Issue HR1 notices in respect of potential redundancies	Service Director HR and OD	No	No	No
To carry out powers and duties as an employer under the Health and Safety at Work Act	Chief Executive	No	No	No
Issue 'certificates of opinion' as to whether or not the duties of a post fall within the criteria of political sensitivity	Service Director HR and OD	No	No	No

3. List of Proper Officers (and Designated Posts)

The Statutory and Proper Officers – Designated Posts

Legislation	Function	Designated Officer
Section 4(1) Local Government and Housing Act 1989	Head of Paid Service	Chief Executive
Section 151 Local Government Act 1972	Chief Finance Officer (Section 151 Officer)	Corporate Director of Finance
Section 5(1) Local Government and Housing Act 1989	Monitoring Officer	Deputy Chief Executive
Section 9FB of the Localism Act 2011 (Sch 2)	Scrutiny Officer	Service Director - Legal and Democratic Services
Section 28 and 35 Representation of the People Act 1983	Returning Officer	Deputy Chief Executive
Section 8 Representation of the People Act 1983	Electoral Registration Officer and Deputy Returning Officer	Service Director – Legal and Democratic Services
Section 6(1) Local Authority Social Services Act 1970	Director of Adult Social Services	Corporate Director of Adults, Health & Housing
Section 18 Children Act 2004	Director of Children’s Services	Corporate Director of Childrens Services

Section 532 Education Act 1996	Chief Education Officer	Corporate Director of Childrens Services
National Health Service Act 2006 S73A(1) and Health and Social Care Act 2012	Director of Public Health	Corporate Director of Public Health
Data Protection Act 2018 General Data Protection Regulations	Data Protection Officer	Corporate Director of Resources

Proper Officer Functions – Schedule of Appointments

Local Government Act 1972

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
13 (3)	Parish Trustee where no Parish Council.	
83 (1) to (4)	To witness and receive declarations of acceptance of office of Chairman, Vice-Chairman or councillor just be made by Councillors to the proper officer.	Service Director Legal and Democratic Services
84	To accept written notice of resignations from Councillors.	Service Director Legal and Democratic Services
88 (2)	Convening meetings of the Council for the purpose of filling a casual vacancy in case of Chairman of the Council.	Service Director Legal and Democratic Services
89 (1)(b)	Receipt of notice from electors requiring election to fill casual vacancy occurring in the office of Councillor.	Service Director Legal and Democratic Services

99 and Sch 12	To give notice and send summonses and receive formal notifications from councillors in respect of any Council meeting	Monitoring Officer
100 (A)to (F)	The provision of information about the decisions made or to be made by councillors including access to agenda, reports, background papers, members additional document access rights, minutes and records of decisions	Monitoring Officer
115 (2)	Person to whom all officers shall pay monies received by them and due to Buckinghamshire Council.	Corporate Director of Finance
137(a)	Gives the proper officer power to require a voluntary organisation or similar body to supply information to them, where a local authority uses its powers under Section 137 to give financial assistance to that voluntary organisation or similar body above a relevant minimum	
138	Emergency disaster powers	Chief Executive
146 (1)(a)	Statutory declarations and issue any certificate in relation to securities on change of name of authority or change or area.	Service Director Legal and Democratic Services
191	Receipt of notices from Ordnance Survey in relation to ascertaining or locating Local Authority boundaries.	
210(6) and (7)	Appoints the proper officer to be vested with certain powers in respect of charities	
223	Authorising officers to attend court and appear on behalf of the Council under Local Government Act 1972 and the County Courts Act 1984	Service Director Legal and Democratic Services

225 (1)	To receive and give receipt for any document required to be formally deposited.	Service Director Legal and Democratic Services
229 (5)	Certification of photographic copies of documents for use in legal proceedings.	Service Director Legal and Democratic Services
233	The officer to receive documents required to be served on the Council	Service Director Legal and Democratic Services
234	The signing of any notice, order or other document which a local authority are authorised or required to give under any enactment on behalf of the authority.	Service Director Legal and Democratic Services
236 (9) and (10) and 238	Send copy byelaws to Parish Councils and Certifying of printed copies of byelaws.	Service Director Legal and Democratic Services
248	The Officer responsible for keeping the roll of freemen	
Schedule 14, Para. 25(7)	Certification of copy resolutions under the Public health Acts 1875-1925.	
Schedule 29 Para 41	Proper Officer for Births, Marriages and Deaths.	Head of Registration, Coroners, Archives and Trading Standards

Local Government Act 1974

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
----------------	--	-----------------------

30	Receipt of Local Ombudsman Reports and giving of public notice thereof.	
----	---	--

Local Elections (Principal Areas) (England and Wales) Rules 2006 and Local Elections (Parishes and Communities) Rules 2006

Regulation	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
	Retention and public inspection of documents after an election	

Local Government (Committees and Political Groups) Regulations 1990

Regulation	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
	For the purposes of the composition of committees and nominations to political groups	

Local Authorities Cemeteries Order 1977

Regulation	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
10	To sign exclusive rights of burial	Service Director – Neighbourhood Services

Representation of the People Act 1983

	All proper officer functions identified in the legislation	Chief Executive/Deputy Chief Executive
--	--	--

Building Act 1984

78 and 93	To take action in relation to dangerous buildings and structures and the giving of notices.	
-----------	---	--

Local Government Finance Act 1989

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
114 and 115	Responsibility for Chief Financial Officer Reports.	
116	Notification to auditor of date, time and place of meeting to consider Section 114 report and of decision of such meeting.	
139A	Provision of information to the Secretary of State in relation to the exercise of his powers under this Act as and when required.	

Local Government and Housing Act 1989

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
2(4)	Officer with whom the list of politically restricted posts shall be deposited.	

3A	Officer responsible for the grant and supervision of exemptions from political restriction	
15 -17	To undertake all matters relating to the formal establishment of political groups within the membership of the Council.	

Local Government Act 2000

REGULATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
3	Producing a written statement of Executive decisions made at meetings.	
5	Making a copy of written statements of Executive decisions and associated reports available for inspection by the public.	
6	Making available for inspection a list of background papers.	
11(2)	Exclusion of whole or part of any report to the Cabinet where meeting is likely not to be open to the public.	
11(7)(c)	Provision to the press of other documents supplied to members of the Cabinet in connection with the item discussed.	

81	Establish and maintain a Register of Interests.	
	All references to the Proper Officer in the Local Government Act 2000 and subordinate legislation	

Local Government Act 2000 – Section 34: Local Government (Referendums) (Petitions and Directions) Regulations 2000

REGULATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
34	Publishing the verification number of local government electors for the purpose of petitions under the Local Government Act 2000.	

Local Government (Miscellaneous Provisions) Act 1976

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
16	Notices requiring details of interest in land	Any Chief Officer of the Council
41(1)	The officer to certify copies of any resolution, order, report or minutes of proceedings of the Authority as evidence in any legal proceedings	

Local Land Charges Act 1975

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
3 and 19	Maintenance of the Local Land Charges Register	Service Director Legal and Democratic Services

Public Health (Control of Diseases) Act 1984 As Amended

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
48	Preparation of certificate to Justice of Peace for removal of body to mortuary and for burial within a prescribed time or immediately.	
61	Right to enter premises to ascertain whether there has been a contravention of a provision of the 1984 Act or a Part 2A order made pursuant to the 1984 Act.	
	Requirement to appoint a suitably qualified person as the Council's Medical Advisor on Environmental Health and Proper Officer for notifiable diseases	
	Proper Officer for the purposes of Consultant in Communicable Disease Control under this Act and the Health protection Regulations 2010 and the Health Protection (Part 2A Orders) Regulations 2010	Public Health England

Health Protection (Notification) Regulations 2010

Regulation	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
2, 3 and 6	Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons. [Consultant in Health Protection?]	Public Health England

The Civil Evidence Act 1995

Section	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
9	To certify Council records for the purposes of admitting the document in evidence in civil proceedings.	Service Director Legal and Democratic Services

Local Government (Contracts) Act 1997

Section	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
	Certification of relevant powers to enter into contracts.	Corporate Directors, Finance and Resources

Food Safety Act 1990

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
----------------	--	-----------------------

49(3)	Any document authorised or required by or under this Act to give, make or issue may be signed on behalf of the authority by the proper officer of the authority as respects documents relating to matters within his province.	
-------	--	--

Health Act 2006 and Smoke Free (Premises and Enforcement) Regulations 2006

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
10 (Reg 3)	To carry out the functions of an enforcement authority under Regulation 3	

Landlord and Tenants Acts

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
S23 of the Landlord and Tenant Act 1927 and S66 of the Landlord and Tenant Act 1954	To be the proper officer to serve and receive notices on behalf of the Council.	

Weights and Measures Act 1985

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
72(1)(a)	Chief Inspector of Weights and Measures	Head of Bucks & Surrey Trading Standards

Other Miscellaneous Proper or Statutory Officer Functions

SECTION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
	Any other miscellaneous proper or statutory officer functions not otherwise delegated by the Council	Chief Executive or their nominee

DRAFT

4. Employee Code of Conduct

Introduction

- 4.1. This Code of Conduct draws together existing Council policies, guidance and information contained within the Council's Constitution
- 4.2. The Council aims to ensure the highest standards of conduct and will assist employees in performing their duties to the best of their ability. The Code of Conduct supplements and should be read in conjunction with all HR and staff policies.
- 4.3. Council employees are required, under the terms of their contract of employment with the Council, to comply with the Code of Conduct and failure to do so may amount to a disciplinary matter.

Scope

- 4.4. This guidance applies to all employees of Buckinghamshire Council, casual and agency workers, volunteers, interims and contractors.

Principles

- 4.5. The Code of Conduct is founded on the following principles:
 - a. To ensure the highest standards of conduct and integrity from all employees of the Council
 - b. To support the Council's visions and values, policies and guidance
 - c. To set out clear objectives and expectations for all employees
 - d. To ensure all employees treat colleagues and those they interact with during the course of their work with dignity and respect
 - e. To ensure that there is no unlawful discrimination against any individual in the application of this Code of Conduct on the basis of the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, maternity and pregnancy, race, religion or belief, sex, sexual orientation, or other grounds protected in law.

Safeguarding

- 4.6. The Council has a duty to safeguard and promote the well-being of children, young people and adults at risk of harm. This includes the need to ensure that all adults who work with or on behalf of children, young people and adults at risk of harm are competent, confident and safe to do so.
- 4.7. All employees who come into contact with children, young people and adults at risk of harm in their work have a duty of care to safeguard and promote their welfare.
- 4.8. Employees who work with or come into contact with children, young people or adults at risk of harm must refer to the following documentation in relation to their working practice:
 - a. Safeguarding In Employment Guidance
 - b. Guidance for Safer Working Practice for Adults for those working with Children and Young People in Education Settings.

- c. Safeguarding Code of Conduct – For all those working with or Visiting Adults at Risk of Harm.

Disclosure of Criminal Convictions

- 4.9. All employees owe a duty of trust and confidence to the Council. If at any time during the course of employment an employee is charged with or convicted of a criminal offence, this should be disclosed at the earliest possible opportunity. The Council will then assess whether or not the charge or conviction affects the employee's suitability to perform their role and their continued employment. Motoring offences that are dealt with by way of a fixed penalty notice do not need to be disclosed except where employees are required to drive Council vehicles as part of their role, or where it results in disqualification from driving and the employee is required to drive in order to perform their role or a substantial proportion of their role.

Equalities and Dignity at Work

- 4.10. The Council wishes to create an environment where all employees, casual and agency workers, interim contractors, and volunteers are treated with dignity and respect
- 4.11. The Council is committed to achieving equality of opportunity as an employer of people, provider of services, educator and community leader
- 4.12. All employees are expected to adopt the Council's vision of equality of opportunity and embrace the expectations outlined in the Council's Equality in Employment Statement.

Relationships

- 4.13. The Council will not interfere unduly in the private lives of employees but in order to balance the Council's obligations to act in the public interest, it will take legitimate action when close personal relationships at work have an actual or potential impact on Council business or services (for further guidance contact HR).
- 4.14. The Council regards as wholly unacceptable inappropriate close personal relationships between an employee and a child or young person who is under the age of 18 (19 if still at school), or an adult at risk of harm client.
- 4.15. Issues involving close personal relationships at work will be approached sensitively and managed promptly, effectively, fairly and lawfully.
- 4.16. All staff must disclose in writing to the HR Service Desk, any relationship between themselves and an applicant for employment by the Council once it becomes known to them.
- 4.17. Employees involved in recruitment decisions must ensure that all appointments are made on the basis of merit alone. Employees must not be involved in appointments where they are related to an applicant or otherwise have a close personal relationship with them or have knowledge of them in another context e.g. social connection or business associates.
- 4.18. Similarly, employees should not be involved in decisions relating to discipline, promotion, recruitment or pay and conditions for any other employee who is a relative, partner, close friend or similar.
- 4.19. All applicants will be asked to declare any relationship to any officer or Member of the Council. Failure to do so could result in the withdrawal of the offer of appointment, or dismissal if already appointed.
- 4.20. Mutual respect between employees and Councillors is essential for good local government. Some employees may need to work closely with Councillors. Close personal

familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and councillors, and should therefore be avoided.

Conflict of Interest

- 4.21. Council employees, casual and agency workers and interim contractors must not act or fail to act in such a way which may bring them into conflict with their employment or engagement by the Council or allow any private interest or opinion to influence their decisions at work.
- 4.22. Employees must not use their position for personal gain or to further their own interests or the interests of others who may not have a right to benefit under the Councils' policies.
- 4.23. Employees or a close family member/friend may have a private interest which relates to the work of the Council. That interest may either be a financial one, or one which a member of the public might reasonably think could influence an employee's judgement.
- 4.24. Employees will be required to complete a Declaration of Interests Proforma both as part of pre-employment checks and at regular intervals as is deemed necessary.
- 4.25. If an employee becomes aware of any interest (in relation to both themselves and any close friend or family member) which may lead to a conflict of interest between them and the Council, this should be declared as soon as is possible using the Declaration of Interests Proforma.

Prevention of Fraud and Corruption

- 4.26. The Council is committed to ensuring the highest standards of propriety in the delivery of its services and management of its resources and assets.
- 4.27. All employees are expected to act with integrity at all times and to comply with legal requirements, rules, procedures and good practice.
- 4.28. Further guidance can be obtained in the Council's Anti-Fraud and Corruption Strategy.

Commercial Practices Including Gifts and Hospitality

- 4.29. The principal aim of the Council's Code of Conduct on Commercial Practices is to ensure that Council business is conducted in accordance with the very highest standards.
- 4.30. Employees should never use their office for personal gain and should seek to uphold and enhance the reputation of the Council by:
 - a. maintaining a high standard of integrity in all business and professional relationships
 - b. fostering the highest possible standards of professional competence amongst those for whom they are responsible
 - c. complying both with the letter and the spirit of:
 - i the law
 - ii the Council's Standing Orders and Financial Procedure Rules and Instructions
 - iii any additional guidance supplied by Directors/senior managers
 - iv the Conditions of Service of Employees of the Council
 - v rejecting any business practice which might reasonably be deemed improper

Personal Transactions

- 4.31. Employees must not privately request or obtain goods or services from the Council's consultants, agencies, contractors, or suppliers except in a normal commercial way and no special terms must be asked for because of the Council's business relationship.
- 4.32. Employees must also advise their line manager before any work starts for them in a private capacity, which is being undertaken by consultants, agencies, contractors, or suppliers used by the Council. Employees are advised to obtain evidence of paying a bill and obtaining quotes in order to avoid misinterpretation or any suggestion of preferential treatment. This does not however preclude individuals obtaining discounts as a result of professional memberships, through trade union memberships, or any other employee discount arrangement that the Council has in place.
- 4.33. Council order forms, headed note paper and other formal documents must not be used to obtain private goods or services for non-Council or private purposes even where reimbursement is made to the Council. The same applies to personal transactions made using the Internet or external email.
- 4.34. Sales and purchases of personal goods between employees and the Council should only take place in exceptional circumstances and may require approval from the appropriate level of management.

Political Neutrality & Politically Restricted Posts

- 4.35. Employees must be politically neutral in the performance of their duties, and must not allow personal or political opinions to influence their work. Employees are required to implement the decisions and policies of the Council irrespective of their personal political views. The Council respects the rights of employees to hold political views or opinions, however, employees must ensure that any expression of such views does not constitute a conflict of interest, nor should employees seek to influence the work of others through such expressions.
- 4.36. Under the Local Government and Housing Act 1989 a number of the Council's posts are politically restricted. Individual employees will be notified by their Director/senior manager if their post is affected.
- 4.37. A person holding a politically restricted post is disqualified from becoming or remaining a member of a local authority (excluding a parish council) or of the House of Commons.
- 4.38. In addition, the terms of employment of individuals holding a politically restricted post are deemed to incorporate various other restrictions, including prohibition from:
 - a. announcing, or causing or permitting the announcement of the employee's candidature for election to the House of Commons, the European Parliament or a local authority
 - b. speaking to the public or publishing written work with the apparent intention of affecting public support for a political party
 - c. acting as an election agent
 - d. canvassing on behalf of a political party
 - e. being an officer or member of a committee of a political party or branch of a political party if the duties would require the employee to participate in the general management of the party or branch or act on behalf of the party or branch with persons outside the party

- 4.39. There is an opportunity to appeal against designation as a politically restricted postholder. Further details of this process can be obtained from the Legal Service.

Confidentiality, Security & Disclosure of Information

- 4.40. Employees may, in the course of their employment become aware of personal or other confidential information, some of which may fall within the scope of data protection legislation. The Council requires that the confidentiality of this information will be respected.
- 4.41. Any particular information received by an employee from an elected Councillor that is personal to that Councillor should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required by law.
- 4.42. Employees must not use information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way unless it is necessary and within the law to do so, for example where there is a police investigation.
- 4.43. Employees are required to comply with both data protection and freedom of information legislation.
- 4.44. Any meeting recorded without the consent of all those present (covert recordings) will be treated as a conduct matter. If employees have any misgivings about either the process or the managers leading it, they should tell us openly so that we can address your concerns.
- 4.45. Information concerning an employee's private affairs will not be supplied to any person outside of the Council unless the consent of the employee is obtained first. This includes inappropriate use of social networking websites
- 4.46. On joining Buckinghamshire Council, all employees as part of their contract of employment are required to sign a Confidentiality Statement. The principles of this statement should be read in conjunction with this document but do not prevent employees from making a protected disclosure within the meaning of section 43A of the Employment Rights Act 1996 as further referred to in paragraph 20 below.

Communication, Computer Usage and the Internet

- 4.47. Use of the Council's equipment, systems and network is provided as part of an individual's work role.
- 4.48. Employees should make themselves familiar with the Council's Information and Communication Technology (ICT) policies outlined in the ICT Information Security Framework.
- 4.49. Violation of the ICT policies may be grounds for disciplinary action, which, if found to constitute gross misconduct, may result in sanctions up to and including dismissal.
- 4.50. Use of technology to contact individuals can suggest an informality which may be inappropriate. Great care should be exercised over the use of communications technology such as mobile phones, text messaging, emails, digital cameras, videos, web cams, websites and blogs.
- 4.51. Communication that may cause offence or detriment to individuals may be subject to action under the Council's Conduct & Discipline Procedures.

Social Media Use

- 4.52. Social media is a type of interactive online media that allows parties to communicate instantly with each other or to share data in a public forum. This includes online social

forums such as Twitter, Facebook and LinkedIn. Social media also covers blogs and video- and image-sharing websites such as YouTube.

- 4.53. Employees must follow the Council's policy on the use of social media which is available as part of the Internet Use Standard within the ICT Information Security Framework.
- 4.54. Employees should be aware that they owe a duty of trust and confidence to the employer which may be breached if unsuitable material is posted and this includes posts made outside of working hours.
- 4.55. Posts that may cause offence or detriment to individuals may be subject to action under the Council's Conduct & Discipline Procedures.

Alcohol and Drugs Misuse

- 4.56. The Council is committed to ensuring a safe, healthy and productive working environment and to minimising problems arising from the misuse of drugs and alcohol at work.
- 4.57. Employees and those representing the Council are personally liable for their conduct, specifically in relation to consumption of drugs and alcohol. They must avoid the use of illegal substances or any substance which may affect their work or which might place them at risk of accidents, loss of efficiency or effectiveness.
- 4.58. Anyone working on behalf of the Council must not possess, consume, sell or give away illegal drugs especially whilst on duty or undertaking work on behalf of the Council.
- 4.59. Inappropriate behaviour as a result of either alcohol or substance misuse will be dealt with under the appropriate Council policy.
- 4.60. Further information regarding the Council's approach to Alcohol and Drugs Misuse and testing may be found in the Alcohol and Drugs Misuse Guidance for Managers and Employees.

Work for Other Organisations

- 4.61. Applicants for employment with the Council will be asked to disclose any employment or work in any capacity they may have with other organisations. Failure to do so could result in the withdrawal of the offer of appointment, or dismissal if already appointed.
- 4.62. Employees may undertake other work outside of the Council with the agreement of their Line manager in writing in relation to of but must notify their manager of any additional employment or work in any capacity for other organisations.
- 4.63. In all instances where additional work is undertaken, the work must not conflict with, or be to the detriment of, an individual's employment with the Council. If conflict or detriment is caused by additional work, the Council reserves the right to take appropriate disciplinary action.
- 4.64. Managers will take appropriate advice from HR when considering whether to agree to the request by reference to the Council's Working Time Regulation guidelines when considering additional appointments or employment.

Intellectual Property

- 4.65. Intellectual property includes, but is not limited to, patents, rights to inventions, copyright and related
- 4.66. rights, trade marks and trade names. Inventions includes but is not limited to ideas and improvements. Intellectual property may be recorded in any medium such as drawing, records, papers and any other documents or files. In so far as the law allows, all

intellectual property made wholly or partially by employees at any time during the course of their employment by the Council which relates to or is reasonably capable of being used in the Council's business or services will remain the property of the Council.

- 4.67. Knowledge and information held by the Council is the intellectual property of the Council and must not be used by employees, or any other person engaged by the Council to carry out services for any other purposes than those that are necessary for the effective performance of their duties subject to paragraph 4.67 below.
- 4.68. Where the sharing of intellectual property with other public sector organisations would benefit public sector improvement the Council will do so.

Raising Concerns – Whistleblowing & Grievances

- 4.69. The Council believes that employees should be able to report any significant concern they may have about any aspect of the Council's business, service provision, or the conduct of employees, members of the Council, or others acting on behalf of the Council without fear of victimisation.
- 4.70. To enable employees to address such concerns the Council has a Whistleblowing Policy and Procedure, which incorporates the provisions of the Public Interest Disclosures Act 1998 and the related provisions of the Employment Rights Act 1996.
- 4.71. If an employee has a concern regarding their own employment this should be raised under the Council's Grievance Policy and Procedure.

Breach of the Code of Conduct and Other Policies

- 4.72. Failure to comply with this Code of Conduct and all other Council policies affecting or to be followed by officers may result in disciplinary action being taken.
- 4.73. The Council reserves the right to take legal action against employees where breaches of the Code of Conduct or other policies warrant such action.

5. Staff Employment Procedure Rules

Recruitment and appointment

- 5.1. The Council has drawn up procedures which include a requirement that any candidate for an appointment as an officer must state in writing whether they have **any** relationship with any councillor or officer of the Council;
- 5.2. No candidate so related to a Councillor or a senior officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by the Chief Officer.
- 5.3. The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- 5.4. No Councillor will seek support for any person for any appointment with the Council.

Recruitment of Chief Executive and Chief Officers

- 5.5. Where the Council proposes to appoint a Chief Executive or a chief officer and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:
 - a. draw up a statement including the following:
 - b. the duties of the Officer concerned; and
 - c. any qualifications or qualities to be sought in the person to be appointed;
 - d. make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - e. make arrangements for a copy of the procedures mentioned in paragraph (1) to be sent to any person on request.

Appointments and Dismissals

- 5.6. In this paragraph –
 - a. “the Committee” means the Senior Appointments and Pay Committee.
 - b. “Statutory Officers” means the Head of Paid Service, the Section 151 Officer, the Monitoring Officer, Director of Public Health.
 - c. “the proper officer” means the Monitoring Officer
 - d. “the Leader” means the Leader of the Council
- 5.7. The appointment and dismissal of the Chief Executive and Chief Officers is the responsibility of the Committee and will be dealt with as detailed in the Committee Terms of Reference and as detailed below.

Appointments

- 5.8. At least one member of the Cabinet must be a member of the Committee.
- 5.9. Where the Committee is proposing to appoint the Chief Executive, the Council must approve that appointment before the offer of appointment is made.
- 5.10. The Committee shall not make an offer of appointment in relation to any of the Statutory Officers (apart from an assistant for political groups) until;

- a. The Committee has notified the proper officer of the name of the person to whom the Committee wishes to make the offer and any other particulars which the Committee considers are relevant to the appointment;
- b. The proper officer has notified every member of the Cabinet of:
 - i The name of the person to whom the Committee wishes to make the offer;
 - ii Any other particulars relevant to the appointment which the Committee has notified to the proper officer; and
 - iii The period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the proper officer; and
- c. Either:
 - i The Leader has, within the period specified, notified the Proper Officer that neither they nor any other member of the Cabinet has any objection to the making of the offer;
 - ii The Proper Officer has notified the Committee that no objection was received by them within that period from the Leader; or
 - iii The Proper Officer is satisfied that any objection received from the Leader within that period is not material or is not well founded.

Dismissals

- 5.11. The Buckinghamshire Council Senior Management Procedures sets out the procedures for managing Disciplinary; Capability; Health and Attendance; Redundancy and the expiry of Fixed Term Contract matters in compliance with The Local Authorities (Standing Orders)(England) Regulations 2001 & Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 which set out some particular matters with relation to employment processes for Statutory Officers.
- 5.12. The Buckinghamshire Council Senior Management Procedure also sets out the procedures for Chief Officers who are not Statutory Officers.

Director of Public Health

- 5.13. The appointment of the Director of Public Health who is appointed in pursuance of Section 73A (7) of the National Health Service Act 2006 (inserted by section 30 of the Health and Social Care Act 2012) is the responsibility of the Senior Appointments and Pay Committee, subject to the approval of the appointment by the Secretary of State for Health.
- 5.14. The Senior Appointments and Pay Committee may terminate the appointment of the Director of Public Health having followed the relevant procedures and following prior consultation with the Secretary of State for Health.

Other Officers

- 5.15. Appointment and dismissal of officers below Deputy Chief Officer is the responsibility of the Chief Executive or their nominee, and may not be undertaken by councillors.
- 5.16. Councillors will not be involved in disciplinary action against any officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct.

6. Contract Procedure Rules

Introduction

- 6.1. As a public sector organisation it is important that the Council, complies with all relevant legislation, is transparent, ensures value for money through open competition, and that ongoing robust supplier management is in place to ensure ongoing value for money is being achieved whether commissioning services for ourselves or on behalf of another organisation.
- 6.2. The purpose of these Rules, which are part of the Council's Constitution, is to provide clarity as to the requirements for commercial decisions in order to safeguard the Council from potential claims which put into question the integrity of the Council and its staff. It also ensures clarity on the requirement to ensure value for money as well as proportionality of application.
- 6.3. These Rules must be read in conjunction with other relevant policies or procedures.
- 6.4. The S151 Officer and the Monitoring Officer are joint custodians of these Rules and are responsible for keeping them under review. This includes giving advice on their implementation and interpretation.
- 6.5. These Rules stem from the requirement of Public Contracts Regulations 2015 and the Public Concessions Regulations 2016 which govern Public Procurement in England & Wales. These Regulations have been transposed into domestic law from the Public Contracts Directive 2014 and the Public Concessions Directive 2014, which are derived from the Treaty on the Functions of the European Union.
- 6.6. Where these Rules make reference to 'Procurement Regulations' they refer to the Public Contracts Regulations 2015 and/or the Public Concessions Regulations 2016.

Basic Principles

- 6.7. These Rules are required by law and failure by an Officer to comply may result in disciplinary action being taken against them and in some cases may be referred to any relevant authorities.
- 6.8. They lay down the minimum requirements. A more detailed procedure may be appropriate for a particular contract that has a higher degree of value or risk. In these instances, advice should be sought from the procurement team and legal services.
- 6.9. These Rules apply to all Council contracts with the exception of employment contracts. A contract includes the following:
 - a. a contract appointing consultants;
 - b. any contract for goods, works or services, including de-commissioning/disposals;
- 6.10. Grants are not covered by these Rules. Advice should be sought from Procurement and Legal whether the agreement is a contract or a grant. Grants should not have Key Performance Indicators, Service Level Agreements or require the recipient of the grant to undertake the service in any prescribed way.
- 6.11. Procurement and disposal principles must:
 - a. comply with legal requirements;
 - b. achieve best value for public money spent;
 - c. be consistent with the highest standards of integrity;

- d. ensure fairness in allocating public contracts;
 - e. ensure that non-commercial considerations e.g. prior knowledge of contractors do not influence any contracting decision;
 - f. support the Council's corporate and service aims and policies;
 - g. comply with the Council's associated policies;
 - h. comply with Financial Procedure Rules, Risk and Assurance requirements;
 - i. be able to demonstrate that the Council's interests have not been prejudiced or exposed to undue or unmanaged risks;
 - j. be proportionate in regards to value and risk.
- 6.12. Officers must use the Council's e-sourcing system for all competitive tendering activities and for quotations valued above £25,000. Contract Award Notices for Contracts with a value of £25,000 and above must be issued via the e-sourcing system. The Council's e-Sourcing system is an online solution for managing the administration of the procurement process.

Responsibilities

- 6.13. Officers
- a. Officers responsible for procuring and disposal must comply with these Contract Procedure Rules, the Financial Procedure Rules, relevant Operational Frameworks and the Code of Conduct together with any applicable laws;
 - b. Officers must comply with the instructions issued by the Procurement Team in relation to commercial and contracting activities;
 - c. Officers must use any relevant Corporate Contract which is already in place;
 - d. Officers must keep the records to show a clearly documented audit trail. The Officer has a duty to produce such records when requested to do so by the S151 Officer / Monitoring Officer, or their representative;
 - e. Officers must ensure that agents and consultants acting on their behalf comply with the requirements referred to in Rule 3.1(a) above. Such agents or consultants must not make any decision as to whether to award a contract or who a contract should be awarded to;
 - f. Officers must consider how the goods, services and works they procure might improve the social, economic and environmental well-being of Buckinghamshire - Public Services (Social Value) Act 2012
 - g. Officers must take all necessary legal, financial and professional advice;
 - h. Officers are responsible for undertaking tendering, evaluation, award & contract management within the own service area.
 - i. Officers should raise any conflict of interest with the Procurement Team at the first opportunity. The S151 Officer shall then determine whether the Officer should continue with the procurement exercise or management of the contract.
- 6.14. The Corporate Directors, Service Directors & Heads of Service are jointly and severally responsible for the following within their area of service:

- a. ensuring their Officers undertake procurement exercises
- b. ensuring there is authority to continue in accordance with the Scheme of Delegation for decision making;
- c. ensuring that there is full budgetary provision for the contract and that the sources of funding are fully detailed before starting the contract process;
- d. maintain an up to date financial scheme of delegation in accordance with requirements as set out by the S151 Officer, defining the Officers who have been given the necessary authority to perform the responsibilities set out in 14.2 and 15.2. The financial schemes of delegation will be subject to the consultation and restrictions requirements and the reservations and exceptions contained in the the Officer Scheme of Delegation in Part X;
- e. ensure that Officers comply with these Standing Rules relating to Contracts;
- f. ensure the management of contracts within their service area and that each contract has a named contract manager;
- g. ensuring contracts over £5,000 are registered and managed within the Contract Management Application (CMA).

External Delivery Units

- 6.15. 4.1 External Delivery Units include partnerships and services run by non-council employees through a variety of entities such as a Local Authority Trading Company, Mutual, Social Enterprise, Joint Venture, Charitable Company and other arms-length organisations or any similar arrangements established by the Council to deliver services.
- 6.16. Officers considering an external delivery unit arrangement must, at the earliest opportunity, obtain professional advice from the Monitoring Officer, S151 Officer and the Procurement Team. They will advise on the partnership options available to ensure a workable partnership including appropriate governance arrangements, prior to proposals being put forward for Cabinet decision.
- 6.17. External Delivery Units will not be bound to follow these Rules, however the Procurement Regulations may apply and advice should be sought from the S151 Officer.

Waivers

- 6.18. Waivers are subject to the requirements set out in this Rule. A waiver allows a contract to be placed by direct negotiation with one or more suppliers rather than in accordance with the requirements to ensure competition (Rule 7). Where there are legally compliant Framework Agreements that the Council is permitted to use and where the Council has correctly followed the criteria of the Framework agreement, a waiver will not be required.
- 6.19. Waivers under this Rule cannot be granted if Procurement Regulations apply. There may be some circumstances in which it may prove impossible to fully comply with the Regulations; however these should be unusual or exceptional in nature and should not be as a result of a failure to plan for a situation that could have been anticipated, such as an existing contract end date or a new service requirement. In such circumstances officers are required to seek advice from the Procurement Team and Legal Services in the first instance and to notify the S151 Officer & Monitoring Officer of a potential failure to comply.
- 6.20. The S151 Officer, in consultation with the Monitoring Officer will consider on a case by case basis what action is to be taken in relation to the potential breach. In addition, breaches and waivers will be reported to the Audit and Governance Committee biannually

and the relevant contract manager, Head of Service or Service Director may be compelled to attend and explain why a breach or waiver has occurred.

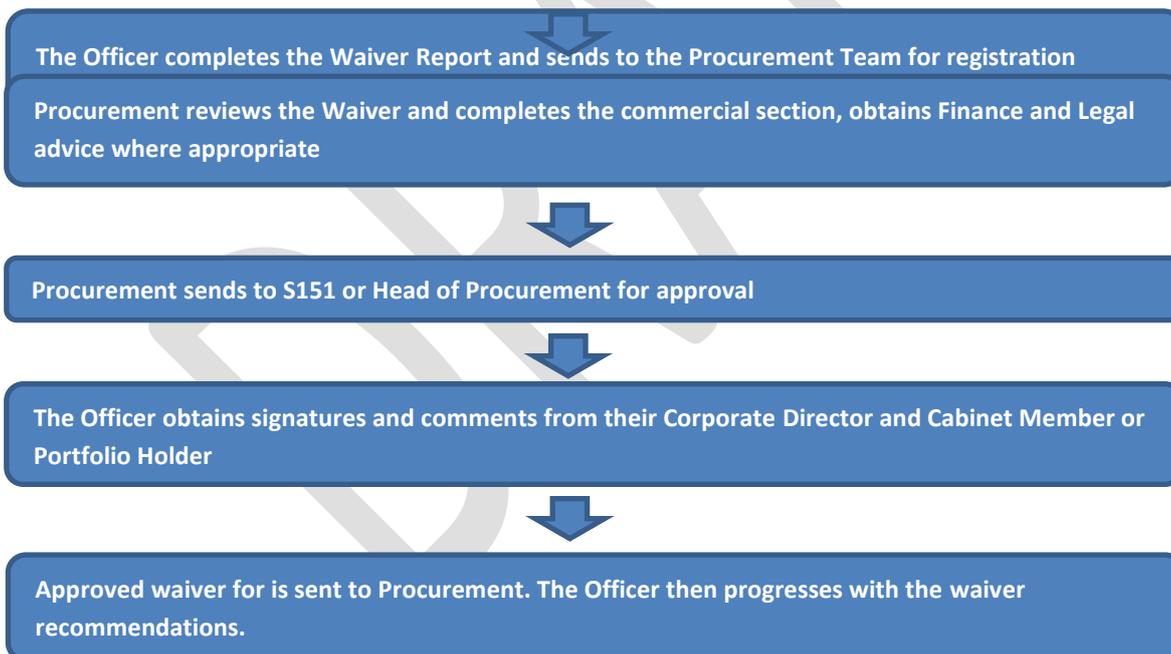
6.21. Subject to Public Contracts Regulations 2015 and any other relevant legislation, an Officer may seek a waiver to the Rules. The Council does not have the power to exempt the applicability of Public Procurement Legislation, such as anything over the relevant Procurement Threshold.

6.22. In order to request a waiver and for audit purposes the Officer must complete a waiver report having sought advice from the Procurement Team and finance. The waiver must address all of the following points:

- a. the reasons why the waiver is being requested and which Rule(s) the waiver is being requested from;
- b. the process which is intended to be followed instead;
- c. a financial and commercial appraisal

6.23. The waiver must receive sign off from all of the following:

- a. S151 Officer or an Officer under the Financial Scheme of Delegation
- b. Monitoring Officer
- c. a Corporate Director
- d. the Cabinet or Portfolio Holder, or Chief Executive



6.24. In cases of emergency, a Corporate Director may verbally authorise and record in writing a waiver from one or more Rules for supplies, services or works provided that:

- a. the emergency was brought about by events which were not reasonably foreseeable by, or attributable in any way to, the Council (e.g. flood); and
- b. if the supplies, services or works are not received immediately, there is a significant risk of:
 - i. danger to life; or

- ii damage to property; or
 - iii a major impact on the Council or its service users.
- 6.25. In such cases only supplies, services or works necessary or appropriate to safeguard the Council's position or to protect life and property can be procured before formal approval is obtained.
- 6.26. Corporate Directors must, at the earliest opportunity, inform the S151 Officer and the Monitoring Officer of the action taken in dealing with the emergency. Corporate Directors must also submit a report to the Cabinet Member that details the circumstances of and justifications for granting waivers made in accordance with these Rules.
- 6.27. The Head of Procurement will maintain a register of waivers and breaches on behalf of the S151 Officer.

Requirements for all Contracts

- 6.28. Every contract must be in writing and must clearly state:-
- a. the goods, works or services to be provided;
 - b. the start and end date;
 - c. the agreed programme of delivery;
 - d. the price and terms of payment;
 - e. all other terms that are agreed; e.g. insurance
 - f. exit procedures, for when the contract comes to its natural end;
 - g. termination procedures for early termination of the contract including when the contractor has not fulfilled his contractual obligations.
- 6.29. All contract details and a copy of the contract should be added to (CMA) when the value exceeds £5,000.
- 6.30. Every contract must comply with Financial Procedure Rules and instructions issued by the Procurement Team, including Procurement Regulations.

Requirements to Ensure Competition

- 6.31. The value of a contract is the whole life cost of the contract period plus any options for extension and any decommissioning, excluding VAT. Determine the value of the contract by preparing and documenting an estimate of the whole life-cycle costs including on-going costs, any disposal costs, options and contract extension options.
- 6.32. Obtain appropriate business case approvals for high risk contract in consultation with a Cabinet Member. Classification of high risk can be found within the Supplier Relationship Management Framework.
- 6.33. Where the total value of the contract is less than the Procurement Threshold Officers may identify potential bidders using the most cost-effective and reasonable methods. This may include searching for registered suppliers via the eSourcing System, catalogues, business directories etc. Additionally, Officers may use an existing Framework Agreement providing the Council is legally entitled to use it. Officers are encouraged to consider the use of local SME's when selecting potential suppliers.
- 6.34. Where the estimated whole life cost of a contract is:

£25,000 or less for Goods, Services and Works:	A minimum of 1 written quotation is required. This can be a written confirmation by an Officer of an oral quotation. Where possible local suppliers should be given the opportunity to bid.
Between £25,001 and <u>Procurement Threshold</u> for Goods & Services:	A minimum of 3 written quotations requested. Where possible local suppliers should be given the opportunity to bid.
Between £25,001 and <u>Procurement Threshold</u> for Works:	A minimum of 4 written tenders requested. Where possible local suppliers should be given the opportunity to bid.
Over the relevant <u>Procurement Threshold</u>:	Full Tender Process or compliant Framework Agreement.

The aim of the Officer responsible for the contract shall be to obtain the best value for money for the Council. Quotations must be sought using the eSourcing System.

- 6.35. Regardless of financial thresholds, all Council service areas will be required to demonstrate the procurement principles of “non-discrimination, equal treatment of suppliers, transparency, mutual recognition and proportionality”. All actions of the Council must be in full compliance of the Public Contracts Regulations 2015.
- 6.36. All contracts over £25,000 must be recorded on the eSourcing System and contract award notices published.

Over Threshold Procurements:

- 6.37. Contracts covered by the Public Contracts Regulations 2015 and those exceeding Procurement Thresholds must be advertised. The exception to this is where it is proposed to use a suitable Framework Agreement which the Council is legally entitled to use. In any instance, the Officer responsible for the contract must before starting the process obtain advice from an Officer in the Procurement Team and Legal Services.

Short-listing Suppliers and Pre-Qualification Requirements

- 6.38. Where the total value of the contract is less than the Procurement Thresholds in Section 7.4, Officers must follow the guidance issued by the Procurement Team.
- 6.39. Where the value of the contract is over Procurement Thresholds pre-qualification requirements must use the Standard Selection Questionnaire in the standard form prescribed by central government or a document or certificate of equivalent effect. Officers must consult with Procurement.
- 6.40. Where approved lists are used, the Officer and the relevant Corporate Director or delegated Officer may undertake the short-listing in accordance with the relevant criteria as stated when the approved list was advertised.

Approved Lists and Framework Agreements

- 6.41. As an alternative to advertising contracts, Officers (subject to approval from the relevant Service Director) may set up and use approved lists to select tenderers. However, approved lists cannot be used where the total value of all the contract(s) exceeds the [Procurement Thresholds](#).
- 6.42. When the list is first created, and every three years afterwards, the relevant Service Directorate is required to publicise the Council's intention to create an approved list using the e-Sourcing System and Contracts Finder.
- 6.43. Potential bidders for the list must be asked to provide details, which will enable the Council to:
 - a. ensure that they are financially stable;
 - b. ensure that they have appropriate technical ability to undertake the sort of contract they wish to be considered for;
 - c. check their health and safety record;
 - d. check that there have been no breaches of money laundering and bribery regulations;
 - e. check that there are appropriate and relevant insurances in place.
- 6.44. The list will be the responsibility of the appropriate Corporate Director.
- 6.45. An accredited scheme subject to approval by the Procurement Team is also considered to be an approved list for the purpose of these Standing Rules relating to Contracts.

Framework Agreements

- 6.46. Framework Agreements are agreements between the Council and one or more suppliers for the provision of goods, works or services on agreed terms for a specific period, for estimated quantities against which orders may be placed if and when required during the contract period.
- 6.47. The term of a Framework Agreement must not exceed four years, except where:
 - a. a longer duration is permitted under the terms of the light-touch rules for social and other specific services set out in Part 2, Chapter 3 of the Public Contracts Regulations (2015), or
 - b. where exceptional circumstances justify a longer duration, as provided for in Regulation 33(3) of the Public Contracts Regulations (2015).
- 6.48. Where Frameworks are established with several organisations, contracts based on Framework Agreements may be awarded in one of two ways, as follows:
 - a. Where the terms of the agreement are sufficiently precise to cover the particular call-off, by applying the terms laid down in the Framework Agreement without re-opening competition, or:
 - b. Where the terms laid down in the Framework Agreement are not precise or complete enough for the particular call-off, by holding a further competition in accordance with the following procedure:
 - i. inviting the organisations within the Framework Agreement, that are capable of executing the subject of the contract, to submit bids electronically via the Further Competition step on the e-tendering system, with an appropriate time limit for responses, taking into account factors such as the complexity of the subject of the contract,

- ii awarding each contract to the bidding organisation who has submitted the best bid on the basis of the relevant Award Criteria set out in the Framework Agreement.

Invitations to Tender/Quotations

6.49. All invitations to tender or quote must:

- a. clearly specify the goods, services or works that are required. The specification must describe the requirements in sufficient detail to ensure the submission of competitive bids which may easily be compared;
- b. include evaluation methodology, such as the selection and award criteria which details the cost and quality split;
- c. not disadvantage suppliers in favour of a particular supplier;
- d. clearly and unambiguously specify the award procedure on which tenders/quotes will be evaluated, such as on the most economically advantageous tender;
- e. state that the contract will be on the Council's/Framework Agreement's conditions of contract which must be enclosed with the invitation to tender/quote (unless the Framework allows for alternative conditions of contract);
- f. include a requirement for suppliers to complete fully and sign all tender/quotation documents;
- g. have regard to the financial standing of the organisation;
- h. state that the Council is not bound to accept any quotation or tender;
- i. be issued with the same information at the same time and subject to the same terms. Any additional information or amendments to the specification and documents must be provided to the bidders on the same basis.

6.50. When using a Framework Agreement to undertake a tender or quote, the rules of that Framework Agreement must be followed.

6.51. The Open Procedure or Restricted Procedure must be used for a procurement exercise unless otherwise agreed by the S151 Officer or delegated.

6.52. To ensure successful delivery of a procurement exercise the S151 Officer and Monitoring Officer may agree to remove an Officer undertaking a procurement exercise from the relevant service area where issues with compliance to the Rules exist. The Officer will be managed by the S151 Officer or delegate until the procurement exercise is complete or on agreement of the S151 Officer and Monitoring Officer.

Evaluation Criteria and Evaluation of Quotes or Tenders

6.53. Officers must ensure that the evaluation criteria on which quotes or tenders are to be assessed takes into consideration all factors relevant to the requirement. As a minimum Officers must:

- a. ensure that suppliers are financially stable;
- b. ensure that suppliers have the appropriate technical ability to undertake the nature of contract they are bidding for;
- c. ensure there is a clear formula which details how selection and award criteria will be evaluated.

6.54. Where relevant the following should also be checked:

- a. Health and safety record;
 - b. Appropriate Insurance is in place
 - c. Safeguarding policies and procedures
 - d. There have been no breaches of money laundering, fraud and bribery regulations
 - e. All relevant legislation is adhered to (Environmental, Equality, Labour Laws, Modern Slavery, etc)
- 6.55. Officers must ensure that technical/financial evaluation is conducted by suitably qualified Officer(s) from the relevant service area and in accordance with the published evaluation criteria. Advice on the financial standing of a bidder must be sought from Finance and/or Procurement.
- 6.56. The arithmetic in compliant quotes or tenders must be checked. If arithmetical or clerical errors are found they should be notified to the bidder. The bidder will be requested to confirm the correct figures/wording or withdraw its tender/quote.
- 6.57. Quotes or Tenders must be compared against the estimate within the signed-off business case. All differentials must be considered. For prices where the value exceeds thresholds set out in Section 7.1 and where the differential is more than 10% above the estimate, these must be reported to the Corporate Director and the S151 Officer for a decision.
- 6.58. Confidentiality of tenders/quotations and the identity of bidders must be maintained at all times. Information about one organisation's response must not be given to another organisation.
- 6.59. In situations whereby one part of the Council is tendering for a contract with another part of the Council, there must be an ethical wall in place with clear division between the two parties, with no advantage ensuing for the internal tenderer. Evidence of such division must be shown.
- 6.60. Officers who are responsible for evaluating the quotes or tenders should complete and sign an evaluation report recording the details of the tenders / quotes and the process for selecting the successful organisation. This process should be completed by someone other than the person who is going to sign the contract.
- 6.61. Authorisation to award the contract must be given in writing by an Officer who has written delegated authority to do so.

Submission, Receipt and Opening of Tenders/Quotations

- 6.62. Organisations invited to bid must be given adequate time in which to submit a quotation or tender. Unless the Procurement Regulations apply, at least two weeks must be allowed for submission of tenders, unless Procurement and Legal advise otherwise.
- 6.63. Invitations to Tender must be issued and received by electronic means using the corporate e-Sourcing system. Quotes must be issued and obtained in accordance with paragraph 2.6.
- 6.64. Tenders and quotations submitted in the corporate e-Sourcing System will not be considered until the deadline for receipt has lapsed. Tenders will not be accessible until Authorised verifiers have removed the secure seal on the electronic tender box.

Clarification Procedures

- 6.65. After the quote or tender opening, it may become apparent that one or more of the potential contractors that have submitted bids have misinterpreted the specification. If it

is clear that this is a result of an error or ambiguity in the specification, the responsible Officer must consult the Procurement Team and the Head of Legal and Compliance as to whether all the contractors should be provided with revised specifications and given the opportunity to revise their tender.

- 6.66. No material changes must be made to the proposed arrangements and terms and conditions post-tender.

Award of Contract

- 6.67. Contracts may only be awarded by the Council if the process followed fully complies with these Rules and Financial Procedure Rules.
- 6.68. Subject to 6.69 below tenders may be evaluated and recommended for acceptance by the following Officers:
- a. **Goods and Services and Works:**

Contract value £	Acceptance by
Less than the Procurement Thresholds	Authorised Officer in accordance with the Service Directorate's Financial Scheme of Delegation
Above the Procurement Thresholds	Corporate Director and S151 Officer or delegated Officer under the Financial Scheme of Delegation

- 6.69. Where a key decision is required to authorise the creation of a contract the contract must not be awarded unless the Council's key decision procedure has been fully complied with. This Rule applies even if a key decision was not required at the outset prior to commencing procurement
- 6.70. An award notice must be published on Contracts Finder for a contract with a value of £25,000 and above.

Signing and Sealing a Contract

- 6.71. Contracts let under Procurement Regulations may only be signed after the mandatory standstill period has elapsed without a challenge from an unsuccessful tenderer.
- 6.72. Contracts may only be signed by Authorised verifiers with delegated powers in accordance with the table below:

Contract value £	Signed by
Less than £25,000	Authorised Officer in accordance with their written delegated contract limits under the Service Directorate's Financial Scheme of Delegation
£25,001 - 1,000,000	Two Authorised Officers in accordance with their

	written delegated contract limits under the Service Directorate's Financial Scheme of Delegation or; Corporate Director and S151 Officer
Above £1,000,000	Monitoring Officer or Legal Services or an Officer under the Financial Scheme of Delegation, unless under seal

6.73. Any Contract (irrelevant of value) which has the additional limitation of 12 years rather than 6 years for court proceedings in the event of a default must be sealed as a deed by the Monitoring Officer or Legal Services. This is particularly relevant to construction contracts in the case of latent defects.

Commencement of Contracts

6.74. No supply of goods, services or works, unless otherwise approved by the S151 Officer, must commence until all contract documentation is duly completed and all contracts with a value of £5,000 and above have been entered on CMA except:

- a. in cases of emergency falling under Rule 5.7 in which case the contract must be completed at the earliest opportunity;
- b. where there has been a tender for works (but not goods or services) and the contract price only holds for a limited period or there is some other circumstance beyond the Council's control delaying completion of the formal contract documentation. In such circumstances a contract may be formed by letter (which details all the provisions of the contract and is signed in accordance with the Rule 15). Formal contract documentation must be completed at the earliest opportunity and signed or sealed as appropriate depending on its value. Advice from the Procurement Team and Legal Services in drafting the letter must be obtained.

Contract Management

6.75. Throughout the duration of a contract, the designated Officer must manage the contract/contractor in line with mutually binding requirements of the contract, Council policies such as the Operating Framework and Supplier Management guidance Policy. Service Directorates will ensure that the CMA is kept up to date and holds all of the required information, as set out in procedures on contracts and contract management practice.

- a. Any related documentation and resultant change or variation must be recorded within the appropriate contract record in CMA as well as in any other secure and accessible location.
- b. Actual spend is recorded and monitored against both budget requirements and the original anticipated contract value.
- c. Officers must ensure that non-compliance or performance issues that occur during the life of the contract are promptly reported to the Service Directorate Senior Management Team & the Procurement Team.

- d. Officers must ensure that the lookout for signs of Modern Slavery including undertaking spot audit checks on any contractor and their supply chain.
 - e. Officers must seek advice from the Procurement Team and Legal Services if significant non-compliance or performance issues occur during the life of the contract.
- 6.76. The S151 Officer and Monitoring Officer may agree to remove a contract and Officer managing the contract from the relevant service area where issues with contract performance or compliance to the Rules exist. The Officer will be managed by the S151 Officer or delegate until the S151 Officer and Monitoring Officer agree otherwise.

Changes to Contracts (Modifications)

- 6.77. Before any changes can be implemented it is important to understand the implications of the proposed change and that any change is not in breach of the Procurement Regulations.
- 6.78. Where provided for in the contract the change control procedure must be followed.
- 6.79. Changes to contracts falls into one of two categories:
- 6.80. Operational changes will:
- a. not increase the costs incurred by either party, or will only do so to an immaterial extent i.e. up to an amount that could be fixed by the parties;
 - b. not materially impact the scope of the contract;
 - c. not materially impact or require amendments to the terms of the contract;
 - d. not materially affect the risk profile of either contracting party;
 - e. not materially impact the initial timeframe of delivery.
- 6.81. Contractual changes include:
- a. new service obligations;
 - b. anything impacting existing pricing;
 - c. anything requiring new pricing;
 - d. anything impacting on the scope of the contract;
 - e. anything impacting or requiring amendments to the terms of the contract;
 - f. anything impacting the risk profile of either contracting party;
 - g. Any novation or proposed change to the contractor.
- 6.82. Advice should be sought from the Procurement Team and Legal Services when considering contractual changes. Agreement of any modification must be sought from the relevant Service Director.
- 6.83. There must be a clear audit trail of any changes made to contracts.
- 6.84. Any related documentation and resultant change or variation must be recorded within the appropriate contract record in CMA.

Contract Extensions

- 6.85. Subject to the application of the Procurement Regulations, where an Officer wishes to exercise an option to extend a contract an options appraisal/ business case must first be undertaken to assess the benefits against other courses of action.

- 6.86. The Officer must ensure that appropriate Service Directorate S151 Officer, the Procurement Team or other technical and financial officers are involved in appraising extension options. It should be noted that an extension may under some circumstances constitute an unlawful modification under the Procurement Regulations. Officers should seek advice from Procurement and Legal.
- 6.87. The contract extension should be signed by the original contract authoriser or an Officer who has the authority to do this in line with the Service Directorate's financial scheme of delegation. Cabinet members should be consulted on contract extensions that are considered high risk.
- 6.88. Where an extension has been exercised it must be recorded on the CMA.

Termination of Contract

- 6.89. An Officer shall not terminate a contract over the **Procurement Threshold** (as defined in 7.2) prior to its expiry date without first obtaining advice from the Procurement Team and Legal Services.

Technical Amendments

- 6.90. The S151 Officer has the authority to make technical amendments when necessary, to ensure that these Standing Rules relating to Contracts remain consistent with legislation, the Council's organisational structure and generally with best practice. These amendments shall be subject to consultation with the Monitoring Officer.

Sub-Contractors

- 6.91. This Rule applies to all contracts:
- a. for works, where the value is above the OJEU works threshold, or:
 - b. for services, where the value is above the OJEU services threshold, **and** where the services are to be provided at sites or premises managed by the Council.
- 6.92. Where this Rule applies, following the decision to award the contract, but before the contract commences, the Officer must obtain the following details, from the winning supplier(s):
- a. The names and business addresses of any sub-contractor(s) the supplier intends to utilise in the delivery of any part of the works or services.
 - b. Information to verify each sub-contractor's compliance with the mandatory and discretionary grounds for exclusion listed in Regulation 57 of the Public Contracts Regulations 2015.
- 6.93. Where it is identified, as a result of the above procedure, that a sub-contractor is in breach of any of the mandatory grounds for exclusion, the supplier must be required to dismiss that sub-contractor from any involvement in the contract. The supplier should appoint a replacement sub-contractor, for which the information in 6.92 above must then be obtained and verified.
- 6.94. Where it is identified that a sub-contractor is in breach of a discretionary ground for exclusion, the Council may, at its discretion, require the subcontractor to be dismissed and a suitable replacement appointed.

7. Financial Procedure Rules

CONTENTS

Introduction The Purpose of Financial Procedure Rules The Status of Financial Procedure Rules Further Assistance and Feedback
A: Financial Management Responsibilities A1 Why is this important? A2 Other Financial Responsibilities
B: Financial Planning and Control B1 Why is it important? B2 The Financial Planning Process B3 The Medium Term Financial Plan B4 The Annual Revenue Budget B5 The Capital Programme B6 The Treasury Management Strategy B7 Financial Control B8 Virements B9 Year End Balances/Carry Forwards B10 Maintenance of Reserves B11 Contingent Liabilities B12 Pension Fund Strategy B13 Trading Accounts
C: Risk Management and Control of Resources C1 Why is it important? C2 Risk Management and Insurance C3 Internal Control C4 Audit Requirements C5 Separation of Duties C6 Prevention of Fraud and Corruption C7 Investments and Treasury Management C8 Security of Council Property C9 Assets C10 Land and Property
D: Financial Systems and Procedures D1 Why is this Important? D2 General D3 Systems D4 Procurement D5 Payroll D6 Income and Banking D7 Creditors and Debtors D8 Taxation D9 Collection Fund Accounting D10 Revenues and Benefits
E: External Arrangements

- E1 Why is this Important?
- E2 Voluntary Funds
- E3 Trust Funds
- E4 Partnerships and Joint Ventures, Pooled Budgets, External Funding, Work for Third Parties and Companies

Introduction

The Purpose of Financial Procedure Rules

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

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

The Status of Financial Procedure Rules

These Financial Procedure Rules apply to all Members and officers of the Council and anyone acting on its behalf.

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

Financial Procedure Rules	Approved by the Council
Financial Instructions	Approved by the s151 Officer
Financial Schemes of Delegation	Approved by Corporate Directors and the s151 Officer

Further Assistance and Feedback

Finance staff provide advice and support to service managers on all aspects of financial management and financial control. In particular, Corporate Directors must seek advice from the s151 Officer if they are intending to create a new financial procedure, or amend an existing one.

The s151 Officer welcomes feedback on the operation of Financial Procedure Rules and Financial Instructions to ensure they remain relevant and effective.

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

DRAFT

A: FINANCIAL MANAGEMENT RESPONSIBILITIES

A1 Why is this Important?

- A1.1 All Officers and Members have a duty to abide by the highest standards of probity in dealing with financial issues on behalf of the Authority. This is achieved by ensuring everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.
- A1.2 The role of key Council bodies and officers in respect of financial control processes is set out in Parts C, D, E and I of the Constitution.

A2 Other Financial Responsibilities

- A2.1 The s151 Officer shall have delegated responsibility to make changes to accounting policies in accordance with recognised accounting practices.
- A2.2 The s151 Officer shall determine the nature and format of all accounting procedures and financial records.
- A2.3 The s151 Officer will ensure that accounting policies and procedures reflect recommended professional practice, comply with appropriate accounting principles and legislative requirements. They will review accounting procedures as necessary in consultation with other Corporate/Service Directors to ensure that the necessary information is available without duplication of records.
- A2.4 The s151 officer is responsible for:
- ensuring that the Statement of Accounts is prepared by the statutory date in accordance with relevant legislation and accounting standards and that the accounts present a true and fair view of the financial position of the Council and its expenditure and income;
 - approving the Statement of Accounts prior to submission to the Audit and Governance Committee for approval;
 - liaising with External Audit on the completion of the Statement of Accounts and the arrangements for the audit of these;
 - ensuring procedures are in place to provide adequate documentation to support the Statement of Accounts. This will include reconciliations with financial ledgers, copies of grant claims and other working papers which demonstrate the substantive basis for the data within the Statement of Accounts.

B: FINANCIAL PLANNING AND CONTROL

B1 Why is it Important?

- B2.1 Financial planning enables the Council to deliver its priorities through the allocation of resources to services and demonstrates compliance with the CIPFA Prudential Code.
- B2.2 The revenue budget provides an estimate of the annual income and expenditure requirements for all activities and sets out the financial implications of the Council's policies. It provides Corporate/Service Directors with authority to incur expenditure and a basis on which to monitor the financial performance of the Council.
- B2.3 Capital expenditure is an important element in the development of the Council's services since it represents major investment in new and improved assets.

B2 The Financial Planning Process

- B2.1 Financial planning enables the Council to deliver its priorities through the allocation of resources to services.
- B2.2 The key elements of financial planning are set out in the following documents and listed in

the Council's Policy Register:

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

B2.3 The Council involves external stakeholders and partners in the financial planning process in order to help shape and deliver its organisational and shared objectives.

B2.4 The Council consults local people and communities, including the business community, on spending decisions and charging policies as appropriate.

B3 The Medium Term Financial Plan

B3.1 Annually the S151 Officer shall review and develop his/her Medium Term Financial Plan (capital and revenue) as directed by Cabinet Members. This is a statement of the resources required to deliver the planned activities over the business planning period. It should be developed in consultation with the s151 Officer and in accordance with guidance prior to being submitted to the appropriate Cabinet Member(s), to Cabinet and full Council. Such forecasts should be developed as an integral part of the Council's overall business planning process.

B3.2 The s151 Officer will determine the format of the Medium Term Financial Plan and the timing of reports, subject to any overriding requirements of the Cabinet.

B3.3 The Medium Term Financial Plan shall include the financial effects of:

- all known commitments (part year and full year)
- the impact of unavoidable growth, such as legislative requirement
- efficiency savings
- the scope for additional income generation
- the delivery of Council priorities; and
- any service reductions

B3.4 The s151 Officer is responsible for providing advice and support to Corporate/Service Directors on the form of financial information to be included in the plans.

B3.5 Corporate/Service Directors are responsible for:

- the identification of risks that may impact on business objectives and assessment of the best ways to manage them;
- contributing to the development of corporate and service targets and objectives and performance information;
- ensuring that service plans are clearly aligned with budgets for the purpose of delivery of service priorities;
- ensuring that targets identified within the service plans are included in service business plans and as performance management targets for the relevant staff;
- Ensuring that budgets are robust and sufficient to deliver the stated priorities.

B4 The Annual Revenue Budget

B4.1 Revenue expenditure incurred against the revenue budget approved by Council will be subject to Regulation B8.

B4.2 In the event that new un-ring-fenced revenue funding becomes available after the Annual Revenue Budget has been set by Council, approval for the use of that funding within the revenue budget and the incorporation into the Medium Term Financial Plan can be made by the relevant Cabinet Member as a key decision, following advice from the s151 Officer,

having regard to any statutory or non-statutory obligations imposed or implied by any conditions of award and after discussion with other relevant Cabinet Members and Corporate Directors. Any ring-fenced funding and related expenditure will be added by the S151 Officer.

- B4.3 If in the opinion of the s151 Officer and/or the relevant Cabinet Member the decision on the use of new non ring-fenced funding requires consideration by Cabinet or full Council, they may waive the rule in B4.2 and refer the matter as appropriate.

B5 The Capital Programme

- B5.1 The Council's Capital Programme will be developed in accordance with the Council's Capital and Investment Strategy and Financial Instructions. The strategy will ensure that capital investment is targeted to achieve best value and maximum effect on priorities, needs and outcomes for local communities.
- B5.2 Full Council shall approve the Capital Programme annually and amendments to it during the financial year, subject to the provisions of B5.3 & B8.4.
- B5.3 In the event that new un-ring-fenced capital funding becomes available after the Annual Capital Programme has been set by Council, approval for the use of that funding within the capital programme and the incorporation into the Medium Term Financial Plan can be made by the Cabinet Member for Resources as a key decision, following advice from the s151 Officer, having regard to any statutory or non-statutory obligations imposed or implied by any conditions of award and after discussion with other relevant Cabinet Members and Corporate Directors. Any ring-fenced funding and related expenditure will be added by the S151 Officer.
- B5.4 If in the opinion of the s151 Officer and/or the Cabinet Member for Resources the decision on the use of new non ring-fenced funding requires consideration by Cabinet or full Council, they may waive the rule in B5.3 and refer the matter as appropriate.
- B5.5 The Capital Programme agreed annually by full Council provides in principle support for individual projects. However, the release of funds to facilitate each project is subject to an appropriate business case passing through the Capital Gateway process in line with Financial Instructions.
- B5.6 Corporate Directors will ensure that financial plans support the efficient use of assets and are in line with the corporate Asset Management Strategy and where appropriate the Property Asset Strategy.
- B5.7 The s151 Officer is responsible for advising on the setting of prudential indicators required by the CIPFA Prudential Code for Capital Finance in Local Authorities and ensuring that all matters necessary to be taken into account in setting the prudential indicators are reported to the Council.
- B5.8 The s151 Officer is responsible for:
- procedures under which capital expenditure proposals are evaluated and appraised to ensure that value for money is being achieved and service and asset management objectives are met;
 - procedures for the corporate monitoring of external sources of capital funding; and
 - ensuring that expenditure treated as capital expenditure in the Statement of Accounts is in accordance with best accounting practice.
- B5.9 Corporate Directors are responsible for:
- ensuring that capital proposals reflect agreed service plans;
 - capital proposals are prepared in accordance with guidance issued and are realistic in both financial and delivery terms;
 - ensuring that risks have been identified and assessed; and
 - developing business cases and undertaking option appraisals in accordance with Financial Instructions.

B5.10 In line with the Capital and Investment Strategy, the Cabinet Member for Resources with advice from the s151 Officer can approve robust business cases for income generating assets. This may require additional prudential borrowing and/or the draw-down of reserves beyond that in the approved Medium Term Financial Plan. The Cabinet may approve such funding, within the limits approved by Council, following advice from the s151 Officer and subject to the constraints of the Prudential Indicators as set out in the Treasury Management Strategy. Any additional borrowing undertaken under this regulation, and the increase to the overall capital programme will be reported by the Cabinet Member for Resources to full Council at the next available Council meeting.

B6 The Treasury Management Strategy

B6.1 The Treasury Management Strategy, including the prudential indicators in line with the CIPFA code of practice, is agreed by Council prior to the start of each financial year (Financial Procedure Rule C7).

B6.2 A report on performance against the strategy is provided to Audit and Governance Committee at the half year and year end stages.

B7 Financial Control

B7.1 Expenditure may only be incurred if it is within the budget approved by the Council, subject to the provisions of Financial Procedure Rule B8 and for the purposes for which the budget was established. This is subject to any other requirements of the Cabinet or the Council.

B7.2 Corporate Directors must ensure budget responsibility is clear and unambiguous in their areas, and budget managers are aware of their responsibilities.

B7.3 The Corporate Directors must monitor income and expenditure against budgets for which they are responsible and provide forecast outturn information on a regular (at least quarterly) basis. The s151 Officer will provide financial advice to assist Corporate/Service Directors fulfil their responsibilities.

B7.4 The Corporate Directors are responsible for ensuring that expenditure and income are correctly coded and that budget profiles are accurate. All expenditure, income and forecasts must be recorded on the Council's financial management system, as a minimum in summary form.

B7.5 At the start of each financial year, the s151 Officer will set out the budget monitoring process. It will include timescales and the responsibilities of all officers involved in the process. The Corporate Directors are responsible for ensuring that they meet the timescales so that prompt and accurate information can be provided to Members.

B7.6 If net expenditure exceeds an approved budget for a project or service the Corporate Director will as soon as possible report it to the relevant Cabinet Member(s) and s151 Officer and take all appropriate mitigating action. This also applies if expenditure in excess of the approved budget is incurred due to an emergency.

B8 Virements

B8.1 Virements are a movement of budget either within or between budget headings. A budget heading relates to an agreed division of a service, i.e. activity, project, service unit.

B8.2 Virements may be necessary under a number of circumstances, for instance:

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

- B8.3 Budget Adjustments are defined as:
- a budget movement required in order to better reflect in budget terms a policy decision agreed and documented in accordance with the Council's Constitution; or
 - a budget movement over which the Council has no control, for example where statutorily or through the requirements of Government grant conditions, the Council is obliged to make a budget adjustment; or
 - a budget movement required to correct an error, i.e. where the budget showing in the financial management system does not match the Budget agreed by Council.
 - a budget movement required to reflect an allocation from Corporate Contingency in line with Financial Instructions.
- B8.4 For the avoidance of doubt, any budget movement which does not meet the definition in B8.1 (or where there is uncertainty about whether the movement meets the definition), will be deemed to be a virement and Regulations B8.6 & B8.7 will apply.
- B8.5 A budget adjustment can be implemented by the s151 Officer without need for further approval via the virement provisions in Regulations B8.6 and B8.7.

B8.6 Revenue Virements

- B8.6.1 The approval of the Cabinet and the s151 Officer is necessary in advance if virements:
- result in an addition to commitments in future years beyond any agreed allocations; or
 - in the opinion of the s151 Officer, require approval by Cabinet
- B8.6.2 Subject to the overriding provision of B8.6.1 above, formal approval of the relevant Cabinet Member(s) and the s151 Officer is necessary in advance if virements:
- are between political portfolios or directorates for revenue budgets; or
 - in the opinion of the s151 Officer, require approval by Cabinet Member(s).
- B8.6.3 The Corporate Directors can approve revenue budget virements, in agreement with their Cabinet Member(s) and the s151 Officer and subject to the overriding provisions above (B8.6.1 and B8.6.2).
- B8.6.4 The Corporate Directors are encouraged to minimise the number of virements through effective budget profiling and management.

B8.7 Capital Virements

- B8.7.1 Approval by the Cabinet and the s151 Officer is necessary in advance, if virements:
- involve a change to the approved use of resources detailed in the Capital Programme;
 - result in an addition to the Capital Programme in the current or future years; or
 - in the opinion of the Cabinet Member for Resources and/or the s151 Officer, require approval by the Cabinet.
- B8.7.2 Subject to the overriding provisions in B8.7.1 above, formal approval of the relevant Cabinet Members/Corporate Directors are required for a capital virement between Portfolios/Directorate as well as the S151 Officer.
- B8.7.3 Corporate Directors are encouraged to minimise the number of virements through effective budget profiling and management.

B9 Year End Balances/ Carry Forwards

- B9.1 The provision for carrying forward of year end balances is set out below, but is subject to the overriding needs of the Council, as advised by the s151 Officer.
- B9.2 Revenue
- B9.2.1 Cabinet shall decide how any revenue surpluses are deployed in subsequent financial years

in terms of supporting Corporate priorities, offsetting Directorate revenue overspending and/or returns to the General Fund.

B9.2.2 Any variation to the above regulations must be agreed by Cabinet based on the Outturn report.

B9.3 Capital

B9.3.1 Corporate Directors will annually report the outturn of expenditure on individual schemes within the Capital Programme for each financial year.

B9.3.2 Underspends on schemes/projects/blocks must be returned to the overall capital funds available. Slippage of capital spend on projects within the overall project allocation will be carried forward between financial years.

B9.3.3 Overspends on capital budgets must be managed within the capital approvals for the approved capital programme within year or in future years.

B10 Maintenance of Reserves

B10.1 Reserves are monies set aside in one year's accounts, which can be spent in later years, for future policy purposes or to cover contingencies. Some types of reserve (earmarked) can only be spent if the conditions for which they were created are met.

B10.2 The s151 Officer is responsible for advising the Council on a prudent level of reserves for the Council as part of the annual budget setting process. The advice provided will have regard to the assessment of the financial risks facing the Council.

B10.3 The Medium Term Financial Plan should ensure the Council achieves or maintains the recommended level of reserves.

B10.4 Requests for earmarked reserves are subject to the approval of the s151 Officer, who will provide advice and guidance on the setting up and maintenance of such reserves.

B11 Contingent Liabilities

B11.1 A contingent liability arises where an event has taken place that gives rise to a possible financial obligation, the existence of which will only be confirmed by the occurrence of uncertain future events or where a provision would otherwise be made but either it is not probable that an outflow of resources will be required or the amount of the obligation cannot be measured reliably.

B11.2 The s151 Officer is responsible for reviewing at least annually together with the Corporate Directors the existing contingent liabilities and ensuring that a balance sheet provision is made where necessary in accordance with accounting standards.

B11.3 Corporate Directors are responsible for:

- reviewing at least annually his/her activities for contingent liabilities;
- informing the s151 Officer of any new contingent liabilities and of any changes in the circumstances in relation to existing contingent liabilities.

B12 Pension Fund Strategy

B12.1 The members of the Pension Fund Committee are responsible for approval of the Pension Fund Strategy, having taken appropriate professional advice from officers, external advisers and Fund's Actuary.

B13 Trading Accounts

B13.1 A trading account is a statement bringing together for a separately costed area of activity:-

- on the income side, charges to users;
 - on the expenditure side, the cost of providing the service including overheads.
- The key characteristic of a trading account is that providers do not hold direct budgets but must earn income to fund their expenditure.

- B13.2 The approval of the s151 Officer is required before the establishment of a new trading account. All trading accounts will be operated in accordance with guidance provided by the s151 Officer.
- B13.3 Only trading accounts agreed by the s151 Officer will qualify for:
- the specific trading account carry forward rules; and
 - for the relaxation of normal virement rules (Regulation B8)
- B13.4 Annual surpluses and deficits will be reported in the Council's annual Statement of Accounts. In the case of surpluses on trading accounts, up to 3% of the trading account gross expenditure can be carried forward. This will be taken into account when calculating any cumulative deficit on a trading account.
- B13.5 The s151 Officer is responsible for the maintenance of records within the financial management system to allow monitoring of in-year and cumulative surpluses and deficits achieved.
- B13.6 Each Corporate Director operating a formal trading account is responsible for:
- the recovery of any cumulative deficit within the two subsequent financial years;
 - submitting monthly budget monitoring statements including a forecast for the full financial year as agreed by the s151 Officer to the appropriate Cabinet Member(s);
 - submitting before the end of the financial year to the appropriate Cabinet Member(s) a draft trading account for the next financial year which has been prepared in consultation with the s151 Officer.

C: RISK MANAGEMENT AND CONTROL OF RESOURCES

C1 Why is this Important?

- C1.1 It is fundamental that robust, integrated systems are in place and maintained for the identification and evaluation of all significant strategic and operational risks to the Council. It is essential that those responsible for the planning and delivery of services proactively participate in this.

C2 Risk Management & Insurance

- C2.1 The Audit and Governance Committee is responsible for approving on an annual basis the Council's Risk Management Strategy. The Audit and Governance Committee will review the effectiveness of the strategy to ensure that corporate business risks are being identified and effectively managed by the Cabinet.
- C2.2 Reports to support strategic policy decisions and initiation documents for all major projects will require a risk assessment including a sustainability impact appraisal.
- C2.3 Corporate Directors are required to comply with the Risk Management Strategy.
- C2.4 Corporate Directors are also required to ensure that:
- procedures to ensure assessment of all risks are operating effectively within their services and that their risk register(s) and management action plans are regularly updated;
 - managers are aware which risks they are responsible for managing and receive the relevant information;
 - an ongoing monitoring process is in place to review the effectiveness of risk reduction strategies;

- prompt notification is given to the Principal Insurance Officer of all new risks, including financial, property, equipment or vehicles, which may require to be insured and of any new activities or changes, including contractual or partnership risks, which may impact upon the Council's existing risk profile, in accordance with financial instructions.

C3 Internal Control

- C3.1 Internal Control relates to the systems of control implemented by management to help ensure achievement of the Council's objectives in a way that ensures economical, efficient and effective use of resources. In addition, the systems of control ensure that the Council's assets are kept secure and interests are protected.
- C3.2 The Accounts and Audit Regulations 2015 require every local authority to conduct a review at least once a year of the effectiveness of its system of internal control and shall publish an Annual Governance Statement, prepared in accordance with proper practices. The Council has delegated this responsibility to the s151 Officer.
- C3.3 Corporate Directors are responsible for ensuring effective systems of internal control exist within their area of responsibility. These arrangements must ensure compliance with all relevant statutes and regulations and other relevant statements of best practice. The s151 Officer is responsible for advising on effective systems of internal control.
- C3.4 It is the responsibility of Corporate Directors to establish arrangements for ensuring sound internal financial control within his/her area of responsibility in order to:
- manage risks;
 - achieve continuous improvement, economy, efficiency and effectiveness;
 - achieve their financial and operational performance targets.
- C3.5 As part of his/her responsibility for sound systems of internal financial control, Corporate Directors will:
- ensure compliance with Council policy, Contract Procedure Rules, Financial Procedure Rules, Financial Instructions & procedures, Codes of Conduct and any statutory requirements;
 - provide assurances for the Annual Governance Statement that financial and operational control processes are in place in order to achieve objectives and manage significant risks;
 - have a business continuity plan in place which is reviewed and tested on a regular basis; and
 - maintain up-to-date documented procedures for key systems.

C4 Audit Requirements

- C4.1 The Account and Audit Regulations 2015 require the Council to maintain an adequate and effective Internal Audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control. The following regulations apply.
- C4.2 Internal Audit shall have unrestricted access to all records (documentary and electronic), assets and premises, belonging to the Council. The s151 Officer shall be entitled to receive explanation as he/she considers necessary to establish the correctness of any matter under examination.
- C4.3 The Council's Internal Audit Team will conform to standards and guidance contained in the Public Sector Internal Audit Standards (updated 2017). The Public Sector Internal Audit Standards require the Chief Internal Auditor to provide an annual opinion, based upon and limited to the work performed, and on the overall adequacy and effectiveness of the organisation's systems of internal control.
- C4.4 The Chief Internal Auditor, or s151 Officer, or Corporate Director for Resources, should be notified immediately of any financial irregularities or suspected irregularities, or any circumstances which may suggest the possibility of irregularities in any of the Council's

functions. Any investigation should be undertaken in accordance with the Council's Anti-Fraud & Corruption Strategy (which incorporates the Fraud Response Plan) and the Whistleblowing Policy.

C4.5 The basic duties of the external auditor are governed by The Local Audit and Accountability Act 2014.

C4.6 The Council may be subject to audit, inspection or investigation by external bodies such as HM Revenues and Customs, who have statutory rights of access.

C5 Separation of Duties

C5.1 Financial procedures must be undertaken whenever possible using different members of staff to undertake different parts of a sequence of operations in order to ensure that no one individual authorises the whole of one transaction. Where possible at least two, if not three people, should be involved in parts of the operation.

C6 Prevention of Fraud and Corruption

C6.1 The primary responsibility for the prevention and detection of fraud, corruption and theft rests with the Corporate Directors. The Chief Internal Auditor is responsible for the maintenance of the Council's Anti-Fraud and Corruption Strategy. The Monitoring Officer together with the Chief Internal Auditor are jointly responsible for the maintenance of the Council's Whistleblowing Policy.

C6.2 It is the responsibility of every Council employee, Member and external stakeholder (e.g. suppliers, contractors, service providers, agencies, and partner Councils) with whom the Council deals:

- to act with integrity at all times;
- to comply with legal requirements, rules, procedures and good practice to minimise the risk of fraud; and
- to report suspected fraud, corruption or other irregularity in accordance with these Financial Procedure Rules, the Whistleblowing Procedure and the Anti-Fraud and Corruption Strategy.

C6.3 Corporate and Service Directors must follow the Council's Anti-Fraud and Corruption Strategy which provides detailed guidance in relation to dealing with irregularities and suspected fraud.

C6.4 The Council's counter fraud arrangements and performance will be assessed against professional guidance, best practice and the findings of internal reviews. Corporate Directors are responsible for strengthening systems and procedures in response.

C6.5 Each Corporate Director shall take steps to minimise the risks of financial irregularities occurring. In addition they will review and monitor compliance with codes and procedures, and report any material findings in accordance with Regulation C4.4. Findings of a less significant nature should be reported as part of the Annual Governance Statement self-assessments.

C7 Investments and Treasury Management

C7.1 The s151 Officer is responsible for the arrangements for managing the Council's cash flow, its borrowing activities and its lending activities, in accordance with policies agreed by the Council. This regulation places a duty on the s151 Officer to keep these arrangements under review. Any loan proposals, whether borrowing, or lending, must be submitted to the s151 Officer at an early stage. No loan arrangements may be entered into on behalf of the Council, without the prior written consent of the s151 Officer.

C7.2 The s151 Officer shall undertake Treasury Management activities in accordance with the CIPFA Code of Practice on Treasury Management in the Public Services.

- C7.3 The s151 Officer will submit a Treasury Management Strategy and Capital & Investment Strategy for approval by the Council on at least an annual basis.
- C7.4 The s151 Officer shall maintain the Treasury Management Practices document setting out the framework for Treasury Management within the Council.

C8 Security of Council Property

- C8.1 The s151 Officer will maintain an up-to-date register of land and buildings owned by the Council.
- C8.2 The s151 Officer will maintain an up-to-date record of infrastructure assets owned by the Council.

C9 Assets

- C9.1 The Corporate Directors will ensure that there are comprehensive records and information on assets, which support the Council's Property Asset Strategy and decision making on investment and disinvestment.
- C9.2 The Corporate Directors will ensure that within their areas of responsibility the assets are properly maintained and are securely held.
- C9.3 The Corporate Directors should only enter into lease agreements in accordance with procedures defined in Financial Instructions.
- C9.4 The Corporate Directors must ensure that contingency plans for the security of assets and for continuity of service in the event of disaster or systems failure have been established and that these plans have been tested.

C10 Land and Property

- C10.1 This Financial Procedure Rule relates to the acquisition and disposal of land and property including leases which are for a fixed term of more than seven years.
- C10.2 All valuations and negotiations shall be the responsibility of the Service Director Property & Assets. Anyone undertaking the negotiations on his/her behalf must have appropriate written delegation and must be a qualified Member of the Royal Institution of Chartered Surveyors or equivalent professional competence.
- C10.3 All valuations prepared for the purpose of a transaction must be accompanied by evidence of the values or comparable properties in the locality, or if possible evidence of recent, similar transactions carried out by the Council.

Acquisitions:

- C10.4 No purchase of land or property (freehold or leasehold) may be made without the prior approval of an Officer delegated to do so by the Council's Financial Scheme of Delegation. In order to do this the information detailed below must be provided for this Officer:
- a) a complete description of the land or property that is being considered for purchase,
 - b) the reason for the purchase,
 - c) any information that may affect the value of the property or land, including structural and environmental reports,
 - d) the proposed purchase price or rental value together with evidence of the prices for similar properties in the location,
 - e) evidence of local member consultation and
 - f) any other terms and conditions.

The Officer must retain all of this evidence for six financial years after the acquisition has been completed.

Disposals:

- C10.5 Land and buildings owned by the Council shall not be disposed of without the prior approval of an Officer delegated to do so by the Council's Financial Scheme of Delegation. If the estimated value (combined value where more than one property is to be disposed of) of the property is greater than £500,000, disposal capital value or rental value per annum, a decision on the sale will need to be made by Members through the key decision process.
- C10.6 Whichever authority is being sought, the following information must be provided:
- a) a complete description of all the land and/or property to be included in the disposal;
 - b) confirmation from the Service Director Legal & Democratic Services or Monitoring Officer that the title of the land and/or property is owned by the Council;
 - c) the reason for the sale and any restrictions which this may impose;
 - d) a report on any information which is held by the Council in the previous use of the land which may affect its value (e.g. if the site were contaminated);
 - e) the estimated value of the land and/or property;
 - f) evidence of local member consultation;
 - g) recommendations on the following:
 - i) issues that need to be resolved before marketing the land and/or property can commence;
 - ii) the preferred method of disposal (private treaty/public auction/formal tender);
 - iii) the title to be transferred;
 - iv) steps that need to be undertaken to maximise the value of the asset prior to disposal e.g. planning applications;
 - v) the minimum price that the Council is prepared to receive together with an asking price.
- C10.7 Where it has been decided that the disposal of the land and/or property will be by formal tender, Contract Procedure Rules shall be applied.

D: SYSTEMS AND PROCEDURES

D1 Why is this Important?

D1.1 Sound systems and procedures are essential for an effective framework of accountability and control.

D2 General

D2.1 The s151 Officer is responsible for the form of accounts and supporting financial records.

D2.2 Corporate Directors are responsible for the proper operation of financial processes in their own directorates, and for ensuring they comply with these Financial Procedure Rules and any Financial Instructions, guidance or procedures provided by the s151 Officer.

D2.3 Corporate Directors must also ensure that staff are aware of their responsibilities under freedom of information legislation.

D3 Systems

D3.1 The S151 Officer is responsible for the operation of the Council's accounting systems.

D3.2 Any proposed changes by Corporate Directors to the existing financial systems or the implementation of new systems must be approved by the s151 Officer prior to any new

developments or changes.

- D3.3 The Corporate Director for Resources is responsible for ensuring that IT systems are managed to provide reliable information with controlled and secure access, to support decision making and for ensuring robust cyber security arrangements are in place.
- D3.4 Corporate Directors must ensure that where appropriate, computer and other systems are registered in compliance with data protection legislation.
- D3.5 Information is an asset and all staff are responsible for ensuring compliance with the Corporate Information Security Policy.

D4 Procurement

- D4.1 Corporate Directors must ensure that the Council obtains value for money from procurement and that it is in compliance with the Council's Contract Procedure Rules.
- D4.2 Corporate Directors must also ensure there is full budgetary provision for the contract and that the sources of funding are fully detailed before starting the contract process.
- D4.3 Corporate Directors should also ensure continuous effective contract management, in accordance with the Contract Management Framework, in order to deliver ongoing efficiency savings and to ensure continued high quality service provision.
- D4.4 Corporate Directors must ensure that all key contract information is entered onto the Council's Contract Management Register.
- D4.5 The s151 Officer must ensure that electronic purchasing processes incorporate security and integrity for electronic transactions and must approve the introduction of such systems.

D5 Payroll

- D5.1 The Corporate Director for Resources, with the exception of schools using alternative payroll providers, is responsible for:
 - arranging and controlling secure and reliable payment on the due date of salaries, compensation payments or other emoluments and expenses in accordance with documented procedures;
 - making arrangements for recording and for the accurate and timely payment of PAYE Taxes, National Insurance and all other statutory and non-statutory payroll deductions;
 - ensuring the accurate and timely production of statutory returns to the HMRC, particularly in respect of the financial year-end and the declaration of employee taxable benefits.
- D5.2 The Corporate Directors are responsible for ensuring that:
 - all appointments are made in accordance with the Council's policies and procedures;
 - adequate budget provision exists for:
 - all appointments of employees;
 - all permanent and temporary variations in relation to staff employment;
 - all engagement of self-employed persons.

D6 Income & Banking

- D6.1 The s151 Officer is responsible for ensuring adequate systems are available, and are maintained, for the recording of all income received by, and due to the Council.
- D6.2 Corporate Directors must ensure that all income due to the Council is identified, and charged for correctly and on a timely basis. They must also have regard to the Council's Charging Policy in reviewing existing and implementing new charging arrangements.
- D6.3 Corporate Directors must also ensure that all income due to the Council is invoiced correctly, collected, receipted and banked in a timely manner in accordance with the Council's Debt Management Strategy.

D7 Creditors and Debtors

D7.1 The s151 Officer is responsible for ensuring the operation and maintenance of effective systems for the payment of creditors and the collection of monies from debtors across the range of Council services.

D8 Taxation

D8.1 The s151 Officer is responsible for:

- with the exception of PAYE (D5.1 above), maintaining the Council's tax records, making tax payments, receiving tax credits and submitting tax returns by their due date;
- advising Corporate Directors on all taxation issues that affect the Council in the light of relevant legislation as it applies and guidance issued by appropriate organisations;
- Corporate Directors are responsible for consulting with and seeking advice from the s151 Officer on the potential tax implications of any new initiatives for the delivery of Council services.

D8.2 The s151 Officer has delegated responsibility for making opt to tax decisions on land or buildings.

D9 Collection Fund Accounting

D9.1 The s151 Officer is responsible for the establishment and maintenance of Collection Funds in respect of Council Tax and Business Rates and will make suitable arrangements for them to be administered in accordance with the Local Government Finance Acts and any other enactments relating to the proper administration of public funds.

D9.2 The s151 Officer will undertake the day to day management and administration of the Collection Fund, including the maintenance of a Collection Fund Account for administering the raising and recovery of Council Tax and Business Rates and for paying precepts and demands on those funds.

D10 Revenues and Benefits

D10.1 The s151 Officer is responsible for the following services within the agreed strategies for Revenues and Benefits:

- Collection of income due from National Non-Domestic Rate, Council Tax and Housing Benefit Overpayment;
- Housing Benefit, and Council Tax Reduction administration up to appeal stage.

D10.2 The s151 Officer is given delegated authority and responsibility for the implementation of service development and control in the following matters:

- To implement National Non-Domestic Rate and Council Tax legislation within approved policy;
- To issue National Non-Domestic Rate, and Council Tax recovery proceedings, including dealing with all matters relating to appearances at Magistrates Court;
- To grant mandatory charitable relief;
- To grant discretionary charitable relief within approved policy guidelines;
- To grant reduction or remission of National Non-Domestic Rate on the grounds of hardship within approved policy guidelines;
- To deal with applications for relief under Section 13A of the Local Government Act 1992;

- To determine appeals against decisions not to give discretionary rate relief.

E: EXTERNAL ARRANGEMENTS

E1 Why is this Important?

- E1.1 The Council has a leadership role within the community, bringing together contributions from the various stakeholders, maximising funding opportunities and promoting the economic, social and environmental well-being of the area.
- E1.2 This may involve the establishment of partnership agreements, joint ventures, community transfer of assets, pooled budgets, externally funded projects or local authority companies. It is necessary to ensure in the interests of good governance that the responsibilities, obligations and commitment for such arrangements are properly managed and accounted for.

E2 Voluntary Funds

- E2.1 The Council does not own voluntary funds. However, it is reasonable that contributors to these funds do not distinguish between them and official monies. Therefore, it is appropriate that standards of accounting and propriety are the same as those for official funds.
- E2.2 A voluntary fund is any fund which, although not officially owned by the Council, is controlled or administered solely, or in part, by an employee by reason of his or her employment by the Council. The fund is set up for a specific purpose but generated by funds independent of the Council's official resources.
- E2.3 Employees of the Council who maintain voluntary funds as part of their duties must inform the s151 Officer of the purpose and nature of all voluntary funds. The accounts must be audited annually by a competent, independent person and be submitted with an audit report to the appropriate body within 6 months of the accounting year end. The s151 Officer is entitled to verify that this has been done and to carry out such checks on the accounts as he/she considers appropriate.
- E2.4 Voluntary funds must be operated in accordance with any guidance notes issued by the s151 Officer. The Council accepts no liability for non-compliance with Financial Procedure Rules, Financial Instructions and current legislation.

E3 Trust Funds

- E3.1 The Council does not own trust funds. Trust funds have a formal legal status governed by a Deed of Trust. Employees and Members acting as trustees must ensure that they are conversant with the requirements of the Trust Deed and the law and comply fully with them.
- E3.2 All employees acting as trustees by virtue of their official position must ensure that accounts are audited as required by law and submitted annually to the appropriate body. The s151 Officer is entitled to verify that this has been done.
- E3.3 Trustees must comply with accounting standards and procedures laid down in the Charities Act 2011 and in regulations issued by the Charity Commission.

E4 Partnerships, Joint Ventures, Pooled Budgets, External Funding, Work for Third Parties and Companies

- E4.1 Where Council services are to be delivered through a contractual arrangement using Council systems or through shared services by an integrated workforce, detailed financial procedures and Financial Instructions must be prepared and agreed in advance of the contract start by the Corporate Director and the s151 Officer, that comply with accounting standards, ensure proper financial stewardship and are consistent with the principles of financial management as set out in these Financial Procedure Rules.
- E4.2 Once approved the financial procedures and Financial Instructions referred to in E4.1 above,

will form part of the Council's Regulatory Framework and compliance must be a contractual obligation.

E4.3 *Partnerships, Joint Ventures and Pooled Budgets*

E4.3.1 The Cabinet is responsible for approving the Council's participation in all significant partnerships / joint working arrangements (including pooled budget arrangements) with other local public, private, voluntary and community sector organisations.

E4.3.2 Corporate Directors following advice provided by the s151 Officer should advise the Cabinet on the key elements of arrangements for significant partnerships/ joint working arrangements as follows:

- scheme appraisal for financial viability;
- risk appraisal;
- governance arrangements;
- resourcing, including taxation issues;
- audit requirements;
- carry forward arrangements.

E4.3.3 Corporate Directors are also responsible for:

- seeking advice from the s151 Officer and Corporate Director for Resources at an early stage;
- ensuring that the approval of the Cabinet is obtained before any negotiations are concluded;
- ensuring that all agreements and arrangements are properly documented;
- where third parties are intended to occupy in full or in part Council property that a licence or lease is entered into prior to occupation;
- providing information to the s151 Officer required for the Council's Statement of Accounts.

E4.4 *External Funding*

E4.4.1 The s151 Officer must be consulted on the financial and governance implications of all projects involving funding from external sources e.g. Lottery grants etc.

E4.4.2 Corporate Directors must ensure that:

- all funding received from external organisations or associated parties is properly recorded in the Council's accounts;
- key conditions of funding and any statutory requirements are met;
- any match-funding requirements and future liabilities are given due consideration prior to entering into long term agreements.

E4.5 *Work for Third Parties*

E4.5.1 Corporate Directors should ensure that:

- proposals should be costed properly before an agreement is reached to do work for a third party;
- a formal contract or a memorandum of understanding is drawn up prior to any work commencing;
- where third parties are intended to occupy in full or in part Council property that a licence or lease is entered into prior to occupation.

E4.6 *Local Authority Companies*

E4.6.1 Corporate Directors must ensure that:

- at an early stage and prior to taking an interest in a company on behalf of the Council (e.g. membership, shareholding or directorship), advice is sought from the Monitoring Officer;
- any clauses required by the Service Director - Legal and Democratic Services and / or the

s151 Officer to safeguard the Council's position are included in the company's Memorandum and Articles of Association;

- the approval of the Cabinet is obtained before any negotiations are concluded;
- all agreements and arrangements are properly documented;
- information is provided to the s151 Officer or Monitoring Officer as required.

E4.6.2 Corporate Directors must ensure that:

- effective governance arrangements are in place including arrangements for exit if necessary;
- risk management processes are in place to identify and assess all known risks;
- business continuity plans are in place and reviewed and tested on a regular basis.

E4.6.3 The Corporate Directors should advise the Cabinet on the following key elements:

- scheme appraisal for financial viability;
- risk appraisal;
- governance arrangements;
- resourcing, including taxation issues;
- audit requirements;
- carry forward arrangements.

DRAFT

8. Property Procedure Rules

Land and Property

- 8.1. This Standing Order relates to the acquisition and disposal of land and property including leases which are for a fixed term of more than seven years and the granting or entering into a licence agreement.
- 8.2. All valuations and negotiations shall be the responsibility of the Director of Property and Assets. Anyone undertaking the negotiations on his/her behalf must have appropriate written delegation and must be a qualified Member of the Royal Institution of Chartered Surveyors.
- 8.3. All valuations prepared for the purpose of a transaction must be accompanied by evidence of the values or comparable properties in the locality, or if possible evidence of recent, similar transactions carried out by the Council.

Acquisitions

- 8.4. No purchase of land or property (freehold or leasehold) may be made without the prior approval of an Officer delegated to do so by the Council's Financial Scheme of Delegation. In order to do this the information detailed below must be provided for by this Officer (reference to purchase includes the acquisition of a licence):
 - a. a complete description of the land or property that is being considered for purchase,
 - b. a full business case or similar report detailing the reasons for the purchase,
 - c. any information that may affect the value of the property or land, including structural and environmental reports,
 - d. the proposed purchase price or rental value together with evidence of the prices for similar properties in the location, and
 - e. evidence of local member consultation
 - f. member or Cabinet approval as appropriate
 - g. any other terms and conditions.

The Officer must retain all of this evidence for six financial years after the acquisition has been completed.

- 8.5. Where a company introduces an investment opportunity to the Council for a fee, this does not require a competitive exercise and is exempt from the Public Contracts Regulations 2015. In this situation the Council is not seeking offers or scoping or specifying a service. The Council is responding to an offer that would otherwise not be available to them.

Disposals

- 8.6. Land and buildings owned or licensed by the Council shall not be disposed of without the prior approval of an Officer delegated to do so by the Council's Financial Scheme of Delegation. If the estimated value (combined value where more than one property is to be disposed of) of the property is greater than £500,000, a decision on the sale or transfer will need to be made by Members through the key decision process.
- 8.7. Whichever authority is being sought, the following information must be provided:
 - a. a complete description of all the land and/or property to be included in the disposal or transfer;

- b. confirmation from the Monitoring Officer that the title of the land and/or property is owned by the Council (or in the case of licences that the Licence is still extant and capable of transfer);
- c. the reason for the sale or transfer and any restrictions which this may impose;
- d. a report on any information which is held by the Council in the previous use of the land which may affect its value (e.g. if the site were contaminated);
- e. the estimated value of the land and/or property;
- f. evidence of local member consultation
- g. recommendations on the following:
 - i issues that need to be resolved before marketing the land and/or property can commence;
 - ii the preferred method of disposal (private treaty/public auction/formal tender);
 - iii the title to be transferred;
 - iv steps that need to be undertaken to maximise the value of the asset prior to disposal e.g. planning applications;
 - v the minimum price that the Council is prepared to receive together with an asking price.

8.8. Where it has been decided that the disposal of the land and/or property will be by formal tender, Standing Order 7 above relating to tenders shall be applied.

Asset Disposals (other than Land or Property)

- 8.9. A check should be made to determine whether there is a corporate policy or contract for the disposal of the stock (e.g. IT equipment should be disposed of through the IT Section). If a policy or contract is in place, this should be used.
- 8.10. Office equipment and furniture should first be advertised internally
- 8.11. Where the estimated value of the goods is no more than £2,500 the disposal can be authorised by the Service Director. If the estimated value is more than £2,500 then the Corporate Director needs to approve the disposal.
- 8.12. Disposal must be either by public auction or by obtaining three quotes from suitable contractors.
- 8.13. The Officer responsible for the disposal must ensure that the Council is receiving value for money, and that the contractor used is reputable. Evidence of this must be retained by the responsible Officer.

Part J – Interim Arrangements

DRAFT

1. Interim Arrangements

Introduction

- 1.1. This article shall only apply during the Interim Period. For the purposes of this article “the Interim Period” is the period 1 April 2020 to 11 May 2020 inclusive.

Interim Period Definitions

- 1.2. In this Article:
 - a. “Predecessor Council” means a Council dissolved on 1st April 2020 by Article 4 of the Order
 - b. “the Order” means The Buckinghamshire (Structural Changes) Order 2019
 - c. “the Shadow Buckinghamshire Authority” (“the Shadow Authority”) means the Shadow Authority for the purposes of Part C of the Order

Interim Arrangements

- 1.3. During the Interim Period the other provisions of this Constitution will be modified by the arrangements in this Part.
- 1.4. If there is any uncertainty about the interpretation or application of this Part, the decision of the Monitoring Officer shall be determinative.

Executive

- 1.5. Unless replaced in accordance with the Order:
 - a. The Leader of the Council shall be the leader of the Shadow Authority as at 31st March 2020
 - b. The Cabinet shall consist of 17 Councillors made up of the Leader and 16 Executive Members being those Councillors who as at 31st March 2020 made up the Shadow Executive as defined in the Order
 - c. The quorum of a meeting of the Cabinet shall be the same as for the Shadow Executive of the Shadow Authority

Overview and Scrutiny Committee

- 1.6. During the Interim Period, the Council will have one Overview and Scrutiny Committee consisting of those Councillors who have been appointed to the Shadow Overview and Scrutiny Committee as at 31st March 2020.
- 1.7. The Overview and Scrutiny Committee shall have powers in relation to urgent standards matters as required. It will also have urgent powers of call-in of Cabinet decisions in accordance with the Shadow Constitution. Otherwise Overview and Scrutiny work will begin after the election of the new Council.
- 1.8. The quorum of a meeting of the Overview and Scrutiny Committee shall be the same as the quorum of the Shadow Overview and Scrutiny Committee.

Standards Functions

- 1.9. During the Interim Period, the functions of the Standards and General Purposes Committee will be carried out by the members of the Shadow Overview and Scrutiny Committee as at 31st March 2020 in accordance with the arrangements set out in the Shadow Authority Constitution.

Other Committees

1.10. During the Interim Period, the Council shall have the following other Committees which will operate in accordance with this Constitution:-

- a. Six Area Planning Committees which will be the same as and cover the areas of the planning work of the Six Planning Committees of the predecessor councils as follows:
 - i Aylesbury Vale District Council – Strategic Development Management Committee
 - ii Aylesbury Vale District Council - Development Management Committee
 - iii Chiltern District Council – Development Management Committee
 - iv South Bucks District Council - Development Management Committee
 - v Buckinghamshire County Council - Development Management Committee
 - vi Wycombe District Council – Planning Committee

And will be made up of those Councillors appointed by the predecessor Councils as at 31 March 2020.

- b. Four Licensing Committees consisting of members of those committees as at 31 March 2020. Membership of Licensing Sub-Committees will be selected by the Monitoring Officer or their nominated representative in Democratic Services on a rota basis, taking account of experience, political balance and interests, and to reflect training on the relevant policies being applied to applications in respect of the preceding Council areas of Aylesbury Vale, Chiltern and South Bucks and Wycombe districts.
- c. An Audit and Governance Committee will be convened if required by the Monitoring Officer consisting of the Chairman or Vice-Chairmen of the preceding councils' committees with audit functions as at 31 March 2020 with a minimum of 3 members.
- d. An Appeal Committee will be convened if required by the Monitoring Officer, consisting of the Chairman or Vice-Chairman of the preceding councils' appeals committees as at 31st March 2020.

Appendix – Planning Protocol (to be added)

DRAFT