

# **ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD**

## **CONSTITUTION**

**LAST FULL REVIEW - 2011**

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# **PART 1 – THE CONSTITUTION**

## **A - SUMMARY AND EXPLANATION**

## A. Summary and Explanation

### 1. The Council's Constitution

- 1.1 The Royal Borough of Windsor and Maidenhead Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Many of these processes are required by law, while others are a matter for the Council to choose.
- 1.2 The Constitution contains a number of parts, which set out the rules and procedures governing the Council's business. The Constitution provides a single point of reference for the overall way in which decisions are made.
- 1.3 Article 1 of the Constitution commits the Council to promote democratic local communities which are environmentally sustainable, prosperous and safe, providing equalities of opportunity and empowering all our communities.

Other Articles explain who are the Members of the Council, rights of residents and how key parts of the Council operate. The Articles are:

- Article 2 - Members of the Council
- Article 3 - Residents and the Council
- Article 4 - The Council meeting
- Article 5 - Chairing the Council
- Article 6 - The Cabinet
- Article 7 - Regulatory and other Panels
- Article 8 - *Deleted*
- Article 9 - Joint arrangements
- Article 10 - Overview and Scrutiny of Decisions
- Article 11 - Officers
- Article 12 - Decision making
- Article 13 - Finance, contracts and legal matters
- Article 14 - Review and revision of the Constitution
- Article 15 - Suspension, Interpretation and Publication of the Constitution

### 2. HOW THE COUNCIL OPERATES

- 2.1 The Council is composed of 57 Councillors (also referred to as 'Members') elected every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

- 2.2 Councillors have to currently agree to follow a code of conduct to ensure high standards in the way they undertake their duties.
- 2.3 All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year. The Council will normally elect from its Councillors a Leader for a four year term at the Annual Council. The Leader will appoint members to a Cabinet. The Council will also appoint the Chairman and Members of the Regulatory, other Committees and Council Panels for each year. The Council will undertake the business reserved to it by these Articles and, with the Overview and Scrutiny Panels and the Audit and Performance Improvement Panel, will hold the Cabinet to account. It will have responsibility to oversee all activities of the Committees and Panels it appoints.
- 2.4 Public involvement in the Council will be maintained by Public Questions and by the provision to bring Petitions to the Council. There is also the right to speak at Development Management Panels, and at the Chairman's discretion, at the Cabinet, other Committees and Panels. The Council supports the principle of transparency and encourages the filming, recording and photographing of meetings open to the public.. Details are set out in Part 2 C23.

### **3. HOW DECISIONS ARE MADE**

- 3.1 The Council is responsible for setting the Budget and overall policy framework.
- 3.2 The Cabinet is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of the Leader elected by the Council and up to 9 other Councillors whom he/she appoints. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan in so far as they can be anticipated and will usually be considered by the appropriate Overview and Scrutiny Panel before they are considered and determined by Cabinet. If these major decisions are to be discussed with Council Officers at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or confidential matters are being discussed.
- 3.3 The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

### **4. OVERVIEW AND SCRUTINY**

- 4.1 The seven Overview and Scrutiny Panels support the work of the Cabinet and the Council as a whole. They allow residents to have a greater say in

Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The relevant Panel will usually consider reports prior to the consideration and determination of the matter by Cabinet.

- 4.2 The Overview and Scrutiny Panels also monitor the decisions of the Cabinet. They can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables the Committee to consider whether the decision is appropriate. It may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy, usually by the relevant Panel considering the draft Cabinet report, prior to it going to Cabinet.
- 4.3 Overview and Scrutiny Panels can receive requests to consider issues through local Councillors (Councillor Calls for Action). The Overview and Scrutiny Panels have the power to set up panels to look into specific issues if required.

## **5. THE COUNCIL'S STAFF**

- 5.1 The Council's staff (called 'Officers') give advice, implement decisions and manage the day-to-day delivery of its services. Some Officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between Officers and Members of the Council and is included in the Constitution.

## **6. RESIDENTS' RIGHTS**

- 6.1 Residents have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights. Where members of the public use specific Council services, for example as a parent of a school pupil, or they have additional rights. These are not covered in this Constitution but are available from the service directly.
- 6.2 Residents have the right to:
- a) Vote at local elections if they are registered;
  - b) Contact their local Councillor about any matters of concern to them;
  - c) Obtain a copy of the Constitution at a reasonable fee;
  - d) Attend meetings of the Council and its Cabinet, Committees, and Panels except where, for example, personal or confidential matters are being discussed;
  - e) Petition to request a referendum on a mayoral form of executive;

- f) Participate in the Council meeting during public questions, other meetings, speak on planning applications, present petitions and contribute to Scrutiny investigations;
- g) Complain to the Council about any of its services under the Council's complaint process 'Complaining is a Serious Business' and the 'Complaints Charter';
- h) Find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers;
- i) Attend meetings of the Cabinet where key decisions are being discussed or decided;
- j) Complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;
- k) Complain to the Managing Director if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct;
- l) Inspect the Council's accounts and make their views known to the external auditor;
- m) Any member of the public can ask a local Councillor to refer an issue to the relevant Overview and Scrutiny Panel for consideration (Councillor Call for Action).

6.3 The Council welcomes participation by its residents in its work. Further information on your rights as a resident, and residents rights to inspect agendas, and reports and to attend meetings is available from the Democratic Services Manager.

6.4 The public also has rights to inspect information held by the Council under the Freedom of Information Act. More information on this is available on the Council's web site at [www.rbwm.gov.uk](http://www.rbwm.gov.uk).



# **PART 1 – THE CONSTITUTION**

## **B - ARTICLES OF THE CONSTITUTION**

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## Article 1 – The Constitution

### 1.1 Powers of the Council

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

### 1.2 The Constitution

The Constitution, and all its appendices, is the Constitution of the Royal Borough of Windsor and Maidenhead.

### 1.3 Purpose of the Constitution

The purpose of the Constitution is to:

<b>Principle</b>	<b>What it means in this Constitution</b>
Enhance service performance	Making sure that decision-making leads to improvements in the quality of services to local people
Ensure accountability	Ensuring mechanisms for those responsible to be held to account for them
Increase transparency	Having streamlined and simplified clear decision-making responsibilities which are open to the public.
Enable community representation	Enabling Councillors to represent local communities effectively
Increase community involvement and engagement	Including and involving the public in the decisions that affect their lives and enabling the development of effective partnership working with other public, private and voluntary bodies
Encourage corporate working	Encouraging a partnership approach between the Cabinet and Overview and Scrutiny Committees, Officers and Members and better corporate working on cross cutting issues

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

Where the Constitution permits the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

## Article 2 – The Members of the Council

### 2.1 Composition and eligibility

- a) Composition. The Council will comprise 57 Members, otherwise called Councillors. One or more Councillors will be elected by the voters of each Ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- b) Eligibility. Only registered voters of the Royal Borough or those living or working there or occupying property in the area will be eligible to hold the office of Councillor.

### 2.2 Election and terms of Councillors

Election and Terms. The regular election of Councillors will be held on the first Thursday in May every four years from 2003. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election. By elections are held at the request of two electors from the current register of electors when a casual vacancy arises for any seat, unless the vacancy arises within six months of the ordinary elections for that seat.

### 2.3 Roles and functions of all Councillors

Councillors have five main roles. They perform one or more of the following duties:-

- i) Community leadership and representation;
- ii) Executive decision-making;
- iii) Policy development and review;
- iv) Overview and scrutiny;
- v) Quasi judicial and regulatory.

Taken together, these roles enable Councillors to:-

- i) Collectively in meetings of the Council be the ultimate policymakers and carry out a number of strategic and corporate management functions;
- ii) Represent the communities of their wards, bringing their views into the Council's decision-making process and represent the Council to those communities, i.e. become an advocate of, and for, their communities.
- iii) Respond to Constituents' enquiries and representation fairly and impartially, deal with individual case work and otherwise effectively represent the interests of their wards and individual Constituents;
- iv) Represent the Council on other bodies.

## **2.4 Rights and duties**

- i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it.
- iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 8E of this Constitution.

## **2.5 Conduct**

Councillors will at all times observe the Members’ Code of Conduct and the Protocol on Councillor/Officer Relations set out in Part 7 A and E of this Constitution.

## **2.6 Allowances**

Councillors will be entitled to receive allowances in accordance with the Members’ Allowances Scheme set out in Part 9 A of this Constitution.

## Article 3 – Citizens and the Council

### 3.1 Introduction

Citizens have a number of rights and responsibilities. The following list is a general summary of rights in terms of information, the opportunity to participate and the ability to make complaints. (For more detail see Access to Information Rules in Part 8 E of this Constitution.)

Citizens also have the following rights:

### 3.2 Information.

Citizens have the right to:

- i) Attend meetings of the Council and its Committees, Forums and Panels except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private.
- ii) Find out from the forward plan what key decisions will be taken by the Cabinet and when.
- iii) Attend meetings of the Cabinet when key decisions are being considered.
- iv) See reports and background papers, and any records of decisions made by the Council and the Cabinet.
- v) Inspect the Council's accounts and make their views known to the external auditor.
- vi) information held by the Council, under the Freedom of Information Act. Further information on these rights is available on the Council's website <http://www.rbwm.gov.uk>

### 3.3 Participation.

Citizens have the right to ask public questions at Council and may be invited to participate in public Cabinet meetings, and contribute to investigations by the Overview and Scrutiny Panels. They have the right to speak at Development Management Panels in accordance with Part 6.

### 3.4 Complaints.

Citizens have the right to complain to:

- i) The Council itself under its complaints scheme. <http://www.rbwm.gov.uk/council/complaints.htm>
- ii) The Ombudsman after using the Council's own complaints scheme. <http://www.lgo.org.uk/complain.htm>
- iii) The Managing Director about a breach of the Members' Code of Conduct. <http://www.rbwm.gov.uk/council/complaints.htm>

### **3.5 Citizens' responsibilities**

Citizens must not be violent, abusive or threatening to Councillors or Officers and must not wilfully harm things owned by the Council, Councillors or Officers.



## Article 4 – The Full Council

### 4.1 Introduction

The full Council is a formal meeting of all Councillors and the Mayor. The full Council is required by law to take certain important decisions including setting the Council's budget and Council Tax, and approving a number of key plans and strategies, which together form the Policy Framework (listed below). The full Council must also by law take decisions on a number of other specific matters.

The full Council provides a central forum for debate and gives the opportunity for Councillors and, at designated meetings throughout the year, members of the public, to ask questions about the Council or matters affecting the Borough.

There are three types of full Council meetings:

1. The Annual Meeting
2. Ordinary meetings
3. Extraordinary meetings

These meetings will be conducted in accordance with the procedure rules set out in Part 2 C Council Rules of Procedure.

### 4.2 Functions of the Council

The functions and responsibilities of the Council are set out in:-

- a) Part 2 A: Terms of Reference;
- b) Part 2 B: Responsibilities of Council Functions.

### 4.3 The Budget and Policy Framework

#### Budget

The budget includes the allocation of financial resources to different services and projects, the Housing Revenue Account, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

### The Policy Framework

The policy framework is set out in Part 2 A.

### Procedure

The Budget and Policy Framework Rules of Procedure set out in Part 3 B of this Constitution ensure consultation with councillors who are not members of the Cabinet on initial proposals for these plans so that their views can feed into the development of these plans and strategies.

## **Article 5 – Chairing the Council**

### **5.1 Role and function of the Mayor**

#### **Ceremonial role**

The Royal Borough's Mayor is elected each year at the Annual Meeting as the first citizen of the Royal Borough. The Mayor represents the Royal Borough and carries out a full range of ceremonial duties on behalf of the Council.

#### **Chairing the Council meeting**

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

1. To uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary, on the advice of the Council's Democratic Services Manager, in accordance with, where specified, the wishes of the majority of the Council.
2. To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community.
3. To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not in the Cabinet are able to hold the Cabinet to account.
4. To promote public involvement in the Council's activities.
5. To attend such civic and ceremonial functions as the Council and he/she determines appropriate.

## **Article 6 - The Cabinet**

### **6.1 Role**

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

### **6.2 Form and Composition**

The Cabinet will consist of the Leader together with at least 2, but not more than 9 Councillors appointed to the Cabinet by the Leader.

### **6.3 Leader**

The Council will elect a Leader from its Councillors for a four year term of office.

Once appointed the Leader will be responsible for:-

- a) Determining the size of Cabinet;
- b) Appointing the Members of Cabinet;
- c) Allocating portfolios for areas of responsibilities to the various Cabinet Members;
- d) Allocating decision-making powers to the Cabinet and individual Cabinet Members;
- e) Removing and replacing Cabinet Members.

During the Leader's term of office, he/she will automatically cease to be Leader upon death or disqualification or resignation or if removed from office by a Resolution of the Council.

### **6.4 Other Cabinet Members**

The Leader will appoint the Cabinet Members for a period of not more than one year, subject as set out below. The names and portfolios of the Cabinet Members will be announced to the Council by the Leader at the first available Council meeting.

Only Councillors may be appointed to the Cabinet. There may be no co-optees and no deputies or substitutes for Cabinet Members. Neither the Mayor nor Deputy Mayor of the Council may be appointed to the Cabinet and Members of the Cabinet (including the Leader) may not be members of Overview and Scrutiny Panels.

Cabinet Members shall hold office until:

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

### **6.5 Proceedings of the Cabinet**

Proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules set out in Part 3 A of this Constitution.

### **6.6 Responsibility for functions**

The Leader will maintain a list in Part 3 of this Constitution setting out which individual Members of the Cabinet (if any), Committees, Forums or Panels of the Cabinet, Officers or joint arrangements are responsible for the exercise of particular executive functions.

### **6.7 Deputy Leader**

The Leader shall appoint one Cabinet Member as Deputy Leader. Wherever this Constitution refers to 'the Leader', the reference shall be taken to include reference to 'the Deputy Leader' whenever he/she substitutes for the Leader. The appointed Deputy Leader will act as Leader if the latter is unable to act or the post becomes vacant.

## **Article 7 - Regulatory and other Panels**

### **7.1 Regulatory and other Panels**

The Council will appoint a number of bodies and panels to carry out its regulatory functions. The Terms of Reference of these are set out in Part 6.

## **Article 8 - Deleted**

## Article 9 - Joint Arrangements

### 9.1 Arrangements to promote well being

The Council and the Cabinet, in order to promote the economic, social or environmental well-being of its area, may:

- a) enter into arrangements or agreements with any person or body;
- b) co-operate with, or facilitate or co-ordinate the activities of, any person or body;
- c) exercise on behalf of that person or body any functions of that person or body.

The above is subject to the provisions of paragraph 2 and in accordance with any limitations imposed by legislation.

### 9.2 Joint Arrangements

- a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities as a whole.
- c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority.
- d) The Cabinet may appoint members to a joint committee from outside the Cabinet in the following circumstances:
  - the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any Councillor who is a member for a Ward which is wholly or partly contained within the area.

In this case, the political balance requirements do not apply to such appointments.

- e) Details of any joint arrangements include any delegations to joint committees which are found in the Part 6 of this Constitution.

### 9.3 Access to Information

The Access to Information Rules in Part 8 E of this Constitution apply.



- a) If all the Members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.
- b) If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

#### **9.4 Delegation to and from other local authorities**

- a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- b) The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- c) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

#### **9.5 Contracting out**

The Council for functions which are not executive functions may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an Order under Section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

#### **9.6 Joint Arrangements**

A list of the Council's joint arrangements and partnerships can be accessed on the Council's website.

## **Article 10 – Overview and Scrutiny Panels**

### **10.1 Introduction**

The Council has established 7 Overview and Scrutiny Panels which meet in public, subject to the Access to Information rules, to discuss and make recommendations on the development of the plans and strategies set out in Article 4 and on reports going to Cabinet and hold the Cabinet to account for its actions. The Overview and Scrutiny Panels also has a key role in considering other matters of local concern not necessarily just within the Council's areas of responsibility but affecting the Royal Borough and its communities.

### **10.2 Terms of reference**

The Overview and Scrutiny Panels will together and singly discharge the functions conferred by Section 21 of the Local Government Act 2000 or regulations under Section 32 of the Local Government Act 2000.

The Overview and Scrutiny Panel may appoint such sub-Panels as it considers necessary or appropriate to carry out, effectively, its functions. Each sub-Panel will be politically balanced, will produce Terms of Reference for agreement by the relevant Overview and Scrutiny Panel, including the period during which the sub-Panel shall meet, its membership and its proposals for investigation and reporting.

### **10.3 General role**

Within its terms of reference, the Overview and Scrutiny Panels will:

- i) Review and/or scrutinise decisions to be made by Cabinet and made by it or actions taken in connection with the discharge of any of the Council's functions.
- ii) Make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions.
- iii) Consider any matter affecting the area or its inhabitants.
- iv) Exercise the right to call-in, for reconsideration, decisions made in respect of which no steps have been taken to implement the decision.

### **10.4 Specific functions**

#### **a) Policy development and review.**

The Overview and Scrutiny Panels will:

- i) Assist the Council and the Cabinet in the development of its budget and analysis of the draft plans to be submitted to Council under Article 4.
- ii) Conduct such necessary research and investigation in the analysis of the policy issues and the possible options for the plans to be submitted to Council as above.

- iii) Question relevant members of Cabinet and the relevant Director(s) about issues and proposals affecting the area.
- iv) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interest of local people are enhanced by collaborative working.

b) **Scrutiny.**

The Panels will:

- i) Review and scrutinise the decisions to be made by Cabinet and which have been made by the Cabinet and Council officers both in relation to individual decisions and over time.
- ii) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.
- iii) Question members of the Cabinet and Directors about their decisions, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.
- iv) Make recommendations to the Cabinet and/or Council arising from the outcome of the Scrutiny process.
- v) Review and scrutinise the performance of the relevant bodies in the area and invite reports from them to address an Overview and Scrutiny Panel and local people about their activities and performance.
- vi) Question and gather evidence from any person or organisation (with that person/organisation's consent).
- vii) Consider any petitions to hold an Officer to account and to hear an appeal in relation to a petition.

c) **Finance.**

In carrying out its activities, the Overview and Scrutiny Panels will operate within such budget and allocation of officer time as the Council shall provide.

(d) **Annual report.**

The Overview and Scrutiny Panels will report annually to full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

## 10.5 Proceedings of the Panels

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

## Article 11 - Officers

### 11.1 Definition

The use of the title “officers” in the Constitution means all of the employees of the Council and includes those staff who are engaged in any short term, agency or other non-employed capacity.

### 11.2 Management Structure

- a) **General.** The full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.
- b) **Senior Officers.** The Corporate Management team of the Council will comprise of the following posts:

Post	Functions and areas of responsibility
Managing Director (Head of Paid Service) <i>N.B. one of the three Strategic Directors is also appointed as the MD</i>	Overall Corporate Management and operational responsibility (including overall management responsibility for all Officers)
	Provision of professional advice to all parties in the decision making process.
	Together with the Monitoring Officer responsibility for a system of record keeping for all the Council’s decisions.
	Representing the Council on partnership and external bodies (as required by statute or the Council).
	Human Resources
Strategic Director of Adults, Children & Health	Adult Social Services, Housing Policy and Residential Development, Children’s Social Care, Safeguarding (Child Protection), Schools, Youth Offending Team and Youth Services.
Strategic Director of Corporate and Community Services	Financial Services, Legal Services, Leisure Services, Governance, Policy, Performance and Partnerships, Planning & Regeneration, Communications, Policy and

	Performance, Democratic Services and Registration Services, Monitoring Officer, Ombudsman Liaison and Information Management
Strategic Director of Operations and Customer Services	Public Protection Services, Highways and Transport Services, Streetcare Operations, Customer Services, Technology & Change. Library and Information Services.
Deputy Director of Corporate and Community Services and Head of Finance	Audit, Risk Management, Accountancy, Pensions and Strategic Finance, Commercial and Procurement,

c) The following posts will have the allocated statutory designation:

Post	Designation
Managing Director	Head of Paid Service
Monitoring Officer	Monitoring Officer
Deputy Director of Corporate and Community Services and Head of Finance	Chief Finance Officer (s.151 Officer)
Strategic Director for Adults, Children & Health	Director of Children's Services
Strategic Director for Adults, Children & Health	Director of Adult Social Services
Democratic Services Manager	Scrutiny Officer

d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of Officers.

### 11.3 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

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

#### **11.4 Conduct**

Officers will comply with the Protocol on Officer/Member Relations set out in Part 7 E.

## Article 12 - Decision Making

### 12.1 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 5 of the Constitution.

### 12.2 Principles of decision making

The Council has adopted the following principles to underpin all decision-making in the Council:

- proportionately (the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from Officers;
- consideration of the legal and financial implications
- respect for human rights and consideration of all other relevant duties, e.g. equalities;
- a presumption to favour of openness and inclusive decision-making;
- clarity of aims and desired outcomes in compliance with the Council's adopted Plans and Strategies.

When the Cabinet or Officers take an executive decision it will include consideration of any alternative options considered and rejected, and a record of the decision will be maintained in accordance with Regulation 3 of the Local Authorities (Executive Arrangements) (Access to Information) England) Regulations 2000.

### 12.3 Types of decision

- a) **Decisions reserved to full Council.** Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated.
- b) **Key decisions** - A key decision is an executive decision which is likely:
  - 1) To result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates. The Council has decided that the relevant threshold at or above which the decision is significant will be £500,000 for capital expenditure and £500,000 for revenue expenditure. A budget heading is, for the purposes of this Article, the budget head set out each year in the annual budget book in the Service Summary.

Money delegated to schools as part of the Scheme of Financial Management of Schools exercise is exempt from these thresholds, once it is delegated to the school.

The financial amounts given above will be reviewed each year.

- 2) Be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the local authority.

#### **12.4 Decision-making by the Council**

Subject to Article 12.8, the Council meeting will follow the Council Procedures Rules set out in Part 2C of this Constitution when considering any matter.

#### **12.5 Decision-making by the Cabinet**

Subject to Article 12.8, the Cabinet will follow the Executive Procedure Rules set out in Part 3 A of this Constitution when considering any matter.

#### **12.6 Decision-making by the Overview and Scrutiny Panels**

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

#### **12.7 Decision-making by other Committees, Forums and Panels established by the Council.**

Subject to Article 12.8, other Council Committees, Forums and Panels will follow those parts of the Council Procedures Rules set out in Part 2 C of this Constitution as apply to them.

#### **12.8 Decision-making by Council bodies acting as tribunals**

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

#### **12.9. Decision making by officers**

All decisions taken by officers under the Council's Officer Delegation Scheme will be taken in accordance with the principles set out in this article.



### **12.10 Record of decisions**

All decisions of the Council and its committees and sub-committees; the Cabinet and any committee or sub-committee of Cabinet; individual Cabinet Members exercising delegated powers; and any officers exercising delegated powers will be recorded in accordance with Part 8 E - Access to Information Rules of Procedure.

## **Article 13 - Finance, Contracts and Legal Matters**

### **13.1 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the Finance Rules, as set out in Part 8 C of this Constitution.

### **13.2 Contracts**

Every contract made by the Council will comply with the Contract Rules set out in Part 8 A of this Constitution.

### **13.3 Legal Proceedings**

The Monitoring Officer is authorised to institute, participate in or settle any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Monitoring Officer considers that such action is necessary to protect the Council's interests.

### **13.4 Authentication of documents**

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

### **13.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer or some other person authorised by him/her or by Council.

### **13.6 Formal Deeds**

The Monitoring Officer is authorised to sign any formal deeds on behalf of the Council.

## **Article 14 - Review and Revision of the Constitution**

### **14.1 Duty to monitor and review the Constitution**

The Council will identify a Constitution Sub-committee which shall, as part of its ordinary work and together with the Managing Director and the Monitoring Officer, monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

#### **Protocol for monitoring and review of Constitution by Monitoring Officer**

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

1. observe meetings of different parts of the Member and Officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders;
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

### **14.2 Changes to Constitution**

Changes to the Constitution will only be (i) made by full Council or (ii) made by full Council after consideration of the proposal by the Constitution Sub Committee established to monitor and review the constitution or (iii) made by the Constitution Sub committee under delegated authority in accordance with its Terms of reference in part F9.

Changes of an editorial nature as may seem appropriate to make the Constitution internally consistent, up-to-date and readily understandable can be made by the Monitoring officer in consultation with the Chairman of the Constitution Sub Committee

### **14.3 Change from a Leader and Cabinet form of executive to alternative arrangements, or vice versa.**

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

## **Article 15 - Suspension, Interpretation and Publication of the Constitution**

### **15.1 Suspension of the Constitution**

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

### **15.2 Procedure to suspend.**

A Motion to suspend any rule(s) may not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of the suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### **15.3 Rules capable of suspension.**

The following Rules may be suspended in accordance with this Article 15.2:

All Council Procedure Rules except Part 2 C17.4 and C18.2 – as stated in Council Procedure Rule Part 2 C24.

Contract Rules as provided in Contract Rule Part 8 A50.1 onwards.

### **15.4 Interpretation**

The ruling of the Mayor, advised by the Democratic Services Manager, as to the construction or application of this Constitution or as to any proceedings of the Council shall only be challenged at a meeting of the Council following a Motion to that effect in accordance with Council Procedure Rule Part 2 C27. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **15.5 Publication**

- a) The Democratic Services Manager will give a printed copy of this Constitution to each Member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council, or refer the Member to the copy available on the Council's web site.
- b) The Democratic Services Manager will ensure that copies are available for inspection at Council Offices, libraries and other

appropriate locations and on the Council's web site, and can be purchased by members of the local press and the public on payment of a reasonable fee.

- c) The Democratic Services Manager will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

## **Schedule 1: Description of Executive Arrangements**

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 - The Cabinet and the Cabinet Procedure Rules.
2. Article 9 Joint Arrangements.
3. Article 10 - Scrutiny Panels and the Overview and Scrutiny Procedure Rules.
4. Article 12 - Decision making and the Access to Information Procedure Rules.
5. Part 2 B Responsibility for Functions.

# **PART 2 – THE FULL COUNCIL**

## **A – COUNCIL TERMS OF REFERENCE**

## A. Council Terms of Reference

### 1.1 Functions of Full Council

1. Approve the following plans and strategies which shall comprise the Policy Framework (as required by law):
  - (a) Children and Young People's Plan
  - (b) Crime and Disorder Reduction Strategy
  - (c) Local Transport Plan
  - (d) Licensing Authority Policy Statement under the Gambling Act 2005
  - (e) Local Development Documents which together comprise the Local Development Framework
  - (f) Sustainable Community Strategy
  - (g) Youth Justice Plan
  - (h) Joint Strategic Needs Assessment ( with NHS)
2. In addition to the above the following plans and strategies shall comprise the Policy Framework although not required by law
  - (a) Any Plan or Strategy that must be approved by the authority and submitted to the Secretary of State or a Minister of the Crown for approval;
  - (b) Such other plans and strategies as the Council may decide to adopt.
3. Approving the Budget, including:
  - (a) Housing Revenue Accounts Budget, General Fund Budget and Capital Programme
  - (b) Establishing contingency funds
  - (c) Agreeing the Collection Fund Balance
  - (d) Agreeing the Council Tax base
  - (e) Setting the Council Tax
  - (f) Making decisions relating to the control of the Council's borrowing requirement
  - (g) Approving the Annual Investment Strategy / Annual Treasury Management Strategy
  - (h) Approving the annual policy for making a Minimum Revenue Provision (MRP)
4. Approving and amending the Constitution.
5. Appointment of Leader at the Annual Council following the local elections, or following the death or disqualification or resignation or if removed from office by resolution, at any other Council meeting.



6. Adopting a Members' Allowances Scheme in accordance with the Local Authorities' (Members' Allowances) (England) Regulations 2003
7. Confirming the appointment or dismissal of the Head of Paid Service, Chief Finance Officer or Monitoring Officer.
8. Changing the name of the area, conferring the title of Honorary Alderman or Freedom of the Borough.
9. Appointing the Returning Officer and Electoral Registration Officer.
10. Agreeing the cycle of Council meetings.
11. Agreeing and/or amending Terms of Reference for Committees, Panels and other bodies and deciding on their compositions and appointments thereto.
12. Subject to the Urgency Procedure contained in the Access to Information Procedure Rules in Part 8 E of the Constitution, making any executive decision which would be contrary to the Policy Framework or contrary to / or not wholly in accordance with the budget.
13. Exercising any functions reserved for Council as set out in Part B – Responsibility for Council Functions.
14. All other matters which, by law, must be reserved to Council.

# **PART 2 - THE FULL COUNCIL**

## **B - RESPONSIBILITY FOR COUNCIL FUNCTIONS**

## B. Responsibility for Council Functions

**TABLE 1: Responsibility for Local Choice**

These are functions which may be (but need not be) the responsibility of an authority's Executive (i.e. the Cabinet) identified in Schedule 2 to *The Local Authorities (Functions and Responsibilities) (England) Regulations 2000*, as amended.

These functions are sometimes called “Local Choice Functions” because the Council can decide whether the Cabinet should or should not be the decision making body. The Council has allocated these functions as follows:

<b>Functions from Schedules 2 Reg 3(1)</b>	<b>Decision making body</b>
1. Any function under a Local Act not specified in Table 2	Cabinet
2. The determining of an appeal against any decision made by or on behalf of the authority. (This excludes matters where statutory arrangements exist)	Council (Appeals Panel and Employment Appeal Panel)
3. The making of arrangements for appeals against exclusion of pupils from maintained schools	Council*
4. The making of arrangements for admission appeals by pupils and Governing Bodies	Council*
5. Questions on police matters and appointments to the Police Authority	Cabinet
6. Any function relating to contaminated land	Cabinet*
7. Any function relating to the control of pollution or the management of air quality	Cabinet*
8. Any function relating to the abatement of statutory nuisances	Cabinet*
9. Any function relating to noise nuisances	Cabinet*
10. Powers of inspection to detect statutory nuisances	Cabinet*

<b>Functions from Schedules 2 Reg 3(1)</b>	<b>Decision making body</b>
11. Investigation of complaints of statutory nuisances	Cabinet*
12. Power to obtain information about interests in land under the Town & Country Planning Act 1990 (sec.330)	Cabinet*
13. Power to obtain information about persons with interests in land under Local Government (Miscellaneous Provisions) Act 1976	Cabinet*
14. Highways agreements	Cabinet*
15. Appointments to external bodies and the revocation of such appointments.	Cabinet*
16. The making of agreements with other local authorities for the placing of staff at the disposal of those authorities	Cabinet
17. Functions under ss. 106, 110, 111 and 113 of the Local Government and Public Involvement in Health Act 2007	Council*

\* The Council makes a general delegation that those powers will be exercised by Officers.

**TABLE 2: Responsibility for Council Functions**

These are functions which must not be the responsibility of an authority's Cabinet from Schedule 1 to *The Local Authorities (Functions and Responsibilities) (England) Regulations 2000*, as amended.

The full Council can discharge these functions itself or may delegate one or more functions to a committee or sub-committee of councillors, an officer of the Council or another authority. The full Council may always exercise powers it has delegated to the other bodies or persons set out above. It may also discharge its functions jointly with one or more other Councils.

Delegations to Officers are listed in the Articles, under the Scheme of Delegation to Officers under Part 5 and the terms of reference to committees contained in Part 6.

<b>Function</b>	<b>Decision making body</b>
<p>Functions relating to <b>town and country planning and development control</b> as listed in Section A. of Schedule 1 to the Regulations and as may be amended by law from time to time.</p>	<p>The Council has established three Area Development Management Panels – <b>Maidenhead Development Management Panel</b> and <b>Windsor Rural and Urban Development Management Panels</b>. These powers are delegated to these panels. Where an application appears likely to the Head of Planning and Lead Member to have a significant impact which goes beyond the area of the relevant Development Management Panel, a joint meeting of the panels or a borough-wide panel will be convened to determine the application.</p> <p>The panels have made delegations to Officers, which are included within its terms of reference and the scheme of delegation.</p>
<p>Functions relating to <b>licensing and registration</b> as listed in Section B. of Schedule 1 to the Regulations and as may be amended by law from time to time</p>	<p>The Council has delegated powers to the <b>Licensing Panel</b>. The Panel has made delegations to officers, which are included within their terms of reference and the scheme of delegation.</p> <p>NB: (1) Powers in relation to common land, town or village greens identified in Paragraphs 37 and 38 of</p>

	<p>Section B are delegated to the <b>Rights of Way &amp; Highways Licensing Panel</b>.</p> <p>(2) Those powers concerning highways listed in Paragraphs 47 to 53 inclusive of Section B are delegated to the <b>Rights of Way &amp; Highways Licensing Panel</b>.</p>
Functions relating to <b>Health and Safety at work</b> as listed in Section C of Schedule 1 to the Regulations and as may be amended by law from time to time	Council.
Functions relating to <b>elections</b> as listed in Section D of Schedule 1 to the Regulations and as may be amended by law from time to time	Council. In addition there are delegations to Officers within this Constitution and the Council's Scheme of Delegation.
Functions relating to name and status of areas or individuals as listed in Section E of Schedule 1 to the Regulations and as may be amended by law from time to time	Council
Functions relating to <b>making, amending, revoking or re-enacting byelaws</b> as listed in Section F of Schedule 1 to the Regulations.	Council
Functions relating to <b>promoting or opposing local or personal Bills</b> as listed in Section G of Schedule 1 to the Regulations	Council
Functions relating to <b>local government pensions</b> as listed in Section H of Schedule 1 to the Regulations	The Council has delegated these functions to the <b>Employment Panel</b> .
<b>Miscellaneous</b> functions as listed in Section I of Schedule 1 to the Regulations and as may be amended by law from time to time	Council. NB: (1) The Council has delegated powers in relation to highways listed in

	<p>Paragraphs 1 to 7 inclusive to the <b>Rights of Way &amp; Highways Licensing Panel</b>.</p> <p>(2) The Council has delegated to the <b>Employment Panel</b> its powers to appoint staff. There are also delegations to Officers in respect of staff.</p>
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# **PART 2 - THE FULL COUNCIL**

## **C – COUNCIL RULES OF PROCEDURE**



## C. Council Procedural Rules

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## **C1 ANNUAL MEETING OF THE COUNCIL**

### **C1.1 Timing and business**

In a year when 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.

The annual meeting will:

- a) elect a person to preside if the Mayor or Deputy Mayor is not present.
- b) elect the Mayor of Council
- c) elect the Deputy Mayor of Council
- d) elect the Leader on nomination of the Group or groups forming the administration of the Council
- e) appoint the Overview and Scrutiny Panels and such other Committees, Forums and Panels as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions. The Council shall appoint the Chairman and Vice Chairman to each body appointed under this rule with the exception of the Appeals Panel which shall elect a Chairman from the Panel Membership at the start of each Panel Meeting for the duration of that meeting and the Overview and Scrutiny Panels, which shall elect a Chairman and Vice Chairman from its membership. The Council shall approve the establishment, terms of reference, membership and operation of any Committee, Forum or Panel, working party or similar body. The life of such Panel etc. will be clearly prescribed and can only be extended by resolution of the Council.
- f) if required, agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree.
- g) consider any business set out in the notice convening the meeting.

### **C1.2 Selection of Councillors on Committees, Forums, Panels and Outside Bodies**

At the annual meeting, the Council meeting will:

- i) decide which Committees, Forums and Panels to establish for the municipal year.
- ii) decide the size and terms of reference for those Committees, Forums and Panels.
- iii) decide the allocation of seats and substitutes, if any, to political groups in accordance with the political balance.

- iv) appoint those Committees, Forums and Panels and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

## **C2 ORDINARY MEETINGS**

C2.1 Ordinary meetings of the Council will take place in accordance with a programme decided by the Council. Ordinary meetings will:

- i) elect a person to preside if the Mayor and Deputy Mayor are not present;
- ii) receive apologies for absence;
- iii) approve the minutes of the last meeting;
- iv) receive any declarations of interest from Members;
- v) receive any announcements from the Mayor;
- vi) receive questions from, and provide answers to, the public in relation to matters which, in the opinion of the person presiding at the meeting, are relevant to the business of the meeting;
- vii) receive petitions pursuant to Rule C10;
- viii) deal with any business from the last Council meeting;
- ix) receive reports from the Cabinet and the Council's Committees, Forums and Panels and receive questions and answers on any of those reports;
- x) receive reports about and receive questions and answers on the business of joint arrangements and external organisations, if any;
- xi) receive questions from Members under C11;
- xii) consider Motions;
- xiii) receive any confidential reports from the Cabinet and the Council's Committees, Forums and Panels and receive questions and answers on any of these reports;
- xiv) consider any other business specified in the summons to the meeting including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of any of the Overview and Scrutiny Panels for debate.

### **C2.2 Varying the order of business under C2.1.**

Business falling under items C2.1 i) - v) inclusive shall not be displaced but, subject to that provision, the order of business under C2.1 may be varied by a resolution passed on a Motion (which need not be in writing) moved and seconded in accordance with these rules, such Motion shall be moved, seconded and put to the vote without discussion, other than an explanation for the proposed variation to the order of business

set out in C2.1. A Motion carried under this Rule shall override any other Rule or provision in relation to the order of business.

### **C3 EXTRAORDINARY MEETINGS**

#### **C3.1 Calling extraordinary meetings**

Those listed below may request the Democratic Services Manager to call Council meetings in addition to ordinary meetings:

- i) The Council by resolution.
- ii) The Mayor.
- iii) The Monitoring Officer.
- iv) Any 5 Members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within 7 days of the presentation of the requisition.
- v) The Mayor, at the request of the Leader and Cabinet.
- vi) An Overview and Scrutiny Panel under Rule 47c).

#### **C3.2 Business**

Where the extraordinary meeting has been called by Members of the Council the only business to be transacted at the Meeting shall be the business specified in the Notice of Meeting as specified in the Members requisition submitted to the Mayor under 3.1 (iv) above and such business as the Mayor in his/her discretion shall allow.

### **C4 APPOINTMENT OF SUBSTITUTE MEMBERS OF PANELS**

#### **C4.1 Allocation**

For Committees, Forums and Panels the Council on allocating seats shall also allocate Substitute Members on the same political balance as applied to the Substantive Members on the relevant Committee, Forum or Panel.

A Substitute Member will be able to act as a Substitute for one meeting only, the Substantive Member will automatically replace the Substitute at the next Panel, Forum or Committee meeting, unless the Substitute is re-appointed in accordance with C4.4.

#### **C4.2 Numbers**

For each Committee, Forum or Panel, the Council will appoint up to the total entitlement to seats in respect of each political group as that group holds substantive seats on that Committee, Forum or Panel.

**C4.3 Powers and duties**

Substitute Members will have all the powers and duties of any ordinary Member of the Committee, Forum and Panel but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

**C4.4 Substitution**

Substitute Members may attend meetings in that capacity only:

- i) To take the place of the ordinary Member for whom they are designated substitute for their meeting;
- ii) Where the ordinary Member will be absent for the whole of the meeting; if the ordinary Member arrives after the meeting has started, the substitute member shall continue and the ordinary Member shall be present as a non-member of that body.
- iii) After notifying the Democratic Services Manager by 12.00 noon on the day of the meeting of the intended substitution.

**C5 TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Democratic Services Manager and notified in the summons.

**C6 NOTICE OF AND SUMMONS TO MEETINGS**

C6.1 The Democratic Services Manager will give notice to the public of the time and place of any meetings in accordance with the Access to Information Rules. At least five clear working days before a meeting, the Democratic Services Manager will send a summons signed by him or her by post to every Member of the Council or leave it at their usual place of residence or, at the Member's request, send it by e-mail. 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.

C6.2 Where, by reason of special circumstances, the Mayor is of the opinion that an item should be considered at a meeting as matter of urgency, the requirement to give five clear days shall not apply and any Motion relating to such an item will be treated as a Motion without Notice under C13(s).

**C7 CHAIRMAN OF MEETING**

The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to Committee, Forum and Panel meetings, references to the Chairman also include the Chairman of Committees, Forums and Panels.

## **C8 QUORUM**

The quorum of a meeting will be one quarter of the whole number of Members appointed to the relevant body unless otherwise specified in that body's Terms of Reference. During any meeting if the Mayor counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **C9 QUESTIONS BY THE PUBLIC**

### **C9.1 General**

Members of the public may ask questions of Members of the Cabinet or a Deputy Lead Member or a Chairman of any Committee, Forum or Panel at ordinary meetings of the Council for which the Council will set aside a period of 20 minutes, which may be extended at the discretion of the Mayor.

### **C9.2 Order of questions**

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

### **C9.3 Notice of questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Democratic Services Manager no later than midday, 7 clear working days before the day of the meeting. Each question must give the name and address of the questioner and must name the Member of the Council to whom it is to be put. The Mayor may, in his discretion, allow a question to be asked when the period of notice required has not been given, if he considers the matter to be urgent.

### **C9.4 Number of questions**

At any one meeting no person may submit more than two questions.

#### **C9.5 Scope of questions**

The Democratic Services Manager may reject a question if it:

- Is not about a matter for which the local authority has a responsibility or which affects the Borough.
- Is defamatory, frivolous or offensive;
- Relates to any existing or proposed application, permission, licence, consent, benefit, grant or enforcement action.
- Is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- Requires the disclosure of confidential or exempt information.
- No question shall be preceded by more than 60 words of introduction.
- The Democratic Services Manager may, after consultation with the questioner and with the questioner's consent, amend the wording of the question for the purpose of clarification.

#### **C9.6 Record of questions**

The Democratic Services Manager will maintain a register of all questions, which will be open to public inspection. A copy of the question will be sent immediately to the Member to whom it is to be put. Rejected questions will include reasons for rejection. Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting.

#### **C9.7 Asking the question at the meeting**

The Mayor will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with. Both the question and any supplementary question shall be put and answered without discussion

#### **C9.8 Supplementary question**

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question.

The supplementary question must arise directly out of the original question or reply and shall not have the effect of introducing any new subject matter. The questioner shall be

allowed up to 1 minute to put the supplementary question. The Mayor may reject a supplementary question on any of the grounds in Rule 9.5 above.

#### **C9.9 Response**

An answer may take the form of

- a) a direct oral answer
- b) where the desired information is in a publication of the Council or other published work, a reference to that publication
- c) where the reply cannot conveniently be given orally, a written answer sent later to the questioner
- d) a Member responding to a question shall be allowed up to five minutes to reply to the initial question and up to two minutes to reply to a supplementary question

#### **C9.10 Written Answers**

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

#### **C9.11 Reference of question to Cabinet, Committee, Forum or Panel**

No discussion will take place on any question, but any Member may move that a matter raised by a question be referred to Cabinet or the appropriate Committee, Forum or Panel. Once seconded, such a Motion will be voted on without discussion.

### **C10 PETITIONS**

**C10.1** The Royal Borough of Windsor and Maidenhead welcomes correspondence from the public and welcome petitions as one way in which residents can let the Council know their concerns. The scheme below sets out how the authority will respond to petitions which it receives.

#### **C10.2 What is a petition?**

The Council treats as a petition any communication which is signed by a number of people who live, work or study in the Borough. For practical purposes, the Council normally sets a requirement for at least 25 signatories or petitioners before correspondence is treated as a petition, although the Democratic Services Manager may accept a petition containing fewer signatories if those people represent a significant proportion of



people who may have a direct interest in the issue of the subject of the petition.

### C10.3 **What should a petition contain?**

A petition should include –

- A clear statement of your concerns and what you want the authority to do. This must relate to something which is the responsibility of the authority, or over which the authority has some influence. Where a petition relates to a matter which is within the responsibility of another public authority, we will ask the petition organiser whether s/he would like us to redirect the petition to that other authority. Where a petition relates to a matter over which the authority has no responsibility or influence, we will return the petition to the petition organiser with an explanation for that decision;
- The name and contact details of the “petition-organiser” or someone to whom you would like any correspondence about the petition to be sent. Contact details may be either a postal address or an e-mail address;
- The names of at least 25 petitioners (which can include the petition organiser) accompanied by their address (at minimum postcode). Where the petition is in paper form, this must include actual signatures from each petitioner. Where the petition is in electronic form, this must include a valid email address for each signatory (see Rule A10.13 below). If you want your petition to be debated at a meeting of the Council (“A Petition for Debate”), or to trigger a public meeting of an Overview and Scrutiny Panel at which a specific officer will be required to report (“A Petition to hold an Officer to Account”), your petition will need to contain a higher number of signatories or petitioners (see Rules C10.31-10.32 below).

C10.4 If you are submitting the petition in response to a consultation on a specific matter, for example a planning or licensing application, please identify the matter which it relates to, so that we can ensure that your petition is considered along with original matter.

### C10.5 **Who should you send a petition to?**

Where you submit a petition in response to consultation by the authority, please address it to the return address set out in the consultation invitation. This will ensure that it is reported at the same time as the matter to which it relates is considered.

- C10.6 We have appointed a Petitions Officer, who is responsible for receiving, managing and reporting all other petitions sent to the authority. Please address petitions to: –
- The Petitions Officer  
Democratic Services  
Royal Borough of Windsor and Maidenhead  
Town Hall  
St Ives Road  
Maidenhead  
SL6 1RF
- C10.7 Alternatively, A Member of the Council may submit a petition to any ordinary meeting of the Full Council on behalf of petitioners. Notice of the petition must have been given to the Democratic Services Manager not later than noon on the last working day prior to the meeting.
- C10.8 Council will set aside up to 10 minutes, which may be extended at the Mayor's discretion, to receive Petitions under Rule C10.7.
- C10.9 A Member submitting a Petition may speak for no more than 2 minutes to summarise the contents of the Petition. The petition will then be referred by the Mayor via the Petitions Officer, to the relevant Head of Service, to Cabinet, to the appropriate Lead Member(s) or to the relevant Committee, Forum or Panel (if any) without debate, either to consider and reach a decision on the Petition's context or to report back to the Council, as the Mayor shall determine.
- C10.10 The lead petitioner will be invited to attend the relevant meeting to which the Petition is referred or the future Council meeting to which it is reported, and will be invited to address that meeting for up to 5 minutes. The Petition will appear on the agenda for the relevant meeting immediately after the items on Apologies, confirmation of minutes and declaration of interests.
- C10.11 The Mayor, on the advice of the Democratic Services Manager, may reject any Petition which in his/her opinion is offensive or frivolous (see also Rule C10.51 below)
- C10.12 The Petitions Officer will ensure that all petitions are acknowledged to the petition organiser and entered on the authority's petitions log on the Borough website, and that the website is regularly up-dated with information on the progress of each petition. The Petitions Officer can also provide advice about how to petition the authority or the progress of a petition, at either of the above addresses or by telephone at 01628 796529.

C10.13 You are able to submit petitions in electronic format to the Council via the council's e-petition website (<https://petitions.rbwm.gov.uk>). Such petitions will remain 'open' on the website for a set period of time, to allow other people to sign. The period of time will be agreed with the lead petitioner, but will be no longer than 6 months. When an individual signs an e-petition, they will be asked to provide their name, postcode and a valid email address. The individual will then be sent an email to the email address provided. This email will include a link which must be clicked on in order to confirm the email address is valid. Once this step is completed, the individual's 'signature' will be added to the petition. People visiting the e-petition will be able to see the name of the signatory but contact details will not be visible. The Mayor, in consultation with the Managing Director and the Leader of the council, may agree to accept e-petitions submitted via other e-petition websites.

#### C10.14 **The Petitions Website**

When a petition is received, within 5 working days the Petitions Officer will add the details of the petition to the petition log including the subject matter of the petition, its date of receipt and the number of signatories or petitioners. The petition organiser's name and contact details will only be included on the website if s/he so requests.

C10.15 At each stage of the consideration of the petition, within 5 working days of any decision, the Petitions Officer will ensure that the petitions website is updated to ensure that petitioners can track progress of their petition.

C10.16 As soon as it is decided who the petition will be considered by within the authority, 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 authority's decision will be notified to the petition organiser and put on the website within 5 working days of that consideration.

#### C10.17 **The role of Ward Councillors**

When a petition is received which relates to a local matter (particularly affecting specific electoral wards), the Petition Officer will send a copy of the petition to each Group Leader and relevant Ward Councillor at the same time as acknowledging receipt of the petition to the petition organiser.

C10.18 When the petition is considered at any Council meeting, the relevant Ward Councillor will be invited to attend and to address the meeting for no more than 3 minutes (or 3 minutes each), immediately after the petition organiser.

**C10.19 What happens when a petition is received?**

How we deal with a petition depends on which type of petition you submit. Some of the possible options are:

- Taking the action requested in the petition
- Considering the petition at a meeting of the authority
- Holding an inquiry
- Holding a public meeting
- Commissioning research
- A written response to the petition organiser setting out the authority's views on the request in the petition
- Referring the petition to an overview and scrutiny committee

C10.20 Please note that petitions which raise issues of possible Councillor misconduct will be taken as complaints arising under the Local Government Act 2000 and will be reported to the Managing Director, rather than considered under this Petitions Procedure

C10.21 Whenever a petition is received, within 5 working days of receipt, the Petitions Officer will acknowledge receipt to the petition organiser.

C10.22 If a petition is sent to any officer in the Council other than the Petitions Officer, the officer will notify the Petitions Officer of the petition so a central log of petitions may be maintained.

C10.23 For ordinary petitions, the following process shall apply. For consultation petitions, statutory petitions, petitions for debate or petitions to hold an officer to account, see Rules C 10.28-10.38 below.

C10.24 If a petition is submitted to a Head of Service directly, via the Petitions Officer or via Full Council, the Head of Service will be responsible for convening a meeting between the Head of Service, the Lead Member(s), the lead petitioner(s), and Ward Councillors, to discuss the content of the petition

C10.25 If a mutually agreeable solution can be reached between all parties, which does not require an executive or regulatory decision, then the petition can be addressed accordingly, without the need for it to be presented to Cabinet, or any other relevant body.

C10.26 However, if a mutually agreeable solution cannot be reached, then both parties may request that the petition be referred to the appropriate body for consideration and debate.

C10.27 Unless the matter has been resolved to the satisfaction of the petition organiser, the Petitions Officer will provide a substantive response to the petition organiser setting out who the petition will be reported to for consideration, when and where that will take place and inviting the petition organiser to attend that meeting and to address the meeting for up to 5 minutes on the issue covered by the petition. The invitation to the petition organiser to address the meeting is in addition to any other public speaking rights at that meeting.

C10.28 **What happens to a Consultation Petition?**

Consultations Petitions are submitted in response to an invitation from the Council to submit representations on a particular proposal or application, such as a planning or licensing application. The Council's Constitution defines who will take different types of decision, as set out in the Scheme of Delegations and the Terms of Reference of Panels, Forums and Committees. Therefore, all petitions will be forwarded to the relevant department to deal with.

C10.29 **What happens to a Statutory Petition?**

Particular Acts of Parliament require the Council to consider petitions, for example a petition for a review of Parish Councils, or a petition for a directly-elected Mayor. Where you submit a petition under such a specific statute, we will report it to the next available meeting of the Council in accordance with the statutory requirements.

C10.30 **What happens to Petitions for Debate?**

If you want your petition to be reported to and debated at a meeting of the Full Council, it must contain at least 1000<sup>1</sup> signatories or petitioners.

C10.31 Petitions for Debate will be reported to the next convenient meeting of Council. Petitions will not be considered at the Annual Meeting of Council or at Extraordinary Meetings of Council which are not convened to consider the subject matter of the petition.

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<sup>1</sup> The number of signatories or petitioners required for Petitions for Debate, and for Petitions to Hold and Officer to Account have been set by the authority to try to ensure that matters of genuine concern can be brought to the authority's attention. These requirements will be reviewed periodically in the light of the number of petitions received, to ensure that the requirements are not excessive.

C10.32 As set out below, the petition organiser will be invited to address the meeting for up to 5 minutes on the subject of the petition.

**C10.33 What happens to a Petition to Hold an Officer to Account?**

If you want your petition to be considered at a meeting of an Overview and Scrutiny Panel, where an officer, identified either by name or by post title, will be required to answer questions on the conduct of a particular matter, your petition should contain at least 100 signatories or petitioners. The authority has determined that such petitions must relate to the Managing Director, a Director or a Head of Service of the authority. The grounds given in the petition for attendance at a meeting of the relevant Overview & Scrutiny Panel must relate to their job; it cannot relate to their personal circumstances or character. Where the petition raises issues of competence or misconduct, the petition will be referred to the Managing Director (or to the Head of Human Resources in respect of the Managing Director) and will be considered under the authority's Disciplinary Procedures, and not under this Petitions Procedure.<sup>2</sup>

C10.34 Petitions to hold an officer to account will be reported to the next convenient meeting of the relevant Overview and Scrutiny Panel.

C10.35 In advance of the Panel meeting, the petition organiser will be invited to submit a list of questions which s/he would like put to the officer at the meeting. These questions will be provided to the Chairperson of the Panel, who will decide whether they are appropriate, and to the officer concerned, in advance of the meeting.

C10.36 At the meeting, the Chairperson will invite the petition organiser to address the Panel for a maximum of 5 minutes on the issue<sup>3</sup>, and the relevant officer will then be required to report to the Panel in relation to the conduct of the subject matter of the petition. Members of the Panel may question the officer, and the Chairperson may invite the petition organiser to suggest questions for him/her to put to the officer.

C10.37 The Overview and Scrutiny Panel can decide that for the purposes of addressing concerns raised in a petition it is more

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<sup>2</sup> Note that the Local Democracy, Economic Development and Construction Act 2009 makes no provision for handling petitions which raise issues of officer or member misconduct or officer competence, but in practice such petitions cannot be handled under the Petitions Procedure and must be handled under the procedures appropriate to such matters.

<sup>3</sup> Note that the 2009 Act does not give the petition organiser a right to speak at the Committee meeting, but the Council has decided that s/he should be invited to set out the petitioners' concerns in relation to the subject matter of the petition.

appropriate for another officer to be called instead. The Panel may also consider it appropriate to call the relevant elected Member with responsibility for the service area in question, in addition to the appropriate senior officer.

C10.38 After the relevant person has appeared before the Overview and Scrutiny Panel, the Panel must make a report or recommendations to the authority (under its existing powers) and send a copy of that report or recommendations to the petition organiser.

C10.39 **At the meeting, when the matter to which the petition relates is considered –**

Petitions which do not relate to an ordinary item of business will be considered before the normal business of the meeting, and will be considered in the order in which they were received, unless the Chairperson at the meeting determines otherwise<sup>4</sup>. A maximum of 30 minutes will be allowed at each meeting for considering such petitions and any petitions not reached in the time allowed will be deferred until the next meeting.<sup>5</sup> The maximum time of 30 minutes can be overruled at the Mayor's discretion.

C10.40 The Chairman of the meeting may invite a relevant officer to set out the background to the issue before inviting the petition organiser to address him/her for up to 5 minutes. The Chairman will then invite any relevant Ward Councillors present to address him/her on the matter for up to 3 minutes (each). The Chairman will then invite a relevant officer(s) to advise him/her/the meeting, after which the matter will be open for debate among members of the decision-making body.

C10.41 Within 5 working days of the consideration of the petition by the relevant meeting, the Petitions Officer will notify the petition organiser of the decision and advise him/her that if s/he is not satisfied with that decision, s/he may require the matter to be reported to the next convenient meeting of the appropriate Overview and Scrutiny Panel for review.

C10.42 At each stage, the Petitions Officer will enter the relevant information on the website at the same time as it is sent to the petition organiser.

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<sup>4</sup> In practice, where one person has submitted more than one petition, his/her second petition will be taken after consideration of the first petition submitted by each other person, and so on.

<sup>5</sup> Note that the Local Democracy, Economic Development and Construction Act 2009 does not provide for a limit on the time allowed for debating petitions, but it is included here to ensure that the authority can continue to discharge its other functions effectively.

**C10.43 Appeal to an Overview and Scrutiny Panel**

If the petition organiser is not satisfied with the authority's response to the petition, he/she may appeal to an Overview and Scrutiny Panel by notifying the Petitions Officer of his/her intention to appeal within 20 working days of being notified of the authority's decision on the petition.

C10.44 Within 5 working days of receipt of intention to appeal, the Petitions Officer will determine which is the relevant Overview and Scrutiny Panel and will notify the petition organiser of the time, date and place of the next convenient meeting of that Overview and Scrutiny Panel and will invite the petition organiser to attend the meeting and to address the Committee for up to 3 minutes on why s/he considers that the authority's decision on the petition is inadequate.

C10.45 At that meeting, the Overview and Scrutiny Panel will invite the petition organiser and Ward Councillors to make their representations and to explain why s/he considers that the response was insufficient. Should the Panel determine that the authority has not dealt with the petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to Cabinet and arranging for the matter to be considered at a meeting of the full Council.

**C10.46 The role of the Petition Organiser**

The petition organiser will receive acknowledgement of receipt of the petition within 5 working days of its receipt by the authority.

C10.47 Where the petition is not accepted for consideration (see Rule A10.51 below for grounds for rejection of petitions), the petition organiser will be advised by the Petitions Officer of the rejection and the grounds for such rejection.

C10.48 The petition organiser may nominate another person to address the meeting and to answer any questions on the matter.

C10.49 The petition organiser will be regularly informed by the Petitions Officer of any decisions in respect of the petition and will be formally notified of the outcome of the petition's consideration within 5 working days of such decision.

C10.50 The petition organiser must notify the Petitions Officer of his/her intention to appeal to an Overview and Scrutiny Panel against the decision of the authority relating to the petition within 20 working days of being notified of that decision, and may attend and address the meeting of the Overview and Scrutiny Panel for



up to 3 minutes as to why he/she considers that the authority's decision on the petition was inadequate.

#### **C10.51 Petitions which will not be reported**

- **Duplicate Petitions**

Where more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, each petition organiser will be treated as an independent petition organiser, but only the petition organiser of the first petition to be received will be invited to address the relevant meeting.
- **Repeat Petitions**

Where a petition will not normally be considered where they are received within 6 months of another petition being considered by the authority on the same matter.
- **Rejected Petitions**

Petitions will not be reported if in the opinion of the Petitions Officer, they are rude, offensive, defamatory, scurrilous, time-wasting or otherwise inappropriate or do not relate to something which is the responsibility of the authority, or over which the authority has some influence. They will also not be reported if they relate to something which has already been dealt with by the Council or another appropriate body or are in the process of being so dealt with. Petitions that raise issues of competence or misconduct of an officer, will be referred to the Managing Director (or to the Head of Human Resources in respect of the Managing Director) and will be considered under the authority's Disciplinary Procedures, and not under this petitions procedure. Petitions which raise issues of possible Councillor misconduct will be taken as complaints arising under the Local Government Act 2000 and will be reported to the Managing Director, rather than considered under this petitions procedure. In these instances, all petitions will be forwarded by the Petitions Officer to the appropriate department.

#### **C11 QUESTIONS BY MEMBERS**

##### **C11.1 On reports of Cabinet, Committees, Forums or Panels**

A Member of the Council may ask:

- the Leader; or
- a Cabinet Lead Member; or
- a Deputy Lead Member; or
- a Chairman of a Committee, Forum or Panel

(who in each case may nominate another relevant Member to reply);

any question, without written or other notice, upon an item contained in a report of Cabinet or a Committee, Forum or Panel, when that item is being received or is under consideration by Council.

#### **C11.2 Questions on notice at Council**

Subject to Rule C11.4, a Member of the Council may ask a written question on any matter in relation to which the Council has powers or which affects the Borough, to:-

- the Leader; or
- a Member of the Cabinet; or
- a Deputy Lead Member; or
- the Chairman of any Committee, Forum or Panel  
(who in each case may nominate to reply);
- a Member of the Council who is a Council appointed representative on the Police and Crime Panel or the Fire and Rescue Service and who may nominate another Member who is also a Council appointed representative on the same body. (Such question to be restricted to matters concerning the relevant outside body.)

Any of the above Members may decline to answer any particular question but in doing so must give his/her reasons.

#### **C11.3 Questions on notice at Panels, Committees and Forums**

Subject to Rule C11.4, a Member of a Committee, Forum or Panel may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the Royal Borough and which falls within the terms of reference of that Committee, Forum or Panel.

#### **C11.4 Notice of questions**

- A Member may only ask a question under Rule C11.2 or C11.3 if either:

- a) they have given at least 7 clear working days' notice in writing of the question to the Democratic Services Manager; or
  - b) the question relates to urgent matters and is raised by the Opposition Leader or Deputy Leader and they have the consent of the Member to whom the question is to be put. The content of the question shall be given to the Democratic Services Manager by 10.00 hours on the day of the meeting;
- no Member (other than the Opposition Leader or Deputy Leader under b) above shall submit more than 2 questions under Rule C11.2 or C11.3 to a single Council or other meeting and every such question shall be on a single subject over which the Council has power or which directly affects the Borough and shall not exceed 60 words in total. Provided that the Democratic Services Manager may after consultation with the Member who has submitted the question and with the Member's consent, amend the wording of it for the purpose of clarification;
  - Members shall not be entitled to ask any question which relates to any existing or proposed application, permission, licence, consent, benefit, grant or enforcement action or any business in respect of which a Resolution under Section 100A(4) of the Local Government Act 1972 would be passed;
  - every question shall be put and answered without discussion; if the Member is unable to attend the meeting to put the question, the Member can nominate another Member to ask the question on his/her behalf or give notice to the Democratic Services Manager to hold the question over to the next meeting.

#### **C11.5 Response**

An answer may take the form of:

- a) a direct oral answer;
- b) where the desired information is in a publication of the Council or other published work, a reference to that publication;
- c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner;
- d) A Member responding to a question shall be allowed up to five minutes to reply to the initial question and up to two minutes to reply to a supplementary question.

#### **C11.6 Supplementary question**

A Member asking a question under Rule C11.2 or C11.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply and shall not have the effect of introducing any new subject matter. The Member shall be allowed up to one minute to put the supplementary question.

## **C12 MOTIONS ON NOTICE**

### **C12.1 Notice**

Except for Motions which can be moved without notice under Rule 13, written notice of every Motion, signed by the Member proposing it or sent by electronic mail by the Member proposing it must be delivered to the Democratic Services Manager not later than 12 noon, 7 clear working days immediately preceding the next Council. These will be dated, numbered in the order they are received and entered in a register open to public inspection.

### **C12.2 Motion set out in agenda**

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

### **C12.3 Scope**

Motions must be about matters for which the Council has a responsibility or which affect the Royal Borough and shall neither contain more than three related proposals nor be preceded by more than 60 words. No Motion shall be accepted or debated which, in the opinion of the Mayor, is not relevant to some matter over which the Council has power or which does not directly affect the Royal Borough or is offensive or frivolous. The Democratic Services Manager may, after consultation with the Member who has submitted a Notice of Motion, amend the wording of the Motion either for the purpose of clarification or to ensure that it is not offensive or frivolous.

### **C12.4 Number Of Motions**

No Member of the Council shall have more than one Notice of Motion on the Summons for any single Council meeting.

### **C12.5 Motions not Moved**

If a Motion, notice of which is specified in the Summons, is not moved it shall, unless postponed by consent of the Council, be treated as abandoned and shall not be moved without fresh

notice. Any Member who has not submitted that Notice of Motion may in the event of the absence or inability of the Member who has submitted the Motion, move the Motion.

### **C13 MOTIONS WITHOUT NOTICE**

The following Motions may be moved without notice:

- a) to appoint a Chairman of the meeting at which the Motion is moved;
- b) in relation to the accuracy of the minutes;
- c) to change the order of business in the agenda;
- d) to refer something to an appropriate body or individual;
- e) to appoint a Committee, Panel or Member arising from an item on the summons for the meeting;
- f) to receive reports or adoption of recommendation of Cabinet, Committee, Forums, Panel or Officers and any resolutions following from them;
- g) to withdraw a Motion;
- h) to amend a Motion;
- i) to proceed to the next business;
- j) that the question be now put;
- k) to adjourn a debate;
- l) to adjourn a meeting;
- m) to suspend a particular Council procedure rule;
- n) to exclude the public and press in accordance with the Access to Information Rules;
- o) to not hear further a Member named under Rule C21.5 or to exclude them from the meeting under Rule C21.6;
- p) to give the consent of the Council where its consent is required by this Constitution;
- q) to extend the time limit for speeches;
- r) to vote on the Mayor's ruling under Rule C25.
- s) to consider an urgent item under Rule C6.2

**C14 RULES OF DEBATE****C.14.1 No speeches until Motion seconded**

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

**C14.2 Right to require Motion in writing**

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

**C14.3 Secunder's speech**

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

**C14.4 Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. Except when the annual budget debate is taking place, the Member proposing a Motion, recommendation or amendment shall not speak for more than five minutes. No other speech may exceed five minutes. For the annual budget debate the Member proposing the adoption of the budget and the Opposition spokesman shall each be allowed to speak for ten minutes to respectively propose the budget and respond to it. The Member proposing the budget may speak for a further five minutes when exercising his/her right of reply.

**C14.5 When a Member may speak again**

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

- a) to speak once on an amendment moved by another Member;
- b) to move a further amendment if the Motion has been amended since he/she last spoke;
- c) if his/her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- d) In exercise of a right of reply;

- e) On a point of order; and
- f) By way of personal explanation.

#### C14.6 **Amendments to Motions**

- a) An amendment to a Motion must be relevant to the Motion and will either be:
  - i) to refer the matter to an appropriate body or individual for reconsideration;
  - ii) to leave words out;
  - iii) to leave out words and insert or add others;
  - iv) to insert or add words;as long as the effect of ii) to iv) is not to negate the purpose of Motion or to introduce a new proposal unrelated to the Motion.
- b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of provided the Mayor may permit two or more amendments to be discussed, (but not voted on), together if in his/her opinion this would facilitate the proper conduct of the Council's business.
- c) If an amendment is not carried, other amendments to the original Motion may be moved.
- d) If an amendment is carried, the Motion as amended takes the place of the original Motion. This becomes the substantive Motion to which any further amendments are moved.
- e) After an amendment has been carried, the Mayor will read out the amended Motion before accepting any further amendments, or if there are none, put it to the vote.

#### C14.7 **Alteration of Motion**

- a) A Member may alter a Motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- b) A Member may alter a Motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

- c) Only alterations which could be an amendment may be made.

#### C14.8 **Withdrawal of Motion**

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

#### C14.9 **Right of reply**

- a) The mover of a Motion has a right to reply at the end of the debate on the Motion, immediately before it is put to the vote.
- b) If an amendment is moved the mover of the original Motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- c) The mover of the amendment has a right of reply to the debate on his or her amendment, immediately after b) above and immediately prior to the amendment being put to the vote.

#### C14.10 **Motions which may be moved during debate**

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

- a) to withdraw a Motion;
- b) to amend a Motion;
- c) to proceed to the next business;
- d) that the question be now put;
- e) to adjourn a debate;
- f) to adjourn a meeting;
- g) to extend the time limit for speeches;
- h) to exclude the public and press in accordance with the Access to Information Rules;
- i) to not hear further a Member named under Rule C21.5 or to exclude them from the meeting under Rule C21.6;
- j) to vote on the Mayor's ruling under Rule C27..

#### C14.11 **Closure Motions**



- a) A Member who has not previously spoken in the debate may move, without comment, any of the following Motions at the end of a speech of another Member:
  - i) to proceed to the next business;
  - ii) that the question be now put;
  - iii) to adjourn a debate; or
  - iv) to adjourn a meeting.
- b) If a Motion to proceed to next business is seconded, the Mayor will give the mover of the original Motion a right of reply and then put the procedural Motion to the vote.
- c) If a Motion that the question be now put is seconded, the Mayor will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- d) If a Motion to adjourn the debate or to adjourn the meeting is seconded, the Mayor will put the procedural Motion to the vote without giving the mover of the original Motion the right of reply.

#### C14.12 **Point of order**

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

#### C14.13 **Personal explanation**

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

**C16 PREVIOUS DECISIONS AND MOTIONS****C16.1 Motion to rescind a previous decision**

A Motion or amendment which has the effect or intention to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of Motion is signed by at least fifteen Members. (In applying this Rule C16.1 and Rule C16.2 to Committees, Forums and Panels, the Motion must be signed by at least 1/3<sup>rd</sup> of the Members of the relevant Committee, Forum or Panel.)

**C16.2 Motion similar to one previously rejected**

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

**C16.3 Similar items on Council Agenda**

Where two items being recommended or proposed as Motions appear on an agenda, or where two or more items appear to relate to the same issue, one of which would have the effect or intention of rescinding the other, the following procedure will be adopted:-

- i) The Mayor will put to the vote, without debate, that the order of business should be varied under Rule C2.2 to allow the items to be debated together but voted upon separately, the order of matters debated and put to the vote will be determined by Council. If the vote is carried, he/she will specify the order of speeches proposing, seconding and exercising the right of reply to be followed but in any case where one of the items is a recommendation from the Cabinet, the Lead Member shall be given the final right of reply.
- ii) If the vote is not carried, the items will be put to the Council strictly in accordance with C2.1. When a second or subsequent item is to be debated and it would have the effect or intention of rescinding a resolution passed earlier in the Meeting, it shall not be debated but shall fall and thereafter Rules C16.1 and C16.2 will apply.

**C17 VOTING****C17.1 Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put. The Mayor may, at any stage in the process, exercise his second or casting vote as set out in C17.2.

**C17.2 Mayor's casting vote**

**C17.2.1** If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There shall be no restriction on how the Mayor chooses to exercise his second or casting vote.

**C17.2.2** Where the Mayor has voted on the proposition which is tied, he may exercise a second vote.

**C17.2.3** Where the Mayor has not voted on the proposition which is tied, he may exercise a casting vote.

**C17.2.4** If the Mayor declines to exercise a second or casting vote, the proposal the subject of the vote shall fall subject to C17.1 above.

**C17.3 Recording of Votes**

The mode of voting at meetings of the Council shall be via a named vote. The Democratic Services Manager will record the names and votes of those Members present and voting and include them in the Minutes of the meeting, unless the voting was unanimous, when the minutes will indicate that the matter was determined unanimously. The result of the vote will be announced to the meeting.

**C17.4 Voting on appointments**

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

**C18 MINUTES****C18.1 Signing the minutes**

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the

previous meeting be signed as a correct record. Only the accuracy of the minutes can be discussed.

**C18.2 No requirement to sign minutes of previous meeting at an extraordinary meeting or at the Annual Meeting**

Where an Extraordinary Meeting has been called under paragraph 3 of Schedule 12 of the Local Government Act 1972 or the Annual Meeting has been held, and either would be the next meeting for the purpose of A18.1, then the minutes will be considered at the next following meeting (after the Extraordinary Meeting or the Annual Meeting, as the case may be) and that meeting shall be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

**C18.3 Form of minute**

Minutes will contain all Motions and amendments in the exact form and order the Mayor put them.

**C19 RECORD OF ATTENDANCE**

All Members 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.

**C20 EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 8E of this Constitution or Rule C22 (Disturbance by Public).

**C21 MEMBERS' CONDUCT**

**C21.1 Member wishing to Speak**

A Member wishing to speak shall indicate by raising his/her hand and shall speak when called upon to do so by the Mayor. When called the Member shall stand when speaking and shall address The Mayor using the form 'Mr Mayor' or 'Madam Mayor' as appropriate. The Members shall speak of each other and of Officers by their respective titles.

**C21.2 Standing to speak**

When a Member speaks at full Council they must, unless the Mayor in his/her discretion provides otherwise, stand and address the meeting through the Mayor. If more than one Member stands, the Mayor will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is

speaking unless they wish to make a point of order or a point of personal explanation.

**C21.3 Content of Speech**

Members shall direct and confine their speeches to the question under discussion and shall avoid repetition of statements or views expressed previously in the debate. Members should treat other Members with respect and courtesy and avoid improper and/or offensive remarks. The Mayor may require a Member making remarks the Mayor has judged offensive or improper to withdraw them.

**C21.4 Mayor standing or using his gavel**

When the Mayor stands during a debate or uses his gavel and invokes this Rule, any Member speaking at the time must stop and sit down. The meeting must be silent.

**C21.5 Member not to be heard further**

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

**C21.6 Member to leave the meeting**

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

**C21.7 General disturbance**

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

**C22 DISTURBANCE BY PUBLIC**

**C22.1 Removal of Member of the public**

If a Member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room.

**C22.2 Clearance of part of meeting room**

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

**C23 FILMING, RECORDING AND PHOTOGRAPHY AT COUNCIL MEETINGS**

C23.1 The Council supports the principle of transparency and encourages the filming, recording, photographing of meetings open to the public. In order to balance the wishes of those who want to record the meeting and those attending the following principles will apply:

- a) Any filming/ recording/ photography must take place from positions in the meeting room agreed by the Mayor/Chairman to ensure the view of members, officers, public and media representatives is not obstructed. Those intending to bring large equipment, or wishing to discuss any special requirements, are advised to contact the Democratic Services Team in advance of the meeting to seek advice and guidance.
- b) The use of flash photography or additional lighting in connection with recording/ filming will be permitted for short periods. The point at which this happens during the meeting must be agreed with the Mayor/Chairman.
- c) If the Mayor/Chairman feels the filming/ recording/ photography is disrupting the meeting in any way, the operator of the equipment will be required to stop. Anyone undertaking filming/ recording/ photography must comply with any requests made by the Mayor/Chairman of the meeting;
- d) The person recording proceedings must agree to ensure the film/ record/ photographs will not be edited in a way that could lead to misinterpretation of the proceedings. This includes refraining from editing the views being expressed in a way that may ridicule or show a lack of respect towards those being filmed/ recorded/ photographed;
- e) The responsibility for how any film or recording or photography is used rests with the person doing it, not the Council. Those filming proceedings should make themselves aware of their responsibilities under current legislation, particularly in the area of publication and seeking consent.

C23.2. The Democratic Services Team will ensure signs are put in place before the meeting starts to remind attendees that filming/ recording/ photography may take place. Meeting agendas will also carry this message, and this will also be added to the Council's Agenda Meetings web page.

**C23.3 During the meeting**

Anyone seated in the public area or anyone attending the meeting to speak will have the opportunity to express his or her wish not to be filmed/ recorded/ photographed and to be guided to seating areas away from the area being filmed/ recorded/ photographed. If a member of the public is attending to speak at the meeting and prefers not to be filmed/ recorded/ photographed their wish will take precedence.

C23.4. At all times the wishes of those who chose not to be involved will take precedence.

C23.5 If the Mayor/Chairman feels the filming/ recording/ photography is disrupting the meeting in any way or any pre-meeting agreement has been breached, the operator of the equipment will be required to stop.

C23.6. If someone refuses to stop recording when requested to do so, the Mayor/Chairman will ask the person to leave the meeting. If the person recording refuses to leave then the Mayor/Chairman may adjourn the meeting or make other appropriate arrangements for the meeting to continue without disruption. These will be in line with disorderly conduct procedures set out in the constitution.

C23.7 Anyone asked to leave a meeting because they have refused to comply with the Mayor's/Chairman's requests may be refused permission to film/ record/ photograph at future Council meetings.

C23.8. The Mayor/Chairman of the meeting has a right to withdraw consent to film/ record/ photograph at any time during the meeting.

**C24 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES****C24.1 Suspension**

All of these Council Rules of Procedure except Rule C17.4 and C18.2 may be suspended by Motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

**C24.2 Amendment**

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

**C25 DURATION OF MEETINGS**

C25.1 Unless the majority of members present vote for the meeting to continue, any meeting of the Council, its Committees, Forums, Panels and Sub-Committees, together with meetings of the Cabinet and its Sub-Committees, which commence at 7.30pm, and that has not concluded by 10.00pm will adjourn immediately at the conclusion of the agenda item then under discussion. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

C25.2 For all meetings of the Council, its Committees, Forums, Panels and Sub-Committees, together with meetings of the Cabinet and its Sub-Committees, that commence at 7.00pm or earlier, rule C25.1 above shall apply where the meeting has not concluded by 9.30pm.

**C26 APPLICATION TO COMMITTEES, FORUMS, PANELS AND SUB-COMMITTEES**

C26.1 All of the Council Rules of Procedure apply to meetings of the Council. None of the rules apply to meetings of the Cabinet. Only Rules C5-8; C11 - 20 (but not Rule 14.4 and 14.5 (so far as they apply to length of speeches and speaking only once in the debate)); C22 - 28 (but not Rule C21.1) and C30 - 32 apply to meetings of Committees, Forums and Panels. (See Appendix to these Rules.)

C26.2 Voting at Committee, Forum and Panel meetings shall be as set out in rule C17.3 of these procedure rules.

C26.3 In the minutes of Panels, Forums and Committees it shall not be necessary for particulars of Motions and amendments preceding the resolution eventually carried to be recorded.

**C27 INTERPRETATION OF COUNCIL PROCEDURE RULES**

The ruling of the Mayor, on the advice of the Democratic Services Manager, as to the construction or application of any of the Council Procedure Rules or as to proceedings of the Council may only be challenged by a Motion under Rule C13) moved and seconded in accordance with these rules. Such Motion shall be moved, seconded and put to the vote without discussion, other than an explanation by the proposer for the Motion being proposed.

**C28 SEATING ARRANGEMENTS**

The Democratic Services Manager shall settle and publish seating plans for meetings of the Council.



**C29 MEMBERSHIP OF COMMITTEES, FORUMS AND PANELS**

C29.1 The maximum number of Members to serve on the Cabinet is set out in Article 6 of the Constitution. Membership of other Panels, Forums and Committees is as set out in Parts 4 and 6 of the Constitution. Except where authorised by statute or set out elsewhere in the Constitution the quorum specified in E 8 shall apply, being rounded up to the nearest whole number.

C29.2 Subject to the Members' Code of Conduct, any Member of the Council may attend any formal meeting of a Panel, Forum or Committee of which he/she is not a Member and, subject to prior approval of the Chairman, may speak but not vote at such meeting, providing this right may not be exercised:

- i) When a Committee, Forum or Panel is sitting in a judicial or quasi-judicial role, e.g. as an Appeals Panel.
- ii) When a Committee, Forum or Panel is considering a confidential matter, i.e. press and public are excluded, the Member will be presumed to be able to make a real contribution to the decision-making,
- iii) When the Cabinet is not a public Cabinet meeting
- iv) When the meeting is a briefing meeting and at which no decision will be taken.

Cabinet Members may attend meetings of the Overview and Scrutiny Panels but are only entitled to answer questions put to them by the Committee or to respond to call-in of a decision within their area of responsibility.

C29.3 Any Member of the Council may attend public meetings of Cabinet.

C29.4 No Member may be permitted to serve as a member or a substitute member of any regulatory Panel/Sub-Committee without first having attended an annual training session. For the purpose of this rule, regulatory panels/sub-committees are any Development Management Panel, Licensing Panel or Appeals Panel.

C29.5 No Member of the Cabinet can be a Member of an Overview and Scrutiny Panel.

C29.6 Any vacancy on a Forum, Panel or Committee caused as a result of the Member no longer being a Councillor or as a result of that Member notifying the Democratic Services Manager in writing that they have resigned their Membership of that Forum, Panel or Committee shall be reported to the next meeting of the

Council to enable the vacancy to be filled in accordance with political balance requirements as appropriate.

### **C30 CHAIRMANSHIP**

C30.1 Whenever the Chairman or Vice-Chairman of a Forum, Panel or Committee shall cease to hold office, the vacancy so caused shall be filled at the next meeting of the Council with the exception of the individual Appeals Panels which will appoint a Chairman amongst themselves for each meeting in accordance with C1.1.

C30.2 All other Forums, Panels and Committees which consist of Members of the Council and other persons shall have a Member of the Council as Chairman unless the Council shall agree otherwise.

C30.4 In the event of the Chairman being absent on any occasion, the Vice-Chairman shall take the Chair. In the event of both of them being absent, a Chairman for the time being may be appointed.

### **C31 MATTERS AFFECTING PERSONS EMPLOYED**

C31.1 No matter shall be raised at any meeting of the Council or at any meeting of any Committee, Forum or Panel, which is directed at the personal performance or conduct of an individual employee unless the matter shall first have been raised formally with the Manager and the Director concerned, and if the Member still feels dissatisfied, with the Managing Director, and ultimately, with the Chairman of the Employment Panel, unless the Officer Employment Procedure Rules, Part 8 B, provide otherwise.

C31.2 If any matter arises at any meeting of the Council, Cabinet, Forum, Committee or Panel as to the appointment, promotion, dismissal, salary, superannuation or conditions of service or as to the performance or conduct of any person employed by the Council such matter shall not be the subject of any discussion until a motion under Section 100(A)(4) of the Local Government Act 1972 to exclude the public has been put and carried.

C31.3 During the discussion or consideration of such matter, the employee concerned shall not be present or if they are an employee whose duties ordinarily call for their attendance at the meeting, they shall retire. Provided that this Rule shall not be construed so as to preclude the attendance of the employee concerned in order to make representations on their own behalf or either personally or by or with such representatives at the Employment Appeal Panel, or as the Council, Cabinet, Committee, Forum or Panel agrees to receive.

[Note: This Rule shall not apply to Members wishing to praise, congratulate or recognise favourably any work undertaken by, or conduct of, any individual employee.]

**Appendix****Rules which apply to Committees, Forums, Panels and Sub-Committees  
(Rule C26)**

- C5 Time and place of meeting
- C6 Notice of and summons to meetings
- C7 Chairman of meeting
- C8 Quorum
- C11 Questions by Members
- C12 Motions on notice
- C13 Motions without notice
- C14 Rules of debate but not Rules C14.4 and C14.5
- C16 Previous decisions and motions
- C17 Voting
- C18 Minutes
- C19 Exclusion of public
- C21 Members' conduct but not Rule C22.1
- C22 Disturbance by public
- C23 Filming, recording and photography At Council Meetings
- C24 Suspension of Rules
- C25 Duration of Meetings
- C26 Application
- C27 Interpretation
- C29 Membership of committees and panels
- C30 Chairmanship
- C31 Matters affecting person employed

# **PART 3 - THE EXECUTIVE / CABINET**

## **A - RESPONSIBILITIES AND PROCEDURE RULES FOR CABINET**

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**A.1 WHAT CAN CABINET DECIDE?****A1.1 The Role Of Cabinet**

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

**A1.2 Key Decisions**

All 'key decisions', as set out in the Forward Plan, will be taken by the Cabinet, a sub-committee of Cabinet, an individual cabinet member, or officers acting under delegated powers. 'Key decisions' are defined in Part 1 B Article 12.3b).

**A.2 HOW DOES THE CABINET OPERATE?****A2.1 Who may make executive decisions?**

The Leader will decide how the arrangements for the discharge of executive functions are to be exercised, from time to time as appears necessary. The Leader may provide for executive functions to be discharged by:

- i) the Cabinet as a whole;
- ii) a sub-committee of the Cabinet;
- iii) an individual Lead Member of the Cabinet;
- iv) an Officer;
- v) joint arrangements; or
- vi) another local authority

**A2.2 Delegation by the Leader**

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation. This will contain the following information about executive functions in relation to the coming year.

- i) The names, addresses and wards of the people appointed to the Cabinet by the Leader.
- ii) The extent of any authority delegated to the Cabinet Members individually, including details of the limitation on their authority.

- iii) The terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them (any other Cabinet Member may act as a substitute for the Substantive Member appointed).

A Substitute Member will be able to act as a Substitute for one meeting only, the Substantive Member will automatically replace the Substitute at the meeting of the Committee unless the Substitute is re-appointed as set out below.

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

Substitute Members may attend meetings in that capacity only:

- a) To take the place of the ordinary Member for whom they are designated substitute for that meeting;
  - b) Where the ordinary Member will be absent for the whole of the meeting;
  - c) After notifying the Democratic Services Manager by 12.00 noon on the day of the meeting of the intended substitution.
- iv) The nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those Cabinet Members appointed to any joint committee for the coming year.
  - v) The nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made.

#### **A2.3 Sub-delegation of executive functions**

- a) Where the Cabinet, a committee of the Cabinet or an individual Member of the Cabinet is responsible for an executive function, they may delegate further to joint arrangements or an Officer.
- b) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet then the Cabinet may delegate further to a committee of the Cabinet or to an Officer.



- c) Unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an Officer.
- d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

#### A2.4 **The Council's scheme of delegation and executive functions**

- a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Part 1B of this Constitution.
- b) The Leader may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Democratic Services Manager and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole. The Democratic Services Manager will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- c) Where the Leader seeks to withdraw delegation from a committee or panel, notice will be deemed to be served on that committee when he/she has served it on its Chairmen.

#### A2.5 **Conflicts of Interest**

- a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 7A of this Constitution.
- b) If every Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 7A of this Constitution.
- c) If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual Member or Officer, and should a conflict of interest arise, the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 7A of this Constitution.

#### A2.6 **Cabinet meetings – when and where?**

The Cabinet intends to meet at least **12** times per year at times to be agreed by the Leader at which it anticipates that the majority of business will be undertaken in public. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

#### A2.7 **Reports to Cabinet for decision by Cabinet**

Reports intended to be considered by Cabinet will normally be submitted, to the relevant Overview and Scrutiny Panel for its consideration prior to the report being considered and determined by Cabinet. Any observation or comment by the relevant Overview and Scrutiny Panel will be reported to Cabinet as part of that report under a heading 'Comments From Overview and Scrutiny Panel'..

Exemptions to this process may include:-

- 1) urgent items, where the process under Part 8 E15, E16 or Part 3 B4 applies, or the Leader agrees with the Chairman of the relevant Overview and Scrutiny Panel that there is insufficient time for the report to be considered by the Panel prior to the time by which the Cabinet needs to consider and determine the matter.
- 2) items where the Cabinet is required to make a decision and consultation is considered inappropriate as a matter of law.
- 3) routine business.
- 4) routine monitoring reports where Cabinet makes no formal decision.
- 5) any other matters as may be agreed on the basis that it would be inappropriate, unnecessary or for such other reason as may be specified and agreed between the Leader and the Mayor, or in his / her absence, the Deputy Mayor (to be noted in the Forward Plan.)

#### A2.8 **Meetings of Cabinet**

Wherever possible, the Cabinet will meet in public and the provisions of the Access to Information Procedure Rules shall apply as set out in Part 8 E12 Application of Rules to the Cabinet. Other Members of the Council and the press and public may attend these meetings.

Zero Debate – The Chairman may propose items that do not need to be debated by Members. These should be non contentious and no member of the public has provided notice of the intention to speak on them., At least 24 hours before the meeting, the items in question shall be made available to the Democratic Services Manager. These items will then be considered and disposed of en

bloc, allowing the remainder of the meeting to focus and debate the issues that Members want to discuss.

**Speaking** - The Chairman may consider whether non-Cabinet Members may speak (but not vote) on any item under consideration by Cabinet, and may set out the protocol under which non-Cabinet Members will be given the opportunity to speak.

**Public Speaking** - Members of the public may address Cabinet or ask questions of Cabinet in respect of any Part I agenda item, provided notice of the intention has been given to the Democratic Services Manager by 12 noon on the day of the meeting. Each member of the public will be allowed up to three minutes, subject to the total time allowed for public comment or questions, not exceeding nine minutes per agenda item.

**Private Meetings** - If the Cabinet meets in private, the provisions of the Access to Information Procedure shall apply, as set out in Part 8 E12 i.e. E13-E24 only. Only Cabinet Members are entitled to attend private meetings of the Cabinet and the Officers, who may be required to provide advice.

When Cabinet, a Cabinet Committee or an individual Member of the Cabinet or an Officer takes part in decision-making they or he/she shall have regard to the Decision Making Article in Part 1B of this Constitution.

#### A2.9 **Quorum**

The quorum for a meeting of the Cabinet shall be one quarter of the total number of Members of the Cabinet (including the Leader or nominated Deputy Leader) or 3 (including the Leader or nominated Deputy Leader) whichever is the larger. The Quorum for a sub-committee of the Cabinet shall be fixed when the committee is established. Any Cabinet Member may act as a substitute for any substantive Member of a Cabinet Committee.

#### A2.10 **Cabinet Decisions**

- a) Executive decisions which have been delegated to the Cabinet as a whole will be taken by a meeting convened in accordance with the Access to Information Rules in Part 8 E of the Constitution.
- b) Where executive decisions are delegated to a sub-committee of the Cabinet, the rules applying to executive

decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

- A2.11 The Democratic Services Manager will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where the relevant Overview and Scrutiny Panel or the full Council have resolved that an item be considered by the Cabinet. However, there may only be up to 2 such items on any one agenda.
- A2.12 Any Member of the Cabinet may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet.
- A2.13 The Head of Paid Services, The Monitoring Officer or Chief Financial Officer may include an item for consideration on the agenda of an Cabinet meeting and may require the Democratic Services Manager to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convene at which the matter will be considered.
- A2.14 In all cases above, there must be a written report to support the item available to the Cabinet at least five clear working days before the Cabinet meeting at which it is proposed to be considered, unless the Leader decides that a shorter period is acceptable on the grounds of urgency. If a key decision may be involved, the procedure set out in the Access to Information Procedure Rules at Part 8 E of the Constitution shall be followed.

A2.15 **Cabinet Prioritisation Sub Committee**

Purpose

The Sub-Committee shall have delegated authority to undertake the following functions:-

- a) take decisions on urgent Cabinet business;
- b) on behalf of the Cabinet, undertake the functions in respect of

contracts and procurement under the Council's Contract Rules.

### Membership

This Sub-Committee shall comprise the Leader, Deputy Leader, Deputy Chairman of Cabinet and one other Cabinet Member. One Principal Member in attendance.

### Quorum

The quorum for the Sub-Committee shall be 2. Any Cabinet Member may act as substitute for the substantive members identified above.

### Frequency

As and when required.

## A2.16 **Cabinet Participatory Budget Sub Committee**

Omitted 20/12/16 following agreement at full Council 13/12/16

## A2.17 **Cabinet Local Authority Governors Appointments Sub Committee**

Purpose: Under delegated authority, to make LA Governor Appointments for the Council.

Meetings: The Sub Committee Meetings shall be open to the public, subject to the provisions of the Local Government Act 1972.

### Process for the Appointment of LA Governors:

- First-time applicants to complete application form
- All individuals seeking re-appointment to an LA Governor role, at the end of their term of office, not to complete an application form unless specifically requested by the Sub Committee. Notifications of their wish to continue in the role should be provided in writing.
- LA Governor vacancies to be displayed on Council web site on first Friday of every month (as currently) or before if possible.
- Closing date for submission of applications to be two weeks from date vacancy is published.
- Schools to then be given an opportunity to review the applications submitted and to submit their view. Maximum period of two weeks allowed for this.

- Details of vacancies also sent to Councillors whose Ward or part of Ward is in the designated area of a school with an LA Governor vacancy.
- Sub Committee Meeting to make appointments
- Children's Services Overview and Scrutiny Panel Chairman to be sent Agenda for Sub Committee meetings.
- Email notification to be sent to all Members when Sub Committee Agenda published.
- Minutes of Sub Committee meetings presented to Cabinet for information.

Membership:

3 or more Cabinet Members as appointed by the Cabinet. One principal Member in attendance.

Quorum:

2 Members

Frequency of Meetings:

The Sub Committee will meet as and when required to make LA Governor appointments and re-appointments.

## A2.18 **Cabinet Regeneration Sub Committee**

Purpose

The Sub-Committee shall have delegated authority to undertake the following functions:-

- a) General responsibility for the oversight of matters relating to the approved Area Action Plan for the regeneration of Maidenhead Town Centre.
- b) General responsibility for the oversight of matters relating to regeneration and development activity throughout the borough.
- c) Formulation of the Council's property, regeneration and development strategy both within Maidenhead Town Centre and throughout the borough, including dealings with existing land owners, the process for seeking and obtaining a development partner or partners and any Compulsory Purchase Order.
- d) To make executive decisions (i) reserved to Cabinet in the Property Procedure Rules in Part 8D of this Constitution, (ii) to make any non-statutory executive decisions necessary to further regeneration and development and (iii) to make recommendations to Council when required under the Property Procedure Rules or Financial Rules (as appropriate) for a decision to further regeneration and development
- e) Subject to the limitations contained in the general framework for delegations established by the Council and existing delegations to officers, approval of the terms of Development Agreements, other

- agreements with developers and those related to any CPO process, and other property agreements.
- f) Determination of all matters which may be necessary to secure implementation of the Council's property, regeneration and development strategy other than development management or building control functions.

#### Membership

The Sub Committee consists of the Leader of the Council (Chairman), Lead Members for Economic Development, Property and deputy Finance (Deputy Chairman), Finance, Highways and Transport, Planning, Environmental Services, Maidenhead and Maidenhead Regeneration, and Culture and Communities. Principal Members for Ascot Regeneration and Neighbourhood Planning in attendance. Deputy Lead Members for Maidenhead Regeneration and Maidenhead, and Policy and Affordable Housing in attendance.

#### Quorum

The quorum for the Sub-Committee shall be 2. Any Cabinet Member may act as substitute for the substantive Cabinet members identified above.

#### Frequency

As and when required.

#### Type

Committee of Cabinet

# **PART 3 - THE EXECUTIVE / CABINET**

## **B - BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**



## Contents

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## **B – Budget and Policy Framework Procedure Rules**

### **1. THE FRAMEWORK FOR CABINET DECISIONS**

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

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

- a) The Cabinet will publicise the proposed Framework by including in the forward plan published at the Council's offices and publicised by other methods – e.g. on the website, in local press, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of the initial proposals. The Chairmen of the relevant Overview and Scrutiny Panel will also be notified. The consultation period shall in each instance be not less than 6 weeks.
- b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. Where the proposals relate to the development of the plans set out in Article 4, the relevant Overview and Scrutiny Panel may wish to respond to the Cabinet during the consultation period. The relevant Overview and Scrutiny Panel may respond as part of consultation process in respect of the preparation of the annual budget. The Cabinet will take any response from the relevant Overview and Scrutiny Panel into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's responses.
- c) Once the Cabinet has approved the firm proposals, the Democratic Services Manager will refer them at the earliest opportunity to the Council for decision.
- d) In reaching a decision the Council may adopt the Cabinet's proposals, amend them, refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place.
- e) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.

- f) The decision will be publicised and a copy shall be given to the Leader.
- g) The Leader will be informed by the Council of its objections to the draft plan or strategy and will give him instructions that the Executive shall reconsider the proposals in light of the objections within 7 clear working days, starting with the day following the date the Leader received the instructions.
- h) The Leader may, within 7 clear working days:
  - i) submit a revision of the proposals with the Executive's reasons for any amendments to the Council; or
  - ii) inform the Council of any disagreement that the Executive has with any of the Council's objections and the reasons for this;
  - iii) at the same time, the Democratic Services Manager will be notified by the Leader of the position and shall, within 5 working days, call a Council meeting.
    - i) The Council called in response to h) iii) above must:
      - i) amend the draft plan or strategy or revised draft plan or strategy;
      - ii) approve for submission to the Government any plan or strategy or part; or
      - iii) adopt, with or without modifications, the plan or strategy;
- take into account any amendments to the plan or strategy, the Executive's reasons for them, any disagreements the Executive has with the Council's objections and its reasons for this.
- j) The decision shall then be made public and shall be implemented immediately.
- k) An in-principle decision will automatically become effective 5 clear working days from the date of the Council's decision, unless the Leader informs the Democratic Services Manager in writing within 5 clear working days that he/she objects to the decision becoming effective and provides reasons why.
- l) Where, before 8 February in any financial year, the Cabinet submits to the Council for its consideration in relation to the following financial year:
  - i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;

- ii) estimates of other amounts to be used for the purposes of such a calculation;
- iii) estimates of such a calculation; or
- iv) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992;

and following consideration of those estimates or amounts the Council has any objections to them, it must take the action set out in paragraph m).

- m) Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph l) i), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections which it has to the Cabinet's estimates or amounts and must give to him instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.
- n) Where the Council gives instructions in accordance with paragraph m), it must specify a period of at least 5 working days, beginning on the day after the date on which the Leader receives the instructions on behalf of the Cabinet, within which the Leader may:
  - i) submit a revision of the estimates or amounts as amended by the Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for the Council's consideration; or
  - ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement; or
  - iii) at the same time, the Democratic Services Manager will be notified by the Leader of the position and shall, within 5 working days, call a Council meeting.
- o) When the period specified by the Council, referred to in paragraph m) has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph l) i), or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:
  - i) any amendments to the estimates or amounts that are included in any revised estimates or amounts;
  - ii) the Cabinet's reasons for that disagreement;
  - iii) any disagreement that the Cabinet has with any of the Council's objections; and
  - iv) the Cabinet's reasons for that disagreement;

which the Leader has submitted to the Council, or informed the Council of, within the period specified.

- p) Paragraphs l) to o) shall not apply in relation to:
  - i) calculations or substitute calculations which a Council is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
  - ii) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.
  
- q) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with Rules C5 and C6 of these Rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

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

- a) Subject to the provisions of Rule C5 (virement) the Cabinet, committees of the Cabinet, individual Members of the Cabinet and any Officers, or joint arrangements discharging executive functions may only take decisions which are in line with the budget and policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to Rule C4 below.
  
- b) If the Cabinet, committees of the Cabinet, individual Members of the Cabinet and any Officers, or joint arrangements discharging executive functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those Officers is that the decision would not be in line with the existing budget and/or policy framework, the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Rule C4 (urgent decisions outside the budget and policy framework) shall apply.

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

- a) The Cabinet, committees of the Cabinet, individual Members of the Cabinet and any Officers, or joint arrangements discharging

executive functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:

- i) if it is not practical to convene a quorate meeting of the Council; and
- ii) if the Chairman of the relevant Overview and Scrutiny Panel agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of Council and the Chairman of the relevant Overview and Scrutiny Panel's consent to the decision being taken as a matter of urgency must be notified on the record of the decision. In the absence of the Chairman of the relevant Overview and Scrutiny Panel the consent of the Mayor, and in the absence of both, Deputy Mayor will be sufficient.

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

## **5. VIREMENT**

- a) The provisions for virement are set out in Rules F1.10 – F1.19 of the Finance Rules. The rules are applied to Virement between budgets and the levels delegated to Corporate Management Team are:
  - Directors can vire up to £25,000 in respect of budgets under their control without the consent of the Head of Finance
  - The Head of Finance, in consultation with the Corporate Management team can vire from £25,000 up to £100,000 without consent of cabinet
  - Cabinet can vire from £100,001 up to £500,000 without the consent of the council.
- b) In each case the level of each virement is as specified in the Finance Rules. In addition virements from or to any one budget, shall not exceed the limit given out in the Finance Rules in any one financial year so that, for example, for any one budget head the totality of virements is capped at £500,000.

## **6. IN-YEAR CHANGES TO POLICY FRAMEWORK**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, a committee of the Cabinet, an individual Member of the Cabinet or Officers or joint arrangements discharging executive functions must be in line with it. No changes to

any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:

- a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- b) necessary to ensure compliance with the law, ministerial direction or government guidance;
- c) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation but where the existing policy document is silent on the matter under consideration.

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

- a) Where at least three members of the Council [one of whom must be a Member of the relevant Overview and Scrutiny Panel], are of the opinion that an executive decision is, or, if made, would be contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then they shall seek advice from the Monitoring Officer and/or Chief Financial Officer.

**NOTE:** Education Co-optee members may only be involved in a call-in of an Education matter.

- b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Financial Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to:
  - i) Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure; and
  - ii) to the relevant Overview and Scrutiny Panel if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Financial 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 relevant Overview and Scrutiny Panel may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 10 working days of the request by the relevant Overview and Scrutiny

Panel. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:

- i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

or

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

or

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

- d) Exceptions to this procedure:-

In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

- i) that the relevant Overview and Scrutiny Panel may only call-in two decisions per Cabinet meeting;
- ii) any call-in must be requested by at least 3 Councillors, of whom 1 shall be a member of the relevant Overview and Scrutiny Panel.

## **8. PARTICIPATORY BUDGETING – SCHEME FOR MEMBER BUDGETS**

The Cabinet Participatory Budget Sub Committee on 21 July 2011 agreed a scheme for member budgets. A sum of money (£750 for 2011/12) is allocated to each Member to award to local community initiatives or projects. This money can be pooled collectively with other Ward Members or adjoining Ward Members. The budget can be split between a number of projects or can be rolled forward to fund larger scale projects. Member Budgets can be allocated to any project that assists the local area.



When a member has decided how their budget is to be spent, they need to notify the Policy and Performance Team by emailing: [neighbourhoodbudgets@rbwm.gov.uk](mailto:neighbourhoodbudgets@rbwm.gov.uk) with the following information:

1. Short summary of the project or initiative
2. Name of recipient organisation
3. Amount to be allocated

This will enable Member Budget activity to be reported to the Cabinet Participatory Budget Sub Committee, so that outcomes can be reviewed and published on the Council's web site.

# **PART 4 - OVERVIEW AND SCRUTINY**

## **A - Purpose and Procedure Rules for Overview and Scrutiny**

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## **A1 ARRANGEMENTS FOR OVERVIEW AND SCRUTINY**

In accordance with the Local Government Act 2000 the Council must have at least one Overview and Scrutiny Committee. Members of the Executive can not be Members of an Overview and Scrutiny Committee.

The Council has established seven Overview and Scrutiny Panels:-

Adult Services and Health

Children's Services

Crime and Disorder

Corporate Services

Culture and Communities

Highways, Transport and Environment

Planning and Housing

The 7 Overview and Scrutiny Panels meet in public, subject to the Access to Information rules, to discuss and make recommendations on the development of the Council's various plans and strategies, and on reports going to Cabinet and holds the Cabinet to account for its actions.

The Overview and Scrutiny Panels also have a key role in considering other matters of local concern not necessarily just within the Council's areas of responsibility but affecting the Royal Borough and its communities.

In undertaking their role, the Overview and Scrutiny Panels will have the power to 'call-in' decisions of the Cabinet or any body or individual exercising executive powers.

The Corporate Services Overview and Scrutiny Panel will have responsibility for monitoring the budget allocated to the Overview and Scrutiny Panels each year.

Any Member of the Council may attend meetings of the Overview and Scrutiny Panels or any Panel of them. Cabinet Members and Directors will be expected to attend when their Cabinet reports/proposals are being considered and will be entitled to participate (in a non voting capacity) at the invitation of the Chairman.

At other times Cabinet Members will only be entitled to answer questions put by the Panel or to respond to call-in of a decision within their area of responsibility.

## **A2 WHO MAY SIT ON THE OVERVIEW AND SCRUTINY PANELS?**

Any Councillors, except Lead Members of the Cabinet, may be a member of the Overview and Scrutiny Panels. However, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

## **A3 CO-OPTEES**

### **a) General**

The Overview and Scrutiny Panels shall be entitled to appoint a number of people as non-voting co-optees.

### **b) Education Representatives**

The Children's Services Overview and Scrutiny Panel when dealing with education matters shall include in its membership the following voting representatives:

- a) one Church of England diocese representative;
- b) one Roman Catholic diocese representative;
- c) two parent governor representatives (One to represent the primary phase and one to represent the secondary phase).
- d) one representative from the Regional Schools Commissioner

This will apply when the Children's Services Overview and Scrutiny Panel or a Panel of it, being part of the local education authority, and where the Panel's functions relate wholly or in part to any education functions which are the responsibility of the Cabinet. If the Overview and Scrutiny Panel deals with other matters, these representatives shall not speak or vote on those other matters, except so far as the Protocol on public speaking may apply to them.

The education representative may appoint a substitute equivalent to their qualification criteria, who may attend meetings in that capacity only:

- i) To take the place of the ordinary co-opted representative;
- ii) Where the ordinary education representative will be absent for the whole of the meeting; if the ordinary education representative arrives after the meeting has started, the appointed substitute representative shall

- continue and the ordinary education representative shall be present as a non-member of that body.
- iii) After notifying the Democratic Services Manager by 12.00 noon on the day of the meeting of the intended substitution.

c) Crime and Disorder

The Crime and Disorder Overview and Scrutiny Panel may, in accordance with The Crime and Disorder (Overview and Scrutiny) regulations 2009 co-opt additional members to serve on the Panel subject to:-

- i) the person co-opted to serve on the Panel shall not be entitled to vote on any particular matter, unless the committee so determines.
- ii) the co-opted person's membership may be limited to the exercise of the Panel's powers in relation to a particular matter or type of matter.

The co-opted person shall not be a member of the Cabinet of the Council.

The Panel shall be 7 members and two further co-opted parish councillors one representing each of the northern and southern parishes.

Co-optees and substitutes for either the northern or southern Parish Councils shall be appointed as follows:

- a. Vacancies are notified to each Parish Council by the Council
- b. Parish Councils must submit in writing their nominations within 28 days of notification. Each Parish Council can only nominate one co-optee.
- c. Each nomination shall include details of the proposed co-optee with a maximum 100 word supporting statement
- d. Where more than one nomination is received then each Parish Council (in either the northern or southern Parishes) is then entitled to vote on the nominated candidates. The votes must be received within 28 days of notification.
- e. The nominee with the greatest number of votes shall be elected to the Panel as the co-optee. The nominee with the next highest number of votes shall be the substitute. In the event of a tie for either position the Chairman of the Panel shall select the nominee to be appointed as co-optee to the Panel.
- f. If only one nomination is received for either the northern or the southern parishes, the nominee will automatically be appointed as co-optee

The Panel shall be permitted to change the process of appointment as it see fits and decide the exact methodology.

Each co-optee and substitute shall remain on the Panel for a maximum period of 4 years (providing Council re-appoints at each Annual Council meeting). In the event the co-optee is absent from 2 or more meetings in any one year then the Panel may pass a resolution to remove the co-optee from the Panel.

Where a co-optee resigns then the substitute shall take the place as the co-optee on the Panel for the remainder of the term if the Panel resolves to accept the substitute. Where the substitute elects not to take up the position on the Panel, then the Panel shall seek further nominations from the Parish Councils and steps a. to f. above shall be followed. Where a substitute position is vacant then the Parish Council's shall be requested to nominate further substitutes and the process in points a to f shall be followed.

The parish council representatives to be required to liaise with relevant parishes on a regular basis.

#### **A4 MEETINGS OF THE OVERVIEW AND SCRUTINY PANELS**

The Overview and Scrutiny Panels shall normally meet bi-monthly throughout the municipal year, usually three weeks before Cabinet. In addition, extraordinary meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Panel meeting may be called by:

- (i) the Chairman of an Overview and Scrutiny Panel and any three councillors who are members of the Panel, or by
- ii) any four Overview and Scrutiny Panel Members providing that no more than one co-opted member, may be counted and that one co-optee must be entitled to vote at the Panel; or by
- (iii) the Democratic Services Manager in consultation with the Panel Chairman

#### **A5 QUORUM**

The quorum for an Overview and Scrutiny Panels shall be one quarter of the total membership of the Panel (excluding co-optees) or 3, whichever is the larger.

#### **A6 CHAIRING THE OVERVIEW AND SCRUTINY PANEL MEETINGS**

The Chairmen of each Overview and Scrutiny Panel shall be appointed by that Overview and Scrutiny Panel.

#### **A7 WORK PROGRAMME AND BUDGET**

- A7.1 The Overview and Scrutiny Panels and any of their sub-Panels will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on the Panel or sub-Panel who are not members of the largest political group on the Council. The Panel must ensure that the work programme can be resourced within the budget and allocation of officer time to it.
- A7.2 The Overview and Scrutiny Panels will have to give regard to the following when considering any requests for work to be included on the Work Programme:
- i) The appropriateness and relevance of the subject matter of any request;
  - ii) The possible implications on other services and available budgets;
  - iii) Whether the matter could be incorporated with any other reviews currently being undertaken or proposed to be undertaken to avoid any duplication or conflicting outcomes;
  - iv) The priority of the request for inclusion in the Work Programme and the effect the initiating of a review would have on the Panel's overall work programme.
- A7.3 A matter for inclusion in the Work Programme can include issues such as:
- i) The decision-making process has not been correctly adhered to;
  - ii) The Council's policy on a particular matter is not being achieved effectively or implemented effectively; or
  - iii) There is a genuine concern about the performance of a particular service; or
  - iv) It is justified on the basis of Best Value; or
  - v) It raises questions of significant executive matters appropriate to the Panel's terms of reference, and.
  - vi) Also can include matters which affect the Council's area or inhabitants.
- A7.4 The Overview and Scrutiny Panels will not normally consider:
- i) Matters not relevant to Council business or to the Royal Borough.
  - ii) Employee Industrial Relations, Disciplinary or Grievance matters.
  - iii) Matters which are subject to formal or statutory appeal processes or are subjudice.
  - iv) Individual cases, applications etc. such as in planning, licensing, housing, education etc.
  - v) Matters which have been subject to a decision following a formal review within the previous 6 months.
  - vi) Matters which have been considered and determined by any of the Overview and Scrutiny Panels or one of their sub- Panels or the Council within the preceding 6 months.
  - vii) Matters which are the subject of a current review.



- A7.5 Any “local government matter” referred to an Overview and Scrutiny Panel by a Member of the Council (Councillor Call for Action) must relate to the discharge of any function of the authority, or functions/services provided by partner organisations, affect all or part of the electoral area for which the member is elected or any person who lives or works in that area, and is not an excluded matter. An “excluded matter” is:
- a) any matter which is a local crime and disorder matter (within the meaning of section 19 of the Police and Criminal Justice Act 2006 (c.48)); or
  - b) any matter relating to a planning decision; or
  - c) any matter relating to a licensing decision; or
  - d) any 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; or
  - e) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the overview and scrutiny Panel

An excluded matter does not fall within the description of (b) to (d) above if it consists of an allegation that a function for which the Council is responsible has not been discharged at all or that its discharge has failed or is failing on a systematic basis, notwithstanding the fact that the allegation specifies or refers to a planning decision, a licensing decision or a matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to review or right of appeal conferred by or under any enactment.

- A7.6 The Overview and Scrutiny Panels shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Cabinet, to review particular areas of Council activity. Where it does so, the Overview and Scrutiny Panel shall report its findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Overview and Scrutiny Panel in accordance with the provisions of Rule 4 A10 c.

**A8 AGENDA ITEMS - in addition to the Overview and Scrutiny Panel rights to call-in executive decisions and the preview of decisions to be taken by Cabinet**

- A8.1 Any member of an Overview and Scrutiny Panel or one of its sub-Panels shall be entitled to give notice to the Democratic Services Manager that he/she wishes an item relevant to the functions of the Panel or Panel to be included on the agenda for the next available meeting of the Panel or sub-Panel. On receipt of such a request the Democratic Services Manager will ensure that it is compliant with the

requirements of this Rule and if so that it is included on the next available agenda.

- A8.2 Any member of the Council shall be entitled to give notice to the Democratic Services Manager that he/she wishes an item relating to a Councillor Call for Action to be included on the agenda for discussions at the next available meeting of the relevant Overview and Scrutiny Panel. All such requests must relate to a “local government matter” and should not be an “excluded matter” as outlined in E8.5 above.
- A8.3 Any such request must be in writing and signed by the Member requesting a matter be referred to the relevant Overview and Scrutiny Panel and be submitted to the Democratic Services Manager. It must give details as to the reason(s) why the request to have the matter considered has been made.
- A8.4 Requests must be received no later than 10 clear working days before the date of the relevant Overview and Scrutiny Panel to which it is to be submitted (other than in cases of urgency and as agreed by the Chairman). The relevant Overview and Scrutiny Panel will consider all requests made and decide whether a review should be undertaken by it or by a sub-Panel, including a Panel established specifically to consider the matter referred to the Overview and Scrutiny Panel.
- A8.5 In determining whether the Overview and Scrutiny Panel wish to consider the item placed on the Agenda under 4A8.1 the Panel will have regard to the matters contained in 4 A7 above.

## **A9 POLICY REVIEW AND DEVELOPMENT**

- a) The role of the Overview and Scrutiny Panels in relation to the development of the Council’s budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- b) In relation to the development of the Council’s approach to other matters not forming part of its policy and budget framework, Overview and Scrutiny Panels may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference, will be done routinely by considering draft Cabinet reports before the Cabinet decision is made.
- c) The Overview and Scrutiny Panels may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform

their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

#### **A10 REPORTS FROM OVERVIEW AND SCRUTINY PANELS**

- a) Once the Panels have formed recommendations on proposals for development, the relevant Overview and Scrutiny Panel will prepare a formal report and submit it to the Democratic Services Manager for consideration by Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or by Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- b) If any of the Overview and Scrutiny Panels cannot agree on one single final report to the Council or Cabinet as appropriate, then this fact will be noted on the report, with a brief description of the areas of difference, and submitted for consideration by the Council or Cabinet.
- c) The Cabinet shall initially consider the report of any Overview and Scrutiny Panel within **one** month of it being submitted to the Democratic Services Manager. Council shall consider it at the next programmed meeting.

#### **A11 MAKING SURE THAT OVERVIEW AND SCRUTINY PANELS REPORTS ARE CONSIDERED BY CABINET**

- a) In addition to comments on draft Cabinet reports which will usually be incorporated into the Cabinet report when it is published prior to the Cabinet meeting, once the Overview and Scrutiny Panel has completed its deliberations on any matter, it will forward a copy of its final report to the Democratic Services Manager who, in accordance with the Constitution, will forward it to either or both the Cabinet and the Council for consideration, according to whether or not the report would have implications for the Council's Budget and Policy Framework. If the report is referred to the Council, a copy will also be sent to the Leader. The Cabinet will have **eight** weeks from the date it is copied to the Leader, in which to respond to the Overview and Scrutiny Panel's report and the Council shall not consider it within that period. The Cabinet's consideration shall be at a public Cabinet meeting where either the report is considered or if the Cabinet had already scheduled a report on the matter itself, the two can be considered together.
- b) When the Council meets to consider any referral from the Overview and Scrutiny Panel on a matter that would impact on

the Budget and Policy Framework, it shall also consider the response of the Cabinet to the Overview and Scrutiny Panel.

- c) If the Cabinet, for whatever reason, fails to consider the Overview and Scrutiny Panels report within eight weeks, it will be referred to Council for review and to make a recommendation to Cabinet.
- d) The Overview and Scrutiny Panels will in any event have access to the Cabinet's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an Overview and Scrutiny Panel following a consideration of possible policy/service developments, the Panel will at least be able to respond in the course of the Cabinet's consultation process in relation to any key decision.
- e) The number of reports from the Overview and Scrutiny Panel to any one Cabinet meeting shall be in accordance with Rule A 11.

#### **A12 RIGHTS OF OVERVIEW AND SCRUTINY PANEL MEMBERS TO DOCUMENTS**

- a) In addition to their rights as Councillors, Members of the Overview and Scrutiny Panels or its Panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 8 of this Constitution.
- b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Panels as appropriate depending on the particular matter under consideration.

#### **A13 MEMBERS AND OFFICERS GIVING ACCOUNT**

- a) The Overview and Scrutiny Panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Cabinet, the Head of Paid Service and/or any Director or Unit Manager to attend before it to explain in relation to matters within their remit:
  - i) any particular decision or series of decisions;
  - ii) the extent to which the actions taken implement Council policy; and/or
  - iii) the delivery of services within their areas of responsibility in accordance with the Policy and Budget Framework.

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

- b) Where any Member or Officer is required to attend an Overview and Scrutiny Panel under this provision, the Chairman of the Panel will inform the Democratic Services Manager. The Democratic Services Manager shall inform the Member or Officer in writing giving at least ten working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Panel. Where the account to be given to the Panel will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- c) Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Overview and Scrutiny Panel shall, in consultation with the Member or Officer, arrange an alternative date for attendance to take place within a maximum of ten working days from the date of the original request.
- d) Members and Officers are required to assist the Panels fully and should answer questions openly and honestly. However, questions should not be asked or answers given about matters that are exempt from the scrutiny request procedure. They may decline to answer only where they feel that a reply would be inappropriate or injurious for legal or confidentiality reasons. The Member or Officer should give a reason if they do decline to reply.
- e) Subject to the rules in respect of confidential or exempt information, all questions will be put and answered in public. However, it is presumed that a matter is not confidential unless there are demonstrable and justifiable reasons for it being so.
- f) Although a full account of their actions should be given, Officers' comments should be consistent with the principles of officer professionalism and political neutrality. Officers should not give their individual views or judgements on matters of political controversy or policy. In those instances the questions should be referred to the appropriate Cabinet Member to answer. However, Officers will be required to give their expert views on an issue under consideration if it is based on their qualifications, expertise or experience.
- g) The question process is an opportunity for Members of the Overview and Scrutiny Panel to obtain information or explanation about executive decisions on proposals and not to criticise or comment on judgement exercised or the conduct of the Member or Officer. The Scrutiny question must be confined

to a question and should not include unnecessary or extraneous comment.

- h) The Overview and Scrutiny Panels cannot and should not act as a disciplinary tribunal and questions should not be directed to the conduct of individual Members/Officers. Questions should be asked in a manner that avoids negative or detrimental interrogation. There are other procedures in place for undertaking formal investigations of improper conduct by Members and officers. (See also the Councillor/Officer Relations Protocol, Part 7).
- i) All questions asked by a Member of a Panel must be directly relevant to the subject matter under consideration at that meeting and as outlined in the notice given to the Member or officer.
- j) The Member or officer must be allowed to reply without interruption and to submit any information they consider necessary, whether oral or written, in order to adequately respond to any questions.
- k) Supplementary questions may be asked but a question shall not be pursued once the Member/officer has indicated that they consider they have given a full and final reply and the Chairman is satisfied that they have done so.
- l) Questions and replies shall be recorded by the Administrator servicing the meeting and, where considered appropriate, will be included within the formal minute or record of the meeting. The Chairman, a Questioner or the Member/officer may ask for confirmation of the note taken of any question or reply at the time the question is asked or the answer given or immediately afterwards.
- m) The Chairman of the Panel will decide at which point the asking of questions has been completed and will advise the Member/Officer that they are free to leave should they wish to do so. No debate will take place on any question or reply until all questions have been put and answered.
- n) Nothing in this protocol will prevent the normal attendance at the Overview and Scrutiny Panels of Members or officers to give advice, information or views as they would usually do, or prevent the Panel from inviting such attendance.

## **A14 ATTENDANCE BY OTHERS**

A14.1 The Overview and Scrutiny Panels may invite people other than those people referred to in Rule A13 above to address it, discuss

issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

A14.2 Arrangements have been made to facilitate the scrutiny of matters relating to health and health services in accordance with the Health and Social Care Act 2001 and the attendance at meetings of appropriate health services' staff. A joint committee has been established.

## **A15 CALL-IN**

- a) When a decision is made by the Cabinet, an individual member of the Cabinet or a committee of the Cabinet, or a key decision is made by an officer with delegated authority from the Cabinet, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two working days of being made. Members of the Overview and Scrutiny Panels will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- b) That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of **5** clear working days after the publication of the decision, unless the relevant Overview and Scrutiny Panel objects to it and calls it in. If a call-in is received within the 5 day period, implementation is deferred until the executive decision-taker has had the opportunity to re-consider the decision.
- c) During that period, the Democratic Services Manager shall call-in a decision for scrutiny by the Panel if so requested by any 3 Members of the Council [1 of whom must be a Member of the relevant Overview and Scrutiny Panel] and shall then notify the decision-taker of the call-in. He/she shall call a meeting of the relevant Panel on such date as he/she may determine, where possible after consultation with the Chairman of the Panel, and in any case within 10 clear working days of the decision to call-in.

**NOTE: No more than one Member of the Overview and Scrutiny Panel calling in a decision may be an Education Scrutiny Co-optee and Education Co-optee members may only be involved in a call-in of an Education matter.**

- d) Those Members requesting call-in should specify the reason for the call-in when making the request.

- e) Following consideration of the decision, the deliberations and recommendations of the Overview and Scrutiny Panel shall be reported to the next meeting of the Cabinet. If the Overview and Scrutiny Panel is concerned about the decision, it may either 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 Council. If referred to the decision maker it shall then be reconsidered within a further 5 clear working days and the decision maker shall decide whether to amend the decision or not, before adopting a final decision.
- f) If following an objection to the decision, the Overview and Scrutiny Panel does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny Panel or the expiry of that further 5 clear working day period, whichever is the earlier.
- g) If the matter was referred to Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive 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 view 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 as a whole or a committee of it, a meeting will be convened to reconsider within 5 clear working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 5 clear working days of the Council request.
- h) 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.
- i) Exceptions to this procedure:-  
In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:



- i) That each Overview and Scrutiny Panel may only call-in two decisions per Cabinet meeting and only in relation to the service areas that Panel is responsible for.
- ii) Any call-in must be requested by at least three Councillors, of whom one shall be a member of the relevant Overview and Scrutiny Panel.

*NOTE: No more than one Member of the Overview and Scrutiny Panel calling in a decision to the Children's Services Overview and Scrutiny Panel may be an Education Scrutiny Co-optee and Education Co-optee members may only be involved in a call-in of an Education matter.*

- iii) For the purposes of calculating how many 'call-ins' have been made by any one Panel, the call-in under Part 3b7 and 4A15 will be taken together so that, for example, a call-in under either Part 3b7 or 4A15 counts towards the two permitted under 4A15 i).
- j) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- k) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## **A16 THE PARTY WHIP**

When considering any matter in respect of which a Member of any of the Overview and Scrutiny Panels or one of its Panels is subject to a Group instruction as to how to vote on the matter, the Member must declare the existence of the instruction and the nature of it before the commencement of the Panel's deliberations on the matter. The declaration, and the detail of the instruction shall be recorded in the minutes of the meeting.

**A17 PROCEDURE AT OVERVIEW AND SCRUTINY PANEL MEETINGS**

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

**A18** Where a matter for consideration by an Overview and Scrutiny Panel also falls within the remit of one or more other Overview and Scrutiny Panels, the decision as to which Overview and Scrutiny Panel will consider it will be resolved by the Corporate Services Overview and Scrutiny Panel

# **PART 4 - OVERVIEW AND SCRUTINY**

## **B - Terms of Reference for Overview and Scrutiny**

## **B. Terms of Reference for Overview and Scrutiny Panels**

### **1. Terms of Reference**

The Councils seven Overview and Scrutiny Panels will together and singly discharge the functions conferred by Section 21 of the Local Government Act 2000, regulations under Section 32 of the Local Government Act 2000 and subsequent amendments, Section 244 of the NHS Act 2006 the Police and Justices Act 2006, Local Government and Public Involvement in Health Act 2007 and the Local Democracy, Economic Development and Construction Act 2009. An Overview and Scrutiny Panel may appoint such sub-Panels as it considers necessary or appropriate to carry out, effectively, its functions. Each sub-Panel will be politically balanced, will produce Terms of Reference for agreement by the relevant Overview and Scrutiny Panel, including the period during which the sub-Panel shall meet, its membership and its proposals for investigation and reporting.

### **2. General role**

The Overview and Scrutiny Panels will:

- i) Review and/or scrutinise decisions to be made by Cabinet and made by it or actions taken in connection with the discharge of any of the Council's functions.
- ii) Make reports and/or recommendations to the full Council and/or the Cabinet in connection with the discharge of any functions.
- iii) Consider any matter affecting the area or its inhabitants.
- iv) Exercise the right to call-in, for reconsideration, decisions made in respect of which no steps have been taken to implement the decision.
- v) Assist the Council and the Cabinet in the development of its budget and analysis of the draft plans to be submitted to Council.
- vi) Conduct such necessary research and investigation in the analysis of the policy issues and the possible options for the plans to be submitted to Council as above.
- vii) Question relevant members of Cabinet and the relevant Director(s)/Service Heads about issues and proposals affecting the area.
- viii) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interest of local people are enhanced by collaborative working.
- ix) Review and scrutinise the decisions to be made by Cabinet and which have been made by the Cabinet and Council officers both in relation to individual decisions and over time.
- x) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas.
- xi) Question members of the Cabinet and Directors about their decisions, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects.
- xii) Make recommendations to the Cabinet and/or Council arising from the outcome of the Scrutiny process.

- xiii) Review and scrutinise the performance of the relevant bodies in the area and invite reports from them to address an Overview and Scrutiny Panel and local people about their activities and performance.
- xiv) Question and gather evidence from any person or organisation (with that person/organisation's consent).
- xv) Consider any petitions referred to the Panel in accordance with the Council Procedure Rules C10.

### **3. Specific Roles**

#### **a) Corporate Services Overview and Scrutiny Panel**

In addition to the Panel's broad terms of reference as detailed above, the Panel will be responsible for the overview and scrutiny of the following:

- the effective reporting and control of Council activities
- key projects and their planning, implementation and delivery
- operational responses to Council and Cabinet decisions

The Panel will develop policy options in response to the Council's strategic priorities.

#### **b) Adult Services and Health Overview and Scrutiny Panel**

The Adult Services and Health Overview and Scrutiny Panel is responsible for undertaking overview and scrutiny of Health Services within the Royal Borough.

#### **c) Crime and Disorder Overview and Scrutiny Panel**

The Crime and Disorder Overview and Scrutiny Panel's main objective is to ensure that the Crime and Disorder reduction Partnership is held accountable for the discharge of its executive functions, to enable the voice and concerns of the public and its communities to be heard and drive improvement in public services. In addition to the Panel's broad terms of reference as detailed above, the Panel will be responsible for the overview and scrutiny of the following:

- to consider the effectiveness of actions undertaken by the responsible authorities on the community safety partnership;
- make reports or recommendations to Cabinet/Council with regard to those policies developed by the CDRP and the effectiveness of the functions managed through the CDRP.
- to consider a number of issues in consultation with the relevant partners on the CDRP which reflect local community need and make recommendations to Cabinet.

#### **d) Children's Services Overview and Scrutiny Panel**

In addition to the Panel's broad terms of reference as detailed above, the Panel will be responsible for ensuring the local authority fulfils its safeguarding responsibilities, including child sexual exploitation. This needs to include children's social care and education provision.

4. **Finance.** In carrying out its activities, the Overview and Scrutiny Panels will operate within such budget and allocation of officer time as the Council shall provide.
5. **Annual report.** The Overview and Scrutiny Panels will report annually to full Council on its workings and make recommendations for future work programmes and amended working methods if appropriate.

#### 6 **Proceedings of the Panels**

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

#### 7. **Membership**

The membership of the Panels will be as follows:

- Adult Services and Health Overview and Scrutiny Panel – 6 Members
- Children's Services Overview and Scrutiny Panel – 7 members (with the Education representatives as set in Overview and Scrutiny Procedure Rule 4 A3b joining the Panel when education matters are being discussed)
- Crime and Disorder Overview and Scrutiny Panel – 7 members
- Corporate Services Overview and Scrutiny Panel – 7 Members
- Culture and Communities Overview and Scrutiny Panel – 7 Members
- Highways, Transport and Environment Overview and Scrutiny Panel – 7 Members
- Planning and Housing Overview and Scrutiny Panel – 7 Members

# **PART 5 - SCHEME OF DELEGATION TO OFFICERS**

## **A – SCHEME OF DELEGATION**

## **DELEGATIONS TO OFFICERS**

### **1. Introduction**

- 1.1 For the purposes of this section, the officers to whom delegations are made as follows:
- Managing Director and Statutory Officers
  - Strategic Directors and other Corporate Management Team Members
  - Other Staff
- 1.2 Proper Officers for the purposes of specific legislation (as set out below) and as defined by section 270(3), Local Government Act 1972. These are set out in Part 5B.
- 1.3 The delegations set out below apply to those functions which have not, by virtue of this Constitution or any other instrument, been reserved to Council or Cabinet and any committees or sub-committees thereof.
- 1.4 For the avoidance of doubt any functions which are not specifically discharged by Council or delegated to Committees or Sub-Committees are delegated to Officers. If there is any doubt such power will be exercised by the Managing Director or in his absence his Deputy or Monitoring Officer.

### **2. General Principles of Officer Delegations**

- 2.1 Functions delegated to officers are to be exercised taking into account:
- All other parts of the Constitution (including Article 12 “Decision Making”),
  - The Budget and Policy Framework,
  - The approved Budget,
  - Any instructions given by the Managing Director,
  - Any financial advice given by the Head of Finance,
  - Any legal advice given by the legal advisers to the Council, and
  - Any statutory codes of conduct or statutory guidance, and codes and protocols as may be approved by the Council and Cabinet.



- 2.2 Any function delegated to a specified officer may also be exercised by any officer who has been so authorised by the officer to whom the function is delegated or (save in case of Head of Finance and Monitoring Officer) by the Managing Director. Such authorisations shall be recorded and held by the officer making the authorisation. Officers authorised under this provision to exercise a power delegated to another officer should be either fully or generally under the supervision and control of the authorising officer
- 2.3 Functions delegated by reference to job titles or posts which have changed will continue in force and shall be exercised by officers whose duties include or most closely correspond to the duties of the post originally referred to.
- 2.4 Any reference to any Act of Parliament shall be deemed to include any act, statutory instrument or regulation by which it is applied, extended, amended, consolidated or replaced.
- 2.5 Where any function is delegated to an officer, that officer may choose not exercise that function and may, instead, refer a matter to the Council, the Cabinet, Committee or relevant Portfolio Holder for decision as appropriate with the agreement of the appropriate Director.
- 2.6 Cabinet members or Committees may reserve to themselves decisions delegated to officers, by giving notice to the officer holding the delegated power or to the Managing Director.
- 2.7 In the absence or the unavailability of an officer, any function delegated to that officer may be exercised by their deputy.

### **3. Powers of the Managing Director**

- 3.1 To exercise authority over the Strategic Directors and Heads of Service, including allocating Strategic Directors' portfolios.
- 3.2 To exercise the powers delegated to any Strategic Director or other members of staff so far as the law allows.
- 3.3 To carry out the functions of the Council for civic aid and emergency planning and to take any action, including incurring expenditure, in connection with an emergency or a disaster in the borough.
- 3.4 To undertake any other functions necessary for the carrying out of the role of the Managing Director, within any existing legislative and policy constraints.

### **4. Powers of the Strategic Directors and other CMT Members**

- 4.1 The Strategic Directors for the Council and their areas of responsibility are set out in this Constitution.
- 4.2 All Strategic Directors and other CMT members are delegated all those powers necessary to act within the assigned portfolio of responsibilities. Note that this delegation is subject to the general provisions and limitations set out in this Constitution.
- 4.3 A Strategic Director or CMT member may further delegate any of the powers delegated to him or her under this Constitution or any other applicable scheme of delegation, in so far as is legally permissible and in so far as not already delegated by virtue of this Constitution

## **5. Powers of Staff**

- 5.1 All staff shall be delegated all those powers necessary to carry out those functions specified in their respective job descriptions, subject to the general provisions and limitations set out in this Constitution.
- 5.2 All staff will have Delegated Authority required to:-
- (a) Effectively manage and promote the services for which they are responsible;
  - (b) Exercise the function delegated to Officers under the Financial Procedural Rules and to let contracts in accordance with Contract Procedure Rules;
  - (c) Exercise all functions delegated under the Officer Employment Procedure Rules and to manage all staff in accordance with the Council's Policy, Procedures and Terms of Conditions of staff.

## **6. General Provisions and Limitations**

- 6.1 Apart from those powers set out below which have been generally or specifically delegated to staff, any remaining functions which have not been, under this or any other current scheme of delegations, specifically reserved to Council, Cabinet or any committees or sub-committees thereof are delegated to officers
- 6.2 Staff shall exercise powers under this scheme in compliance with:
- The rules of procedure set out in this Constitution;
  - Corporate policies and strategies;
  - Any additional conditions imposed either by the Council or by statute or any statutory code of conduct.

- 6.3 The exercise of the powers delegated under this Constitution or any other scheme of delegation by staff involving the incurring of expenditure is subject to there being sufficient approved provision within their budget to cover that expenditure.
- 6.4 Each Strategic Director shall have all the powers and duties delegated to the Heads of Service or other staff within his/her portfolio, who are assigned to him or her, so far as is legally permissible.

## **7. Monitoring Officer and Chief Finance Officer**

7.1 The functions of the Monitoring Officer and Chief Finance Officer are set out below. The Council will provide the Monitoring Officer and Chief Finance Officer with such offices, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed. The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

### **7.2 Functions of the Monitoring Officer**

- a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council or to Cabinet in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c) **Proper Officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant Officer report and background papers are made publicly available as soon as possible.
- d) **Advising whether Cabinet decisions are within the budget and policy framework in accordance with the requirement under the Budget and Framework Rules.** The Monitoring Officer in consultation with the Head of Finance will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- e) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.

- f) **Contributing to corporate management.** The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional advice on the lawfulness or probity of any matter.

### 7.3 Functions of the Chief Finance Officer

- a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council, or to the Cabinet in relation to an executive function, and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency or of the Council is about to enter an item of account unlawfully.
- b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council and will certify the robustness of the council's estimates of expenditure and proposed budget.
- c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.
- e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

# **PART 5 – SCHEME OF DELEGATION TO OFFICERS**

## **B – PROPER OFFICER FUNCTIONS**

## Delegations to Officers

### B - Proper Officer Functions

#### Meaning of Proper Officer Functions

- 1.1 The Council has approved and adopted the appointment of the following officers as proper officers, as described in the following specified sections of the relevant Acts of Parliament or regulations. Proper officer is defined for most legislation by s.270(3) Local Government Act 1972 as an officer appointed for that purpose by that body or for that area, as the case may be.
- 1.2 The deputy proper officer is given in brackets after the proper officer. The deputy proper officer is appointed to act where the proper officer is absent and/or unable to act for any reason. Where neither the designated proper officer nor the designated deputy proper officer is able to act, or if there is no specified designated proper officer or deputy proper officer, the Managing Director may designate an appropriate person to act as proper officer or deputy proper officer. If the Managing Director is unable to act, this power shall be delegated to the Monitoring Officer or, if the Monitoring Officer is unavailable, to the Deputy Monitoring Officer.

#### Local Authority Social Services Act 1970

Section	Description	Proper Officer
6	Statutory Director of Social Services (Adults)	Strategic Director of Adults, Children & Health

#### Local Government Act 1972

Section	Description	Proper Officer
83(1) – (4)	Officer to whom persons elected to any of the following offices of the Council shall make declaration of acceptance of office: Mayor, Deputy Mayor, Councillor	Monitoring Officer (Managing Director)
84	Officer to whom a person elected to any office under the Council may give written notice or resignation	Monitoring Officer (Managing Director)
88(2)	Officer who may convene a meeting of the Council for the election to fill a vacancy	Managing Director (Any Director)
89(1)(b)	Officer who may receive notice in writing of a casual vacancy in the office of Councillor from two local government electors	Managing Director (Monitoring Officer)

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
100B(2)	Officer who may think fit to exclude from reports open to inspection parts relating to items during which the meeting is likely not to be open to the public	Democratic Services Manager (Monitoring Officer)
100B(7)(c)	Officer who may supply a copy of the agenda and reports for the meeting and copies of any other documents supplied to members of the council in connection with the item.	Democratic Services Manager (Monitoring Officer)
100C(2)	Officer responsible for preparing a written summary of those parts of the committee proceedings which disclose exempt information	Democratic Services Manager
100D(1)(a) and (5)(a)	Officer responsible for identifying background papers and list of such documents	Democratic Services Manager
100F(2)	Officer making decision as to documents disclosing exempt information which are not required to be open to inspection by council members	Monitoring Officer (Managing Director)
115	Officer to whom all officers shall pay monies received by them and due to the local authority	Head of Finance
146(1)	Officer authorised to produce a statutory declaration specifying securities and verifying name change of authority	Head of Finance
151	Officer having responsibility for the administration of the Council's financial matters	Head of Finance
191	Officer authorised in respect of Ordnance Survey	Head of Highways
204(3)	Officer to whom notice of application for a Justices License under schedule 1 of the Licensing Act 1964 should be given	Managing Director or Monitoring Officer
210(6) and (7)	Officer in whom power in respect of a charity will vest as at 1 April 1974	Monitoring Officer
212	Officer authorised to act as local registrar for Land Charges Act	Monitoring Officer (Information Management TL)
222	Officer authorised to prosecute and defend proceedings	Monitoring Officer

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
225(1)	Officer with whom documents may be deposited pursuant to law to make notes or endorsements and give acknowledgements or receipts.	Monitoring Officer
229(4) and (5)	Officer who shall certify that a document is a photographic copy of a document in the custody of the Council	Monitoring Officer
234(1)	Officer who may authenticate documents	Monitoring Officer
236 / 238	Officer authorised to receive, certify and send copies of byelaws to Parish Councils	Monitoring Officer
248	Officer authorised to keep a Roll of Freeman	Monitoring Officer
Para 4(2)(b) of Part 1 of Schedule 12	Officer who may sign a summons to council meetings	Managing Director (Any Executive Director)
Para 4(3) of Part 1 of Schedule 12	Officer who may receive notice from a member of address to which a summons to a meeting is to be sent	Managing Director (Monitoring Officer)
Para 25 of Schedule 14	Officer authorised to certify resolutions	Monitoring Officer
Para 28 of Schedule 16	Officer authorised to receive deposit of protected buildings	Strategic Director of Operations and Customer Services

#### **Local Government Act 1974**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
30 (5)	Officer responsible for arranging publication in newspapers of notice of Local Commissioner's report on investigation of a complaint	Monitoring Officer



**Local Government (Miscellaneous Provisions) Act 1976**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
41	Officer responsible for certifying copies of resolutions, minutes and other documents	Democratic Services Manager

**Representation of the People Act 1983**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
8	Registration Officer	Returning Officer
35	Returning Officer	Returning Officer

**Buildings Act 1984**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
78 (8) BA 1984	Officer responsible for taking immediate action in relation to dangerous buildings	Director of Development and Regeneration

**Local Government Finance Act 1988**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
114	Officer responsible for making financial report to the authority	Head of Finance

**Local Government and Housing Act 1989**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
2	Officer responsible for preparation of list of politically restricted posts	Managing Director
4	Head of Paid Service	Managing Director
5	Monitoring Officer	Monitoring Officer
15, 16 and 17	Officer responsible for receiving notices relating to political groups	Managing Director

**Local Government (Committees and Political Groups) Regulations 1990**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
8 (1) and (5)	Officer to whom notice is delivered about the constitution of, or the change of name of a political group	Managing Director (Monitoring Officer)
9 and 10	Officer to whom notice is delivered about a Councillor's membership of, or cessation of, a political group	Managing Director (Monitoring Officer)
13	Officer to whom the wishes of a political group are expressed	Managing Director (Monitoring Officer)
14	Officer responsible for notifying a political group about allocations and vacancies of seats	Democratic Services Manager

### **Local Government (Contracts) Act 1997**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
1 - 4	Officer responsible for certifying a contract under this act.	Head of Finance

### **Local Government Act 2000**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
34	Officer responsible for publication of number of local government electors required to support a petition	Managing Director

### **The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
12 (1)	Officer responsible for producing a written statement of all executive decisions made at a public or private meeting of Cabinet, including the information specified in regulation 12 (2).	Managing Director (Monitoring Officer)

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
14	Officer responsible for ensuring that a copy of the following documents is available for public inspection: the written statement referred to in regulation 12 above part or all of any report considered by the decision maker and relevant to the decision made	Managing Director (Monitoring Officer)
15	Officer responsible for compiling a list of background papers to the report referred to in regulation 14 above. This officer is the proper officer referred to in rule 8 of the Access to Information Procedure Rules set out in Part 8 of this constitution	Managing Director (Monitoring Officer)
20 (1)	Officer who may exclude whole or part of any report provided for public inspection under regulation 20 (1), where the part excluded relates to a matter for which the proper officer considers a meeting is not likely to be open to the public. This officer is the proper officer referred to in rule 11 of the Access to Information Procedure Rules set out in Part 8 of this constitution	Managing Director (Monitoring Officer)
9 (1)	Officer responsible for publishing the information relating to key decisions specified in regulation 9 (1). This officer is the proper officer referred to in rule 14 of the Access to Information Procedure Rules set out in Part 8 of this Constitution.	Democratic Services Manager (Monitoring Officer)

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
20 (3) (a) and (b)	Officer who may form an opinion as to whether a document contains or is likely to contain information confidential information or exempt information or the advice of a political advisor or assistant	Monitoring Officer (Managing Director)

**The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
4 (2)	Officer who publishes the number that is equal to 5 per cent of the number of local government electors for the authority's area	Electoral Registration Officer

**The Local Authorities (Standing Orders) (England) Regulations 2000**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
Paras 5 and 6 of Part II of Schedule 1	Officer for receiving notification of proposed appointment of certain officers, notifying executive members of that proposed appointment and for receiving and notifying of objections to the proposed appointment.	Managing Director

**Proper officer functions referred to in guidelines issued by the Secretary of State under section 38 of the Local Government Act 2000 (Part 8 of this Constitution)**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
17 Access to Information Procedure Rules	Officer who may, when requested to do so on behalf of an Overview and Scrutiny Commission, require Cabinet to submit a report to the Council within such reasonable time as the Overview and Scrutiny Commission specifies	Monitoring Officer (Democratic Services Manager)
2.5 Executive Procedure Rules	Officer who may place an item on the agenda of the next available meeting of the Cabinet for consideration	The Monitoring Officer and/or the Chief Financial Officer in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
		a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting.

#### **Children Act 2004**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
18	Statutory Director of Children's Services	Strategic Director of Adults, Children and Health Services

#### **The Environment Assessment of Plans and Programmes Regulations 2004**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
9	Officer responsible for determining whether a plan, programme or modification is likely to have significant environmental effects.	Head of Planning

#### **The Neighbourhood Planning (Referendums) Regulations 2012**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
4	Officer responsible for the publication of the information statement and specified documents in relation to the neighbourhood planning process.	Returning Officer

# **PART 6 - TERMS OF REFERENCE OF ALL OTHER COMMITTEES, PANELS AND OTHER BODIES OF THE COUNCIL**

## **TERMS OF REFERENCE FOR FORUMS, PANELS AND COMMITTEES**

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<p><b>C) <u>OVERVIEW AND SCRUTINY PANELS</u></b>            Adult Services and Health Overview and Scrutiny Panel            Children’s Services Overview and Scrutiny Panel            Corporate Services Overview and Scrutiny Panel            Highways, Transport and Environment Overview and Scrutiny Panel            Leisure, Culture and Libraries Overview and Scrutiny Panel            Planning and Housing Overview and Scrutiny Panel            Crime and Disorder Overview and Scrutiny Panel  <i>(See Purpose and Procedure Rules for Overview and Scrutiny – Part 4 A)</i></p>	
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**A) COUNCIL**

(See *Council Procedure Rules – Part 2 C*)

**B) CABINET**

(See *Responsibilities and Procedure Rules for Cabinet– Part 3 A*)

**C) OVERVIEW AND SCRUTINY PANELS**

(See *Purpose and Procedure Rules for Overview and Scrutiny – Part 4 A*)

**D) REGULATORY****D1 Berkshire Pension Fund Panel***D1.1 Purpose*

To exercise the general powers and duties of an Administering Authority in the maintenance of such Superannuation funds as may be required in accordance with the Superannuation Fund Act 1972 and Regulations existing under that Act including, but not restricted to the following.

- (i) Determination of the investment policies of the Administering Authority in the light of professional officer advice and other suitably qualified independent advice, legislative constraints and Codes of Practice.
- (ii) Responsibility for the administration of all superannuation funds maintained by the Administering Authority and including, specifically custodianship arrangements.
- (iii) The appointment of External Fund Managers.
- (iv) Determination of the arrangements for obtaining appropriate investment advice including the appointment of a suitably qualified independent person or persons to give expert advice on superannuation fund investment and management arrangements.
- (v) The periodic review and monitoring of the Funds' investment performance.
- (vi) Determination of applications for admitted body status in accordance with the appropriate legislative provisions.
- (vii) To consider the Annual Report on the Fund.

*D1.2 Membership\_– 5 RBWM Councillors*

N.B. A Cabinet Member may be a Member of the Berkshire Pension Fund Panel and of the Berkshire Pension Fund Advisory Panel.

*D1.3 Quorum – 2 RBWM Councillors**D1.4 Frequency - Quarterly*

## **D2 Berkshire Pension Fund Advisory Panel**

### *D2.1 Purpose*

To consider and make recommendations to the Berkshire Pension Fund Panel on investment and actuarial issues relating to the Fund as follows:

- (i) The investment policies of the Administering Authority, in the light of professional officer advice and other suitable qualified independent advice, legislative constraints and Codes of Practice.
- (ii) The administration of all superannuation funds maintained by the Administering Authority, including specifically, custodianship arrangements.
- (iii) The appointment of External Fund Managers.
- (iv) The arrangements of obtaining appropriate investment advice, including the appointment of suitably qualified independent person or persons to give expert advice on Superannuation fund investment and management arrangements.
- (v) The periodic review and monitoring of the Fund's investment performance.
- (vi) The Annual Report on the Fund.

### *D2.2 Membership*

Membership - 16 comprising five Members of the Pension Panel, and one elected representative from each of Reading Borough Council, Slough Borough Council, West Berkshire Council, Bracknell Forest Borough Council and Wokingham Council, two trade union representatives; two representatives from employer bodies with the Fund, one being Thames Valley Probation and the other selected by the Pension Panel after consultation with the Advisory Panel; one member drawn from the active membership, and one member drawn from the deferred/pensioner membership.

### *D2.3 Quorum – 4 Members*

### *D2.4 Frequency – As per the Pension Fund Panel schedule*

## **D3 Development Management Panels**

### D3.1 Purpose

(i) Within the operating guidelines and budget approved by the Council to consider all matters other than those delegated to a Parish Development Management Subcommittee relating to the following:

- a. Where a Councillor has requested within 28 days of the publication of the weekly list featuring an application, using the adopted pro-forma for Calling in applications, that an application should be the subject of a decision by the Area Planning Panel (other than applications for Certificates of Lawfulness for Proposed Uses and Development)

- b. Where a planning application proposes more than two dwellings or over 1000sm of non-residential floor space and the officer recommendation is to approve the decision is made by the Area Planning Panel unless the decision is delegated to the Head of Planning by the Chairman of the relevant Panel.
- c. Where the Officer's decision would reverse a previous decision of a Development Management Panel for the same development or would have the effect of preventing the proper implementation of any previous decision of the Council.
- d. Where an emerging or approved Local Plan or other Policy or Guidance is in existence for a particular area or development type and the Officers recommendation on the application would be contrary to the Development Plan
- e. Where an application seeks a renewal of a planning permission, or a variation of a planning permission or a variation of a planning condition for a planning permission previously approved by the panel which would reverse the decision taken by that Area Panel.
- f. Where an application is made by a Councillor or a member of their family and there are one or more objections or it is contrary to adopted planning policies.
- g. Where an application is made by the Council or the Council has land ownership interest in the application site-
- h. Where an application is made by officers in politically restricted posts or by an officer employed in a role which is part of or interacts with the Planning application process and there are one or more objections or it is contrary to adopted planning policies
- i. Where in the opinion of the Head of Planning and the Lead Member of Planning, that it would not be appropriate to use delegated authority.
- j. Where any tree of amenity value or significance that is to be felled whether covered by a TPO or on Highways land may come to an area panel if the Head of Planning and the Lead Member for Planning agree it is appropriate in the public interest. i.e. a contribution to the amenity or street scene.
- k. for the issue of all notices for planning enforcement, trees and listed buildings except in urgent circumstance where they would be issued by the Head of Planning and reported to the area development panel at the earliest available opportunity.
- l. All other functions regarding town and country planning and development control listed in Section A of Schedule 1 of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 are to be delegated to the Head of Planning unless delegated to a Parish Development Management Subcommittee.

(ii) To advise the Council, the Cabinet, the Planning and Housing Overview and Scrutiny Panel on the preparation, updating and monitoring of the Local Plan and policies relating to development management guidance.

### *D3.2 Membership*

- a) Maidenhead Development Management Panel – 9 Members  
Wards: Belmont, Bisham & Cookham, Boyn Hill, Bray, Cox Green, Furze Platt, Hurley & the Walthams, Oldfield, Pinkneys Green and Maidenhead Riverside.
- b) Windsor Rural Development Management Panel – 9 Members  
Wards: Ascot & Cheapside, Horton & Wraybury, Old Windsor, Sunningdale and Sunninghill & South Ascot.
- c) Windsor Urban Development Management Panel – 9 Members  
Wards: Castle Without, Clewer North, Clewer South, Clewer East, Eton and Castle, Eton Wick, Datchet, Park
- d) Joint Panel: Where an application appears likely to have significant impact which goes beyond the area of the relevant Development Management Panel a joint meeting of the Panels will be convened to determine the application.
- e) Borough-wide Panel: Where an application appears likely to have significant impact which extends across the whole borough, a Borough-wide panel will be called by the Leader of the Council, consisting of 13 Members. Group Leaders, in consultation with the Lead Member for Planning/Opposition Spokesperson for Planning as appropriate, would appoint the Members of the Panel from their respective groups on a meeting-by-meeting basis.

### *D3.3 Dual Hatted Members and Lobbying*

These issues are dealt with in the Planning Code of Conduct Part 7 B. Any queries can be discussed with the Democratic Services Manager or Monitoring Officer.

N.B: A Cabinet Member may be a Member of a Development Management Panel.

*D3.5 Quorum:*

- Maidenhead DM Panel – 3 Members
- Windsor Rural DM Panel – 3 Members
- Windsor Urban DM Panel – 3 Members
- Borough-wide DM Panel – 4 Members

*D3.6 Frequency:* Every four weeks

### *D3.7 Joint Development Management Panels*

Planning applications which are likely to have a significant impact, going beyond the area of the relevant Area Development Management Panel will be considered and determined at a joint meeting of the Development Management Panels.

The initial decision as to whether an application falls into this category will be taken by the Head of Planning in agreement with the Lead Member for Planning and the Development Management Panel Chairmen. In the event of a lack of unanimity, the Development Management Panel Chairmen and the Lead Member for Planning will meet and reach a majority decision to recommend to the Head of Planning.

Where at least 5 Members of an Area Development Management Panel, or the Chairman of that Panel, believes that an application due to be determined by the other Development Management Panel is likely to have a significant impact on their area and should be determined by Joint Panel, they shall notify the Head of Planning in writing as soon as possible and, in any event, prior to the time fixed for the Development Management Panel due to determine the application. The matter will then be considered by the Head of Planning in consultation with the Development Management Panel Chairmen and the Lead Member for Planning, who will decide how the application is to be determined. If this decision cannot be made prior to the Development Management Panel at which the application was due to be considered, the application will be deferred. In the event of a majority decision not being made, the Lead Member for Planning shall determine how the application shall be determined.

#### **D4 Parish Development Management Sub Committees**

##### D4.1 Purpose

Within the operating guidelines and budget approved by the Council to consider all applications in the relevant Wards relating to the following matters:

a. Householder applications - defined as those within the curtilage of a dwelling house which require an application for planning permission and are not a change of use.

Included in householder developments are extensions, conservatories, loft conversions, dormer windows, alterations, garages, car ports or outbuildings, swimming pools, walls, fences, domestic vehicular accesses, including footway crossovers, porches and satellite dishes.

Where an application includes the following matters then the application will be considered by the relevant Development Management Panels in substitute:

- i. Retrospective applications
- ii. Listed Building Consent

- iii. Householder applications that relating to any work to two or more flats, applications to change the number of dwellings (flat conversions, building a separate house in the garden), change of use to part or all of the property to non-residential (including business) uses, anything outside the garden property (including stables if in a separate paddock).

#### *D4.2 Membership*

- a) Bray Development Management Subcommittee – 14 members of the Panel (being co-opted from elected parish councillors of Bray Parish Council)  
Wards: Bray, Clewer North (part) & Clewer South (part)

#### *D4.3 Political Balance*

A Parish Development Management Subcommittee is a committee of Council and the political balance rules under s15 Local Government and Housing Act 1989 apply unless suspended by Council each year at full Annual Council.

*D4.5 Quorum:* Bray DC Subcommittee – 5 Members

*D4.6 Frequency:* Every four weeks

#### *D4.7 Call-in*

Within 28 days of the publication of the weekly list featuring an application, a Councillor may Call-in the application using the adopted pro-forma for Calling in applications. The application will then be consider by the relevant Area Development Management Panel for that Ward in substitute.

### **D5 Employment Panel**

#### *D5.1 Purpose*

- (i) To approve any payment of monies (other than that set out in the contract of employment) or payment under any employment policy (including pension costs) where such payment is in excess of £25,000 (whether singularly or collectively).
- (ii) To consider representations on employment relation matters from recognised Trade Unions.
- (iii) To determine overall human resources policies for all staff employed by the council.
- (iv) To approve significant revisions, in the case of five or more employees where the total redundancy costs (including pension costs), is more than £25,000, or where there are changes to the number and functions of the Council's directorates

or any other significant changes of a similar magnitude, (subject where appropriate to consultation with the Trade Unions and other similar organisations involved).

(v) To determine arrangements for the appointment and conditions of service of the Managing Director (who is appointed, on recommendation, by Council) and the Directors and Heads of Service in accordance with Part 8B.

(vi) To determine arrangements for the conditions of service of all other Council employees.

(vii) To monitor the cost effectiveness of Human Resources management across the Council's services.

(viii) To determine the Council's Pay and Benefits Policy and annual pay awards under the Council's local schemes.

(ix) To establish and monitor Corporate Health and Safety policies for the Council.

(x) To establish and monitor Equal Opportunities policies for the Council.

(xi) To establish and monitor the Council's training and staff development policies.

(xii) To consider employment implications arising from i-xi for alternative employment arrangements (including Local Authority Trading Company or Community Interest Company) to deliver services (including pensions) delegated from Council or Cabinet.

*D5.2 Membership: 8 Members*

*D5.3 Quorum: 3 Members*

*D5.4 Frequency: 12 per annum*

## **D6 Employment Appeals Panel**

*D6.1 Purpose: To determine Disciplinary and Grievance Appeals in accordance with the Council's HR procedures*

*D6.2 Membership: 3 selected from the existing Members (including substitutes) of the Employment Panel*

*D6.3 Quorum: 3 Members*

*D6.4 Frequency: As required*

## **D7 Licensing Panel**

*D7.1 Purpose:*

- (i) The Licensing Panel will determine and keep under review:
  - a. the Statement of Licensing Policy
  - b. the Statement of Gambling Policy
  - c. the Hackney Carriage Policy and Conditions
  - d. the Private Hire Driver and Vehicle Policy and Conditions
  - e. the Street Trading Policy



- f. the Sex Establishments Policy
- g. the current Street Collections and House to House Collections Policy.
- (ii) The above Policies, as determined by the Licensing Panel refer to certain delegations of functions to Officers. The Panel will keep these delegations under review and amend as necessary.
- (iii) To consult with members of the Hackney Carriage and Private Hire trade via their representative organisations on at least an annual basis in respect of proposed fee bands, enforcement, provision or ranks and other matters of concern to users and the trade and to make recommendations from time to time to the Council.
- (iv) To decide whether to arrange a survey on demand with regard to Hackney Carriages.

(All other functions which may be delegated to the Licensing Panel are to be delegated to Officers)

#### *D7.2 Membership - 15 Members*

N.B: A Cabinet Member may be a Member of the Licensing Panel

#### *D7.3 Quorum: 4 Members*

#### *D7.4 Frequency: Quarterly*

### **D8 Licensing Panel Sub Committee**

#### *D8.1 Purpose*

The Licensing Panel Sub Committee will consider all matters relating to the following functions:

- a. Where an objection or representation is made for an application for or a variation to; a personal licence, a premises licence, a club premises certificate or a provisional statement.
- b. Where a Police objection has been received in relation to an application for or to; vary a designated premises supervisor, a transfer of premises licence or Interim Authorities.
- c. Where the authority must carry out a review of a premises licence.
- d. Where an objection or representation is made for an Application for club gaming/club machine permits.
- e. Where there is a decision to be made for the cancellation of a club gaming or club machine permit.
- f. Where there is a decision to be made to give a counter notice to a temporary use notice
- g. Where an application for Licensed Premises Gaming Machine Permits involves over 4 machines.
- h. Where a decision to object involves the local authority as a consultee and not as the relevant authority considering the application.

- i. Where there is a determination of a Police objection to a temporary event notice.
- j. Where an application is received from a Sexual Entertainment Venue, including applications for existing premises

(The above circumstances (a- i) in which functions may be delegated to the Licensing Sub Committee are set out in the Licensing Act 2003 and drafted in RBWM's Licensing Policy Statement and within Annex A of RBWM's Statement of Principles Gambling Act 2005.(j) is pursuant to the Local Government (Miscellaneous Provisions) Act 1982, as amended).

*D8.2 Membership:*

Any 3 Members of the full Licensing Panel. The Members will be called for a sub-committee meeting on a rota basis from amongst those appointed by the Council, with political balance being maintained wherever possible.

*D8.3 Quorum: 3 Members*

*D8.4 Frequency: As required*

**D9 Rights of Way and Highway Licensing Panel**

*D9.1 Purpose:*

- (i) In accordance with Council Policy, the Approved Code of Practice and available budgets to exercise the Council's functions relating to the functions set out in Part 2.
- (ii) To consider any public objections to the making of any Statutory Order and determining those Orders in relation to the above functions.

*D9.2 Membership – 8 Members*

N.B: A Cabinet Member may be a Member of the Rights of Way and Highway Licensing Panel

*D9.3 Quorum: 2 Members*

*D9.4 Frequency: Quarterly.*

*D9.5 Delegations to Officers*

*9.5.1 Power to permit deposit of builder's skip on highway (Section 139 of the Highways Act 1980)*

Officer: Head of Highways and Transport.

- 9.5.2 *Power to license planting, retention and maintenance of trees etc. in part of highway (Section 142 of the Highways Act 1980)*  
Officer: Head of Highways and Transport.
- 9.5.3 *Power to authorise erection of stiles etc on footpaths or bridleways (Section 147 of the Highways Act 1980)*  
Officer: Head of Highways and Transport, in consultation with the ward councillors.
- 9.5.4 *Power to license works in relation to buildings etc which obstruct the highway (Section 169 of the Highways Act 1980).*  
Officer: Head of Highways and Transport
- 9.5.5 *Power to consent to temporary deposits or excavations in streets (Section 171 of the Highways Act 1980)*  
Officer: Head of Highways and Transport
- 9.5.6 *Power to dispense with obligation to erect hoarding or fence (Section 172 of the Highways Act 1980).*  
Officer: Head of Highways and Transport.
- 9.5.7 *Power to restrict the placing of rails, beams etc. over highways (Section 178 of the Highways Act 1980).*  
Officer: Head of Highways and Transport.
- 9.5.8 *Powers relating to the removal of things so deposited on highways as to be a nuisance (Section 149 of the Highways Act 1980).*  
Officer: Head of Highways and Transport.
- 9.5.9 *Duty to assert and protect the rights of the public to use and enjoyment of highways (Section 130 of the Highways Act 1980).*  
Officer: Head of Highways and Transport, in consultation with the ward councillors.
- 9.5.10 *Duty to keep a definitive map and statement under review (Section 53 of the Wildlife and Countryside Act 1981).*  
Officer: Head of Highways and Transport in consultation with Monitoring Officer

## **D10 Local Pension Board**

### *D10.1 Purpose*

To assist the administering authority of The Royal County of Berkshire Pension Fund in securing compliance with the Local Government Pension Scheme Regulations, any other legislation relating to governance and administration of the

Scheme and the requirements imposed by The Pensions Regulator including but not limited to:

- i) Challenge any failure to comply with the Scheme rules and associated legislation and any failure to meet the requirements and expectations of the Pensions Regulator;
- ii) Challenge any advice and guidance provided and to understand how that advice and guidance impacts on any decision for which the Board is legally responsible;
- iii) Monitor levels of performance of the administering authority and Scheme employers, review notices of unsatisfactory performance and determine what, if any, costs should be recovered by the Pension Fund where a failure to meet certain levels of performance have not been met;
- iv) Report breaches of the law to the Pensions Regulator where there is a reasonable cause to believe that a legal duty, which is relevant to the administration of the Scheme, has not been, or is not being, complied with as a result of which there is a likely material significance to the Pensions Regulator;
- v) Determine under what circumstances Scheme employers should be reported to the Pensions Regulator;
- vi) Keep under review the administering authority's communication policy with regard to Pension Scheme stakeholders;

#### *D10.2 Membership*

6 comprising of:

- 3 Scheme Employer Representatives
- 3 Scheme Member Representatives

N.B. A Member of the Berkshire Pension Fund Panel or Berkshire Pension Fund Advisory Panel is not eligible for membership of the Pensions Board neither are Royal Borough Officers who are involved with the administration or management of the Pension Fund.

*D10.3 Quorum* – A meeting is only quorate when at least 50% of the Scheme member and Scheme Employer Representatives are present with at least 1 member being present from each group. For actions to be agreed by the Chairman or Vice Chairman must be in attendance. A meeting that becomes inquorate may continue but any decisions will be non-binding.

*D10.4 Frequency* – At least bi-annually and up to 4 times per year.

## **D 11 Berkshire Pension Fund Panel Sub Committee**

### *D11.1 Purpose*

The Sub Committee shall have delegated authority to undertake the following functions:

- To review and recommend appropriate policies/actions to the Pension Fund Panel and Advisory Panel in respect of the following:
  1. The Strategic Asset Allocation of the Fund
  2. The investment performance of the Fund
  3. New investment products/mandates and their suitability for investment by the Fund
  4. To interview potential managers for the Fund
  5. To recommend the appointment or termination of investment mandates
- Such other matters as may be relevant to managing the investments of the Fund and implementing decisions of the Pension Fund Panel
- Recommend changes to the Investment Strategy
- Set and Change asset allocation
- Review investment opportunities/new managers and authorise officers to make such investments if they comply with the agreed Investment Strategy. Such delegation is limited to a limit of the higher of £50 million, or 3% of the net asset value of the Fund as published in the Fund's latest Financial Statements for any single or series of investments in any one asset class with any single manager. For the avoidance of doubt any proposed investment either incrementally or new in excess of £50 million will require prior approval from the Panel.
- To take emergency actions to terminate a mandate, redeem a pooled holding or reduce exposure to one or more asset classes and to take any other action necessary to secure / recover/ Pension Fund Assets. Such emergency action is delegated to: the Chairman (or in his absence the Vice Chairman) of the Berkshire Pension Fund Panel and one other of: the Vice Chairman, Leader, and Lead Member for Finance, Managing Director or a Strategic Director.

### *D11.2 Membership*

The Berkshire Pension Fund Panel Sub Committee will consist of the Chairman and/or Vice-Chairman of the Berkshire Pension Fund Panel and up to three other members of the Berkshire Pension Fund and Pension Fund Advisory Panels.

**D11.3 Quorum**

Four members of whom at least two shall be members of the Berkshire Pension Fund Panel and include the Chairman and/or the Vice Chairman of the Panel.

**D11.4 Frequency**

The Berkshire Pension Fund Panel Sub Committee will meet at least quarterly and on an ad-hoc basis as required. At least five clear days notice of a meeting will be given for each meeting. The Sub Committee may meet “electronically” if required. In such a circumstance it will be made clear by what date Sub Committee Members are required to respond, decisions recorded and reported to subsequent meeting.

**E) JOINT ARRANGEMENTS****E1 Berkshire Adoption Panel****E1.1 Purpose**

To consider and make recommendations under the Adoption and Children Act 2002 and the associated Regulations 2005 on:

- applications from prospective adopters
- the matching and placement of children in the care of Reading, Wokingham, West Berkshire, Bracknell Forest, Slough and Windsor and Maidenhead Borough Councils where it is considered that adoption is in a child's best interests
- consideration of whether adoption is the best plan for a child where the child is relinquished (excluding cases in proceedings which are read by the agency advisor, and are not presented to the adoption panel)

**E1.2 Membership:**

- 1 elected Member from each of: Windsor & Maidenhead, Bracknell Forest, Slough, Reading, Wokingham and West Berkshire Councils.
- 1 Medical Advisor nominated and provided by East and West Berkshire Health Authorities.
- 3 Social Workers - one Social Worker from those employed by each of the 6 Local Authorities.
- 3 Independent Members - e.g. Adoptive Parents, Legal Advisers.

The Independent Chair - a person to be appointed by agreement between the 6 Local Authorities having considerable experience in adoption work.

**E1.3 Quorum:**

At least six members to be present including the Chair or Vice Chair and at least one social worker and one independent member.

#### *E1.4 Frequency:*

Twice monthly except August (when there is normally only one). Additional panels may be held if required. Panels may be cancelled if there are no cases to be heard.

## **E2 East Berkshire Joint Health Overview and Scrutiny Committee**

### *E2.1 Purpose*

These terms of reference together with the health scrutiny code of practice for East Berkshire provide a framework for carrying out joint health scrutiny work in East Berkshire under powers to scrutinise the NHS contained in the Health and Social Care Act 2001.

The East Berkshire Joint Health OSC has been formed by Bracknell Forest Council, Slough Borough Council and the Royal Borough of Windsor and Maidenhead;

- a) To look at strategic, regional, sub-regional or locality related health issues or look at a specific review as determined by the joint health overview and scrutiny committee (working as a *discretionary* committee).
- b) To form a *statutory* Joint Health Scrutiny Committee i.e. as required under law where the local authorities whose residents are affected by a particular course of action by a NHS body, consider the proposals to be “substantial” and wish to review the NHS decision/action or where the NHS body requires it.

Officer support i.e. the administration of agendas and minutes will follow annually with the rotation of the Chairman. Please refer to the joint health scrutiny protocol for details of the administration of specific reviews and the balance of administration between health trusts and local authorities.

Health scrutiny reviews undertaken on specific topics over a specific length of time, may be delegated to review groups of the joint committee with membership of between 3 and 6 Councillors, and with at least 1 member from each authority. This may be waived if an authority does not wish to take part, as the review will not affect their area, and if the involvement of the two remaining authorities is agreed.

Each separate review must be accompanied by a pro forma, covering the following items; description of the subject, identification of the health bodies involved/leading the issue, review group membership, issues to be addressed, officer support and the evidence gathering process proposed.

At the end of each review, a report must be produced and signed off by the Joint committee and considered by each individual participating authority.

The joint committee will also receive and consider responses by NHS bodies to its reports and reviews as empowered under the Act.

### *E2.2 Membership*

The Committee will comprise of nine Councillors; three members elected annually from each of the individual three local authorities in East Berkshire. The three authorities have agreed to waive the requirement for the committee as a whole to have proportional political representation. However, each local authority may decide whether to maintain political proportionality for its seats on the committee or not.

Appointments to the committee will be for a term of office one year from the date of each authority's annual council meeting. Substitutions may be made by each authority for their own representatives if they so wish. Substitutes may attend meetings of the joint committee as non-voting observers in order to familiarise themselves with the issues under review.

The Chairmanship of the joint committee will be rotated annually between the three East Berkshire authorities. The Joint Committee will appoint two vice-chairmen from the other participating authorities.

The Joint Committee may ask individuals to assist it on a review by review basis. Independent professionals or those with specialist knowledge may be requested to give their expert advice to the joint committee during a review, without being co-opted.

### *E2.3 Quorum*

The quorum for the main joint committee meetings shall be 6, provided that each authority is represented. The quorum for review meetings shall be 3, provided that each authority is represented or that joint agreement is reached for one or two authorities to lead/act for the joint committee.

### *E2.4 Frequency*

Once established the Joint Committee will meet three times per year and rotate the venue for the meeting with the first and last meeting being held in the premises of the authority from which the Chairman is appointed for that year. Special meetings may be called in addition to the meetings held three times per year if the need arises. The joint committee will meet in public and be advertised as such in each authority area in accordance with the local government acts.



The schedule of Joint Committee meetings may include flexibility if required, for example; to give a break in the timetable to allow individual authorities to evaluate responses to the Joint Committee's report and return with comments.

### **E3 Joint East Berkshire Health Overview and Scrutiny Committee with Buckinghamshire County Council**

#### *E3.1 Purpose*

This Committee is established in accordance with the Directions issued by the Secretary of State for Health on 17th July 2003 following the initiation of a joint consultation under regulation 4 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002 by the Berkshire East Primary Care Trust (BEPCT) and the Berkshire Healthcare Foundation Trust (BHT) with the health overview and scrutiny committees/Panels of Bracknell Forest Council, Slough Borough Council, Windsor and Maidenhead Borough Council and Buckinghamshire County Council ("the constituent authorities") on proposals it has under consideration for a substantial development of the health service or a substantial variation in the provision of such service covering the areas of the constituent authorities.

The role of the Joint Committee shall be to consider the proposals upon which the BEPCT and BHT have consulted. In performing this role, the Joint Committee shall exercise the following functions:

- i) to consider and report on the proposal consulted on to the BEPCT and BHT under regulation 4(4) of the Regulations;
- ii) to require the BEPCT and BHT to provide information about the proposal;
- iii) to require officers of the NHS to attend before it to answer such questions as appear to it to be necessary for the discharge of its functions in connection with the consultation;
- iv) to co-opt additional members as it considers appropriate and be empowered to decide who to appoint to fill a co-opted place.
- v) to invite any other local authority members to meetings where their areas may be affected;
- vi) to invite such experts to meetings as the Joint Committee sees fit to advise them;
- vi) such other functions ancillary to those listed in i) to v) above as the Joint Committee considers necessary and appropriate in order fully to perform its role.

The Chairman will be the Chairman of the Joint East Berkshire Health Overview and Scrutiny Committee, with officer support from the same local authority until the role passes to another local authority at the end of the municipal year in line with the terms of reference of the Joint East Berkshire Health Overview and Scrutiny Committee.

### *E3.2 Membership*

The Joint Committee shall be made up of 12 Health Overview and Scrutiny Committee members comprising 3 Members each from Bracknell Forest Council, Slough Borough Council and Windsor and Maidenhead Borough Council and 3 Members from Buckinghamshire County Council/or South Buckinghamshire District Council. These Members will be appointed by the local authorities concerned. Each local authority will appoint substitute members if they so wish. The four authorities are asked to waive the requirement for the committee as a whole to have proportional political representation.

Appointments to the committee will be for a term of office one year from the date of each authority's annual council meeting. Substitutes may attend meetings of the joint committee as non-voting observers in order to familiarise themselves with the issues under review.

### *E3.3 Quorum*

The quorum for the main joint committee meetings shall be 6, provided that each authority is represented or that joint agreement is reached for one or two authorities to lead/act for the joint committee.

### *E3.4 Frequency*

The Joint Committee will meet in public and be advertised as such in each authority area in accordance with the local government acts.

## **E4 Joint Strategic Planning Committee**

### *E4.1 Purpose:*

#### Titles and Definitions

The Committee shall be known as "the Joint Strategic Planning Committee", hereinafter referred to as the "Joint Committee". The reference to "the authority (ies)" relates individually or collectively to the six unitary authorities

#### Purpose of Joint Working Arrangements

As a guiding principle, services should be delivered at the level of the individual unitary local authority, or between individual authorities, wherever it is practicable and efficient to do so. Joint working should only be undertaken at the minimum level required by law where clear benefits, such as greater economy or quality of service, can be identified, or where it is essential for a strategic view to be taken.

The Joint Committee shall be responsible for the following areas of work:

- a) The current Structure Plan and any future replacement of it;
- b) TPP preparation – any overview sections of the submission; any joint working on cross boundary topics affecting all six unitary authorities (the scope of this will be dependent upon the final agreed format of TPPs for Berkshire);
- c) The current Minerals and Waste Local Plans and any jointly-prepared successors to them.

### Basis for Funding

Each unitary authority will bear an equal (one-sixth) share of the costs of the service. A draft annual budget will be agreed at a meeting in September preceding each financial year and the Joint Committee will advise the six authorities of the details, in order that:

- a) provision can be made in each unitary authority budget; or
- b) the budget can be referred back to the Joint Committee for further consideration.

The procedure for setting a budget shall be subject to a separate agreement between the unitary authorities.

### *E4.2 Membership/voting*

Two elected members per Unitary Authority may attend meetings of the Joint Committee, one of whom shall be the Member of the Joint Committee for that Authority with voting rights. The other Member shall be present as an observer but shall be given the opportunity to participate in the debate of items. Substitutes will be allowed both for the Member of the Joint Committee and the observer member. The Joint Committee may set up sub-groups of its members to consider matters relating to its terms of reference and to make recommendations to the Joint Committee in relation to them. Decision-making powers shall remain with the full Joint Committee.

### Chairing the Joint Committee

The chair of the Joint Committee will be chosen by the Joint Committee. It is proposed that a convention be adopted of revolving the Chair between authorities on an annual basis, by a method to be agreed by the Joint Committee. In the event of a tied vote, the Chairman will not have a casting vote. The authorities will seek to resolve the disputed matter by negotiation and will hold a special meeting to vote upon the disputed matter again.

### *E4.3 Quorum*

At least one representative per unitary authority from at least four of the unitary authorities will be required to constitute a quorum.

### *E4.4 Frequency*

As required

## **E5 Health and Wellbeing Board**

NB: Health and Wellbeing Board became a formal committee of Council in April 2013 as a part of the Health and Social Care Act 2012.

### **E5.1 Purpose**

- To implement the national and local requirements on Health and Wellbeing Boards to improve the life outcomes, health and wellbeing of residents in the Borough.
- To act as a high level strategic partnership to agree the priorities that will improve the health and wellbeing of the residents of the Royal Borough of Windsor and Maidenhead.
- To deliver the statutory functions placed on Health and Wellbeing Boards through the Health and Social Care Act 2012 and other statutory or local priorities.

### **Background**

Social policy changes from Central Government are changing the requirements for health and social care nationally in order to bring more local democracy into local services. On 12 July 2010, the NHS White Paper *Equity and Excellent - Liberating the NHS* and the accompanying consultation paper *Local Democratic Legitimacy in Health* outlined significant changes to local governance structures for health and wellbeing, to improve health outcomes for the local population.

Each locality had a statutory requirement to create a Health and Wellbeing Board, which had specific functions for the associated area. The Board is to be hosted by the local authority and subsequent documents from Central Government have detailed and refined the requirements and functions of a HWB.

### **Requirements of Health and Wellbeing Boards**

1. Assess the needs of the local population and lead the statutory Joint Strategic Needs Assessment (JSNA).
2. Prepare a Joint Health and Wellbeing Strategy based on the needs identified in the JSNA.
3. Oversee the delivery of the Better Care Fund.
4. Promote integration and partnership, including joined up commissioning plans across the NHS, social care and public health.

5. Support joint commissioning and pooled budgets where all parties agree it makes sense.
6. Offer strategic and organisational leadership to meet local priorities.

### **Accountability**

The Board is locally accountable to the community it services, elected members through the Royal Borough's Cabinet and to the Community Partnership Forum.

There are accountabilities for commissioning decisions and actions through the NHS England Local Area Team

### **Reporting Structures**

Any deviation from these terms of reference will be agreed by the statutory partners of the Board, specifically the Royal Borough, the Berkshire NHS Cluster Board and the Clinical Commissioning Groups' governing bodies.

### **Review of the Health and Wellbeing Board**

The terms of reference and membership will be reviewed annually.

### **E5.2 Membership**

- **Chair** Lead Member for Adult Services and Health.
- **Deputy-Chair** Chair Windsor, Ascot and Maidenhead Clinical Commissioning Group.
- Lead Member for Children's Services.
- Principal Member for Public Health and Communications.
- Managing Director/Strategic Director Adult, Children and Health Services.
- Deputy Director Health and Adult Social Care.
- Director of Public Health Berkshire.
- Chair Bracknell and Ascot Clinical Commissioning Group.
- Chair Windsor and Maidenhead Healthwatch.

Named substitutes will attend meetings of the Board in place of core members as required. Other partners and stakeholders may be co-opted into temporary or permanent membership to help address the identified strategic priorities.

### **E5.3 Frequency of Meetings**

Four meetings per year. All meetings will be public unless there are confidential (Part II) items as applicable by the Local Government Act 1972.

### **E5.4 Quorum**

Minimum representation of four members for a meeting to take place with at least two members each from the Council and the NHS.

## **F) OTHER PANELS, FORUMS AND COMMITTEES**

### **F1 Access Advisory Forum**

#### *F1.1 Purpose:*

The Royal Borough of Windsor and Maidenhead supports the social model of disability, which asserts that barriers, negative attitudes and exclusion by society are the ultimate factors defining who is disabled and who is not. Adopting this approach will result in a focus on removing barriers and a more inclusive approach to service delivery.

#### *Comprehensive Equality and Diversity Policy 2010-2013*

The functions of the Forum shall be:

- to help with the preparation, development and implementation of the Comprehensive Equality and Diversity Policy for the Borough;
- to work in partnership with neighbouring Access Forums on matters of shared interest and with other groups or agencies with an interest in developing an inclusive environment;
- to encourage the development of an environment which is independently accessible to disabled people;
- to discuss and liaise with groups and individuals in the area of the Borough on access/disability issues;
- to consider matters affecting disabled people in the Borough and make recommendations to the Cabinet or Panels as necessary;
- to consider the impact of local or national consultations affecting disabled people in the Borough, respond where appropriate, and make recommendations to the Cabinet or Panels as necessary;
- to examine the services provided by the Council and consider ways in which the quality and efficiency of such services may be improved to the benefit of persons with disabilities in the Borough and make recommendations to Cabinet or appropriate Panels;
- to advise on ways to promote and publicise access awareness throughout the Borough; and
- to advise on improvements for disabled access facilities to and within buildings.
- The meetings of the Forum shall be open to the public, subject to powers of exclusion to suppress or prevent disorderly conduct or other misbehaviour.
- Members of the public may speak at the Forum at the discretion of the Chairman
- Copies of agenda and reports for the meetings of the Forum shall be open to inspection at least five clear working days before the meeting.
- Items of business may be submitted to the Chairman for consideration at least one month before each meeting.

- The Council shall reimburse members of the Forum reasonable expenses incurred in connection with attendance at Forum meetings or other activities relating to discharge of the functions of the Forum, in respect of travelling expenses and expenses of arranging for the care of their children or dependants.

### *F1.2 Membership*

The membership shall be comprised of the following groups:

- Users of local services who themselves have a disability or represent a disabled person.
- Representatives of voluntary groups, associations or Charities working with people with disabilities.
- Appropriate Government and Health bodies concerned with people with disabilities.
- Two Councillors from the Royal Borough of Windsor and Maidenhead.
- The Environment Access Officer.
- Appropriate RBWM officers concerned with people with disabilities.
- The minimum number of members shall be 10 and the maximum number of members shall be 20.
- The Forum Chairman and Vice Chairman shall be service users. They shall be independent from the Council and shall be elected from amongst the members of the Forum.
- Appointments to the Forum, including the Chairman and Vice-Chairman, shall be two-year appointments.
- Members of the Forum may resign by giving notice to the Chairman.
- Members of the Forum may appoint substitute representatives to attend Forum meetings

### *F1.3 Quorum: 6*

### *F1.4 Frequency*

Quarterly with any additional meetings to be arranged by agreement with the Forum.

## **F2 Admissions Forum**

Deleted 27/9/19

## **F3 Public Space Protection Order Panel**

### *F3.1 Purpose:*

- A) To consider the implementation of Public Space Protection Orders (PSPOs) within a single ward with regard to determining whether such an order should be made, extended, varied or discharged under Part 4 Chapter 2 of the Anti-social behaviour, Crime and Policing Act 2014.
- B) To consider whether to make, extend, vary or discharge PSPOs proposing to restrict public right of access to highways (including alley ways) in accordance with Part 4 Chapter 2 of the Anti-social behaviour, Crime and Policing Act 2014 and under s.118b of the Highway Act 1980 for the stopping up of highways..
- C) In accordance with the Council's agreed Cold Calling Control Zone Policy, (as agreed by Cabinet on 27 November 2008), to consider requests to establish Cold Calling Control Zones.

### *F3.2 Membership*

#### Six Members

- If the panel relates to the Highway, for example in the case of an Alley Gating application, Cabinet Member with responsibility for Highways (or substitute). Otherwise, Cabinet Member with responsibility for Environment (or substitute).
- Chairman of the Crime and Disorder Overview and Scrutiny Panel (or substitute).
- Up to three Ward Members, including (as long as they are not conflicted in any way) a member from the Ward to which the proposal under consideration relates.
- Plus in order to achieve political balance non-Ward Members may be appointed. The Membership is subject to political balance and Authority to determine which Members are appointed be delegated to the Democratic Services Manager in consultation with appropriate Group Leaders.
- If the order relates to the Highway, the panel will be chaired by the Cabinet Member for Highways. Otherwise all panels, including requests relating to Cold Calling Control Zones will be chaired by the Cabinet Member for Environmental Services.

### *F3.3 Quorum*

#### Four Members to include:

- The Cabinet Member with responsibility for Highways or Environment (or substitute),
  - The Chairman of the Crime and Disorder Overview and Scrutiny Panel (or substitute), and
- 2 Others

### *F3.4 Frequency: As required*

### *F3.5 Type: Committee of Council*



## **F4 Area Forums**

### *F4.1 Purpose*

The Royal Borough has established two Area Forums:

- Windsor Town Forum covering issues concerning the following wards:
  - Castle Without
  - Clewer East
  - Clewer North
  - Clewer South
  - Eton and Castle
  - Eton Wick
  - Park
  
- Maidenhead Town Forum, covering issues concerning the following wards:
  - Belmont
  - Boyn Hill
  - Furze Platt
  - Maidenhead Riverside
  - Oldfield
  - Pinkneys Green

These Area Forums will provide a means whereby the Council can consult with local communities and, potentially, devolve some decision-making.

The Area Forums are given the power to spend money as delegated by Cabinet resolution; to direct neighbourhood budget expenditure in unparished areas and to send reports with recommendations to Cabinet. The Area Forums will report any such expenditure to Cabinet at least annually. In order to facilitate these roles, Area Forums will be able to work with the local residents, businesses, organisations, including public and private sector, and with other representative organisations such as Parish Councils, Chambers of Commerce, Residents' Associations, etc., any of whom may be invited to attend and contribute to the discussions of the Area Forum. The Area Forums will be politically balanced wherever possible and the Members should represent a Ward within the areas of responsibility set out above.

The Area Forums may consider areas such as:

- Local Policing
- Local planning consultation
- Local youth services
- Local transport issues, including car parking
- Repair and maintenance of local highways

- Local library and information services
- Local leisure, heritage and arts
- Local environmental initiatives

#### *F4.2 Membership*

Windsor Town Forum - 7 Members; Maidenhead Town Forum - 7 Members

*F4.3 Quorum: 2 Members*

*F4.4 Frequency: Three times per annum.*

### **F5 Appeals Panel**

*F5.1 Purpose:*

To act as an Appeals Panel to hear and determine appeals in respect of the following activities and services of the Council:

- (i) *Social Services and Housing Homeless Appeals* - to consider and determine appeals made against decisions made by the officers under delegated powers in respect of homelessness and the interpretation of rules for admission to the Housing Waiting List.
- (ii) *School Transport Appeals* - to consider and determine appeals against decisions made by officers under delegated powers relating to applications for home to school transport and discretionary awards. To determine applications for major and minor awards which are exceptional to the guidelines.
- (iii) *Discretionary Housing Payments* - to hear representatives and to consider appeals against Officer determinations in respect of discretionary housing payments.
- iv) To consider appeals in relation to the refusal to grant, suspension or revocation of Private Hire or Hackney Carriage Driver or Vehicle Licences.
- v) *Registration and Awards Appeals*: To consider any other appeals under statutory regulations.

*F5.2 Membership: Three, maintaining political balance wherever possible.*

*F5.3 Quorum: 3 Members*

*F5.4 Frequency: As required*

**F6 Audit and Performance Review Panel***F6.1 Purpose:*Internal Audit

- (a) To consider and approve the Head of Audit and Investigation's Internal Audit strategy and plan, internal audit annual report and opinion, a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's Corporate Governance arrangements. To consider and approve the approach for the effectiveness of the Internal Audit system, note the outcome of the review and agree the conclusion.
- (b) To receive and consider:
  - (i) specific internal audit reports, as requested by the Panel, with the agreement of the S.151 Officer or Monitoring Officer.
  - (ii) A report from Internal Audit on treated concerns not implemented within a reasonable time scale.

External Audit

- (c) To consider the External Auditor's annual letter, relevant reports and reports to those charged with governance including issues arising from the audited accounts.
- (d) To consider specific reports as agreed with external audit and to comment on the scope and depth of external audit work and to ensure that it delivers value for money.
- (e) To consult on behalf of the Council with the Audit Commission, or any other relevant body, over the appointment of the Council's external auditor.
- (f) To commission work for internal and external audit as the Panel considers appropriate.

Regulatory Framework

- (g) To receive an annual report and maintain an overview of the Council's Constitution in respect of contract and financial procedure rules
- (h) To review any issue referred to the Panel by the Managing Director or a Director or any Council body.
- (i) To receive an annual report on and monitor the effective development and operation of, risk management and corporate governance in the Council.

- (j) To monitor Council policies on “Raising Concerns at Work” and the anti-fraud and corruption strategy and the Council’s complaints process, on at least an annual basis.
- (k) To oversee the production of the Council’s Annual Governance Statement and to recommend its adoption.
- (l) To receive an annual report to consider the Council’s arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice.
- (m) To receive an annual report on and consider the Council’s compliance with, its own and other agreed published standards and controls.
- (n) To consider or improvements to processes, people or systems which are necessary to achieve efficient and effective planning, delivery, control, reporting and governance of the Council’s activities.

#### Accounts

- (o) To review the annual statement of accounts, specifically to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council and to approve the Statement of Accounts for inspection by the External Auditors (KPMG).

#### Performance Review

- (p) To monitor the performance of the Council as a whole and in respect of particular services as the Panel or Cabinet may from time to time identify for service improvement.
- (q) To consider and agree and thereafter monitor the Council’s Development Review Plan and make recommendations to deliver service improvement.
- (r) To monitor the Council’s performance in respect of
  - (i) such national and local performance indicators as the Panel considers appropriate
  - (ii) delivery of outcome improvement plans in respect of reviews undertaken and make recommendations on areas requiring service improvement and on setting targets to deliver such improvements
  - (iii) the effectiveness of performance reporting to enable the Directors and Heads of Service, the Cabinet and the Overview and Scrutiny Panels to perform their management, governance and overview and scrutiny roles respectively

and make recommendations on areas requiring service improvement and on setting targets to deliver such improvements.

- (s) To consider and make recommendations in respect of external reviews and inspections of Council Services.

### Partnerships

- (t) To monitor the partnership arrangements in which the Council is involved including but not restricted to:
- Governance arrangements
  - any inspections or reviews undertaken in respect of partnership arrangements
- (u) To receive and consider reports on the Council's negotiations to agree Local Area Agreements (LAA) and to monitor performance towards achieving the agreed targets.

*F6.2 Membership: 8 Members.*

A Cabinet Member may be a Member of this Panel but should not be the Chairman.

*F6.3 Quorum: 2 Members*

*F6.4 Frequency: The Panel will be programmed to meet ten times per year.*

## **F7 Aviation Forum**

*F7.1 Purpose:*

### Mission Statement

The AVIATION FORUM is committed to providing community leadership to local communities within the Royal Borough by representing local views at national and regional government levels on the economic, social and environmental impacts and concerns arising from activities associated with aviation, particularly those related to Heathrow Airport.

The Aviation Forum (The Forum) shall provide a proactive forum on behalf of the Council of the Royal Borough of Windsor and Maidenhead to discuss, advise, coordinate and provide community leadership on strategic aviation policies and major aviation issues, with particular emphasis on activities related to Heathrow Airport.

The Forum will report to the Council's Sustainability Panel on any issues likely to impact upon Council Policy or interest, particularly those matters that may result in a change of Policy that require a Cabinet decision. It will be for the Sustainability Panel to make any recommendation to Cabinet.

The Forum will contribute to the work of the Council in responding to Government and other aviation-related bodies and agencies on all aviation issues that have a strategic planning, transportation, land use, sustainability or environmental health dimension.

The Forum will provide assistance and advice to the Council on the development and implementation of relevant policies and guidance including responses to proposals arising out of the development of the national aviation strategy.

The Forum shall not act in a way that conflicts with or undermines the Royal Borough's policies as a whole or damages the interests of its local communities.

The Forum will develop its role and pursue its objectives in accordance with an annual work programme, which will be kept under review so as to ensure consistency with Council policies, strategies and community aspirations.

The annual work programme of The Forum will be submitted to an annual meeting of the Sustainability Panel for the purposes of agreement and performance reporting and monitoring; or at such frequencies or for the purposes of reporting on specific issues as requested or directed by the Panel.

The Chairman may request representatives on The Forum to form Technical Working groups for the purposes of researching and investigating specific aviation-related matters with a view to providing advice to The Forum and the Council.

The Forum will maintain close links with other aviation-interest groups such as:

- 2M Group
- Strategic Aviation Special Interest Group (SASIG)
- Local Authority Aircraft Noise Council (LAANC)
- Heathrow Airport Consultative Committee (HACC)
- Air Noise Working Group (Officer technical group)

Agenda items for discussion at The Forum meetings will be agreed in advance with the Chairman. In any event Members and Officers formally representing the Borough on relevant outside bodies shall communicate and/or provide The Forum with relevant updates and briefings as deemed necessary.

The Chairman will, in consultation with The Forum members, identify material and items suitable for recommending as a press release to be issued on behalf of the Council.

*F7.2 Membership - 5*

*F7.3 Quorum: 2 Members*

*F7.4 Frequency: Quarterly*

**F8 BIG SOCIETY PANEL**

Deleted 24/5/16

**F9 Constitution Sub Committee**

*F9.1 Purpose*

- a. To make recommendations to Council for changes to the Constitution for purposes of good governance and better performance of statutory duties.
- b. To make amendments to the Constitution necessary to give effect to decision of the Council, the Cabinet or any delegated decision of any subcommittee, panel or forum.
- c. To make changes as necessary or to comply with changes in legislative requirements or to give effect to any decision of the Sub Committee that has been delegated to it in wide or general terms.
- d. To make such changes necessary to reflect any changes in the allocation of functions to officers

except where such power is expressly reserved to full Council or Cabinet in this constitution or in law.

*F9.2 Membership*

4 Members of the Council – including the Leader of the Council.

*F9.3 Quorum: 2 Members*

*F9.4 Frequency: As and when required.*

*F9.5 Type: Committee of Council*

**F10 Corporate Parenting Forum**

*F10.1 Purpose*

The Corporate Parenting Forum receives reports from professionals delivering services to children in care and care leavers to ensure that they receive the corporate parenting they need to reach their full potential. The Corporate Parenting

Forum acts as the forum through which elected members exercise their corporate parenting responsibilities.

The Forum:

Acts as the Forum through which elected members exercise their corporate parenting role and responsibilities.

- Ensures that the Council Pledge to children and care leavers is meaningful and delivered in full.
  - Examine ways in which the Council as a whole and partner agencies can improve the life chances of all children in care and care leavers and become a more effective corporate parent.
  - Reflects the commitment of the Council, to reduce the need for children and young people to come into care and be an excellent corporate parent for those in care.
  - Refers matters to the Council's Scrutiny and Overview Board which warrant further investigation.
  - Advises the Cabinet of any actions which need to be taken.
  - Ensures there are good joint working arrangements between council departments and partner agencies, maintaining an overview of these services and holding operational services to account.
  - Provides an opportunity for representatives of the Children in Care Council to report their views and work to the Forum.
  - Provides an opportunity for elected members to hear the views, wishes and feelings of the children and young people in the care of the Council, so that they are able to understand their experiences of being in care.
  - Maintains a strategic overview of new developments, initiatives, plans policies and strategies that impact on services for children in care and care leavers, including child sexual exploitation.
  - Monitors the performance of the Council by receiving regular progress reports on all performance data relating to Children in Care Services.
  - Receives regular reports on the needs of care leavers including employment, further education, training and housing.
- Receive Annual reports from the Adoption and Fostering Services, and Independent Reviewing Officers.
- Agrees an annual forward plan setting out its key priorities and areas for action. This will be included in the annual report which will be submitted to council.
  - Acknowledges and celebrate the achievements of children and young people in care in areas of education, drama, sport and employment, and participate in annual celebration events.
  - Takes account of direct experiences of parents of children in care and to ensure they influence the improvement of services and policy development

This means that:

The annual RBWM Outcome Improvement Plan for children in care and care leavers sets out the actions the Council and its partners will take to fulfil its role as an excellent corporate parent. This includes:



- Improving corporate parenting services by, for example, supporting the development of the Children in Care Council, ensuring young people participate in the Corporate Parenting Forum and monitoring the implementation of the RBWM Pledge to children in care and care leavers
- Ensuring quality family and parenting support services are in place to prevent children coming into care where possible
- Improving the range and quality of local care placements
- Delivering a first class education through RBWM's Virtual School for Children in Care
- Promoting the physical and mental health of the children in our care
- Ensuring that our care leavers have the support that they need to make a successful transition to adulthood

The Corporate Parenting Forum includes Children in Care Council representatives who are enabled to participate in the Forum alongside officers and members. The Participation Project Worker ensures that the views of RBWM children in care and care leavers are heard and responded to and facilitates the Children in Care Council. The Chair of the Corporate Parenting Forum, the Lead Member and the Director of Children's Services meet with Children in Care Council representatives on an ongoing basis.

#### *F10.2 Membership*

5 Councillors and 1 member of Local Safeguarding Children Board along with relevant officers, including the Director of Children's Services, Deputy Director Early Help and Safeguarding, Service Leaders and the Head Teacher of the Virtual School.

*F10.3 Quorum: Two Members*

*F10.4 Frequency: Six times per year.*

### **F11 Cycle Forum**

*F11.1 Purpose:*

#### **Mission Statement**

- To advocate and promote ideas relating to how cycling may be made more attractive and accessible to residents, visitors, employees and businesses within the Royal Borough of Windsor and Maidenhead.

**Objectives**

- To facilitate the exchange of ideas amongst both existing and potential cyclists.
- To work with relevant partners and stakeholders to:
  - promote cycling as part of an integrated transport strategy for the Royal Borough;
  - encourage increased levels of cycling for both utility and leisure trips;
  - facilitate cycle access in both urban and rural areas;
  - enable straightforward interchange between cycling and other transport modes;
  - improve the safety of cyclists and reduce cycle casualties;
  - enhance cycle security and reduce cycle thefts.

**Delivery of Objectives**

- Responding to consultations on policies and proposals that affect cycling within the Royal Borough of Windsor and Maidenhead.
- Identifying and proposing policies, schemes and initiatives that would improve conditions for cyclists and/ or encourage increased levels of cycling, making best use of existing data (where available) and with reference to current best practice.
- Recommendations will be progressed by Council officers or other members of the Forum where this can be achieved without recourse to additional budgets or resources. Alternatively, new proposals will be considered against other priorities for implementation through the Local Transport Plan or other suitable funding mechanisms. Where appropriate, the Chair or the Lead Member with responsibility for transport issues may be asked to take proposals to Cabinet or Full Council for consideration.

**Administration**

- All administrative functions for the Cycle Forum are co-ordinated by officers of the Royal Borough of Windsor and Maidenhead.

***F11.2 Membership***

- 4 Members of the Council
- Membership of the Cycle Forum is open to all individuals and organisations that are interested in or are affected by cycling in the Royal Borough of Windsor and Maidenhead
- Organisations currently represented on the Cycle Forum include:
  - Royal Borough of Windsor and Maidenhead
  - Cyclists Touring Club (CTC)
  - Guards Club Road Residents Association
  - Maidenhead and District Cycling Club
  - Maidenhead Cyclists Action Group
  - Ramblers Association
  - Sustrans
  - Thames Velo

**Chair**

- Meetings are chaired by an elected member of the Royal Borough of Windsor and Maidenhead.

*F11.3 Quorum: 3 Members**F11.4 Frequency and Locations of Meetings*

- Meetings will be held at least 4 times a year.
- Meetings will take place in Council premises and will alternate between Maidenhead and Windsor (subject to the availability of venues).

**F12 Grants Panel***F12.1 Purpose:*

To consider applications for Grant funding to voluntary organisations, with a view to formulating recommendations to Cabinet.

Under delegated authority to consider applications received outside of the Annual Grants cycle and agree grants awards at an interim Grants Panel meeting or to be delegated to the Head of Strategy and Communities in consultation with the Chair of the Grants Panel and the relevant Lead Member to reflect the specific service area to which the grant relates.

Under delegated authority, to consider applications for Social Enterprise Grants

*F12.2 Membership: 5 Members of the Council**F12.3 Quorum: 2 Members**F12.4 Frequency*

The Panel will meet in early January each year to consider annual revenue grants, annual Kidwells Trust grants, annual capital grants, and to note Service Level Agreements. Interim meetings as required.

**F13 Headteachers' Policy Forum**

Deleted 24/5/16.

**F14 Independent Remuneration Panel***F14.1 Purpose:*

This Panel is established in accordance with Part 4 of the Local Authorities (Members' Allowances) (England) Regulations 2003.

The Panel shall produce a report making recommendations on:

- a) as to the responsibilities or duties in respect of which the following should be available:
  - (i) special responsibility allowance;
  - (ii) travelling and subsistence allowance; and
  - (iii) co-optees' allowance;
- b) as to the amount of such allowances and as to the amount of basic allowance;
- c) as to whether dependents' carers' allowance should be payable to members of an authority, and as to the amount of such as allowance;
- d) as to whether, in the event that the scheme is amended at any time so as to effect an allowance payable for the year in which the amendment is made, payment of allowances may be backdated in accordance with regulation 10(6) of the Local Authorities (Members' Allowances) (England) Regulations 2003;
- e) as to whether adjustments to the level of allowances may be determined according to an index and if so which index and how long that index should apply, subject to a maximum of four years, before its application is reviewed;
- f) as to which members of an authority are to be entitled to pensions in accordance with a scheme made under section 7 of the Superannuation Act 1972; and
- g) as to treating basic allowance or special responsibility allowance, or both, as amounts in respect of which such pensions are payable in accordance with a scheme made under section 7 of the Superannuation Act 1972.

Once the Council receives a copy of a report made to it by an independent remuneration panel, it shall, as soon as reasonably practical:

- a) ensure that copies of that report are available for inspection by members of the public at the principal office of the authority, at all reasonable hours; and
- b) publish in one or more newspapers circulating in its area, a notice which:

- (i) states that it has received recommendations from an independent remuneration panel in respect of its scheme;
- (ii) describes the main features of that Panel's recommendations and specifies the recommended amounts of each allowance mentioned in the report in respect of that authority;
- (iii) state that copies of the panel's report are available at the principal office of the authority for inspection by members of the public at such times as may be specified by the authority in the notice; and
- (iv) specifies the address of the principal office of the authority at which such copies are made available.

The Council shall supply a copy of a report made by an independent remuneration panel to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine.

Before the Council makes or amends its scheme for the payment of allowances to Members, it must have regard to the remuneration panel's recommendations to it on the scheme.

#### *F14.2 Membership*

The Panel shall consist of at least three members, none of whom:

- a) is also a Member of the Council in respect of which recommendations are made by the Panel, or a member of a committee or sub-committee of the Council; or
- b) is disqualified from being or becoming a Member of the Council.

#### *F14.3 Quorum: 2 Members*

#### *F14.4 Frequency: As required*

### **F15 Local Access Forum**

#### *F15.1 Purpose:*

#### Constitution

The Countryside and Rights of Way Act 2000 requires local highway authorities to establish Local Access Forums to advise the authorities about improvement of public access to land in their area for open-air recreation. The Local Access Forum shall operate in accordance with the Local Access Forums (England) Regulations 2007, which set out procedural rules for the establishment and the administration of the Forum.

### Terms of Reference

To work in partnership with the Royal Borough of Windsor and Maidenhead as to the improvement of public access to land within the Borough for the purpose of open-air recreation and enjoyment.

To work in partnership with the Royal Borough of Windsor and Maidenhead on all matters relating to Public Rights of Way in the Borough.

To help with the preparation, development and implementation of a Rights of Way Improvement Plan for the Borough.

To comment on the preparation of maps of 'open access' land in the Borough and future management of any such land, having regard to the wishes and plans of the owners of the land.

To comment on national or local consultation documents relating to public rights of way or access to open countryside.

To work in partnership with neighbouring Local Access Forums on matters of shared interest, and with other groups or agencies with an interest in the Borough's countryside.

To comment on and have active involvement in the preparation of other Strategies and Plans being developed by the Borough Council, such as the Community Strategy, Local Transport Plan, Local Plan, Walking Strategy, Cycling Strategy etc.

### Procedures

The meetings of the Forum shall be open to the public, subject to powers of exclusion to suppress or prevent disorderly conduct or other misbehaviour. Members of the public may speak at the Forum meetings about any item under consideration in accordance with the following procedure:-

- Anyone wishing to make representations under this procedure must contact the Rights of Way Team Leader at least 48 hours prior to the meeting.
- Where more than one representation is to be made on the same subject, the Rights of Way Team Leader may negotiate to combine them into a single representation, where appropriate, so that views can be put to the forum in the most efficient way.
- Members of the Forum may question the person making representation for further clarification or information.
- In the interest of the orderly conduct of business no more than 10 minutes will be allocated for public representations on any agenda item. However the Chairman may exercise his discretion to alter this time limit dependent on the degree of interest shown.

- No one person may be allowed to speak on any item for more than 3 minutes.

Copies of agendas and reports for the meetings of the Forum shall be open to inspection by the public at least five clear working days before the meeting, except that in very exceptional circumstances where the meeting is convened at shorter notice, the copies of the agenda and reports shall be open to inspection from the time the meeting is convened.

Urgent items may be considered at a meeting of the Forum without prior notice, at the chairman's discretion, but only by reason of special circumstances, which shall be specified in the minutes of the meeting.

Items for "Any Other Business" must be announced to the Chairman prior to the commencement of the meeting.

The minutes of the meetings of the Forum shall be open to inspection by the public.

The Council shall reimburse members of the Forum reasonable expenses incurred in connection with attendance at Forum meetings or other activities relating to discharge of the functions of the Forum, in respect of travelling expenses and expenses of arranging for the care of their children or dependants.

The Council shall support and fund appropriate training or development programmes for Forum members as identified by the Forum.

The Forum shall prepare an annual report, which shall be published by the Council.

The Council may alter or amend the Terms of Reference if required by the Forum provided that the Terms shall at all times comply with the Local Access Forums (England) Regulations 2007 or any replacement Regulations.

#### *F15.2 Membership*

The membership of the Local Access Forum shall be appointed so that they shall represent the following groups:

- users of local rights of way or open access land (e.g. walkers, horse-riders, cyclists, carriage drivers, recreational vehicle users)
- owners and occupiers of land crossed by public rights of way or owners and occupiers of open access land
- 3 Councillors from the Royal Borough of Windsor and Maidenhead
- any other interests especially relevant to the borough, such as Parish Councils

The Council shall ensure that a reasonable balance is maintained between the number of members representative of users and the number representative of landowners or occupiers. The minimum number of members shall be 10 and the maximum number of members shall be 22.

The Forum Chairman and Vice-Chairman shall be appointed by election from amongst the members of the Forum.

Appointments to the Forum, including the Chairman and Vice-Chairman, shall be two-year appointments.

Members of the Forum may resign by giving notice in writing to the Council.

Members of the Forum may appoint substitute representatives to attend Forum meetings.

The Council may terminate membership in accordance with the provisions set out in the Local Access Forums (England) Regulations 2007.

*F15.3 Quorum:* A meeting of the Forum shall be quorate if a minimum of 50% of members are present.

*F15.4 Frequency:* The Forum shall meet at six-monthly intervals, with any additional meetings to be arranged by agreement of the Forum.

## **F16 Maidenhead Town Partnership Board**

### *F16.1 Purpose*

The purpose of MTP is two-fold;- firstly, to serve as a forum to co-ordinate activities and projects which will benefit the users of the town and enhance its vitality and attractiveness and to report to Cabinet with recommendations; and secondly, to oversee the work of the Town Manager, agreeing programmes of work and priorities with the post-holder.

The partnership will be sustainable and offer support to Maidenhead businesses in the short to medium term prior to regeneration projects starting in the town through the Partnership for the Rejuvenation of Maidenhead

Income generated from partners contributions will be used solely for the purpose of:

- Increasing footfall
- Improving the perception of the town amongst local residents and the wider catchment area of the town centre
- Developing a clear and cohesive marketing message for Maidenhead



- Monitor the performance of the town centre and benchmark against other towns.
- Attract further retail
- Creating a clean and safe environment for business and visitors

Two meetings per year to receive a financial presentation from RBWM. One at the time of the Capital being set and then 6 months later – budgets are to be transparent

A breakdown of Section 106 monies allocated to the town centre is to be provided

Maidenhead Town Partnership will be a statutory consultee for planning, licensing, highways and parking

### MTP Sub Groups

#### Performance Panel *(to replace strategy)*

- Monitors actions against the budget and business plan and how the town is performing compared to other towns in the region and nationally
- Produces a 'Maidenhead Milestone' performance report that is circulated to members on a quarterly basis
- Retail meetings to be established that will share trading figures and inform marketing decisions

#### Environment and Accessibility

- Work alongside PRoM to implement aspects of the Maidenhead Public Realm Strategy (PRS)
- Carry out regular town centre inspections with Streetcare Services and other council departments to ensure standards are maintained

#### Events and Marketing *(to be re-established with a renewed focus on marketing)*

- Monitors the event programme in the town
- Develop a clear marketing message for the town as a whole engaging town centre businesses
- Issue press releases for all events
- Develop marketing materials to support the overall marketing message (i.e. town map)
- Promote skills training to local businesses in partnership with GROW
- Where possible use vacant retail units for events
- Monitor and evaluate

#### Maidenhead Crime Reduction Partnership *(will oversee SMART, Pubwatch and the community radio scheme in Maidenhead)*

- Manage Shops in Maidenhead Against Retail Theft (SMART)
- Manage roll out of community radio in the town centre

- Work in partnership with the Neighbourhood Action Group and Joint Action Group to resolve issues raised as priorities by residents and businesses in the town centre
- Ensure that Maidenhead is safe day and night and negative perceptions are challenged

The Board will also:

- Select the Town Manager for Maidenhead; oversee the post holder's work and agree with him/her the business plan and programme of work for the town centre.
- Monitor and evaluate the effectiveness of the business plan and identify sources of funding for the action contained therein.
- Receive regular reports and presentations from the Town Manager and any other appropriate organisations or individuals.
- Receive an annual report from the Council's Managing Director
- Receive a financial report at each meeting.
- MTP will be used as a consultative body by RBWM with proposals affecting the town centre circulated to all members for consultation

### *F16.2 Membership*

#### Board Membership

1 x representative from each core partner

1 x representative from the Maidenhead & District Chamber of Commerce (non-voting)

1 x representative from each Corporate Member (non-voting)

1 x representative from each Partner Member (non-voting)

1 x representative from each sub group Chair (non-voting)

#### RBWM Representation on the Board

Lead Member for Maidenhead

Leader of the Opposition

2 x Oldfield Ward Councillor

RBWM Managing Director to attend at least 2 board meetings per year (non-voting)

*(It is a requirement that the nominated representative must be of a senior enough position to be able to make decisions at the Board on behalf of the company they are representing)*

Named substitutes will be allowed at any meeting.

The financial contributions threshold to membership is initially set at a minimum of £3000 per annum (which may be re-set from time to time by majority agreement of the board by vote). Each member organisation will be required to sign a voluntary Service Level Agreement with MTP to enable to partnership to have greater financial stability.

MTP financial year will run from April to March.

The Chair and Vice-Chair will be voted on by the Board on an annual basis at the June meeting.

### General Membership

Contribution Level	Maximum	Numbers
Core Partners	(£ 3000)	15
Corporate Partners	(£ 1000)	unlimited
Partner	(£ 500)	unlimited
Sole Trader	(£ 100)	unlimited
RBWM	(£35,750)	

General membership encourages wider participation by the business community and gives a clear indication of level of annual contribution to be entitled to attend the annual meeting of the partnership. Members will also become automatically affiliated with the Maidenhead and District Chamber of Commerce.

#### *F16.3 Quorum*

One quarter of the total number of core members plus 4 Council positions.

#### *F16.4 Frequency*

Meetings will be held bi-monthly in February, April, June, August, October and December. The annual meeting will be held in June of each year.

## **F18 Rural Forum**

### *F18.1 Purpose*

The forum is intended as a platform to discuss issues relevant to our rural areas and to make recommendations to the appropriate Panel or Forum. The Terms of Reference as agreed at 24 June 2008 are set out below:

- (i) Be made aware of, and have the opportunity to comment on, the rural work done by the Council and rural-interest organisations
- (ii) Provide a local Forum for discussion about the aspirations and concerns of farmers, rural businesses and other representatives from the rural community of the Royal Borough of Windsor & Maidenhead District
- (iii) Provide a networking opportunity amongst a variety of rural interests
- (iv) Act as a consultative, information sharing/gathering arena
- (v) Identify areas of special rural interest to link into the Council's Community Planning process, and other plans where appropriate
  - Meeting open to the public and press to attend.
  - Agendas and Minutes of each Forum will be made available on the Council's website.

#### *F18.2 Membership*

- (ii) Six Councillors
- (iii) Membership of the Rural Forum will be by invite and will consist of representatives from:
  - National Trust - 1 representative plus 1 substitute
  - Berkshire College of Agriculture - 1 representative plus 1 substitute
  - Woodland Managers - 1 representative plus 1 substitute
  - Country Landowners Association - 1 representative plus 1 substitute
  - Crown Estate - 1 representative plus 1 substitute
  - Council for Protection of Rural England - 1 representative plus 1 substitute
  - National Farmers Union - Up to 3 representatives to cover RBWM
  - Smallholders Association - 1 representative plus 1 substitute
  - Parish Councils - 2/3 from RBWM
  - RBWM Officers with a rural interest - When item on the Agenda requires.

Additional organisations and individuals may be invited to attend a Forum if they have an interest in a specific agenda topic.

#### *F18.3 Quorum: 4 Members*

#### *F18.4 Frequency*

Twice per year. Up to 2-hour meetings will be held bi-annually in June and November and will be organised by RBWM, Democratic Services.

**F19 School Improvement Forum***F19.1 Purpose:***Objective**

To celebrate the success of our schools and support points for action identified in inspections carried out by independent teams under contract to OFSTED and to keep Members regularly informed with regard to the quality of education provided by schools in the Royal Borough which have had additional support from the Authority.

**Terms of Reference**

- To facilitate a full discussion on all aspects of the a school's OFSTED report including points for action
- To monitor, review and evaluate:
  - The affect of the work of the Education Directorate in schools
  - The quality of the education being provided in schools and other educational establishments
  - The outcomes of the internal evaluating and advising in schools by the local authority in respect of subjects, phases and specific surveys
  - The outcomes of schools own plans, developments and self reviews
- To receive updates on specific educational initiatives of the Royal Borough, for example the extra resources for gifted and talented pupils.
- To monitor the progress of schools causing concern, where additional support has been provided.

*F19.2 Membership*

- Cabinet Lead Member for Children's Services, Opposition Spokesperson for Children's Services and one other Member from the ruling group.
- When schools are invited to discuss their OFSTED reports and plans for action the Ward Members for the school concerned will also be invited to attend.
- The Headteacher, together with the Chair of Governors, or governor representative will be invited to attend in order to present OFSTED reports and discuss issues.

*F19.3 Quorum: 2 Members**F19.4 Frequency*

- Frequency of meetings will be determined by the production of OFSTED reports on schools in the Borough and the need to inform Members.

**F20 Schools Forum***F20.1 Purpose:*

1. The Education Act 2002 requires Local Authorities (LAs) to establish a Schools Forum for dialogue, advice, and consultation between schools and LEAs. These Terms of Reference are written in accordance with that Act, the Schools Forums (England) Regulations 2010, and anticipated changes outlined in the draft Schools Forum (England) Regulations 2012 coming into effect from October 2012.
2. The main purpose of the Schools Forum is to consider school related financial issues and to provide advice to the Council about such matters. RBWM should consult the Schools Forum on:
  - i. changes to RBWM's local school funding formula
  - ii. the terms of contracts for supplies and services to RBWM schools
  - iii. on specified issues in relation to the Schools Budget including:
    - o arrangements for pupils with special educational needs
    - o arrangements for the use of pupil referral units
    - o arrangements for early years education
    - o insurance arrangements
    - o administration of the allocation of government grants paid to schools via the LA
    - o arrangements for free school meals
  - iv. the initial determination of the Schools Budget.

The above list is not exhaustive and the LA may also consult the Forum on other matters concerning the funding of schools.

3. The Schools Forum can make decisions on the following LA proposals:
  - i. increases in the maximum level of expenditure allowed by the central expenditure limit rules
  - ii. revisions to the scheme for financing schools
  - iii. any increase in budgeted central expenditure in relation to
    - o the school specific contingency
    - o contributions from the central Schools Budget to combined services
    - o prudential borrowing costs
    - o premature retirement and redundancy costs
    - o SEN transport costs
  - iv. variations to the Minimum Funding Guarantee without application to the Secretary of State where:
    - o the variation to the coverage of the MFG has previously been approved by the schools forum or Secretary of State and did not have a specified time limit.

- the variation applies to the implementation of the early years single funding formula.
  - the variation would result in a higher level of MFG protection than that specified by the DFE.
4. Where Schools Forum approval is required and agreement is not forthcoming, the LA has the option of approaching the Secretary of State to adjudicate.
  5. The Schools Forum can only exercise its powers in relation to proposals put forward by the LA. It has no powers to initiate proposals.

### Financial

6. Forum members should be aware of the budget and what its resources are to be used for i.e. supply cover, travel expenses, loss of earnings & childcare costs.
7. RBWM will reimburse reasonable expenses in connection with attendance at meetings for supply cover, travel expenses, loss of earnings or childcare costs.

### Amendments to the terms of reference

8. These terms of reference should be reviewed annually. Any changes to these arrangements should be ratified by a quorate meeting of the Forum before being presented to Full council for approval..

### *F20.2 Membership*

9. Membership of the Schools Forum must comply with the following requirements of the Regulations:
  - school members and academy members must comprise at least two thirds of the membership of the Forum
  - primary, secondary and academy schools members must be in proportion to the total number of pupils at those schools
  - RBWM's special school and nurseries should also be represented
  - there is no minimum number of Schools Forum members
  - the early years private, voluntary and independent sector and the 14-19 Strategic Partnership must be represented on the Forum.

10. Proposed membership of the RBWM Schools Forum is as follows:

School / Non School	Sub sector	Nos on roll	Governor	Head Teacher	Total
Non Schools	Early Years / Private, Voluntary, Independent				1
	14-19				1
<b>Non Schools members subtotal</b>					<b>2</b>
Schools	Academy (all phases)	34%	1	3	4
	Maintained primary & nursery	44%	1	5	6
	Maintained secondary	22%	1	2	3
	Special	n/a	0	1	1
	Pupil Referral Unit	n/a	0	1	1
<b>Schools members SubTotal</b>		<b>100%</b>	<b>3</b>	<b>12</b>	<b>15</b>
<b>All members Total</b>					<b>17</b>

11. The following have observer (non-voting) status:

- Education Funding Agency representative
- Lead member for Education
- Head of Governor Services

12. The composition of the Schools Forum should be reviewed annually to ensure that representation matches changes in pupil and school numbers and school type. Membership will not be restructured to reflect in-year changes such as conversion to academy status of members' schools.

13. The number of LA attendees participating in meetings is limited to the Director of Children's Services and / or his representative, and LA officers providing financial and technical advice. They attend meetings in an advisory capacity but not as members (i.e. have no voting rights). Elected members who hold an executive role in the LA (e.g. the lead member) may not stand as either schools or non-schools members of the Forum, but they may attend as observers.

14. Substitutes will not normally be allowed because of the difficulties in fully briefing substitutes and achieving continuity. Those absent should take responsibility for briefing those from their representative group before the meeting and those present have a duty to report back. On material matters absent members should make their views known before the meeting, preferably in writing. The Forum reserves the right to accept substitutes but only in exceptional circumstances, e.g. when the quorum will not be met or it is not balanced. Where substitutes are accepted, they will have the right to vote.



Method of appointment and term of office

15. The period of membership will be as follows:

Head teachers	elected annually
School governors	elected for a period of three years. Members may be re-elected for a maximum of three consecutive periods of membership.
Non school members	See below

16. The Forum will elect the Chair and the Vice-Chair of the Forum for a period of three years.
17. Where a member leaves the organisation they are representing or ceases to be eligible to the appointment, they will be required to resign from the Forum and a replacement representative sought for the remainder of the vacant representative's normal term of appointment.
18. If a school changes its status (e.g. becomes an Academy), the term of office of any member representing that school will come to an end at the end of the academic year.
19. The key principle in nominating School Forum representatives is that everyone who is eligible for election has the opportunity to stand for election and /or vote should they so wish.
20. Head teacher area cluster groups or nursery cluster groups shall be responsible for nominating head teacher representatives for each sub-group within the maintained sector
21. Academy members must be elected by the governing bodies of the academies. The members do not necessarily have to be a principal or a governor. Academy members are treated as a single group and do not need to be in proportion to the number of pupils within each academy school sector (i.e. primary, secondary).
22. Governor nominations will be sought via the Governor Chairman's committee, and, where more than one nomination for a post is received, elections will be held within the appropriate forum and the clerk of the Schools Forum advised of the outcome. The outcome of the nominations will be noted in the minutes of the Schools Forum.
23. RBWM will invite nominations for non-school members from the 14-19 Partnership and the early years Private, Voluntary and Independent (PVI) sector. Where a vacancy for a non schools member arises, the LA will seek nominations from the relevant body for a replacement. A non schools member

shall remain in office until s/he resigns or until the relevant body makes a further nomination to replace him/her.

#### Sub-committees and working groups

24. The Forum may set up working groups or sub-groups as required. The Forum will agree the terms of reference of such groups and specify membership arrangements.
25. Sub groups are required to report to a full (quorate) meeting of the Forum for approval of findings before such findings are published or formally passed to the LA.

#### Declaration of interests

26. Where a member of the Forum has an interest (either as a headteacher, governor, parent or individual) in a matter to be discussed at a meeting of the Forum or a sub-committee, they must declare an interest at the start of the meeting or as soon as it becomes apparent. Following a declaration of interest, the Forum shall determine whether the member should withdraw from the meeting for that item or remain and not be counted in the quorum for the item.

#### Roles and responsibilities

27. Each member is responsible for cascading information down to the head teachers and governors and for representing the views of their specific sector. They should ensure all proposals are discussed and understood and any outcomes are accurately recorded. They should not use their position to advance their own specific agendas.
28. Anyone attending Forum meetings in their capacity as an elected member or officer of RBWM or observer, who is not a member of the Forum, can speak at the discretion of the Chair.
29. The Forum shall inform school governing bodies and headteachers about the results of all consultations brought to the attention of the Schools Forum. They must also feed back the outcomes of decisions made at each meeting.
30. Feedback from governing bodies on the value of the Forum and the appropriateness of its response to consultations will be requested at least annually and thereafter as agreed.

#### *F20.3 Quorum*

31. The Forum will be quorate if 40% of members (including substitutes) are present at a meeting and those present are broadly representative of the full

membership. (i.e. the primary and secondary sector must be adequately represented.).

32. Whilst there is nothing to stop it continuing to meet if it is inquorate, any advice given to RBWM in such circumstances would not have to be taken into account.

### Voting

33. Proposals requiring a decision will be decided by majority vote. The number of individual members voting (i) in favour; or (ii) against; or (iii) abstaining must be recorded.
34. Only Schools members and providers from private, voluntary and independent sector can vote on issues related to the local funding formula.

### *F20.4 Frequency*

35. Meetings will take place during term time, and at least four times per annum.
36. Meetings will be held at a time of day and at an appropriate location to enable as many members as possible to attend (normally 3:30pm unless otherwise notified).
37. Meetings of the full Schools Forum, but not of its sub-groups, will be held in public, if necessary with a Part II section for the purpose of discussing matters of a confidential nature.
38. On occasions, when there is an urgent business need for a decision or view to be expressed by the Forum before the next scheduled meeting, the Chair of the Schools Forum and one or more members of the Forum may either:
- call an extra-ordinary meeting, or
  - seek views from forum members by email correspondence, providing all members of the Forum have an opportunity to participate.

Such instances should be kept to a minimum. Exceptionally, the Chair can give the authority a view on an urgent issue without prior consultation with other members. It is not legal for the Chair to take a decision on behalf of the Schools Forum no matter how urgent the issue may be.

### Administration

39. Officers will agree the agenda and forward plan with the chair person at a pre-meeting, normally two to three weeks in advance of the main meeting. SF members and LA officers may contribute discussion items for future meetings with the approval of the Director of CS and the Chair.

40. The agenda and papers will be distributed by e-mail to Forum members at least one week prior to the meeting and posted simultaneously on First Class and the RBWM website. Delays in the dispatch of papers needing to be tabled are sometimes unavoidable. The late dispatch of papers should occur in exceptional circumstances only, but when this happens, the Chair shall have discretion to take a view on deferring the agenda item to give Forum members sufficient time to consider the item properly.
41. The clerk will minute the meetings, and record any decisions made and votes taken. These will be confirmed by the Chair before distribution to the Forum.
42. Minutes of each meeting will be confirmed with the Chair before being distributed by email to Forum members as soon as practicable after the meeting. Minutes will also be available on First Class and the RBWM website. The accuracy of the minutes will be formally agreed at the subsequent meeting of the Forum.

## **F21 Staff Forum**

*This Forum is a works council pursuant to The Information and Consultation of Employees Regulations 2004 and is not a committee discharging a Council function (i.e. making decisions) pursuant to s101 and 102 of the Local Government Act 1972. It is not a public meeting.*

### *F21.1 Purpose:*

- To discuss new initiatives and major issues affecting the council, staff and trade unions.
- To provide an opportunity for staff and trade union representatives to contribute to and understand the objectives of the council.
- To provide an opportunity for staff and trade union representatives to contribute to the development of the HR policies of the council.
- To receive feedback from staff and trade union representatives on issues facing the council and their views on new initiatives.
- To contribute to improved communication within the council to support the performance management process.
- To provide 'a sounding board' for proposals for significant change within the council and to receive the views of staff and trade union representatives at an early stage.
- To provide a means of integrating all parts of the council by providing information in a common and consistent format that supports the existing channels of communication.
- The forum will only consider matters affecting the whole or the majority of the council and is not designed to replace communication through the performance management process, nor be an alternative route for issues better addressed at service / unit level.

- The Staff Forum will present updates to Cabinet through the Lead or Principal Member with responsibility for Human Resources .

Items for negotiation e.g. terms and conditions, will not be addressed, but will be the subject of formal discussions with the relevant staff and trade union representatives outside of this forum by the Head of Human Resources or representative and assisted by a Director/Member of the senior Leadership Team as appropriate.

### *F21.2 Membership*

- 4 Members including one Opposition Member and the Lead or Principal Member with responsibility for Human Resources
- Managing Director
- Head of Human Resources

Staff Directorate Representatives (could also be Trade Union representatives)

Volunteers will be sought within Directorates by the Head of Human Resources for the staff representatives. In the event of more people volunteering than are required, an election will be organised within the appropriate Directorate.

The Staff Group should reflect the organisation and can be made of up to three people from each Directorate (9 staff members). This group could include current Transformation Champions from Directorates.

### Trade Union, Senior Officers

- Regional Organiser, GMB and 1 branch member
- Regional Organiser, UNISON and 1 branch member

### *F21.3 Quorum:*

- 2 Councillors
- Managing Director or nominated deputy

*F21.4 Frequency* : At least 4 times per year.

## **F22 SACRE (Standing Advisory Council on Religious Education)**

### *F22.1 Purpose:*

### Constitution

The Standing Advisory Council on Religious Education (SACRE) is established in accordance with Section II of the Education Act 1988 (as amended by Section 255

of the Education Act 1993) by the Royal Borough of Windsor and Maidenhead acting as the local education authority.

### Duties and Powers

- a) The SACRE shall advise the authority on such matters connected with religious worship in country schools and the religious education to be given in accordance with an agreed syllabus in County and Controlled Voluntary schools as the authority may refer to it or as it may see fit.
- b) SACRE shall in particular advise on methods of teaching, the choice of materials and the provision of training for teachers.
- c) The SACRE shall on an application made by a headteacher of any county school after consultation with the governing body, consider whether it is appropriate for the requirement for Christian collection worship to apply in the case of that school, or in the case of any class or description of pupils at that school. The SACRE shall arrive at its decision and communicate it to the headteacher in accordance with the provisions of Section 1 of the Education Reform Act 1998.
- d) The representative groups on the SACRE, other than that representing the authority, may at any time require a review of any Agreed Syllabus for the time being adopted by the authority.
- e) The SACRE shall, each year, publish a report on its proceedings and those of its representative groups. The report shall specify any matters on which the SACRE has given advice to the authority and the reasons for offering the advice.
- f) The SACRE shall take any action assigned to it by the authority in relation to the consideration and disposal of any complaint concerning collective worshipper religious education in compliance with Section 23 of the Education Reform Act 1988.

### *F22.2 Membership*

The members of SACRE (other than co-opted members) shall be appointed by the authority so that they shall represent the following groups:

#### Group A - Christian denominations and other religions

The Free Churches - 3  
The Roman Catholic Church - 1  
Hinduism - 1  
Islam - 1

Judaism - 1  
Sikhism - 1  
Buddhist – 1  
Baha'i - 1

Group B

*The Church of England – 3*

Group C - Associations representing teachers

NUT - 1  
NAS/UWT - 1  
NAHT - 1  
SHA - 1  
ATL - 1  
PAT - 1

Group D

The local authority - 3

Terms of Office

- a) Members of the SACRE shall serve from the date of their appointment until their successors are appointed by the authority. They shall be eligible for reappointment.
- b) Any member who fails to attend 3 consecutive ordinary meetings of the SACRE other than for a reason approved by the SACRE shall cease to be a member.
- c) The validity of the proceedings of the SACRE, or of any of its representative groups, shall be affected by a vacancy in the membership or on the grounds that a member does not at the time represent the domination, religion or associate he or she was appointed to represent.

Procedure

The SACRE shall elect annually at its first meeting of the academic year, a Chairman and a Vice-Chairman from among its members by voting in accordance with Clause 4.

*F22.3 Quorum: 5 Members*

*F22.4 Frequency: Three times per year*

**F23 Sustainability Panel***F23.1 Purpose*

To advise and report to Lead Members on sustainability issues, including:

- \* Delivery across RBWM
- \* Borough Local Plan
- \* Alternative Fuels
- \* Learning for Sustainability
- \* Waste and Recycling
- \* Energy
- \* Water
- \* Transportation

The Working Group shall be advised and supported by officers within the Head of Policy and Performance's Team, together with the Learning for Sustainability Co-ordinator, and external agencies where appropriate.

*F23.2 Membership: 6 Members*

*F23.3 Quorum: 2 Members*

*F23.4 Frequency: Six times per year*

**F25 Tourism Development Forum***F25.1 Purpose*

Within the remit of the Council to consider all matters relating to visitor management in the Royal Borough including all aspects of the Visitor Management Strategy, visitor information services, publicity and liaison with other bodies involved in visitor management and to make appropriate recommendations to the Council concerning above.

The Forum may request the Council's Officers to submit a report on any relevant function or service that concerns the Borough (subject to resources being available). The Forum shall be empowered to request the provision of necessary facilities for sensory impaired people to participate in meetings and the work of the Forum.

*F25.2 Membership – 6 Councillors, and representatives from the trade*

*F25.3 Quorum: 2 Members*

*F25.4 Frequency: Meetings shall normally be held twice a year.*



**F26 Windsor UK**  
Windsor - Eton - Ascot

1. Aim of Windsor UK

Windsor UK seeks to provide an opportunity to work collaboratively with retailers, local businesses and the community to work towards a shared vision that will enhance the quality of the environment, strengthen the retail and office accommodation offer, generate thriving town centres in order to maximise visitor footfall, increase spending and ultimately offer customer choice and satisfaction

It will seek to be:

1. Lead organisation in delivering a Business Improvement District to Windsor Town Centre.
2. Single body representing the interests of commerce and business within Windsor and surrounding districts (including Eton , Ascot and the Sunninghill and Sunningdale)
3. Single body as consultee under RBWM constitution for designated s including but not exclusively all proposals, permits or permissions affecting the town centre circulated to all members for consultation on all matters relating to the areas of the town previously identified.
4. Develop and deliver an annual action plan to enhance Windsor, Eton and Ascot Town Centres and promote the surrounding areas.
5. To monitor and evaluate the effectiveness of the action plan and identify sources of funding for the actions contained therein.
6. To oversee the delivery of regular reports and presentations from the Town Manager and any other appropriate organisations or individuals.

**Community Benefit:**

Windsor UK will be the main driver for positive change to the local economy in the Town Centre, and will provide strategic direction and leadership. This will involve:

- Establishing a shared set of principles, policies and operating standards for the town centres.
- Supporting the developing Borough local, Neighbourhood and Regeneration plans for Windsor, Eton and Ascot Town Centres.
- Deliver an annual programme of free events for the residents and visitors to the town centre.

- Providing a clear long term financial plan for Windsor UK and its commitments for the town centre.
- Taking collective responsibility for the development of the town centre.
- Being inclusive of and transparent to all partners (e.g. board members , partners, members, sponsors, users)

Legal Status: Private Community Interest Company limited by guarantee

## 2. Membership

Windsor UK is drawn from a diverse spectrum of local businesses, both big and small, local and visitor orientated, retail and other commercial. It also includes elected councillors. Furthermore, membership of the forum is actively encouraged and open to any business located in the area that Windsor UK represents. Any businesses out side of those areas may be submitted as members following consultation with the board.

1. Board Membership is open to any business who is based in the area or is elected to represent any part of the area covered by Windsor UK.
2. Associate and Entry level membership is open to any business based in the area that has a desire to help secure the future of Windsor Town Centre, wishes to become involved to help achieve that objective and has relevant skills or experience. Associate members will not be able to vote.
3. Windsor UK will keep an up to date list of all members' names, contact details and skills and experience, for the purposes of involving them in the work of Windsor UK including organising its meetings and the AGM.
4. All listed Board members are entitled to vote at board meetings of Windsor UK.
5. Windsor UK may suspend from membership anyone who brings Windsor UK into disrepute by, for example, repeatedly and/or unapologetically flouting its values expressed in section 1 above. Suspended members are not entitled to vote, speak at or attend meetings of Windsor UK or any of its sub groups/committees.
6. A minimum of 15 board members are required for the board for Windsor UK.

Windsor UK will review its membership annually to ensure that it continues to meet its members requirements and that it properly representing the views of its members.

## **Board Membership**

- 1 x representative from each core funding partner
- 1x representative from Eton Traders Association
- 1 x representative from each sub group Chair (non-voting)

## **RBWM Representation on the Board (voting rights)**

Leader of the Council and or Lead Member for Windsor  
 1 Local Windsor Councillor or Chair of Windsor Town Forum.  
 Managing Director of RBWM to attend at least 1 board meeting per year (non-voting)

(It is a requirement that the nominated representative must be of a senior enough position to be able to make decisions at the Board on behalf of their company they are representing). Named substitutes will be allowed at any meeting.

The financial contributions threshold to board membership is initially set at a minimum of £3000 per annum (This may be re-set from time to time by majority agreement of the board by vote). Each member organisation will be required to sign a voluntary Service Level Agreement with Windsor UK.

Windsor UK financial year will run from April to March.

The Chair and Vice-Chair will be appointed by members at annual meeting and will be non-Council representatives.

**Quorum:** 6 Members

*Frequency of meetings:* meetings will be held two or three times per year in March, June, and September.

Two meetings per year (separate from board meetings) to receive a financial presentation from RBWM. One prior to the time of the Capital Budget being set and then 6 months later.

Monthly meetings held of all key sub groups. ie, retailers, christmas lights etc.

## **General Membership contributions**

Contribution Level	Maximum Numbers	
Board members	(£ 3000) min.	unlimited
Associate members (40 employees and more)	(£ 1000)	unlimited

Associate members (less than 40 employees)	(£ 500)	unlimited
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<u>Entry/Chamber members</u>	(£ 100)	unlimited
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General membership encourages wider participation by the business community and gives a clear indication of level of annual contribution to be entitled to attend the annual meeting of the partnership.

The annual meeting will be held in June of each year.

## **F27 Local Plans Working Group**

**F27.1 Purpose:** To assist the relevant Lead Members and Officers to evaluate options and to make recommendations for consideration by Cabinet (or Council as required) on the consultation, drafting, examination, putting to referendum or adoption of the Borough Local Plan, area action plans, Neighbourhood Development Plans and other plans or policy documents for which the Council is responsible or on which the Council is formally consulted.

To assist the relevant Lead Members and Officers to evaluate options and to make recommendations for consideration by Cabinet on the management of risks and issues arising from the preparation of plans and on the resource management and programme management of the preparation of plans.

To complement, but not substitute for, any of the responsibilities of the relevant Overview and Scrutiny Panel, and to forward its recommendations for Cabinet to the Panel so it may pay due regard to the recommendations of this Working Group, prior to their consideration by Cabinet. For the avoidance of doubt, it is presumed here that the Panel will in all regards pursue its activities and reach conclusions independently of this Working Group.

To review and to consider the content and progress of the programme for delivery of the Council's development plan coverage, including progress on development plan documents, Neighbourhood Plans and supplementary planning documents, and to make recommendations to Cabinet thereon.

*F27.2 Membership: 10*

*F27.3 Quorum: 3 Members*

*F27.4 Frequency of meetings:* The Group should meet periodically as required and should continue for the duration of the borough local plan review process, and that of any other plans or documents referred to the Group for consideration

## **F28 Statutory Officer Panel**

### *F28.1 Purpose:*

This Panel is established in accordance with Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

The Panel shall produce a report to full Council making recommendations on whether dismissal is appropriate disciplinary action for the Council's Head of Paid Service, Chief Finance Officer or Monitoring Officer. Where dismissal is not recommended, the Panel will recommend alternative appropriate sanctions in accordance with Part 8B.

### *F28.2 Membership*

The Panel shall consist of at seven members:

- a) 2 Independent Persons (appointed under section 28(7) of the Localism Act 2011)
- b) 5 members of the Council.

Where the Council's Independent Persons are not available then the Independent Person shall be such person from another local authority that the Council considers appropriate.

### *F14.3 Quorum:* Not applicable

*F14.4 Frequency:* As required but at least 20 working days prior to the relevant Council meeting.

*F14.5 Type:* advisory committee of full Council.

## **F29 Policy Committee**

Deleted 24/5/16

# **PART 7 – THE CODES, PROTOCOLS AND ADVICE**

## **A – MEMBERS’ CODE OF CONDUCT**

## **Royal Borough of Windsor & Maidenhead Code of Conduct**

### **Conduct expected of members and co-opted members of the authority when acting in that capacity**

You, as a member of the Royal Borough of Windsor and Maidenhead shall have regard to the following principles: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

When acting in your capacity as a Member or co-opted Member:

- i) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
- ii) You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
- iii) When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.
- iv) You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
- v) You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.
- vi) You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the Appendices below.
- vii) You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- viii) You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

- ix) You must not act in a way which a reasonable person would regard as bullying, or in any way which is intimidating to others.

This Code of Conduct is supplemented by the provisions of Appendix 1 to 6



## Appendix 1

### **Registering and Declaring pecuniary and personal interests (s.30 Localism Act 2011)**

You must, within 28 days of taking office as a Member or co-opted Member, notify your authority's monitoring officer of any disclosable pecuniary interest ('DPIs') as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners. The definition of DPIs is in Appendix 5.

In addition, you must, within 28 days of taking office as a Member or co-opted Member, notify your authority's Monitoring Officer of any Personal Interest as defined in Appendix 5.

If any DPI or Personal Interest has not been entered onto the authority's Register of Interests, then the Member must disclose the interest to any meeting of the authority at which they are present, where they have an interest in any matter being considered and where the matter is not a Sensitive Interest as defined in Appendix 5.

Following disclosure of any interest not on the authority's Register of Interest or the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure in order that it may be placed on the Register of Interests.

You must, within 28 days of receipt, notify the Monitoring Officer, in writing, of any gift, benefit or hospitality, with a value in excess of £25, which will then be entered on the public register of gifts and hospitality.

A copy of the register will be available for public inspection and will be published on the authority's website.

## Appendix 2

### **Disclosure of interests and participation in meetings. (s.31 Localism Act 2011)**

#### Disclosure at Meetings

You are required to disclose interests at meetings when you are aware that you have either:

- (a) A DPI or a Personal Interest which is relevant to the matter being considered;  
or
- (b) A Personal Interest or a DPI which is not on your Register of Interests;

You are not required to (but can do so if you wish) disclose any other type of interest that you may have. If in doubt, it is always better to disclose an interest than not do so as the Council places a high value upon its public reputation for integrity.

#### Participation for Decision Makers at Meetings

If you attend a meeting as a decision maker and have:

- (a) DPI which is relevant to the matter under discussion; or
- (b) a Prejudicial Interest;

then you must not participate in any debate of the matter and/or participate in any vote at the meeting, unless you have obtained a Dispensation.

Please see Appendix 5 for guidance on these terms. Appendix 3 states how you can obtain a Dispensation.

If you have a DPI or Prejudicial Interest (and do not have a Dispensation) as described then you must:

- (a) Declare the interest at the start of the meeting when the Chairman asks if there are any interests to declare; and
- (b) Before the item is to be discussed, you may make representations before there is debate on the matter but, when finished, you must move to the public area or leave the room and take no further part in the discussion or vote.

You cannot avoid disclosure of a DPI or Prejudicial Interest merely by withdrawing during that part of the meeting when the matter you have a DPI or Prejudicial Interest, is to be discussed. In respect to a DPI, failure to comply is a Criminal Offence.

If you remain in the room, you must not sit with the other members of the meeting and must move to the public area. You must not speak after making your representations. It is also important that you do not express your views in a non-verbal way, for example by using body language or expressing emotion.

## Appendix 3

### How to obtain a Dispensation

If you seek a Dispensation, you must make a written request to the Relevant Officer of the Council.

The Council may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—

- (a) considers that without the dispensation the number of persons from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
- (b) considers that without the dispensation 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 relating to the business,
- (c) considers that granting the dispensation is in the interests of persons living in the Royal Borough of Windsor and Maidenhead.
- (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each Member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive, or
- (e) considers that it is otherwise appropriate to grant a dispensation.

A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.

The Relevant Officer is the Managing Director or in substitute the officer clerking the meeting.

## Appendix 4

### Arrangements for dealing with breaches of the Code of Conduct

Complaints in respect of this Code are made to the Monitoring Officer.

#### 1. Receipt and Acknowledgment of the Complaint

When a complainant makes a complaint they will receive:

- An acknowledgment within 3 working days.
- An initial response within 10 working days setting out how the Council will consider the complaint and the likely timescale for resolution.
- The complainant will be told that full details of their complaint will be given to the Councillor concerned ('the Subject Member').
- Anonymous complaints will not be considered unless accompanied by documentary or photographic evidence, evidencing an exceptionally serious or significant matter.

If the Subject Member is a Parish or Town Councillor, the clerk will be informed of the complaint on a confidential basis, where it is a Parish or Town Council matter.

#### 2. Response of the Subject Member

The Subject Member will be informed of the complaint within 3 working days of the complaint being received. The Subject Member will be asked to supply written comments within 15 working days from the complaint being received.

#### 3. Initial Assessment of the complaint by the Monitoring Officer

The purpose of the initial assessment by the Monitoring Officer, in consultation with an Independent Person where appropriate, is to determine whether the complaint should be accepted for further consideration or rejected. In determining whether a complaint should proceed the Monitoring Officer may apply the following criteria:

- Sufficiency of information – Is there sufficient information or evidence provided with the allegation? If it appears that substantiating evidence may be available, but has not been provided, the Monitoring Officer may ask for additional evidence, but the onus is on the complainant to ensure that all relevant information is provided.
- Seriousness of the complaint – is the complaint trivial, vexatious, malicious, politically motivated, or 'tit for tat'? Would the resources/cost involved in investigating and determining the complaint be disproportionate to the allegation if proven?
- Duplication – Is the complaint substantially similar to a previous allegation or subject of an investigation by another relevant authority?
- Length of time – Did the events or behaviour to which the complaint relates take place more than six months prior to receipt of the complaint. Does the time lapse mean that those involved are unlikely to remember matters clearly, or does the lapse of time mean that there would be little benefit in taking action

- **Public Interest** – Is the public interest served in referring the complaint further. Has the Subject Member offered an apology or other remedial action?

The Complainant and the Subject Member will normally be informed by the Monitoring Officer of the initial assessment decision within 20 working days of it being made. Should it be determined by the Monitoring Officer, in consultation with an Independent Person where appropriate, that the complaint should not proceed, then that is the end of the matter. There is no right of appeal.

#### **4. Initial Decision of the Monitoring Officer**

Should it be determined, having regard to the criteria referred to in section 3 above, that the complaint be accepted for further consideration the Monitoring Officer shall, subject to consultation with an Independent Person, have delegated authority to decide to take one of the following actions:

- Take no action if there is clear evidence that there has been no breach of the Code of Conduct. Nothing further will be required from the Subject Member and the matter will be closed.
- Where there has been a clear breach of the code of conduct, move straight to paragraph 2 of section 5.2 below.
- Where there has possibly been a breach of the Code of conduct, to require a formal investigation and a written investigation report by an Independent Investigating Officer and indicative timescale for the process should be given. At least a monthly update report will be provided to all parties in an ongoing investigation. The investigation report shall conclude whether there has been a breach of the Code of Conduct and give clear reasons for that conclusion. Copies of the investigation report will be provided in confidence to the Independent Person, and the Subject Member.

#### **5. Finding on Investigation**

##### **5.1 No Breach of Code of Conduct**

Where a formal investigation finds no evidence that the Subject Member has failed to comply with the Code of Conduct, the Monitoring Officer, in consultation with an Independent Person, shall make a decision to take no further action. The Subject Member and the complainant will both be informed. The Parish or Town Clerk, if appropriate, will be informed that there is no breach, but no further information will be supplied. There will be no appeal.

##### **5.2 Breach of Code of Conduct**

Where a formal investigation finds evidence that the Subject Member has failed to comply with the Code of Conduct, the Monitoring Officer, in consultation with an Independent Person shall make a decision whether there has been a breach of the Code of Conduct.

The Subject Member will be informed of the decision. The Subject Member will be asked for his or her comments on the Investigation report, to the Monitoring Officer,

within 20 working days from receipt, and these comments will inform the Monitoring Officer regarding the sanction to be imposed.

## **6. Sanction**

If the Monitoring Officer has decided that there has been a breach of the Code of Conduct, he or she has 15 working days from the date of receiving the Subject Member's comments to refer the matter to the Subject Member's Group Leader or his or her deputy, or Chairman or his or her Deputy if a parish or Town Councillor, with a recommendation for sanction e.g. removal from a panel or submitting a formal apology.

The Subject Member's Group Leader, or Chairman if a parish or Town Councillor will have a further 15 working days to respond to the recommendation, and to prepare a statement to be placed on the council website.

If the allegation appears to involve criminal activity, the Monitoring Officer will refer the matter to the police at any stage in this process they believe appropriate.

## **7. Support, Appeals and Transparency**

### **7.1 Support to Subject Members during an Investigation**

The Council will support Subject Members during the complaint investigation process as follows:

- a. Independent Person: Subject Members can seek support from one of the Independent Persons (not the Independent person who is consulted by the Monitoring Officer) with regard the complaint.
- b. Legal Support: The Council will provide financial support to allow Subject Members to seek any reasonable legal advice to defend (i) proceedings for criminal acts alleged as part of your role as Councillor, or (ii) any allegation of a breach of the Code of Conduct. Subject Members will be required to sign an agreement with regard to legal support.

Any criminal acts must occur in the course of the Subject Member's duties as a Councillor. They must notify the Council's insurance manager before seeking legal advice. The advice and legal costs must be appropriate to the complaint. Subject Members will be required to immediately repay back all monies to the Council if they are convicted of a criminal offence or have failed to comply with the Code of Conduct.

### **7.2 Appeals**

There is no right to appeal under the Code of Conduct and the decision of the Monitoring Officer will be final. However, Subject Members may make a statement about the complaint and the findings. This statement shall be published on the Council's website for the period stated in Transparency section below.

If the Complainant is unhappy with this decision, they may write to the Local Government Ombudsman to complain. The Local Government Ombudsman acts as an independent 'referee' in disputes between individuals and their local councils.

The Ombudsman is appointed by Government to investigate complaints against local authorities.

### **7.3 Transparency**

The decision of the Monitoring Officer will be sent to the Subject Member and the complainant and also published on the Council's website for the following period:

- a. No Breach of Code – 3 months
- b. Breach of Code – 24 months (or when you are no longer a Member of the Council, if earlier).

Unless the Monitoring Officer determines otherwise, the decision notice, the Group Leader/ Chairman's statement and the Subject Member's statement only will be published on the website.



## Appendix 5

### Definitions used in the Code of Conduct

#### Criminal Offence

##### **(s.34 Localism Act 2011)**

It is a criminal offence if you fail, without reasonable excuse, to comply with the requirements under s30 or s31 Localism Act 2011 to register or declare DPIs, or take part in council business at meetings or when acting alone.

If you breach the above, the Magistrates Court may, upon conviction, impose a fine of up to level 5 (currently £5,000.00), and an order disqualifying the person from being a Member of a relevant authority for up to five years.

The Council would consider that taking legal advice from the Monitoring Officer or their nominee (even if such advice was not upheld) would amount to 'reasonable excuse' for the purposes of s34(1) of the Act.

#### Disclosable Pecuniary Interest (DPIs)

Interests defined by regulations made under s30(3) of the Localism Act 2011 and described in the table below.

('M' means you and 'relevant person' means you and your partner). "Partner" means a spouse or civil partner of M, or a person with whom M is living as husband and wife or a person with whom M is living as if they were civil partners

<b>Subject</b>	<b>Prescribed description</b>
Employment, office, trade, profession or vacation	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.

These descriptions on Disclosable Pecuniary Interests above are subject to the following definitions;

The Act	means the Localism Act 2011
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 section 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.
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### **Independent Person**

The Independent Person is the person engaged by the Council who:

- must be consulted by the Managing Director before making a decision on an allegation that the Managing Director has decided should be formally investigated.
- may be consulted by the Managing Director in respect of a complaint at any other stage.
- may provide views to a Member or co-opted Member if that Member's behaviour is the subject of an allegation.
- may assist in granting dispensations to members and co-opted members from requirements relating to interests set out in the Code of Conduct.
- will exercise all of the above functions in respect of Parish Councils and members of those Parish Councils within the Council.

### **Personal Interests**

A Personal Interest is :

- i) any body of which you are in a position of general control or management and to which you are elected appointed or nominated by the Council;
- ii) any body
  - exercising functions of a public nature; or
  - in receipt of any grant from the Council; or
  - directed to charitable purposes; or
  - one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which the you are a member or have a close association or of which you are in a position of general control, influence or management.
- iii) Membership of any private club, society or association operating within the Borough Council's area, where you hold a position of general control or management
- iv) any other connection or association which a member of the public may reasonably think may influence you when you make a decision on Council

matters and acting as a Councillor. e.g.. the decision relates to a close family member or friend and could have a substantial benefit to them.

You are not required to record any Personal Interest in point (iv) above on your Register of Interests (but may do so if you wish).

### **Predetermination**

Predetermination means that you have a closed mind and do not make a decision impartially and solely on the basis of the relevant facts. You have not predetermined a matter just because you have expressed a particular opinion previously or hold a view prior to any meeting. It is proper for Councillors to play an active part in local discussions and the expression of a view on a particular matter or campaigning on a particular platform should not prevent you from participating in council business relating to such an issue. If you have an open mind, are willing to listen and are open to consider all the facts and arguments presented to you before making your decision, then you will not have predetermined a matter.

Predetermination should not be confused with Predisposition (see below)

### **Predisposition**

Any decision maker may have an initial view or opinion on a matter arising from personal experiences and preference. Simply holding an initial view or tendency in favour of a particular cause or matter does not preclude you from decision making. This is natural bearing in mind that Councillors are often elected based upon their stated views and opinions. Having a strong view on a matter will amount to only legitimate predisposition.

### **Prejudicial Interest**

This is Personal Interest which a reasonable fair minded and informed member of the public would reasonably believe is so significant that it influences your judgement of the public interest. That is, your decision is influenced by your Personal Interest such that you are not able to impartially consider only relevant issues (you are biased). This would include where you have Predetermined a matter.

You must ask yourself whether a member of the public – if he or she knew all the relevant facts – would think that your Personal Interest was so significant that it would be likely to prejudice your judgement. In other words, the interest must be perceived as likely to harm or impair your ability to judge the public interest.

The mere existence of local knowledge, or connections within the local community, will not normally be sufficient to meet the test. There must be some factor that might positively harm your ability to judge the public interest objectively. The nature of the

matter is also important, including whether a large number of people are equally affected by it or whether you or a smaller group are particularly affected.

### **Sensitive Interest**

A Sensitive Interest occurs where you and the Monitoring Officer consider that disclosure of the details of a DPI or a Personal Interest could lead to you, or a person connected with you, being subject to violence or intimidation. If the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a DPI or a Personal Interest and that the details are withheld under Section 32(2).

## Appendix 6

### What is 'bullying' and 'intimidation'?

Bullying has been described by ACAS as 'offensive, intimidating, malicious, or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient'. A victim's obvious vulnerability will be taken into account when assessing whether bullying has occurred.

Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of their colleagues, through the press or in blogs. It may happen once or be part of a pattern of behaviour, although minor isolated incidents are unlikely to be considered bullying. It is also unlikely that a Member will be found guilty of bullying when both parties have contributed to a breakdown in relations.

Bullying should be contrasted with the legitimate challenges which a Member can make in challenging policy or scrutinising performance. Contributing to debates in Council meetings about policy and asking officers to explain the rationale for their professional opinions are to be encouraged. All Members should feel free to challenge fellow councillors and professional officers as to why their views are held. However, Members need to be careful about criticism which becomes offensive in nature which will cross the line of what a reasonable person would find acceptable.

### Criticism of officers

The Council is under a legal obligation to ensure that officers work in a safe environment and the same rules about their interaction with the public apply equally to their work with Members. Anyone should feel free to express disagreement with officers, so long as it is done in an appropriate way. Officers should make decisions which are unbiased, and attempts to coerce them or persuade them to act in a particular way to a point where to do so would prejudice their professional integrity would not be acceptable.

This guidance is based on Standards for England Guidance, now archived after it was abolished by the Localism Act 2011, as well as guidance issued by ACAS

# **PART 7 – THE CODES, PROTOCOLS AND ADVICE**

## **B – MEMBERS’ PLANNING CODE OF CONDUCT**

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## 1. INTRODUCTION

- 1.1 This Code of Practice and Procedure is a **guide** for both Members and Officers who deal with planning applications, planning policy and guidance. Unlike the Code of Conduct for Members it is not a legal requirement, however the Code should be followed at all times to avoid allegations of malpractice. It is consistent with the Code of Conduct for Members, which forms part of the Constitution (Part 7A) and to which all Members are subject. It incorporates advice from the Local Government Ombudsman, the National Planning Forum, and the “Probity and Planning” report produced by the Local Government Association and Planning Advisory Service. This Code supersedes previous advice given to Members and Officers.
- 1.2 A successful planning system relies on mutual trust and an understanding of both Members' and Officers' roles, who should both act not only in a fair and impartial way but be seen to do so whilst reflecting best practice, thereby increasing public confidence; reducing the likelihood of Borough decisions being challenged; and helping Members and Officers in dealing with what may be difficult situations. If you do not follow this Code, you may put:
- the Council at risk of proceedings on the legality or maladministration of a discussion; and
  - yourself at risk of being named in a report made to the Council, or if the failure is also likely to be a breach of the Code of Conduct, a complaint being made to the Managing Director.
- 1.3 Making a planning decision requires an informed judgement based upon firm policies. The decisions reached by Members and Officers will affect the daily lives of everyone including the private interests of individuals, be it applicants or adjoining neighbours, landowners and developers. It is imperative that the planning system is an open process actively inviting public opinion before decisions are made. The process of decision-making must therefore be transparent in nature.
- 1.4 The Human Rights Act 1998 also has a role within the planning process. The normal rule under the Act is that it is unlawful for a public authority to act in a manner which is incompatible with a Convention right. A breach of this rule would entitle the relevant party to a variety of remedies or damages in certain cases. The Act allows for a right to a fair hearing and rights to private property. When considering a planning application, it must be considered whether these rights have been complied with.

## **2. GENERAL ROLE AND CONDUCT OF MEMBERS AND OFFICERS**

- 2.1 Members and Officers have defined roles within the planning process. Members are responsible to the public, whereas Officers are responsible to the Council. All statutory provisions and codes setting out standards must be followed. In doing so, this will preserve the public perception of the integrity of public service which must be maintained.
- 2.2 The Officers' role is to advise Members of the Council of the relevant planning policies and other material considerations, whilst the Members' role is to take planning decisions based on that advice.
- 2.3 Members exercise two roles in the planning system.
- They determine applications, arriving at a decision to grant or refuse permission by using planning criteria and by excluding non-planning considerations.
  - They act as representatives of public opinion.
- 2.4 Officers must be objective and impartial at all times. The areas of professional advice to be given will include planning, legal and highway issues and this advice must be based on the officers' professional judgement. This advice must not be compromised or influenced by political considerations although these may be relevant through the formal development of the Council's planning policies.
- 2.5 Members are all subject to the Code of Conduct which sets out their responsibility to identify and declare any pecuniary interest, and that they must not take part in any discussion or debate on any matter in which you have a pecuniary interest.

## **3. DECLARATION AND REGISTRATION OF INTERESTS**

- 3.1 Each Member is responsible for declaring their interests, but advice can be sought from the Monitoring Officer, Democratic Services Manager or legal officer and / or Democratic Services officer to the Panel. Further advice regarding individual declarations of interest can be found in The Code of Conduct and in the guidance produced by the Department of Communities and Local Government. Failure to disclose an interest may have the consequences set out in paragraphs 3.13 below.
- 3.2 The Local Government Act 2000 (as amended by the Localism Act 2011) re-obliged Local Authorities to introduce a Code of Conduct for Members. The Code was adopted by the Council on July 2012. The

requirements relating to the declaration of Disclosable Pecuniary Interests are detailed in the Members' Code of Conduct found earlier in this section. The requirements of the Code of Conduct are applicable to Members when dealing with planning matters.

- 3.3 A Statutory Register of Members' Interests is maintained by Democratic Services. It is the individual Member's responsibility to notify the Monitoring Officer any changes to their own Interests, whether by way of addition or deletion, as soon as they occur. Members are also required to register any gifts or hospitality received, over £25 in value.
- 3.4 Members and Officers must observe the Council's Anti-Fraud and Corruption Policy which aims to identify issues of fraud and corruption, bring them into the open and ensure that investigations are carried out appropriately. A copy of this Policy is available via Democratic Services. **The policy clearly states that when dealing with planning applications, gifts or hospitality must not be accepted.** Examples of what is meant by "gifts and hospitality" are given in the Policy. Again, if required, advice can be sought from the Monitoring Officer.
- 3.5 Any Member who has substantial property interests, or other interests which would prevent them from voting on a regular basis, should avoid serving on the Development Management Panels.

3.6 **Disclosable Pecuniary Interests**

**Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter. Members may have a Disclosable Pecuniary Interest if the issue being discussed affects them more, either positively or negatively, than other people in the area. The Member must say they have Disclosable Pecuniary Interests and must not participate in any discussion of, vote on, or discharge any function related to, any matter in which they have a pecuniary interest, unless dispensation has been granted. The definition of a Disclosable Pecuniary Interest is set out in Sections 8 & 9 of the Members' Code of Conduct found earlier in this section.

- 3.7 A Member with a Disclosable Pecuniary Interest in a matter who attends a meeting at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of its consideration, or when the interest becomes apparent. Having done this the Member can remain in the meeting,

but may not speak or vote on the matter unless they have been granted dispensation. The Member should make the declaration at the beginning of the meeting or as soon as they are aware of the issue being discussed. The Member should say if anything being discussed relates to anything they are required to declare on the register of interests.

3.8 Disclosable Pecuniary Interests in relation to planning applications could include:-

- an application made by or on behalf of the Member
- ownership/occupation of the property directly the subject of the application
- an application relating to a site which is a close neighbour of the Member's property. Immediate neighbours are almost certainly likely to give rise to a prejudicial interest. How far this may extend would depend upon the development proposed, and the location of the properties. Each case would need to be judged on its own merits and it would not be appropriate to have hard and fast rules to apply to all circumstances. Relevant factors could include:
  - generation of more or less traffic locally
  - visual impact on the Member's property
  - whether a precedent for the area might be established which could affect the Member's property
- an application made by, or on behalf of, or affecting a company or firm in which the Member has an interest (e.g. is remunerated Director or is a Partner)
- where the Member is involved in a firm or company associated with an application site, e.g. where the firm is the agent, architect, the development company, etc.
- an application made by, or on behalf of, or affecting a club or society, etc., to which the Member belongs, e.g. Freemasons, trade unions, voluntary bodies, etc.

These examples would also apply to matters where enforcement or any other action was being considered. The list cannot be exhaustive and Members are encouraged to seek guidance from the Monitoring Officer. Some case studies are included after paragraph 3.18 below.

3.9 ***Where your interest is a Disclosable Pecuniary Interest:-***

- **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.
- **Don't** get involved in the processing of the application.
- **Don't** seek to accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a

Councillor. This would include, where you have a personal and prejudicial interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.

- **Do** notify the Monitoring Officer in writing of your own interest and note that:
  - notification to the Monitoring Officer should be made no later than submission of the application;
  - the proposal will always be reported to the Committee as a main item and not dealt with by officers under delegated powers; and
  - it may be advisable that you employ an agent to act on your behalf on the proposal in dealing with officers and any public speaking at Committee (where permitted).

3.10 A Member may, however, regard himself as not having a Disclosable Pecuniary Interest in a matter if that matter relates to:

- (i) another relevant authority of which he is a Member (in practice this refers to Parish or Town councils, the Fire Authority and the Police Authority)
- (ii) another public authority in which the Member holds a position of general control or management and would include:
  - any Government Department
  - the Armed Forces
  - Health Authority, NHS Trust, PCT
  - Education Governing bodies
  - Advisory bodies
  - The Arts Council
 (See Schedule 1 to the Freedom of Information Act 2000.)
- (iii) a body to which he has been appointed or nominated by the Council as its representative (e.g. a Governor of a school).

[There are similar provisions for Members who are Council tenants, when considering school meals, transport and travelling expenses and the Member is the parent or guardian of a pupil (unless the item relates to the particular school where the child is a pupil), to matters relating to sick pay and Members' Allowances.]

The interest must be declared and the Member is still required to consider all the surrounding circumstances before deciding whether it is appropriate for them to stay in the meeting and take part in the debate and vote. There may be additional factors present which make the interest prejudicial. Advice can always be sought from the Monitoring Officer.

- 3.11 The Local Government Ombudsman has confirmed that there are times when a Member may lose the right to act as a private individual. If you have a Disclosable Pecuniary interest that is required to be declared and would mean you that you cannot take part in the discussion - you cannot attend as if you were a member of the public.

### **Effect of Failing to Declare an Interest**

- 3.14 If a Member fails to declare an interest it is a criminal offence if you fail, without reasonable excuse, to comply with the requirements under s30 or s31 Localism Act 2011 to register or declare disclosable pecuniary interests, or take part in council business at meetings or when acting alone, when prevented from doing so. If a Member fails to declare an interest, the Magistrates Court may, upon conviction, impose a fine of up to level 5 (currently £5,000.00), and an order disqualifying the person from being a Member of a relevant authority for up to five years.

### **Interests of Officers**

- 3.15 Officers must act impartially. The Council will review, on a regular basis, the restrictions adopted on outside activities under the Local Government and Housing Act 1989 under which private work and interests are declarable.
- 3.16 Officers must declare any interests in any planning matter or application before the Council, must not deal with such matters on behalf of the Council, and must not give advice to Members or other officers on them. An officer with an interest or financial interest in a planning matter must withdraw from any relevant Panel or Council meeting whilst the matter is discussed. Officers must maintain their professional integrity and should avoid becoming associated in the public mind with representatives of the development industry or environmental pressure groups. This also applies in the case of delegated decisions. If an officer has an interest in an application, he/she must declare that interest and take no part in its processing or in the making of the decision.

## **4. PRE-APPLICATION DISCUSSIONS**

- 4.1 The Chairman and Members of any of the Development Management Panels normally should not become involved in any discussions or negotiations relating to any planning application or proposed planning application (whether for or against that proposal or application), which

may be the subject of consideration at the Panel of which he is Chairman or a Member. If the Officer responsible requests that a Cabinet Member or relevant Panel Chairman or Vice-Chairman should become party to the negotiations or attend meetings, this is provided for in the Rules of Procedure, Constitution Part 4A, 33.2. The relevant Officer must always be present at such meetings or negotiations.

- 4.2 Whilst such discussions between developers, officers and third parties who are opposed to or in favour of any particular development may be encouraged, it will always be made clear at the outset, that such discussions will not bind the Council to make a particular decision, and any views expressed are personal and provisional.
- 4.3 Officers should be present with Members at pre-application meetings. Officer advice given will be consistent and based upon the Development Plan (i.e. Structure and Borough Local Plan and Neighbourhood Plans) and other material considerations. Every effort will be made to ensure that there are no significant differences of interpretation of planning policies between Planning Officers.
- 4.4 A written note will be made of any pre-application discussions. An officer should take notes at the meeting, as well as note of any phone conversations or relevant e-mails recorded for the file. Notes should record issues raised and advice given. The note(s) should be placed on the file as a public record. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised or advice given can still normally be placed on the file.  
  
Two or more Officers will attend potentially contentious meetings, with a follow up letter sent, particularly when documentation has been left with the Borough.
- 4.5 Care will be taken to ensure that advice is seen to be impartial.
- 4.6 Except to the extent set out in the Rules of Procedure, to maintain impartiality the general rule is that Members should not take part in pre-application discussions and if they do should always be accompanied by an officer.
- 4.7 There is further guidance on Member involvement in commercial activities in the Constitution, Part 5J.

## **5. DEVELOPMENT PROPOSALS SUBMITTED BY MEMBERS THEIR CLOSE RELATIVES AND OFFICERS AND COUNCIL DEVELOPMENT**

- 5.1 Members whose business or other interests are likely to bring them into frequent contact with the planning system should generally avoid selection for Planning Panels.
- 5.2 Any planning proposals submitted by Members, their close relatives, officers or the Council (be they planning applications, development plan proposals or enforcement issues) can easily give rise to suspicions of impropriety. It is perfectly legitimate for such proposals to be submitted but it is vital to ensure they are handled in a manner, which gives no grounds for accusations of favouritism.
- 5.3 In order to avoid any risk of criticism in all cases of an application by a Member, a Member's partner, a relative, as defined in the Code of Conduct, a friend, a Member's employer or the employer of the Member's partner, relatives or friends, any corporate body in which the Member or his partner, relatives or friends hold shares with a nominal value of more than £5,000 or of which the Member is a Director will be dealt with by the appropriate Development Management Panel and not by officers under delegated powers. The Report must clearly state the applicant is a Member [or an Officer] of the Council. The same practice will also apply to officers holding politically restricted posts, that is those who regularly advise the Council or Panels and all officers in the Planning Units.
- 5.4 Proposals for the Council's own development (or a development involving the Council and another party) and private applications in respect of Borough owned land (e.g. prior to a land sale being agreed or negotiated) – will be determined by the relevant Development Management Panel and not delegated to Officers. Decisions will be made strictly on planning merits and without regard to any financial or other gain that may accrue to the Borough if the development is permitted. It is important that the Borough is seen to be treating such applications on an equal footing with all other applications as well as actually doing so.
- 5.5 Members who act as agents for people making an application to the Royal Borough should play no part in the decision-making process for that proposal, neither should they, nor an officer, play any part in relation to their own personal application.
- 5.6 The Monitoring Officer will be notified of such applications so that this officer can confirm that relevant applications have been processed properly.

## **6. LOBBYING OF, AND BY, MEMBERS AND ATTENDANCE AT PUBLIC MEETINGS**



- 6.1 Members may be subject to lobbying (both for and against) on planning matters and specific planning applications. Great care is essential to maintain the Council's, and indeed, the Member's own integrity and the public perception of the planning process when Members are lobbied.
- 6.2 Taking account of the need to make decisions impartially, Members should not favour, or appear to favour, any person, company, group or locality. Members should remember that they have a duty to represent the interests of the whole of the Council's area.

Councillors who are members of a lobbying group which has publicly expressed support for or against an application, will certainly have a personal interest which should be declared. An example might be membership of a Residents' Association which regularly comments on applications. The Member may also have a prejudicial interest but this will depend on careful consideration of all the surrounding circumstances (for example the Member's role in the group and the extent to which the Member is publicly identified with their position). If in doubt, the matter should be discussed with the Council's Monitoring Officer.

- 6.3 Ward Members should maintain an uncommitted position on an application, until the time for decision comes. The Panel can expect help from Ward Members in drawing relevant local circumstances to the Panel's attention, but Members are reminded that they are elected to serve the interests of the whole Borough, not just their Ward, and that they should restrict their contributions to material planning matters.
- 6.4 Members must be aware that if they express a particular view on a planning application, before they have had the opportunity to consider all the relevant representations and facts at the appropriate Panel, they may be predetermining the application and it may be inappropriate for them to be involved in the final decision process. Members should therefore ensure that they attend the Panel with an open mind, ready to consider each application on the arguments before them.

In addition those Members who have come to, and indicated this before the meeting, a conclusive view on an application or other planning matter, should carefully consider whether their continued involvement in determining the application or other matter would prejudice the integrity of the planning process. Their continued involvement could also amount to maladministration in such cases.

Further guidance, if required, can be given by the Monitoring Officer's representative at the Panel meeting.

- 6.5 If it is suggested that the public believe the Member had come to a clear view on the planning matter or application before the meeting when the decision is to be made, there should be some reasonable basis for the public belief. This might be a quote from the Member in the press or authentic reports of statements made etc. which are not repudiated by the Member or evidence in written form from the Member, e.g. letters of objection. In such cases the Member should not take part in the debate on, or vote on the issue as this would be unfair and prejudicial and may amount to maladministration.
- 6.6 Advice will always be available on this topic from the Monitoring Officer or the legal adviser.
- 6.7 Members who will be involved in the determination of a planning matter may, prior to any meeting, listen to a point of view about a planning proposal and may be asked for planning or procedural advice. The Member should refer the person making the request to the Case Officer or Unit Manager.
- 6.8 Individual Members should reach their own conclusions on an application or other planning matter rather than follow the lead of another Member. Any political group meetings prior to Panel meetings should not be used to decide how Members should vote and party whipping process should not be used in relation to planning applications. Planning decisions cannot be made on a party political basis in response to lobbying.
- 6.9 Members involved in decision making on planning matters should not organise support or opposition to a proposal, lobby other Members, or act as an advocate or put pressure on Officers for a particular recommendation or decision.
- 6.10 As long as a Member is not prevented from attending and/or speaking and voting at a meeting for the reasons set out in this Code, any Member of the Council may attend any Development Management Panel of which he/she is not a Member., Members are requested to notify Democratic Services in advance of the meeting if they intend to speak, as this can affect the timings of the meetings.
- 6.11 Members (in particular Members involved in determining planning matters) who find themselves contacted by an individual or group as a lobby should explain that whilst they can listen to what is said, it prejudices their impartiality to express a firm point of view or an intention to vote one way or another. As regards unsolicited written

material from individuals or groups, it is suggested that the Planning Case Officer should be contacted to ascertain if he has received a similar communication. This will ensure that all the necessary information has been received by the Council and also enables Officers to comment on the contents of that material before any decision is made on the determination of the application. If any Member considers that they have been exposed to undue or excessive lobbying or approaches, this should be reported to the Monitoring Officer, who will in turn advise the appropriate Officers.

- 6.12 Officers involved in the processing or determination of planning matters should not attend public meetings in connection with development proposals (i.e. pre-application) or submitted planning applications unless those meetings have been arranged by or with the express agreement of the Panel or of the relevant Head of Service or Strategic Director. To do so could lead to allegations of bias or prejudice in relation to a particular point of view. If put in such a position, inadvertently, Officers should only provide information and give no view on the merits or otherwise of the proposal.
- 6.13 Similarly Members involved in the determination of planning applications should take great care to maintain impartiality when attending public meetings in relation to planning matters. At such meetings it is preferable for no view on the merits or otherwise of a proposal to be given.
- 6.14 If the Monitoring Officer believes that a Member has prejudiced their position by expressing a conclusive view on an application before its determination by the Panel, the Monitoring Officer will advise the Member that it would be inappropriate for that Member to take part in the debate, or vote on the application.
- 6.15 If Members are requested to provide information by any individual or group, then regard should be had to the general provision under the Code of Conduct as to disclosure of information. A Member must not disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required to do so by law; nor should a Member prevent another person from gaining access to information to which that person is entitled by law. If a Member has any doubt as to whether the information requested can be provided, then they should contact the Monitoring Officer for further advice.

## **7. PARISH COUNCILLORS**

- 7.1 There is nothing in the Code of Conduct which prevents dual-hatted Members (councillors who serve on Parish/Town councils and on the Borough Council) speaking and voting at both parish and unitary tiers on the same planning issue. The advice is that Members who take this course need to declare their membership of the Parish or Town Council as an interest when attending the Borough's Planning Panel. The advice goes on to emphasise that:

*“Members are under a legal obligation to approach decision making with an open mind, prepared to listen to all sides of the argument. Dual-hatted Members who choose to speak and vote at Parish and principal levels will need to make it very clear that their vote at Parish level represents a preliminary view and that they will reconsider the matter afresh at principal level. Failure to do this may lead to a legal challenge of the principal authority’s (the Council’s) decision on the grounds of predetermination.”*

Different considerations apply where a Parish Council is the applicant in relation to a particular planning application.

- 7.2 Each Parish and Town Council has its own Code of Conduct which is substantially in the same terms as the one that this Council has adopted.

## **8. OFFICER REPORTS TO PANEL**

- 8.1 Reports to Panels on planning matters must be balanced, accurate and cover all relevant points. Where a planning application is subject to a full report this will refer to the relevant provisions of the Development Plan, and all other relevant material planning considerations. Where appropriate this will include a full description of the site and any related planning history. It will also contain a summary of statutory and non-statutory representations received.
- 8.2 As recommended by the Nolan Report, all reports will have a written recommendation of action/decision, and oral reporting (other than to update an existing report) will only be used on rare occasions and any oral reports will be carefully minuted when this does occur. New objections do not need to be specifically minuted and will be treated as updates.
- 8.3 All reports will contain an appraisal which clearly justifies the stated recommendation, together with all policies to be relied upon in terms of approving or rejecting an application. Any relevant policies not specifically mentioned in the Report but raised during debate will be minuted.

- 8.4 All reasons for refusal and conditions to be attached to permissions must be clear and unambiguous, and when not contained in the Officers' recommendations will be minuted. Whenever the Development Management Panel resolves not to follow approved policies, then this must be recorded clearly together with convincing reasons for the decision. If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated.

## **9. SITE VISITS**

- 9.1 Whether formal or informal site visits are made, Members should be careful to follow this guidance taken from the Nolan Report.

In all cases the Member should avoid committing themselves one way or the other in respect of the application and must not give any undertakings as to how they would vote. Members must not enter into discussion on the merits of the application and should not be seen to take sides. If they do speak to an applicant the Member should also try to speak to local objectors. Members should keep to public highways and only go onto private land if invited. They have no right to go onto the application site or adjoining property. If a site visit is made the Council's identification badge should be carried on such visits.

- 9.2 A decision by a Panel to carry out a formal site visit normally only takes place where it is felt by the Panel that decisions cannot be taken without viewing the site and adjoining properties. Examples of when formal site visits might be appropriate would be where:
- the impact of the proposed development is difficult to visualise from the plans and any supporting material; or
  - the proposal represents a departure from the Development Plan; or
  - the proposal is contrary to a specific policy, or raises wider policy issues; or
  - the proposal raises particularly unusual factors, for example it would have a major environmental impact or could lead to loss of jobs and/or financial hardship (e.g. enforcement against an existing use or development that has already been carried out); or
  - there is considerable local concern about a proposal, allied to planning reasons for carrying out a visit (e.g. the physical relationship of the site to other sites in the neighbourhood).

- 9.3 The purpose of a site visit is for Members to use the visit for fact finding to gain further knowledge of the development proposal, the application site and its relationship to adjacent sites.
- 9.4 Following formal site visits Officers will prepare a report on the planning issues and any relevant information obtained from the site visit to enable the next Panel to determine the application. Where appropriate, officers will attempt to secure reasonable access to the application (or objector's) site. Site owners are under an obligation to permit access to the Members and Officers present but are under no such obligation to any other resident or interested party.
- 9.5 The agreed procedures do not allow Members to receive representations from interested parties i.e. the Applicants and Objectors during the course of the site visit. All representations are made in the Panel meeting itself. No decision is made at the site visit, and it is essential that Members and Officers ensure that those attending are not led to believe that a decision has been taken on the visit, or that conclusive views have been reached. Site visits should not be used as a lobbying opportunity by objectors or supporters, and this should be made clear to any members of the public who may be in attendance.
- 9.6 Officers will ensure that all correspondence in relation to site visits clearly identifies the purpose of a site visit, the format and conduct of the visit, and if appropriate the procedure for applicants/agents and interested parties to address Members.
- 9.7 Those Members wishing to make representations, either on the application or to emphasise (or rebut) any specific issue arising from the site visit, can do so when the matter is reported back to the Panel for a decision. Other parties, applicants and objectors can make written submissions to the officers which will be reported to the Panel.

## **10. PRE-PANEL TECHNICAL BRIEFINGS**

- 10.1 Officers will provide a briefing to all Members of the Panel prior to any meeting of the Panel. These briefings will advise of any verbal updating at the meeting that will be necessary and to afford the Members an opportunity to give notice to the Officers of any potential problems. No decisions are or can be made at these briefing meetings.

## **11. DETERMINATION OF PLANNING APPLICATIONS**

- 11.1 When dealing with planning matters only material planning considerations must be taken into account. Any decision made should be justified against the Development Plan and other material considerations. The Panel's reasons should be clear and convincing.
  - 11.2 If the Development Plan is material to the application then the statutory position is that the application should be determined in accordance with the Development Plan unless material considerations indicate otherwise. [Section 54A of the Town and Country Planning Act 1990 (as amended).]
  - 11.3 Officers involved in the processing and determination of Planning applications also must act in accordance with the Council's Disciplinary Rules and Procedures, Procedure Rules within the Constitution, Member and Officer Code of Conduct and with the relevant sections of the Royal Town Planning Institute's Code of Professional Conduct.
  - 11.4 Where any of the Development Management Panels are considering a planning application, members of the public and applicants shall be entitled to speak prior to determination of the application in accordance with the Protocol on Public Speaking at Planning Meetings which forms part of the Council's Constitution, Part 7F.
  - 11.5 Under the Council's Scheme of Officer Delegation certain types of applications may be determined by the Head of Planning. These are listed in the Council's Constitution, in the Annex to Part 3.
  - 11.6 If a Member requests that an application normally determined under delegated powers should be referred to a Development Management Panel the Member is asked to complete a formal request card or submit that request in writing providing reasons for referring the application to Panel if possible - but this is a matter for their own discretion. The completed request should be given to the Development Control Unit Manager so that the Officers' report can contain any information relevant to the reason for referral.
- 12. THE DECISION MAKING PROCESS AND DECISIONS CONTRARY TO OFFICER RECOMMENDATION AND/OR THE DEVELOPMENT PLAN**
- 12.1 Where the Development Plan is relevant, decisions should be taken in accordance with it unless material considerations indicate otherwise.
  - 12.2 In discussing, and then determining, a planning application or other planning matter Members must confine themselves to the planning merits of the case and the reasons for making a final decision should be clear and convincing, and supported by planning evidence. If

Members wish to refuse or approve an application against Officer advice, or impose additional conditions to the permission, the reasons for refusal, approval or the additional conditions to be applied must be clearly stated at the time the propositions are moved at the meeting. A detailed minute of Members' reasons will be made.

- 12.3 Panel meetings are well attended by the public, applicants and professional advisers, and objectors. It is particularly important that Members and Officers are seen to conduct the business of the Panel in a fair and sensitive manner. The debate on a planning application should be confined to the planning merits of a development proposal.
- 12.4 If the Officer's report recommends approval of a departure from the Development Plan, the justification for this should be included, in full, in the report.
- 12.5 Wherever approved policies are not followed clear and convincing reasons must be recorded. Legal and Planning Officers will always attend meetings of the Panel to advise so that procedures can be properly followed and planning issues properly addressed and to advise the Chairman and Members.

### **13. MINUTES**

- 13.1 The Minutes shall be a full and detailed record of the decisions made at the Panel. Updating of reports by officers does not have to be recorded but new issues introduced and policies used for making the decision will be recorded in the minutes.
- 13.2 If a resolution is passed which is contrary to the Officer recommendation (whether for approval or refusal) a detailed Minute of the Panel's reasons will be made and a copy placed on the application file.
- 13.3 Details of any declarations of Interest will be recorded under a separate heading in the Minutes.

### **14. COMPLAINTS AND RECORD KEEPING**

- 14.1 If a member of the public, or applicant, wishes to complain about the Council's process of an application, this will be dealt within accordance with the Council's Complaints Procedure. In the first instance they should write to the Head of Planning. The complaint will be acknowledged in writing and will be investigated as quickly as possible; a written reply will be given. The Council's complaints



process will not deal with dissatisfaction with a planning decision that has been made.

14.2 So that complaints can be fully investigated and, in any case, as a matter of general good practice, record keeping will be complete and accurate. Every planning application file must contain an accurate account of events throughout its life, with particular care being taken with regard to those applications that are likely to be determined by officers under delegated authority. Such decisions should be as well documented and recorded as those taken by the Panel.

14.3 A record of all written complaints received by the Head of Planning will be maintained, and will be monitored regularly.

## 15. BREACH OF CODE

15.1 Any breach of this “Code of Conduct” will be reported to the Monitoring Officer, who will investigate the matter and take such action as necessary.

## 16. TRAINING

- *Do make every effort to attend the planning training provided by the Council if you are going to participate in meetings dealing with planning matters.*
- *Do endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum, thus assist you in carrying out your role properly and effectively.*
- *Do suggest to the Head of Planning any other areas of planning legislation you require training on.*

## 17. SUMMARY

Serving as a Member of the Council and as a Member of a Development Management Panel brings clear responsibilities to the whole community and not to any particular section of it. Similarly the whole community has a right to expect Members of the Council and Panels to consider matters

transparently, impartially and fairly having regard only to relevant information and disregarding irrelevant details.

# **PART 7 – THE CODES PROTOCOLS AND ADVICE**

## **C – OFFICERS’ CODE OF CONDUCT**

## Code of Conduct for Employees

### **1. Introduction**

- 1.1 The public is entitled to expect the highest standards of conduct from all staff who work in Local Government and therefore from all staff who work for the Royal Borough. The role of all employees is to serve the Council by providing advice, implementing Council policies and delivering services to the local community. In performing these duties all our staff are required to act with integrity, honesty, impartiality and objectivity.
- 1.2 Under section 82 of the Local Government Act 2000, the Secretary of State has powers to issue a statutory code of conduct for employees of local authorities. At present only a draft code exists. This code of conduct reflects the principles contained within the draft code and refers you to existing Council policies, procedures, guidelines, regulations etc that govern the way we work.
- 1.3 It is not the intention that the contents of this code conflict with other statutory or professional codes of conduct. Where membership of a Professional Association is required as part of a post holder's accountabilities, any Professional Code of Conduct will be deemed to be part of the Council's Code of Conduct. In the event you feel that there is a conflict between your Professional Code of Conduct and the Council's Code of Conduct, advice should be sought in the first instance from your line manager.

### **2. Accountability**

- 2.1 Employees must be accountable to the Council for their actions. Therefore, you are required to act in accordance with this code and any other relevant policies, procedures, guidelines, regulations etc, in recognition of your responsibility as a Council employee in undertaking and delivering your public duties.
- 2.2 The aim of this code is to:
  - Promote the highest standards in public life and engender confidence in the Council and our employees
  - Promote good and effective working relationships
  - Protect our employees from misunderstanding or criticism.

Although this code cannot be exhaustive, its intention is to provide sufficient information to make you aware of what is required of you. Therefore, if in any doubt, you should consult your line manager.

- 2.4 This code applies to all Council employees.

- 2.5 Any breach of this code will be investigated under the Council's Disciplinary Policy and Procedure and appropriate action taken if required.

### **3. Political Neutrality**

- 3.1 All employees, whether or not 'politically restricted' (see 3.4) must follow Council policies and you must not allow your own personal or political opinions to interfere with your work.
- 3.2 All employees serve the authority as a whole. Therefore, you are required to serve all Members and not just those of the controlling group or groups and must ensure that the individual rights of all Members are respected. For further information, you are referred to Part 7 D Councillor/Officer Protocol, in the Council's Constitution.
- 3.3 Political Assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989, shall be exempt from Section 3 of this code.
- 3.4 The Local Government Officers (Political Restriction) Regulations 1990 SI1990/881 as amended and the Local Government (Politically Restricted Posts)(No2) Regulations 1990 impose restrictions on political activities of certain employees. These are known as Politically Restricted posts. Where relevant, this information is included in contracts of employment and information is provided to individual employees as appropriate.

### **4. Relationships**

#### **4.1 The Local Community and Service Users**

You must remember your responsibilities to the community you serve and ensure courteous, efficient and impartial service delivery to all individuals and groups as defined by Council policies, procedures etc.

#### **4.2 Contractors**

Contracts must be awarded on merit, by fair competition against others tenders and no special favours shown in the tendering process to businesses run by, for example friends, relatives, partners etc. You are required to comply with the Business Dealings with Personal Associates and Declarations of Interest policy when dealing with any potential or actual contractors.

### 4.3 Members

Mutual respect between employees and Members is essential to good local government, and working relationships should be kept on a professional basis. Close personal familiarity between employees and individual Members can damage that relationship and prove embarrassing to other employees and Members. Therefore, close personal friendships should be avoided. For further information, you are referred to section I, Guidance for Councillor/Officer Relations in the Council's Constitution.

### 4.4 Media

You must comply with the Council's Corporate Communications Strategy. Particular note should be made of the Media Protocol, which sets out the requirements in relation to dealings with the media. Further advice is also available in the Private Work and Conduct guidance.

## 5. Equality

- 5.1 All employees are required to ensure that the Council's policies relating to equality issues are complied with in addition to the requirements of relevant legislation. All members of the local community, customers and other employees have a right to be treated with fairness and equality. We expect each member of staff to create a positive climate in the workplace where individual differences are respected and valued.
- 5.2 The Council's requirements in respect of equalities is set out in our Comprehensive Equality and Diversity policy as well as our Dignity at Work Policy.

## 6. Use of Resources

- 6.1 All staff must ensure that they use public funds and/or resources entrusted to them in a responsible and lawful manner.
- 6.2 The personal use of Council property, resources, vehicles or other facilities is not permitted unless authorised to do so by a Director.
- 6.3 Employees must strive to achieve value for money for the local community.
- 6.4 The use of resources is defined within such documents as: the Council's Constitution; Contract Standing Orders; Financial Regulations/Standing Orders; Expenses Policy; Information Security Policies, including Physical Security Policy; IT Access Security Policy; Remote Working Policy; Use of Email Policy; Use of Internet Policy; Use of Mobile Phone Policy, and the Care and Use of Council Owned Equipment Policy. This is not an exhaustive list.

## **7. Avoiding Fraud and Corruption**

- 7.1 In addition to Section 6, it must be understood that it is a criminal offence for you, in your capacity as an employee of the Council, to receive or bestow any personal advantage as part of your day to day role and responsibilities. In order to ensure that you understand the issues associated with fraud and corruption, you should refer to the Council's Anti-Fraud and Anti-Corruption Strategy and the Guidance Notes on Anti-Fraud and Anti-Corruption for Employees. This document has been updated to reflect the requirements of the Bribery Act 2010.
- 7.2 The guidance notes referred to in 7.1 also contain advice in relation to the acceptance and giving of gifts and hospitality.
- 7.3 Whilst the private lives of employees are their own concern, we cannot allow private interests to conflict with your and our public duty. You are referred to the Council's guidance on Private Work and Conduct; Business Dealings with Personal Associates; Declarations of Interest and the Social Media Policy.
- 7.4 Employees involved in tendering processes and dealing with contractors must operate within the Council's Constitution, Contract Standing Orders and Financial Regulations/Standing Orders. Advice and guidance are available from the Procurement and Legal services.

## **8. Raising Concerns at Work (Whistleblowing)**

- 8.1 Should you become aware of activities you believe to be fraudulent, not in accordance with Council policy or inconsistent with this code, you should use the Council's Raising Concerns at Work (Whistleblowing Policy) to raise your concerns.
- 8.2 Treatment of Information
- 8.3 This Council strives to deliver open government. The law requires that certain types of information must be made available to Members, auditors, government departments, service users and the public. The Council itself may decide to be open about other types of information. Staff will be advised through the publication of policies and Council communications what information is, or is not open, and must act accordingly.
- 8.4 You must not use any information obtained in the course of your employment for personal gain or benefit, nor must it be passed to others who may use it in such a way.
- 8.5 The Council's policy on the disclosure of personal information is contained in the Use and Disclosure of Personal Information policy.

- 8.6 When using information you must be mindful of the requirements of the Data Protection Act. Advice on which is contained in the Data Protection Guidance for Employees and the various Information Security policies.
- 8.7 You are also referred to the Council's policy on the Use of Email and Guidance to Officers Speaking at Conferences.
- 8.8 Nothing in this section should be seen to conflict with the requirements of the Freedom of Information Act 2000.

## **9. Treatment of Information**

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- 9.5 You are also referred to the Council's policy on the Use of Email and Guidance to Officers Speaking at Conferences.
- 9.6 Nothing in this section should be seen to conflict with the requirements of the Freedom of Information Act 2000.

## **10 Appointment of Staff**

- 10.1 Employees involved in appointments should ensure compliance with the Council's Recruitment and Selection Code of Practice and ensure that appointments are made on the basis of merit. To avoid any possible accusation of bias, you should not be involved in an appointment where you are related to an applicant, or have a personal relationship outside work.
- 10.2 Similarly, there should be no involvement with decisions relating to discipline, grievance, promotions or pay adjustments for other employees



who are relatives, partners or with whom you have a personal relationship outside work.

## 11 Safety and Security

- 11.1 As your employer, the Council has a legal responsibility to safeguard as far as reasonably practicable, your health, safety and welfare whilst at work. Similarly, you too have a responsibility for your own safety and that of others. For further information refer to the Corporate Health and Safety Policy and any local Health and Safety Policies produced by your own directorate/service area.
- 11.2 You are required to adhere to the Council's Physical Security Policy and to wear your identification badges whilst on Council premises or whilst performing your duties.
- 11.3 You are required to comply with the Council's Care and Use of Council Owned Equipment Policy.

## 12 Standard of Appearance

- 12.1 The Council expects high standards of appearance from you whilst undertaking your duties. You are expected to dress professionally, in a suitable manner and appropriately for the job you undertake.
- 12.2 Uniforms, if issued, must be worn and maintained appropriately.

## 13 Further Information

- 13.1 All the documents referred to in this Code of Conduct are available on the Council's intranet and you must familiarise yourself with these documents. The list below does not necessarily represent a full and complete list of relevant documents. It will be reviewed and updated as required, but employees are required to consider any relevant policies and procedures that may impact on this Code of Conduct.
- 13.2 Should you have any queries regarding these documents, please refer them to your line manager in the first instance. Further clarification can then be sought from the relevant service area:

Document	Contact	Access to document via
Anti-Fraud and Anti-Corruption Strategy and Guidance Notes	Audit and Review	Hyperwave

<b>Document</b>	<b>Contact</b>	<b>Access to document via</b>
Business Dealings with Personal Associates and Declarations of Interest	HR	Hyperwave
Care and Use of Council Owned Equipment Policy	HR	Hyperwave
Comprehensive Equality and Diversity Policy	Policy & Performance	Hyperwave
Constitution	Monitoring Officer	Hyperwave
Contract Standing Orders	Procurement	Constitution Part 8 A
(Corporate) Communications Strategy	Communications & Marketing Section	Hyperwave
Corporate Health and Safety Policy	HR – H&S	Hyperwave
Data Protection Policy	RBWM Data Protection Officer	Hyperwave
Dignity at Work	HR	Hyperwave
Disciplinary Policy and Procedure	HR	Hyperwave
Expenses Policy	HR	Hyperwave
Financial Regulations	Accountancy	Hyperwave
Freedom of Information	Information Management Team	Hyperwave
Media Protocol (Appendix to Communications Strategy)	Communications & Marketing Section	Hyperwave
Officers speaking at conferences – guidance	HR	Hyperwave
Politically Restricted Posts	HR	Hyperwave
Private Work and Conduct	HR	Hyperwave
Procurement Strategy and associated documents	Procurement	Hyperwave
Raising Concerns at Work (Whistle Blowing policy)	Audit and Review or HR	Hyperwave

<b>Document</b>	<b>Contact</b>	<b>Access to document via</b>
Recruitment and Selection Code of Practice	HR	Hyperwave
Information Security Policy	ICT Security and Information Manager	Hyperwave
Physical Security Policy	Customer Services Manager	Hyperwave
IT Access Security Policy	ICT Security and Information Manager	Hyperwave
Remote Working Policy	ICT Security and Information Manager	Hyperwave
Use of Internet Policy	ICT Security and Information Manager	Hyperwave
Use of E mail Policy	ICT Security and Information Manager	Hyperwave

13.3 Should you have any queries regarding this Code, please refer these to your Line Manager in the first instance, and any further clarification, if needed, can be sought from HR.

# **PART 7 - THE CODES, PROTOCOLS AND ADVICE**

## **D – MEMBER / OFFICER PROTOCOL**

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## **1 INTRODUCTION**

- 1.1 Mutual respect, understanding and co-operation between Councillors and Officers are the greatest safeguard of the integrity of the Council. They also provide a framework within which Councillors and Officers can work together for the benefit of the Royal Borough and the people who live or work here. The purpose of this guidance is to assist Councillors and Officers of the Council in their relations with one another.
- 1.2 Given the variety and complexity of such relations, this guidance does not seek to be either prescriptive or comprehensive. It seeks simply to offer advice on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues specifically raised in the guidance will serve as a guide to dealing with circumstances as they arise.
- 1.3 This guidance seeks to promote greater clarity and to reflect changes that the new modernising agenda has developed, it also aims to ensure all Councillors receive objective and impartial advice whilst protecting Officers from accusations of bias and any undue influence from Councillors.
- 1.4 It also seeks to reflect the principles underlying the Codes of Conduct. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Code of Conduct, therefore demand very high standards of personal conduct.

In any dealings between Councillors and Officers both should observe reasonable standards of courtesy and neither party should seek to take unfair advantage of their position.

## **2 OFFICER ADVICE TO COUNCILLORS**

- 2.1 Officers are available to assist and advise all Councillors upon matters relating to the Council's business. Unless otherwise agreed, Officers and Councillors will treat such discussions as confidential and Officers will not reveal the contents to other Councillors or to third parties. It may be necessary however for the Officer to advise his/her Head of Service/Director of the discussions.
- 2.2 When Councillors seek assistance and advice from Officers they should adhere to the requirements of this protocol and should not seek information to which they are not properly entitled.
- 2.3 Whilst any Councillor may ask a relevant Head of Service, Director or the Managing Director for written factual information about a service, such requests must be reasonable. Requests will be met subject to any overriding legal considerations (which will be determined by the

Monitoring Officer) or if the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If that is the case, she/he will raise the matter with the relevant Director who will discuss the issue with the relevant Group Leader(s) or, in the absence of a Group Leader, with the Member concerned.

- 2.4 Where a Councillor requests factual information (usually written) from an Officer as set out in paragraph 2.3 above, that information will also be supplied to the Chairman of the appropriate Panel, Forum or Committee, or the relevant Lead Member of the Cabinet, and relevant Officers
- 2.5 Where a Councillor requests policy advice (usually oral) that advice will not be supplied to any other Councillor without the consent of the requesting Councillor.
- 2.6 When advice is requested for a Member or Political Group by the Group's Political Assistant, these rules apply as if the Group Assistant was a Councillor.

### **3 OFFICER ADVICE TO POLITICAL GROUPS**

- 3.1 In discharging their duties and responsibilities, Officers serve the Council as a whole and not exclusively any political group, combination of groups or any individual Councillor of the Council.
- 3.2 It is common practice for political groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All Officers shall, in their dealings with political groups and individual Councillors treat them in a fair and even-handed manner.
- 3.3 The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairman, Lead Member or Spokesperson prior to a meeting to a presentation to a full party group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups. When attending a group meeting the following protocol applies:
  - a) Officers will attend Group meetings subject to other commitments, to provide advice and information, but their attendance should not be compulsory. Officers cannot insist upon being present if the Group decides otherwise.

- ii) The Group should decide at what point during the meeting an Officer should be requested to leave, always recognising that an Officer should not be present during discussions on subjects which could prejudice his/her political neutrality.
- iii) Having accepted an invitation to attend a meeting of one Group, Officers should not decline an invitation to offer advice or information to another Group on the same subject matter.
- iv) All invitations to attend Group meetings should be made to the appropriate Director accepting that he may nominate another Officer to attend on his behalf.
- v) Advice given by Officers at Group meetings will be either of a factual, informative nature or based on their professional expertise.
- vi) If an Officer is asked to give advice and information to more than one Group on the same issue, each Group will be entitled to receive from the Officer the same advice and information.
- vii) Officers, when questioned by Members of a Group, should not disclose or be asked to disclose the views expressed at a meeting of any other Group except to ensure that action is taken on a particular matter, if appropriate.
- viii) Councillors should not identify in public, at Council, Cabinet, Forum or Panel meetings, or in communication with the media, Officers who have provided advice and information at Group meetings.
- vix) If the proceedings of the group meeting attended by an Officer are recorded in minute or note form, the Officer concerned should be given the opportunity of verifying those records insofar as they relate to the advice or information he gave.

3.4 All those participating in this type of process, Councillors and Officers alike, will understand that the following limits apply:-

- i) Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not expected to be present at meetings or parts of meetings, when matters of party business are to be discussed.
- ii) Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such.
- iii) Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Cabinet, Panel, Forum or Council meeting when the matter in question is considered.



- 3.5 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Members' Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Councillor only meeting.
- 3.6 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.
- 3.7 In relation to budget proposals:
- a) The Administration shall be entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of the Cabinet/Committee/Forum/Panel/ Council meetings, (if appropriate) whichever is the earlier; and
  - b) The opposition groups shall also be entitled to confidential discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Cabinet/Committee/Forum/Panel/ Council meetings, whichever is the earlier.
- 3.8 It must not be assumed by any party group or Councillor that any Officer is supportive of any policy or strategy developed because of that Officer's provision of information or advice in the formulation of that policy or strategy.
- 3.9 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Managing Director who will discuss them with the relevant Group Leader(s).

#### **4 WARD-BASED INVOLVEMENT**

- 4.1 Information regarding activities in a particular ward should, when appropriate, be copied to the Ward Councillor(s) for information. Ward Councillors should be invited to take part in or attend any public meeting, consultative exercise or launch event organised by the Council concerning a local issue. If an Officer calls a meeting upon a local issue with or including Ward Councillors, the Officer will invite all Members for the Ward in question.
- 4.2 If a Ward Councillor calls or requests a meeting upon a local issue at which an Officer or Officers is/are requested to be in attendance, the request will be referred to the relevant Director to determine whether an Officer in attendance is appropriate.

- 4.3 Similarly if an MP calls or requests a meeting upon a local issue at which an Officer or Officers is/are requested to be in attendance, the same procedure will govern the Officer(s) attendance as in 4.2 above.
- 4.4 Meetings with Ward Councillors and/or MPs and/or others are generally private. Officers may confirm the events which occurred at the meeting and the outcome of it with the Members who attended, but will not reveal those matters to other Members or to other political groups except with the specific authority of the Member(s) who attended or called the meeting.

## **5 OFFICER SUPPORT TO THE OVERVIEW AND SCRUTINY PROCESS**

- 5.1 The Council's Overview and Scrutiny Panels will be supported by a Senior Officer as the Scrutiny Officer. In addition other Officers may attend Panels to give advice. The Scrutiny Officer will be responsible for ensuring the preparation of reports is undertaken as required by the Panels, in consultation with other relevant Officers, the Democratic Services Manager, the Chief Finance Officer, the Overview and Scrutiny Chairmen and the Managing Director.
- 5.2 The Managing Director, the Monitoring Officer and the Chief Finance Officer and the Directors may attend any Committee, Forum or Panel meeting and will attend where required to do so.
- 5.3 The Overview and Scrutiny Panels are independent from the Council's executive so that information requested by an Overview and Scrutiny Panel and work undertaken for them by Officers should not be discussed with any Members not part of the relevant Overview and Scrutiny Panel until the reports become public documents. Any conflict that the Panel's Senior Officer or Support Officers may identify between the work for the Overview and Scrutiny Panel and other work undertaken for the Council should be referred to the Democratic Services Manager who will discuss such issues, as necessary, with the relevant Overview and Scrutiny Panel Chairmen and the Director.

## **6 SUPPORT SERVICES TO COUNCILLORS AND PARTY GROUPS**

- 6.1 The only basis on which the Council can lawfully provide support services (e.g. office accommodation, stationery, typing, printing, photocopying, transport etc) to Councillors is to assist them in discharging their role as Councillors to the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes. In the event that any items, such as telephones, fax machines or computers, provided for Councillors are

used by them other than for Council business, the cost of such use (provided that it can be separately identified) must be reimbursed to the Council.

## **7 COUNCILLORS' ACCESS TO INFORMATION AND COUNCIL DOCUMENTS**

The Access to Information Procedure Rules set out the rights of Councillors to Council Information.

- 7.1 Councillors are free to approach any Officer of the Council to ask for information. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their roles as Councillors of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be made to the Director/Head of Service. In cases of doubt, Councillors should approach the Democratic Services Manager.
- 7.2 As regards the legal rights of Councillors to inspect Council documents, these are covered partly by statute and partly by the common law and the statutory position set out is in the Access to Information Procedure Rules.
- 7.3 The common law right of Councillors is much broader and is based on the principle that any Councillor has a right to inspect Council documents so far as his/her access to the document is reasonably necessary to enable the Councillor properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the "need to know" principle.
- 7.4 The exercise of this common law right depends therefore, upon an individual Councillor being able to demonstrate that he/she has the necessary "need to know". In this respect a Councillor has no right to a "roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must initially be determined by the particular Head of Service whose Service holds the document in question (with advice from the Monitoring Officer if required).
- 7.5 In some circumstances (e.g. a Panel Member wishing to inspect a document relating to the business of that Panel) a Councillor's "need to know" will normally be presumed. In other circumstances (e.g. a Councillor wishing to inspect documents which contain personal

information about third parties) the Councillor will normally be expected to justify the request in specific terms. Furthermore, there will be a range of documents which, because of their nature are either not accessible to Councillor or are accessible only to the political group forming the Administration and not by other political groups. An example of this latter category would be draft documents compiled in the context of emerging Council policies and draft Cabinet and Panel reports, the disclosure of which prematurely might be against the Council's and the public interest.

- 7.6 Whilst the term "Council document" is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a Councillor of one party group will not have a "need to know" and therefore, a right to inspect a document which forms part of the internal workings of another party group.
- 7.7 Any Council information provided to a Councillor must only be used by the Councillor for the purpose for which it was provided, i.e. in connection with the proper performance of the Councillor's duties as a Member of the Council.

There is a specific requirement in the Code of Conduct which states the Monitoring Officer's advice should be sought as to whether the criteria below apply.

You must not:

- a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where
- i) you have the consent of a person authorised to give it
  - ii) you are required by law to do so;
  - iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - iv) the disclosure is:
    - (a) reasonable and in the public interest; and
    - (b) made in good faith and in compliance with the reasonable requirements of the authority; or
    - (c) prevent another person from gaining access to information to which that person is entitled by law.
- 7.8 The provision of personal data which would breach the Data Protection Act must not be provided to Councillors unless the data subject has given written authority for the disclosure to be made.
- 7.9 The 'need to know' basis and the preservation of personal information are the guiding principles when dealing with oral or telephone requests in direct conversation. It is proper for an Officer to ask a Councillor to

justify the reason for his/her request and if the Officer does not think it is sufficient the matter will be referred to the Proper Officer).

- 7.10 If a Councillor purports to represent a constituent and seeks information about that person's circumstances, details should not be provided unless the constituent has given prior authority.
- 7.11 An Officer should not disclose to a Councillor information which is not in the public domain and which the Councillor does not need to know in order to carry out his/her duties as a Councillor.
- 7.12 In addition to the rights that Councillors have to access Council information set out above, they also enjoy the same rights to access information as any member of the general public under the Freedom of Information Act 2000. Further information about those rights and how to exercise them is available on the Council's website or from the Council's Transactional Legal Team Leader on 01628 796000, or from the Monitoring Officer.

## **8 OFFICER/COUNCILLOR RELATIONSHIPS**

- 8.1 Whilst there will necessarily be a close working relationship between the Leader of the Council, Cabinet Members, Chairmen of Forums, Panels and Committees and the relevant Directors, Heads of Service and other senior officers, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal impartially with the other members and other political groups.
- 8.2 In some situations an Officer will be under a professional duty to submit a report, in their name such as reports by the Council's statutory officers. Similarly, a Director or Head of Service will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This applies equally to joint Officer reports.
- 8.3 Reports submitted in the name of one or more Members, usually Lead Members, will be the responsibility of the Member(s) under whose name(s) it appears. It is the duty of the Member(s) to ensure that a report has been prepared, taking into account the professional advice of relevant officers and in particular the advice of the relevant Director and Head of Service for the service area and that the necessary legal and financial advice has been obtained in all cases from the appropriate officers. Depending on the subject matter of the report, such other specialist officer advice as is relevant must be obtained. The final report and its recommendation(s) will be the responsibility of the Member(s) submitting it.

- 8.4 Finally, it must be remembered that Officers are accountable to their Head of Service and Directors and that whilst Officers should always seek to assist a Cabinet Member, Chairman (or indeed any Councillor), they must not in so doing go beyond the bounds of whatever authority they have been given by their Head of Service.

## **9 PUBLICITY AND DEALING WITH THE MEDIA**

- 9.1 In line with the requirements of the Local Government Act 1986 and the Code of Recommended Practice on Local Authority Publicity (set out in Part 5K), Council publications and other publicity material produced by the Council will not normally feature individual Councillors (except the Lead Member for the relevant service area, the Committee, Forum or Panel Chairman (if appropriate) and the Mayor and Deputy Mayor, beyond providing a list of names and addresses.
- 9.2 The Council has a policy of allowing media access to a wide range of Officers to provide them with the factual information they need. Requests for comments or opinion on Council policy or political matters shall be referred to the appropriate Cabinet Member or Committee, Forum or Panel Chairman. The names of Group Spokespersons and Ward Councillors shall be publicly available.
- 9.3 Press releases may quote the appropriate Cabinet Member, Committee, Forum or Panel Chairman. Group Spokespersons and Ward Councillors shall be made known to journalists for contact at their discretion. The Council may issue press releases on behalf of Cabinet Members but will not otherwise issue press releases, letters to the editor etc. on behalf of Councillors though Officers will be available as in Paragraph 3.1 above to provide information which a Councillor needs for their own correspondence with media.

## **10 CORRESPONDENCE**

- 10.1 Correspondence between an Officer and a Councillor shall not normally be copied by the Officer to any other Councillor(s). Where exceptionally it is necessary that it is copied to another Councillor(s) this should be made clear to the original recipient. 'Silent copies' should not be used.
- 10.2 Letters on behalf of the Council will normally be sent out under the name of the appropriate Officer, not the name of the Councillor. It may be appropriate in some circumstances for a letter to appear in the name of a Councillor (e.g. letters of representation to the Government Members, letters from Cabinet Members), but this is likely to be the exception. Letters creating obligations or giving instructions on behalf of the Council should never be sent out in a Councillor's name.

- 10.3 In most cases it will be inappropriate for Officers to become involved in public debates or issues affecting the Council, unless they are authorised to do so. Officers should generally not make public comment on any issues of policy or on political matters affecting the Council and this would include becoming involved in correspondence with persons or making any comment publicly including the press, on matters otherwise than in the course of their normal professional activities. If any Officer wishes to make any such comment verbally, in writing or by any other method, they shall first obtain the consent of their Head of Service.

## **11 COMPLAINTS AGAINST OFFICERS**

- 11.1 Where a Councillor has concerns about the conduct or capacity of an Officer, this should be raised initially with the Officer's Head of Service and then with the relevant Director or the Managing Director. Special rules apply to the Head of Paid Service, the Monitoring Officer and the Finance Officer. It is not appropriate for such matters to be raised at public meetings and at meetings chaired by Councillors. The Chairman will ensure that this procedure is followed. This does not prevent Members raising general concerns about service standards which are not directed at any particular Officer.
- 11.2 If a Councillor feels that he/she is not being treated with proper respect and courtesy or has any concern about the conduct or capability of an Officer which the Councillor has failed to resolve directly with the Officer, the procedure set out above should be followed. Any action taken against an Officer in respect of a complaint will be in accordance with the Council's Disciplinary Rules and Procedures.
- 11.3 Officers are expected to behave towards Councillors in a way that is politically neutral and many officers occupy politically restricted posts. Officers are not expected to comment in public on any Council Policy or activity other than a matter on which they are authorised by making public statements on behalf of the Council. Public statements include verbal comment and written statements in letters and other publications. It is therefore inappropriate and may be treated as a breach of contract for an Officer, not authorised to do so, publicly commenting on a Council Policy, procedure or activity.
- 11.4 There is the potential for complaints or allegations to be made to Councillors against Officers in a variety of situations. Such complaints and allegations can be extremely damaging to the Council and to the Officers involved. They can easily be made, particularly in respect of Officers carrying out their duties on behalf of the Council, to make sure that public funds are being managed responsibly and/or that legal requirements are being complied with, but can be very difficult to correct in the wider public arena. If not managed correctly, they can leave the Council open to legal challenge as well as causing

considerable adverse impact on staff morale and effectiveness and great personal distress to the individuals involved and their families. Ill founded and malicious allegations can tarnish Officers' careers and their livelihoods and also impact on the reputation and credibility of the Council. At the same time, it should be recognised that complaints and allegations must be handled on their individual merits, in accordance with a recognised process that is transparent, prompt and reaches unequivocal conclusions.

- 11.5 Where a Councillor receives a verbal complaint about an Officer of the Council she/he should inform the complainants that the complaint must be made in writing to the Managing Director and that, in the absence of a written complaint, no further action will be taken.
- 11.6 Where a complaint is made directly or indirectly about an Officer of the Council at a meeting attended by Members of the Council and members of the public and/or other organisations, Councillors present should adopt the following procedure:-
- a) Immediately acknowledge the complaint and inform the complainant that the Council supports its Officers in the work they have undertaken;
  - b) Inform the complainant that any complaint should be made in writing to the Officer concerned or their Head of Service/Director where it will be considered under the Council's Complaints' Policy concerned and/or the Managing Director (preferably within 24 hours) and that, in the absence of a written complaint, no further action will be taken;
  - c) Remind the complainant of the potential legal implications of defamatory allegations;
  - d) In the event that the complainant is a member of the management of an organisation represented at the meeting, request the submission of a complaint on behalf of the organisation rather than on the part of the individual complainant alone.
- 11.7 Complaints will be considered in accordance with the Council's HR Policies and its Anti-Fraud and Corruption Policy and Whistleblowing Policy.

## **12. COMPLAINTS AGAINST COUNCILLORS**

- 12.1 In the same manner as for complaints about Officers, complaints about Councillors can be extremely damaging to the Council and the Councillor concerned. If not managed correctly they can leave the Council open to legal challenge and can cause great personal distress. Each complaint must be handled on its individual merits and in accordance with a recognised process which is transparent, prompt and reaches unequivocal conclusions.



- 12.2 Where an Officer feels that s/he has not been properly treated with respect and courtesy s/he should raise the matter with his/her Head of Service, especially if s/he does not feel able to discuss it directly with the Councillor concerned. In these circumstances the Head of Service, Director or Managing Director will take appropriate action either by approaching the individual Councillor and/or group leader.
- 12.3 Where an Officer receives a verbal complaint about a Councillor of the Council she/he should inform the complainants that the complaint must be made in writing to the Councillor concerned and/or to the Managing Director and that, in the absence of a written complaint, no further action will be taken.
- 12.4 Where a complaint is made directly or indirectly about a Councillor of the Council at a meeting attended by Officers and members of the public and/or other organisations, Officers present should adopt the following procedure:-
- a) Immediately acknowledge the complaint;
  - b) Inform the complainant that any complaint should be made in writing to the Councillor concerned and/or the Managing Director (preferably within 24 hours) and that, in the absence of a written complaint, no further action will be taken.
  - c) Remind the complainant of the potential legal implications of defamatory allegations;
  - d) In the event that the complainant is a member of the management of an organisation represented at the meeting, request the submission of a complaint on behalf of the organisation rather than on the part of the individual complainant alone.
- 12.5 Complaints about Councillors will be considered by the Monitoring Officer against the Council's Members' Code of Conduct. Complaints will also be considered in accordance with the Council's Anti-Fraud and Corruption Policy and its Whistleblowing Policy.

# **PART 7 – THE CODES, PROTOCOLS AND ADVICE**

## **E – ADVICE TO MEMBERS DUTIES ON OUTSIDE BODIES**

## **E. Advice to Members – Duties on Outside Bodies**

### **1. General duties**

In general, Members who are appointed to charities, community associations or other third sector bodies (whether incorporated or not) should:

- (a) understand clearly the organisation's purposes and main objectives and their own role in the organisation;
- (b) attend meetings regularly and take an active, informed and supportive role in the body's affairs;
- (c) take care always to act in the best interests of the organisation and in accordance with its rules or governing document, while contributing their knowledge and experience as a councillor;
- (d) satisfy themselves that the organisation has transparent governance arrangements, regular reports on its activities and sound financial management, with accounts regularly monitored; and that annual reports and accounts are submitted in timely fashion;
- (e) seek to protect the body's assets and manage its affairs prudently;
- (f) be aware of the main risks the body faces (including funding risks) and the steps to be taken to deal with them;
- (g) ensure it maintains its membership, so that the work of running the organisation and any financial obligations continue to be shared by a reasonable number of people;
- (h) behave ethically in accordance with the organisation's own code of conduct, if they have one, or otherwise the Council's Code of Conduct for Members;
- (i) not gain or seek to gain from their appointment any benefit or remuneration (beyond any travel or other allowances formally approved by the body);
- (j) ensure the organisation has appropriate health and safety and equal opportunities policies and adequate insurance arrangements;
- (k) seek to safeguard the Council's interests on those bodies which are funded by or through the Council, to the extent that this does not conflict with their duties towards the organisation; and
- (l) seek advice from the Monitoring Officer or other relevant Council officer if they have concerns about the running of the body.

### **2. Charitable trusts**

To be a Charity, an organisation must operate for one of the four charitable purposes, namely:

- the relief of poverty and human suffering;
- the advancement of education;
- the advancement of religion; and
- another purpose for the benefit of the community.

It must operate for the public benefit and have exclusively charitable purposes. An organisation which operates for political purposes will not qualify for charitable status.

Trustees' duties include:

- the need to act in accordance with the constitution of the Charity;
- not making a private profit from their position;
- acting honestly and in good faith in the best interests of the Charity;
- ensuring that information relating to the charity and trustees is registered with the Charity Commissioners and annual accounts, reports and returns are completed and sent;
- ensuring that the body acts in accordance with the overriding duty to the beneficiaries of the Trust;
- ensuring compliance with all relevant legislation (e.g. in relation to tax and land matters);

There is now a statutory duty of care under the Trustee Act 2000 which applies when a Trustee is:

- exercising a general power of investment or any specific power of investment arising from the Trust;
- making investments in line with the Standard Investment Criteria under s. 4 of the Act or taking independent advice on investments under s. 5;
- exercising the power to acquire land or deal in land;
- appointing agents, custodians or nominees or in reviewing their obligations;
- compounding liabilities under section 15 of the Trustee Act 1925;
- insuring Trust property; and
- dealing with reversionary interests, valuations or audits.

The standards of care expected of Trustees is that which is reasonable in the circumstances, taking into account any particular skills or competencies possessed by the individual.

The Charity Commission have stated they require independence of decision-making.

### **3. Conflicts of Interests**

Under the Council's Code of Conduct for Members, a personal interest always arises from membership of an outside body "of which you are a member or in a position of general control or management", including one to which a Member has been appointed or nominated by the Council. This interest needs to be recorded in the Register of Members' Interests and declared at any meeting where the business relates to or is likely to affect that body, although it does not impede full participation in the Council's meeting.

Members appointed by the Council to an outside body will, when sitting on that body, often have duties to the organisation which take precedence over their duties to the Council. This will depend on the type of organisation on which they serve – with regard to a Trust, the Member will have an over riding duty to act in the best interests of the Charity. Members will therefore wish to consider, at any time when it appears that the organisation's interests may conflict with the Council's interests, whether that conflict prevents them from taking part in decision-making either at the organisation's meeting or at the Council's meeting. Members may of course bring to bear their own experience and knowledge as a councillor, and may have regard to the Council's interests, but have a duty to exercise independent judgement when making decisions. Members should not claim to act or give the impression that they are acting under a Council mandate.

In the event of a clear conflict of interests, the Member should consider whether it is (a) minor or occasional enough that it can be dealt with by declaring an interest and withdrawing from either the organisation's meeting or the Council's meeting, or (b) so frequent or significant that it prevents the Member from effectively fulfilling their responsibilities towards the outside body, in which case resignation from the body may need to be considered. Conflicts of interest are likely to be more acute for Executive Members, particularly where the financial position of the outside body is under consideration and the body depends on the Council for financial support.

# **PART 7 – THE CONSTITUTION**

## **F – PROTOCOL FOR PUBLIC SPEAKING AT MEETINGS**

## **1. Public Speaking at Development Management Panel Meetings**

### **1. Public Speaking at Development Management Panel Meetings**

- 1.1 Planning applications are determined by either officers acting under delegated authority or a Development Management Panel.
- 1.2 Each application is subject to a public consultation exercise which enables the public and other bodies to comment in writing on the application before it is determined.
- 1.3 The Council provides the opportunity for the public and for applicants (or their agents) to speak at the planning meeting before the Council Members take their decision.
- 1.4 If objectors speak at the meeting, the applicant must be allowed to speak. An applicant may speak at a meeting even where there are no objectors wishing to speak (but if the applicant is in agreement with the Officers' recommendations to the Panel the Chairman will request the applicant to restrict any comments to matters not covered, or not covered fully, in the Officer's Report).
- 1.5 Anyone who has written to the Council with objections or comments to a planning application will be contacted at least one week before the relevant meeting is due to take place when the application will be considered. They will be invited to tell the Council if they wish to speak at the meeting. If anyone does wish to speak they must let Democratic Services know by 5 pm, two working days before the Development Management Panel (i.e. Monday, 5pm, if the Panel is on Wednesday). If anyone wishes to use visual material e.g. photographs, plans etc. or present documents, these should be sent to the Case Officer using the [planning.maidenhead@rbwm.gov.uk](mailto:planning.maidenhead@rbwm.gov.uk) address as soon as possible before the relevant meeting. The Panel Chairman will not normally allow members of the public to speak if they have failed to notify the Council as stated above, of their wish to speak or to present additional information to the panel that has not been first submitted to the Case Officer.
- 1.6 Generally, applications where the public are to speak will be moved to the start of the Agenda. Any objectors will be given, together, a total of three minutes in which they can present their views. It may be convenient, if there are a number of objectors, that they agree amongst themselves to appoint one or two spokesmen for them all, to stay within the three minutes allotted. If the objectors are unable to agree amongst themselves, the Chairman shall refer to the list of notifications received from people wishing to speak and shall call them in the order the names are recorded, which shall, as far as reasonably possible, reflect the time of notification of their interest in speaking. When the end of the 3 minute period has been reached, the Chairman will not permit any more objectors to speak.

- 1.7 No new documents should be circulated to the Panel at the meeting except the Panel Update. Messages should not be passed to individual Panel Members.
- 1.8 If a Parish or Town Council has made representations and a Member of that Council wishes to address the meeting, they should notify Democratic Services by 5 pm, two working days before the Development Management Panel of their intention to speak. If Democratic Services are not notified in advance, then the Chairman of the meeting has a discretion to allow Members to address the meeting.
- 1.9 If any other Parish or Town Council wishes to address the meeting, they should notify Democratic Services by 5 pm, two working days before the Development Management Panel of their intention to speak. If Democratic Services are not notified in advance, then the Chairman of the meeting has a discretion to allow members to address the meeting.
- 1.10A Parish or Town Council representative will be allotted a further two minutes, in addition to the objectors' three minute period. If more than one Parish or Town Council wishes to address the meeting, no additional time will be allocated unless exceptional circumstances apply (see below).
- 1.11 If a neighbourhood plan successor organisation wishes to address a Development Management Panel meeting to speak on any planning application, they should notify Democratic Services by 5 pm two working days before the Development Management Panel of their intention to speak; this will be at the discretion of the Chairman. If Democratic Services are not notified in advance, then the Chairman of the meeting has discretion to allow the organisation to address the meeting. The organisation must be based in the appropriate neighbourhood plan area. The organisation will be allocated two minutes to speak. If more than one group registers to speak, they will be asked to share the single two minute speaking opportunity.
- 1.12 Following the adoption of a Neighbourhood plan or equivalent, should a *bona fide* representative residents' organisation wish to address a Development Management Panel meeting to speak on any planning application, they should notify Democratic Services by 5 pm two working days before the Development Management Panel of their intention to speak; this will be at the discretion of the Chairman. If Democratic Services are not notified in advance, then the Chairman of the meeting has discretion to allow the organisation to address the meeting. The organisation will share the allocated two minute opportunity to speak with any successor Neighbourhood Plan resident group.
- 1.13 The applicant, his agent or any supporters will be allocated, in total three minutes in which to present their views. If in addition to the Applicant or his agent, members of the public wish to speak in favour of an application, they must notify the Council, by 5.00 pm, at least two working days before the Panel meeting. They should also contact the applicant or his agent as the total time allocated to the applicant and any supporters is a total of three minutes.



1.14 Any Member of the Council, not already a Member of the DMP, wishing to speak at a Panel will be permitted to speak in favour or against any agenda item after all public speakers have spoken and prior to the Panel debating the item. Non Panel Members will be restricted to three minutes in total.

1.15 The Chairman of the meeting has discretion to extend the speaking time for any party, in exceptional cases. This discretion is intended to be applied only rarely. Exceptional circumstances might arise as a result of the range of issues raised by the matter.

## **2. Public Speaking at Cabinet.**

Please see Part 3 A2.8 of the Constitution.

## **3. Public Speaking at Council.**

Please see Part 2 C9 of the Constitution.

## **4. Public speaking at other Committees, Forums and Panels**

4.1 This Protocol sets out how members of the public can take part in many Council meetings, including meetings of most Committees, Forums and Panels. As set out above there are separate provisions for the public to ask questions at meetings of the Council (Part 2 C9); Cabinet (Part 3 A2.8) and speaking at Development Management Panels (covered in the preceding section).

4.2 The operation of this Protocol will be the responsibility of individual Chairmen and may need to be revised from time to time, or disapplied in particular circumstances.

4.3 Members of the public cannot attend meetings when confidential or exempt items are being discussed.

4.4 This Protocol will not apply to appeal or other quasi-judicial hearings, such as most Appeals Panels .

4.5 Any members of the public wishing to speak may only do so in relation to an item on the agenda of the meeting. The Chairman will have the right to apply the criteria set out in A9 to public participation if he feels it necessary to do so. The Council wishes to provide the opportunity for the public to speak at the meeting before the Members take their decision.

4.6 If the matter is one where there are applicants or supporters of a proposal speaking, objectors must be allowed to speak at the meeting, and vice versa. An applicant may speak at a meeting even where there are no objectors wishing to speak (but if the applicant or objector is in agreement with the Officers' recommendations to the Panel Forum or Committee, the Chairman will request the applicant or objector to restrict

any comments to matters not covered, or not covered fully, in the Officer's Report). Members of the public may not necessarily be supporters or objectors but may wish to ask questions or make statements to Members about the item under discussion. This is permitted under the terms of the Protocol.

- 4.7 If anyone wishes to speak at a meeting, they must let the Democratic Services know by 5.00 pm, the working day before the meeting, by contacting the Democratic Services Manager. If anyone wishes to use visual material, e.g. photographs, plans, etc., or present documents, these should be sent to the Council, as soon as possible, before the relevant meeting. The Chairman will not normally allow members of the public to speak if they have failed to notify the Council, as stated above, of their wish to speak.
- 4.8 At non-statutory Forums, and at the sole discretion of the Chairman, items may be added to the agenda and/or additional public speaking be allowed at the meeting.
- 4.9 Generally, items where the public are to speak will be moved to the start of the agenda. The individuals speaking on the item will be allowed up to 3 minutes to speak, with a total time for public speaking of 9 minutes per agenda item. It may be convenient, if there are a number of members of the public that they agree amongst themselves to appoint one or two spokesmen for them all to stay within the time allotted. If the speakers are unable to agree amongst themselves, the Chairman shall refer to the list recording the names of members of the public wishing to speak attending the meeting and shall call them strictly in the order the names are recorded, which shall, as far as reasonably possible, reflect the time of notification of their interest in speaking. When the end of the period allowed for public speakers has been reached, the Chairman will not permit any more public speakers.
- 4.10 The Chairman of the meeting has discretion to extend the speaking time for the public by up to a further 3 minutes in exceptional cases. This discretion is intended to be applied only rarely. Exceptional circumstances might arise as a result of the range of issues raised by the matter.

# **PART 8 – OTHER RULES OF PROCEDURE**

## **A – CONTRACT PROCEDURE RULES**

# **CONTRACT RULES**

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## Part 1

### Introduction – Purpose of the Contract Rules

These Contract Rules are made in accordance with the requirements of Section 135 of the Local Government Act 1972. These rules form part of the Council's Constitution and are, in effect, the instructions of the Council to officers and members for undertaking expenditure on behalf of the Council. Purchasing decisions and processes are important because the money involved is public money. The purpose of these Contract Rules is to provide a structure within which purchasing decisions are made and implemented and which ensures that the Council:

- Furthers its corporate objectives
- Uses its resources efficiently and secures value for money
- Purchases quality goods, services and works
- Safeguards its reputation from any implication of dishonesty or corruption
- Is open, fair and transparent and fully compliant with EU public procurement law (the Public Contracts Regulations 2006 as amended)

The Monitoring Officer (the Council's Monitoring Officer, means the officer designated under section 5 of the Local Government and Housing Act 1989 to monitor the Council's compliance with the law and rules of administration) is accountable for advising on and interpreting these Contract Rules, issues of precedence, and the law relating to Council contracts and overseeing adherence. Day-to-day advice in respect of these Contract Rules is delegated to the Procurement & Commissioning Team. The Procurement & Commissioning Team can be consulted for any requirements. They must be consulted, in advance of any undertaking, for all requirements over £50,000. They will provide detailed guidance and support and supply the appropriate mandatory templates. They can also provide contact details for any other officers referenced in this document.

## **Part 2**

### **General Principles – Application and Compliance with the Contract Rules**

#### **1. Application and Scope of the Contract Rules**

1.1 The Contract Rules apply to all contracts for the supply of works (e.g. construction and maintenance of roads and buildings), goods (or supplies) or services to the Council, regardless of value. This includes Service Level Agreements (SLAs), Memorandum of Understandings (MoUs); grants whereby the Council requires a certain outcome in return for a monetary sum and any applications for funding. In these cases, the relevant approvals to the outcome, set out in Section 14 'Seek approval to the Outcomes; must be obtained before proceeding.

#### 1.2 The Contract Rules do not apply to contracts:

- for the appointment of permanent or fixed-term employees (but do apply to the appointment of temporary workers or consultants)
- contracts for the purchase or sale of any interest in land (including leasehold interests)
- direct care payments to residents
- the supply of works, goods and services by the Council
- SLAs, MOUs, and grants whereby the Council does not require a particular outcome in return for a monetary sum

1.3 Schools are encouraged to use these Contract Rules as best practice when entering into all contracts, adapting them as required to meet their governance arrangements.

#### **2. Responsibilities**

2.1 Each Director is responsible for ensuring that their department complies with these Contract Rules. The director must nominate a Responsible Officer in writing in line with the Council's Scheme of Delegation. The Responsible Officer has responsibility for conducting timely purchasing processes for the purchase of particular works, supplies or services on behalf of the Council in line with these Contract Rules.

#### **3. Conflicts of Interest and Standards**

3.1 All officers will comply fully with the provisions of Section 117 of the Local Government Act 1972 in respect of the declaration of interest.

No officer with any monetary interest in a contract shall play any part in the specification, procurement or supervision of any such contract.

- 3.2 Consultants who assist in the preparation of a specification must not be invited to quote for the contract.
- 3.3 Any officer who is a relative, friend, personal associate or close acquaintance of any individual involved in the procurement process or in a senior position with any organisation bidding for any contract with the Council of which he/she is aware or should be aware must declare that relationship to his/her senior officer and must take no part in the specification, procurement or supervision of any such contract.
- 3.4 Officers must adhere to the highest standards of integrity. Further guidance on officer conduct is available in Council policies.
- 3.5 Any proposed contract for provision of works or services between the Council and an Elected Member of the Council or their business, or a close member of their family must be approved by the Chair of Cabinet and the Lead Member for Finance, (or when necessary by their appointed Deputies who must be a member of the Executive) and be recorded by the relevant Officer, prior to any works or services being supplied or paid for.

#### **4. Compliance**

- 4.1 All members of staff and consultants engaged in any capacity to manage or supervise the procurement of any works, goods or services for the Council must comply with these Contract Rules. Failure to comply with these Contract Rules may result in disciplinary action and legal proceedings against members of staff and consultants concerned.
- 4.2 Breaches of these Contract Rules must be reported to the Monitoring Officer and the Head of Audit.
- 4.3 Any officer or member of staff who suspects any misconduct or corruption in relation to any purchase by or on behalf of the Council must immediately report that suspicion to the Council's Monitoring Officer and the Head of Audit.

### **Part 3**

#### **Procedure – The Mandatory Sequential Steps in any given Procurement Process**

##### **1. Procedural Requirements**

- 1.1 If there is a Corporate Contract it must be used. If not the following steps must be completed in sequence for any requirement:

##### **2. Corporate Contracts**

- 2.1 Corporate Contracts are Council-wide contracts that all officers should use. They may be managed by an officer in a different service to the Responsible Officer. Unless otherwise agreed by the Procurement & Commissioning Manager, where there is a corporate contract for the supply of any works, goods or services, the Responsible Officer must buy through that contract, rather than awarding a separate contract for his/her own use. The Procurement & Commissioning Team can advise on available Corporate Contracts.

##### **3. Calculate the Contract Value**

- 3.1 The estimated value of a contract or series of related contracts shall determine the way in which the contract is let.
- 3.2 The contract value shall be the genuine pre-estimate of the value of the entire contract (excluding Value Added Tax). This includes all payments to be made, or potentially to be made, under the entirety of the contract and for the whole of the predicted contract period (including proposed extensions and options). This includes requirements across the entire Council, not just the requirements of a single team or service area.
- 3.3 Contracts must not be artificially split to avoid the application of the provisions of the EU Rules and/or these Contract Rules.
- 3.4 The EU Rules can cover contracts which are below the relevant EU threshold where they constitute repeat purchases and/or purchases of a similar type in a specified period. Responsible Officers should therefore seek advice from the Procurement & Commissioning Team on the application of the EU Rules where they envisage that they may require repeat purchases and/or purchases of a similar type.
- 3.5 The Responsible Officer may not know of all of the requirements outside of their service area. The Procurement & Commissioning Team will provide advice in this respect.



#### **4. Describe Requirements**

- 4.1 The Responsible Officer must prepare a clear and comprehensive statement of the Council's requirements with regard to the works, goods or services to be supplied (a specification). As part of this process the Responsible Officer must obtain all necessary professional and technical advice and assistance and undertake market research so that options and the cost of the requirements are fully understood.
- 4.2 Generally the statement of requirements should be as open as possible, describing what is needed, rather than how the need is to be fulfilled, to enable suppliers to contribute their knowledge and experience i.e. outcome based. Allowing variant responses enables the suppliers to make suggested amendments based upon their expertise. In case such suggestions are not acceptable to the Council all suppliers must be required to submit a mandatory reference response based on the statement of requirements and terms and conditions provided so that all responses may be compared fairly. All works, goods and services must be specified by reference to European standards, or national standards if no European standards are set with the words "or equivalent" added. Named products or manufacturers must not be specified as to do so would be in direct contravention of EU Regulations.
- 4.3 The statement of requirements should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable the Responsible Officer to see whether the Council's requirements have been met.

#### **5. Determine the Procurement Route**

- 5.1 Determine if the Council will run its own competition or if a Purchasing Scheme will be used.
- 5.2 Purchasing Schemes are contracts set up by central/ collaborative bodies which other parties can utilise. Use of a purchasing scheme should be considered to fast-track the supplier selection process and to leverage economies of scale. The Procurement and Commissioning Team can provide guidance on how to find out more about specific schemes. Responsible Officers must check that:
- the Council is legally entitled to use the Purchasing Scheme
  - the purchases to be made legally fall within the coverage of the Purchasing Scheme
  - the scheme meets the Council's own requirements in terms of quality and cost
  - any other pros and cons of using the Purchasing Scheme versus running a Council competition must be considered

- 5.3 Each purchasing scheme will have its own procedure to follow. These requirements will supersede those in this document with the exception of the Council's approval steps as outlined in these Contract Rules.
- 5.4 If a Purchasing Scheme is not the most appropriate route, the Council will need to run its own competition. The table below provides details of the process that must be followed depending on the contract value, unless an exception is granted by the Procurement and Commissioning Manager.

Activity	Under £10k	£10k - £100k	£100k - £150k	£150k - £250k	£250k+
Minimum Number of Suppliers	No minimum	3 (via South East Business Portal)	5 (via South East Business Portal)	Official Journal of the European Union (OJEU) – all respondees to advert Non-OJEU – 5 (via South East Business Portal and a trade journal/ other form of publication if appropriate).	
Minimum Time for Supplier Response	No minimum (must be reasonable)	7 calendar days	14 calendar days	OJEU - as per process requirements Non-OJEU – 14 calendar days	
Number of Stages	1 (a Request for Quotation (RFQ) template must be used)		1 or 2 (if one stage a tender template must be used, if two stages a Pre-Qualification Questionnaire (PQQ) template must be used for the first stage and a tender template for the second stage)		

## 6. Set the Assessment Criteria

- 6.1 A minimum level of capability should be set. This may include the size of the company, financial stability, having essential policies in place and evidencing relevant experience. These are known as the selection criteria. Care should be taken to set this level proportionately to the value and risk associated with the requirement and not to unintentionally exclude small businesses.
- 6.2 Suppliers who meet this level should be considered on a more detailed basis. Responses should normally be evaluated on a combination of quality and price criteria and sub-criteria (known as most economically advantageous criteria). These are known as the award criteria. With the permission of the Procurement & Commissioning Team, responses may be evaluated on the basis of price only.
- 6.3 Weightings must be set for each of the criteria and sub-criteria relative to their importance.

- 6.4 The mandatory templates have a section for criteria and weightings and the Procurement & Commissioning Team can provide further guidance.
- 6.5 If the basis of evaluation is most economically advantageous the Responsible Officer must arrange for an appropriate evaluation panel to consider the responses. The evaluation panel may include service users and/or external consultants but may not include elected members of the Council. The evaluation panel should, as a rule, comprise those people who have significant input into drawing up the specification and/or relevant expertise and the contract manager (if it is not the Responsible Officer).

## **7. Determine the Terms & Conditions**

- 7.1 If the value of the contract is under £50k and the services or goods are low risk, Purchase Order terms and conditions can be used (these are printed on the reverse of the document that is sent to the supplier when a Purchase Order is raised). As an alternative to using the Council's standard Purchase Order the Responsible Officer may use the Council's Purchasing Card (where appropriate as defined by the Purchasing Card Guidelines). Purchase Orders or Purchasing Cards cannot be used for works, ICT, care and consultancy contracts regardless of value.
- 7.2 If the value of the contract is over £50k or under £50k but high risk (e.g. involves safeguarding, statutory requirements, intellectual property rights or is high profile), Legal Services must be instructed to provide Terms and Conditions. For similar, repeat requirements, a single instruction to Legal for template Terms and Conditions is acceptable. Any template Terms and Conditions must not be altered without reference to Legal. Legal may use Council specific or industry standard Terms and Conditions as appropriate to the subject matter.
- 7.3 In certain instances the Council may have to use a supplier's Terms and Conditions. These must be provided to Legal Services so that any onerous provisions can be amended or the risk can be acknowledged and managed by the Responsible Officer.
- 7.4 Letters of Intent may not be used as a substitute for a contract. Exceptionally they may be used in advance of a contract if the format has been agreed with Legal Services and the circumstances have been agreed with the Procurement & Commissioning Manager.
- 7.5 The Responsible Officer must give full instructions to Legal Services so that the contract is a meaningful document. These include:
- a comprehensive description of the requirements (the specification) and any other relevant documents

- the start and end dates for the contract (indefinite/ rolling contracts are not permitted. Any exceptions must be agreed by the Procurement & Commissioning Manager)
- appropriate and adequate levels of insurance cover. Unless otherwise agreed with the Insurance & Risk Manager, the minimum levels of cover shall be £5 million for public liability insurance, £2 million for professional indemnity insurance (if appropriate) and £10m for employer's liability. (The Insurance and Risk manager can also advise on the appropriateness of bonds and parent company guarantees)
- details of any staff that may transfer to a new supplier so that provisions can be made for TUPE (Transfer of Undertakings (Protection of Employment) Regulations). Human Resources must also be consulted if TUPE may apply.
- on what basis the supplier will be paid (and in what instances they will not paid)
- how performance will be managed (including performance indicators, dispute resolution, complaints handling, business continuity, damages in case of non-performance and reasons for termination)
- any others particular requirements (e.g. if safeguarding or intellectual property provisions apply)

7.6 The contract must provide for payment by the Council after the supply of the works, goods or services and the approval of associated invoices. Exceptionally, and only with the consent of the Council's Head of Finance, a contract may provide for payment in full or part in advance.

7.7 For the avoidance of doubt, Purchase Orders must still be raised where a contract is in place as they fulfil an independent financial and governance function (as well as providing terms and conditions for low value and risk requirements).

## 8. Approval to Seek Proposals

8.1 If/ once a budget has been allocated for the expenditure the following levels of approval to seek proposals apply:

Activity	Under £50k	£50k - £100k	£100k - 150k	£150k - £500k	£500k+
Seek Approval to Proceed	Head of Service	Director	Directorate Management Team (DMT) and Lead Member	Corporate Management Team (CMT) and Lead Member	Cabinet/ Cabinet Prioritisation Sub-Committee (CPSC)

The exception to the above is that for emergency social care placements, the Director of Adult and Community Services and the Director of Children's Services may grant approval for placements in their respective directorates. Directors must provide their Lead Member, the Lead Member for Finance and the Leader of the Council a summary of placements made under this arrangement following the end of each month.

8.2 Decisions must be recorded in writing (e.g. meeting minutes/ email).

8.3 In order for a meaningful decision to be made the following information must be included (as proportionate to the value/ risk of the specific requirement and as agreed with the Procurement & Commissioning Team):

- Analysis and evaluation of all options for contract packages and methods of procurement, making reference to market analysis and collaborative/ shared arrangements
- Demonstration of alignment to corporate objectives
- Consultation with stakeholders within and outside the Council
- Analysis of lessons learnt from any current/ previous arrangements
- Stimulation of diversity and innovation, enhancement of choice and quality for residents
- Sustainability e.g. environmental factors, supporting local jobs
- A breakdown of the anticipated costs, including options of different requirements with different costs and targeted savings
- Risks (regarding the process and the supply)
- An Equalities Impact Assessment (EQIA) if applicable
- How the responses will be assessed and the weighting attributed to particular factors
- Who the evaluation panel will be
- The duration of the contract

8.4 Responsible Officers are encouraged to combine approvals where appropriate e.g. to the budget and/or there is a programme of similar requirements, such as schools capital projects.

## **9 Advertising and Communicating Requirements**

9.1 Once approval has been achieved, advertisements can be placed. Only the Procurement & Commissioning Team can place an OJEU advertisement.

9.2 Unless otherwise agreed in writing by the Procurement & Commissioning Manager the instructions to suppliers must be in the

latest version of the templates created and maintained by the Procurement and Commissioning Team (i.e. the quotation, PQQ or tender documents). This will enable the Responsible Officer to satisfy themselves that the suppliers invited to quote have the legal, financial and technical capacity (including their health & safety, equal opportunities, and other relevant policies) to undertake the contract for the Council and that they will provide value for money. They also provide assurance that a fair and transparent process will be followed.

- 9.3 Amendments by the Responsible Officer to documents following issue are possible if in line with the instructions to suppliers. Amendments must be sent out in sufficient time to allow suppliers to adjust their responses and in any event no later than five clear working days before close of responses. If necessary, the response period must be extended to allow for this.

## **10 Receipt of Submissions**

- 10.1 If the Council's e-procurement system is not used, the Responsible Officer is responsible for marking the response envelopes or parcels with the date and time they are received by the Council; keeping responses in a secure place until after the latest date and time for receipt.
- 10.2 Any responses that are received after the latest date specified for return or that identify the sender must be disposed of and the supplier advised accordingly. The Responsible Officer must obtain advice from the Procurement & Commissioning Team if they wish to accept a late response. The Responsible Officer must notify the Monitoring Officer of any rejection of a late response as soon as possible after this decision has been made and before the supplier is advised.
- 10.3 Responses must be opened one at a time by the Responsible Officer, in the presence of a member of the Procurement & Commissioning Team. Both of those persons must initial each page. The Responsible Officer must number all responses in the order they are opened.
- 10.4 The Responsible Officer must record :
- the works, goods or services to be supplied;
  - the name of each supplier who quotes;
  - the amount of each response or such other information as may be relevant to the procurement;
  - the date and time of opening of each response;
  - the names of all persons present at the time of opening; and
  - any omissions and any non-compliant responses.

The Responsible Officer must certify the record as correct.

- 10.5 The Responsible Officer must keep securely one clean, archive copy of each submission in accordance with the document retention policy.
- 10.6 Until the contract has been awarded, the information obtained at the opening of responses is confidential to those involved in the opening process and those directly involved in evaluation of the responses. Even after award, any commercially sensitive information must be treated as such. Confidentiality must be maintained and any breach reported to the Council's Monitoring Officer.

## **11 Evaluate the Responses**

- 11.1 Responses must be evaluated in line with the instructions given to suppliers (i.e. in the quotation, PQQ or tender documents).
- 11.2 Clarifications must be designed to ensure that the Council has fully understood the response submitted e.g. TUPE implications have been fully priced and there are no material exclusions or assumptions. Finance can assist with financial clarifications. Negotiations with suppliers are not permitted by EU law and are therefore not to be undertaken. Clarification questions and answers must be fully documented in a form approved by the Procurement & Commissioning Manager. Responses must not be finally evaluated and scored until clarifications have been completed.
- 11.3 All valid responses received must be evaluated. Each member of the evaluation panel must make full notes of his/her evaluation and pass the notes to the Responsible Officer for retention as part of the record of the procurement. Consensus scores must be reached and the rationale recorded. It is important that any notes and records are comprehensive as they may be shared with the suppliers.
- 11.4 A response that is qualified or expressed to be conditional upon the Council's acceptance of material alterations to the statement of requirements or the terms and conditions of contract must be treated as non-compliant and rejected.
- 11.5 The Responsible Officer must notify the Monitoring Officer of any rejection of a non-compliant response as soon as possible after this decision has been made and before the supplier has been notified.

## **12 Amendments and Alterations to Responses**

- 12.1 A supplier's response is their offer to the Council, which the Council may accept as it stands. Once they have submitted their response, a supplier is not permitted to make any material alterations to the amount or any of their proposals in the response.
- 12.2 If a supplier attempts to alter their offer after the latest date for receipt of responses, they must be given the opportunity to stand by or withdraw their original offer. Correction of an obvious arithmetical error

may be accepted at the discretion of the Procurement & Commissioning Team.

### 13 Lack of Suitable Responses

13.1 Responsible Officers must not value-engineer responses with one or more suppliers, except with the specific consent of the Procurement & Commissioning Manager and the Monitoring Officer. If all valid responses are too high to be accepted and consent has been achieved, the Responsible Officer may delete part of the statement of requirements and ask all suppliers invited to quote to re-price, by submitting a new response. In such cases, the Responsible Officer must set out the deletion in a bill of reductions or other document, to be incorporated into the contract document.

13.2 If no suitable responses are received, the Responsible Officer must consult the Procurement & Commissioning Manager as to how the works, supplies or service concerned may be procured.

### 14 Seek Approval to the Outcome

14.1 A response that exceeds the budget allocated must not be accepted. If a response exceeds the budget allocated, the Responsible Officer must obtain an additional allocation of funds in accordance with Financial Regulations before requesting approval to the outcome of the process. The following levels of approval apply:

Activity	Under £50k	£50k - £100k	£100k - £150k	£150k - £500k	£500k+
Seek Approval to Contract	Head of Service (plus Lead Member if for consultancy over £2k)	Director and Lead Member		Cabinet/Cabinet Prioritisation Sub Committee	

The exception to the above is that for emergency social care placements, the Director of Adult and Community Services and the Director of Children's Services may grant approval for placements in their respective directorates. Directors must provide their Lead Member, the Lead Member for Finance and the Leader of the Council a summary of placements made under this arrangement following the end of each month.

14.2 Decisions must be recorded in writing (e.g. meeting minutes/ email).

14.3 The Responsible Officer is responsible for producing a report, which must include (as proportionate to the value/ risk of the requirement as agreed with the Procurement & Commissioning Team):

- reference to the basis on which approval was given to approach the market



- a summary of the process and the scores at each stage against the criteria
- confirmation that the procedure has complied with these Contract Rules
- a financial summary, including any savings
- a benefits summary, referencing improvements for residents and corporate objectives
- details of the arrangements for contract management
- the name of the successful supplier, the length of the contract and any options for extension and the price or estimated price of the contract
- if applicable, as an appendix, the record of response receipt and opening

14.4 Once approved, if the contract value exceeds £2k, the decision must be summarised for residents through the completion of an Officer Decision Form.

## **15 Inform the Suppliers**

15.1 Following approval and any call-in period, using the latest versions of templates from the Procurement & Commissioning Team, the Responsible Officer must write to inform the successful supplier of that decision. The letter must state that award of the contract is subject to formalisation of the contract.

15.2 At the same time, the Responsible Officer must write to each unsuccessful supplier, again using the template provided by the Procurement & Commissioning Team. Any specific content must be approved by the Procurement & Commissioning Team.

15.3 If a supplier asks for a de-briefing on why he was unsuccessful, the Responsible Officer must immediately contact the Procurement & Commissioning Team to agree on the de-briefing arrangements.

15.4 There must be a ten day period between advising the suppliers of the outcome and signing the contract (correspondence must be sent electronically, otherwise fifteen days applies).

## **16 Agree/ Sign the Contract**

16.1 Depending upon the value/ subject matter of the contract, the following applies:

Activity	Under £50k & Low Risk Category	Up to £100k	£100k – 150k	£150k - £500k	£500k+
Contract Signature	None required if Purchase Order or P Card. If another form of contract, the Monitoring Officer and the Head of Finance	The Monitoring Officer and the Head of Finance (via Legal Services)	Sealed as a deed (Legal Services facilitate this)		

- 16.2 Procurement & Commissioning shall arrange for publication of a contract award notice if appropriate (in the case of contracts above the EU threshold).
- 16.3 The Responsible Officer must not allow the contractor to begin work until the contract documents have been signed or sealed as appropriate by both parties and confirmation of such provided by Legal Services (or Legal Services have agreed to the issue of a Letter of Intent).
- 16.4 Legal Services must archive a copy and provide a copy of to the Responsible Officer.
- 16.5 A redacted version must be published.

## Part 4

### During the Contract Duration

#### 1 Contract Management

1.1 The Responsible Officer shall be the Contract Manager unless another officer is designated by the Director.

1.2 The Contract Manager is responsible for:

- managing the contract and ensuring that it is carried out in accordance with its terms and conditions
- monitoring the supplier's performance ( in accordance with the performance indicators in the contract)
- making the contractor aware that he is expected to comply with the Council's policies e.g. equal opportunities, counter-fraud and corruption, and whistle-blowing policies, and any changes in legislation
- ensuring that the supplier maintains the insurance policies required by the contract
- agreeing any minor changes to the contract (but not changes to prices) before they are carried out
- keeping a record of all valuations, payments, claims, monitoring, changes and certificates under the contract
- deducting liquidated damages, if appropriate
- managing the transition between the ending of one contract and the beginning of another
- business continuity and contingency planning

1.3 The Responsible Officer must consult the Procurement & Commissioning Manager for consideration of the Council's legal position :

- before any contract is terminated or suspended
- in the event of a claim for payment not clearly within the terms and conditions of contract
- before making any deduction from payments due to a supplier in respect of money owed to the Council
- before consenting to sub-contracts, assignments to new suppliers and novations to new suppliers
- before making any extension to a contract or variation of the scope of a contract

## **2. Extensions to contracts**

- 2.1 An extension to a contract is an additional period at the end of the contract, during which the works or the services to be carried out are a repetition of the works or services under the original contract.
- 2.2 Unless a contract specifically includes an option to extend its term, that contract may not be extended. The contract will cease to exist at the end of its term.
- 2.3 If a contract specifically includes an option to extend its term and the following all apply (if applicable):
- the OJEU notice or other advertisements for the contract stated that an extension contract may be awarded
  - the estimated value of the contract in the OJEU notice or other advertisements took account of the potential extended contract
  - the extension represents good value for money for the Council

CMT, in consultation with the Lead Member, the Lead Member for Finance and the Leader, may make a decision to award the extension contract if the value of the extension is not more than £500,000. If the value of the extension is £500,000 or more, the decision to award the extension contract must be made by Cabinet.

- 2.4 Legal must be instructed to formalise, archive and provide copies of any extensions.

## **3. Variations to the scope of contracts**

- 3.1 Provided that a budget has been allocated for that expenditure and value for money can be demonstrated and Legal Services have been consulted, the Responsible Officer may agree with a supplier for them to carry out additional works or services that were not included in the original contract but which:
- through unforeseen circumstances have become necessary
  - cannot for technical or economic reasons be carried out or provided separately from those included in the original contract without major inconvenience to the Council

The additional works or services must not exceed 50% of the value of the original contract and authorisation must be given by CMT if the value of the additional works or services is less than £500,000 or by Cabinet if the value of the additional works or services exceeds £500,000.

- 3.2 Legal must be instructed to formalise, archive and provide copies of any variations.

## Part 5

### Waivers to Contract Rules

- 1.1 A waiver to Contract Rules is a permission to let a contract without complying with one or more of the Rules. Elements determined by legislation cannot be waived.
- 1.2 Only the Managing Director or their authorised deputy may grant an exception to these Contract Rules. The Lead Member, or if the Lead Member is not available, another member of the Cabinet, must be consulted by the Responsible Officer.
- 1.3 Applications for exceptions must be made in writing and signed by the Responsible Officer and their Head of Service, following advice from the Procurement & Commissioning Manager. They must include the waiver that is requested and the justification for the waiver.
- 1.4 The Procurement & Commissioning Manager will keep a register of all Waivers to Contract Rules, which shall be available by appointment for inspection by members of the Council and the public.
- 1.5 Waivers to Contract Rules will never be given retrospectively.
- 1.6 An application for a Waiver to Contract Rules, to allow a contract to be let without genuine competition will not be granted without a cogent reason. A lack of time caused by inadequate forward planning is not a cogent reason and will not permit a waiver to Contract Rules. If an application to let a contract without genuine competition is granted, the Responsible Officer responsible for the contract must demonstrate that the price obtained is not in excess of the market price and that the contract represents best value for money.
- 1.7 A waiver to the requirements to let a contract without genuine competition may be granted in the following circumstances:
  - an unforeseeable emergency involving danger to life or health or serious damage to property, in which the work, goods or services are required more urgently than would be possible if the procedure were followed
  - acquiring goods or services from a different supplier would result in incompatibility with existing goods or service or disproportionate technical difficulties
  - when a grant from a public body includes a recommendation as to the supplier or is time limited
  - if there are exceptional circumstances in which it would not be in the Council's best interests to comply follow the procedure.

# **PART 8 – OTHER RULES OF PROCEDURE**

## **B - OFFICER EMPLOYMENT PROCEDURE**

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## **Officer Employment Procedure Rules**

### **1 RECRUITMENT AND APPOINTMENT**

#### **a) Declarations**

- (i) A candidate for appointment as an Officer is required to state in writing whether they are related to any Member or Senior Officer of the Council. A candidate who fails to do so shall be disqualified from such appointment and, if appointed, shall be liable for dismissal without notice. Every Councillor, Director and Officer of the Council on a Management Grade shall disclose to the Head of Human Resources any relationship known to him/her to exist between himself/ herself and the candidate for an appointment of which he/she is aware.
- (ii) Where a relationship to a Councillor is disclosed, that Councillor shall be deemed to have a personal and prejudicial interest.
- (iii) No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Director or an Officer nominated by him/her.

#### **b) Seeking support for appointment.**

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No Councillor will seek support for any person for any appointment with Council.

### **2 RECRUITMENT OF HEAD OF PAID SERVICE, DIRECTORS & DEPUTY CHIEF OFFICERS**

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

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



### 3 APPOINTMENT OF HEAD OF PAID SERVICE

- a) The full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by a Committee or Sub-Committee of the Council. That committee or sub-committee must include at least one Member of the Cabinet.
- b) The full Council may only make or approve the appointment of the Head of Paid Service where no substantial and justified objection has been made to the appointment by any Member of the Cabinet.

### 4 APPOINTMENT OF DIRECTORS AND DEPUTY CHIEF OFFICERS OF SERVICES

1. Under the terms of this Constitution, the Strategic Director - Adult, Children and Health Services, the Head of Finance (Section 151 officer) and Monitoring Officer are statutory chief officers, according to the terms of Section 2(6) Local Government and Housing Act 1989.
2. The Strategic Director - Corporate and Community Services and Strategic Director - Operations and Customer Services are determined to be non statutory chief officers, according to the terms of Section 2 (7) of the Local Government and Housing Act 1989.
3. Deputy Directors or "Heads of Service" are determined to be "Deputy Chief Officers" in accordance with Section 2 (8) of the Local Government and Housing Act 1989.
4. Where a Director or Deputy Chief Officer is proposed to be appointed.
  - a) Employment Panel will appoint Directors and Deputy Chief Officers in accordance with the provisions set out in the Local Government & Housing Act 1989.
  - b) Employment Panel delegate the recruitment of a Director or Deputy Chief Officer, where it is a 'like for like' recruitment with the same grade and salary scale being used, to the Managing Director, Head of Human Resources and service Director in consultation with the relevant Lead Member, who should also be a member of cabinet, and the chair of Employment Panel.
  - c) The views of the Managing Director will always be taken into account in any appointment of a Director or Deputy Chief Officer.

### 5 OTHER APPOINTMENTS

- a) **Officers below Director.** Appointment of Officers below Director or Deputy Chief Officer, (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her

nominee. In other cases, where there is significant contact with Councillors, the relevant Lead Member will be consulted on the selection and appointment.

- b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

## 6 DISCIPLINARY ACTION

- a) The Head of Paid Service, Chief Finance Officer or Monitoring Officer ('relevant officer') must not be dismissed by the Council unless the procedure set out in the following paragraphs is complied with.
- b) **Suspension.** The relevant officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and last no longer than two months.
- c) **Investigation.** Any investigations into alleged misconduct will be undertaken in accordance with the Council's Disciplinary Policy & Procedure
- d) **Dismissal.** Where the result of the investigation is that dismissal of the relevant officer is the appropriate sanction, then such decision must be ratified by full Council. In addition, any appeal by the relevant officer will be considered at the same Council meeting.
- e) **Statutory Officer Panel.** The Council must appoint a Statutory Officer Panel at least 20 working days before the relevant Council meeting.
- f) In the preparation of its recommendation the Panel may undertake any such investigations as necessary for their report including :
  - I. inspecting any documents relating to the conduct of the relevant officer which are in the Council's possession or which the Council has power to authorise them to inspect; and
  - II. requiring any officer or member of the Council (including the relevant officer) to answer questions concerning the conduct of the relevant officer.
- g) The Panel shall determine the necessary investigations for its report and shall not be obligated to undertake any action unless the Panel determines such will facilitate its recommendation to Council.
- h) The Panel must make a report to the Council:
  - i) stating their opinion as to whether (and, if so, the extent to which) the evidence they have obtained supports the decision to dismiss the officer;
  - ii) in the alternative, recommending any disciplinary action which appears to them to be appropriate for the Council to take against the officer; and

- iii) must send a copy of the report to the officer concerned.
- j) **Council Meeting:** Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the Council must take into account, in particular—
  - (i) any advice, views or recommendations of the Statutory Officer Panel;
  - (ii) the conclusions of any investigation into the proposed dismissal; and
  - (iii) any representations from the relevant officer.

## 7 DISMISSAL

- a) Councillors will not be involved in the dismissal of any Officer below Deputy Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.
- b) The dismissal of the Head of Paid Service, Chief Finance Officer and Monitoring Officer subject to 6 above, must be approved by full Council.
- c) Notice of dismissal to the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer, Director or Deputy Chief Officer must not be given by the dismissor (subject to H6 above) until:
  - i) the dismissor has notified the Proper Officer (Monitoring Officer) of the name of the person the dismissor wishes to dismiss and any relevant particulars;
  - ii) the Proper Officer has notified every member of the Executive of the Council of:
    - 1. the name of the person it is wished to dismiss;
    - 2. any relevant particulars;
    - 3. the period within which any objections to the dismissal are to be made by the Leader to the Proper Officer on behalf of the Executive; and
  - iii) either:
    - 1. the Leader has, within the specified period, notified the dismissor that neither he nor any member of the Executive has any objection to the dismissal; or
    - 2. the Proper Officer has notified the dismissor that no objection has been received by him from the Leader, or the dismissor is satisfied that any objection received from the Leader within the period is not material or well founded.

## 8 OFFERS OF APPOINTMENT

Any offer of employment to the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer, any Director or Deputy Chief Officer (as defined in Section 2(8) of the Local Government and Housing Act 1989) shall not be made until:

- a) the appointor has notified the Proper Officer of the name of the person to whom the appointor wishes to make the offer and any relevant particulars;
- b) the Proper Officer has notified every member of the Council's Executive of:
  - i) the name of the person to whom the appointor wishes to offer the post;
  - ii) any other relevant particulars;
  - iii) the period in which any objections to making the offer must be made by the Leader to the Proper Officer on behalf of the Executive; and
- c) either:
  - i) the Leader has, within the specified period, notified the appointor that neither he nor any member of the Executive has any objections;
  - ii) the Proper Officer has notified the appointor no objections have been received by him from the Leader; or
  - iii) the appointor is satisfied any objection received from the Leader within the period is not material or is not well founded.

# **PART 8 – OTHER RULES OF PROCEDURE**

## **C – FINANCE PROCEDURE RULES**

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## STATUS OF FINANCE RULES

- 1.1 Finance Rules provide the framework for managing the authority's financial affairs. They apply to every member and officer of the authority and anyone acting on its behalf.
- 1.2 The rules identify the financial responsibilities of the Council, Cabinet and other Members, the Managing Director (as Head of Paid Service), the Monitoring Officer, the Head of Finance (as s151 officer) and the Strategic Directors and staff. Cabinet members and Strategic Directors should maintain a written record where decision making has been delegated to them or for Strategic Directors to members of their staff, including seconded staff. Where decisions have been delegated or devolved to other responsible officers, such as school governors, references to the Strategic Director in the rules should be read as referring to them.<sup>1</sup>
- 1.3 All members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised, provides value for money and achieves best value.
- 1.4 The Head of Finance is responsible for maintaining a continuous review of the Finance Rules and submitting any additions or changes necessary to the Council for approval. The Head of Finance is also responsible for reporting, where appropriate, breaches of the Finance Rules to the Council and/or to the Cabinet Members.
- 1.5 The authority's detailed financial procedures, setting out how the rules will be implemented, are contained in the appendices to the Finance Rules.
- 1.6 Strategic Directors are responsible for ensuring that all staff in their Directorates are aware of the existence and content of the authority's Finance Rules and other internal regulatory documents and that they comply with them.
- 1.7 The Head of Finance is responsible for issuing advice and guidance to underpin the Finance Rules that members, officers and others acting on behalf of the authority are required to follow.
- 1.8 Schools have a separate scheme of delegation in respect of financial matters, the Scheme of Financial Management of Schools.

## **FINANCE RULE A : FINANCIAL MANAGEMENT**

### **RULE IN SUMMARY**

#### **Introduction**

- A.1 Financial management covers all financial accountabilities in relation to the running of the authority, including the policy framework and budget.

#### **The Council**

- A.2 The Council is responsible for adopting the authority's Constitution and Members' Code of Conduct and for approving the policy framework and budget within which the Cabinet operates. It is also responsible for approving and monitoring compliance with the authority's overall framework of accountability and control. The framework is set out in its Constitution. The Council is also responsible for monitoring compliance with the agreed policy and related Cabinet decisions.
- A.3 The Council is responsible for approving procedures for recording and reporting decisions taken. This includes those key decisions delegated, and decisions taken by the Council and its panels and committees. These delegations and details of who has responsibility for which decisions are set out in the Constitution.

#### **The Cabinet**

- A.4 The Cabinet is responsible for proposing the policy framework and budget to the Council, and for discharging Cabinet functions in accordance with the policy framework and budget.
- A.5 Cabinet decisions can be delegated to a committee of the Cabinet, an individual Cabinet Member, an officer or a joint committee.
- A.6 The Cabinet is responsible for establishing protocols to ensure that individual Cabinet Members consult with relevant officers before taking a decision within his or her delegated authority. In doing so, the individual member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

#### **Strategic Directors**

- A.7 Strategic Directors are responsible for:
- ensuring that Cabinet Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Head of Finance;
  - signing contracts on behalf of the authority.



- A.8 It is the responsibility of Strategic Directors to consult with the Head of Finance and seek approval on any matter liable to affect the authority's finances materially, before any commitments are incurred.

## **OTHER FINANCIAL ACCOUNTABILITIES**

### **Virement**

- A.9 The Council is responsible for agreeing procedures for virement of expenditure between budget headings.
- A.10 Strategic Directors are responsible for agreeing in-year virements within delegated limits, in consultation with the Head of Finance where required. The Strategic Director's authority is limited to approving virements of no more than **£25,000**. All levels of virement below that of Cabinet to be done in consultation with the appropriate Lead Member.

### **Treatment of year-end balances**

- A.11 The Council is responsible for agreeing procedures for carrying forward under- and overspendings on budget headings.

### **Accounting policies**

- A.12 The Head of Finance is responsible for setting accounting policies and ensuring that they are applied consistently.

### **Accounting records and returns**

- A.13 The Head of Finance is responsible for determining the accounting procedures and records for the authority.

### **The annual statement of**

- A.14 The Head of Finance is responsible for ensuring that the annual statement of accounts is prepared in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC). The Council is responsible for approving the annual statement of accounts, including the Statement of Internal Control.

**APPENDIX A****FINANCIAL MANAGEMENT****DETAILED RULES****FINANCIAL MANAGEMENT STANDARDS****Why is this important?**

F1.01 All staff and members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated 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.

**Key controls**

F1.02 The key controls and control objectives for financial management standards are:

- (a) their promotion throughout the authority
- (b) a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards that are reported to the Cabinet and Council.

**Responsibilities of the Head of Finance**

- F1.03 To ensure the proper administration of the financial affairs of the authority.
- F1.04 To set the financial management standards and to monitor compliance with them.
- F1.05 To ensure proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of finance staff throughout the authority.
- F1.06 To advise on the key strategic controls necessary to secure sound financial management.
- F1.07 To ensure that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators.

**Responsibilities of Strategic Directors**

- F1.08 To promote the financial management standards set by the Head of Finance in their departments and to monitor adherence to the standards and practices, liaising as necessary with the Head of Finance.
- F1.09 To promote sound financial practices in relation to the standards, performance and development of staff in their Directorates.

## MANAGING EXPENDITURE

### SCHEME OF VIREMENT

#### Why is this important?

F1.10 The scheme of virement is intended to enable the Cabinet, Strategic Directors and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the Council, and therefore to optimise the use of resources.

#### Key controls

F1.11 Key controls for the scheme of virement are:

- (a) it is administered by the Head of Finance within guidelines set by the Council. Any variation from this scheme requires the approval of the Council
- (b) the overall budget is agreed by the Cabinet and approved by the Council. Strategic Directors and Heads of Service are therefore authorised to incur expenditure in accordance with the estimates that make up the budget. The rules below cover virement; that is, switching resources between approved estimates or heads of expenditure. For the purposes of this scheme, a budget head is considered to be a line in the approved budget report, or, as a minimum, at an equivalent level to the standard service subdivision as defined by CIPFA's Service Expenditure Analysis.
- (c) virement does not create additional overall budget liability. Strategic Directors are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should aim to avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Strategic Directors must plan to fund such commitments from within their own budgets.

#### Responsibilities of the Head of Finance

F1.12 To prepare jointly with the Strategic Director a report to the Cabinet where virements in excess of **£100,001** are proposed up to a limit of £500,000 and to Managing Directors Management Team where virements in excess of £25,000 are proposed up to a limit of £100,000.

#### Responsibilities of Strategic Directors

F1.13 A Strategic Director may exercise virement on budgets under his or her control for amounts up to **£25,000** on any one budget head during the year, following notification to the Head of Finance under arrangements agreed by the Council and subject to the conditions in paragraphs 1.15 to 1.17 below. (This measure includes the transfer of budget from income targets to fund

additional expenditure). All levels of virement below that of Cabinet to be done in consultation with the appropriate Lead Member.

- F1.14 Amounts between **£25,001** and **£100,000** can be vired with the agreement of the Head of Finance and Managing Directors Management Team, amounts greater than **£100,001** up to **£500,000**, require the approval of the Cabinet, following a joint report by the Lead Member for the relevant service area and the Lead Member for Resources, which must specify the proposed expenditure and the source of funding, and must explain the implications in the current and future financial year. Amounts greater than **£500,000** will be referred to Council as they are outside the Policy and Budget Framework and the Lead Member will be informed.
- F1.15 The prior approval of the Cabinet is required for any virement, of whatever amount, where it is proposed to:
- vire between budgets within the remit of different accountable Cabinet Members.
  - vire between budgets managed by different Strategic Directors.
- F1.16 Virement that is likely to impact on the level of service activity of another Strategic Director should be implemented only after agreement with the relevant Strategic Director.
- F1.17 No virement relating to a specific financial year should be made after 31 March in that year.
- F1.18 A school's governing body may transfer budget provision between heads of expenditure within the delegated school budget following notification to the Strategic Director of Children's Services.
- F1.19 Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement, provided that:
- (a) the amount is used in accordance with the purposes for which it has been established
  - (b) the Cabinet has approved the basis and the terms, including financial limits, on which it will be allocated. Individual allocations in excess of the financial limits should be reported to the Cabinet.

## **TREATMENT OF YEAR-END BALANCES**

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

- F1.20 The authority's scheme of virement sets out the authority's treatment of year-end balances. It is administered by the Head of Finance within guidelines set by the Council. Any variation from the scheme of virement (as set out above) requires the approval of the Council.

F1.21 The rules below cover arrangements for the transfer of resources between accounting years, ie a carry-forward. For the purposes of this scheme, a budget heading is a line in the budget report.

### **Key controls**

F1.22 Appropriate accounting procedures are in operation to ensure that carried-forward totals are correct.

### **Responsibilities of the Head of Finance**

F1.23 To administer the scheme of carry-forward within the guidelines approved by the Council.

F1.24 To report all overspendings and underspendings on service estimates carried forward to the Cabinet and to the Council.

### **Responsibilities of Strategic Directors**

F1.25 Any overspending on service estimates in total on budgets under the control of the Strategic Director must be carried forward to the following year, and will constitute the first call on service estimates in the following year. The Head of Finance will report the extent of overspendings carried forward to the Cabinet.

F1.26 Net underspendings on service estimates under the control of the Strategic Director will not usually be able to be carried forward. In exceptional circumstances this may be done, subject to the approval of the Head of Finance and reporting to the Cabinet the source of underspending or additional income and the proposed application of those resources.

F1.27 All internal unit and service surpluses shall be retained for the benefit of the authority and their application shall require the approval of the Cabinet.

F1.28 Schools' balances shall be available for carry-forward to support the expenditure of the school concerned. Where an unplanned deficit occurs, the governing body shall prepare a detailed financial recovery plan for consideration by the Cabinet member concerned, following evaluation by the Strategic Director of Children's Services and the Head of Finance. Schools will normally be expected to agree a plan to recover the deficit within a defined period which must be within any limit defined by statute.

F1.29 In exceptional circumstances, schools may seek to incur expenditure to be financed by anticipating the following year's budget share. Such arrangements require the prior approval of the Strategic Director of Children's Services, in consultation with the Head of Finance. Proposals shall be accompanied by a detailed plan setting out how the arrangement is to be accommodated as the first call on the reduced budget share.

## ACCOUNTING POLICIES

### Why is this important?

F1.30 The Head of Finance is responsible for the preparation of the authority's statement of accounts, in accordance with proper practices as set out in the format required by the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC), for each financial year ending 31 March.

### Key controls

F1.31 The key controls for accounting policies are:

- (a) systems of internal control are in place that ensure that financial transactions are lawful
- (b) suitable accounting policies are selected and applied consistently
- (c) proper accounting records are maintained
- (d) financial statements are prepared which give a "*true and fair*" view of the financial position and transactions of the local authority..

### Responsibilities of the Head of Finance

F1.32 To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts, which is prepared at 31 March each year, and covers such items as:

- (a) separate accounts for capital and revenue transactions
- (b) the basis on which debtors and creditors at year end are included in the accounts
- (c) details on substantial provisions and reserves
- (d) fixed assets
- (e) depreciation
- (f) capital charges
- (g) work in progress
- (h) stocks and stores
- (i) deferred charges
- (j) accounting for value added tax
- (k) government grants
- (l) leasing
- (m) pensions.

### Responsibilities of Strategic Directors

F1.33 To adhere to the accounting policies and guidelines approved by the Head of Finance.

## ACCOUNTING RECORDS AND RETURNS

### Why is this important?

F1.34 Maintaining proper accounting records is one of the ways in which the authority discharges its responsibility for stewardship of public resources. The authority has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the authority's resources. The Council is required to comply with timetables set out by the Department of Communities and Local Government that are required to meet the "whole of Government Accounts" regime.

### Key controls

F1.35 The key controls for accounting records and returns are:

- (a) all Cabinet Members, finance staff and budget managers operate within the required accounting standards and timetables
- (b) all the authority's transactions, material commitments and contracts and other essential accounting information are recorded completely, accurately and on a timely basis
- (c) procedures are in place to enable accounting records to be reconstituted in the event of systems failure
- (d) reconciliation procedures are carried out to ensure transactions are correctly recorded
- (e) prime documents are retained in accordance with legislative and other requirements.

### Responsibilities of the Head of Finance

F1.36 To determine the accounting procedures and records for the authority. Where these are maintained outside the Resources Directorate, the Head of Finance should consult the Strategic Director concerned.

F1.37 To arrange for the compilation of all accounts and accounting records under his or her direction.

F1.38 To comply with the following principles when allocating accounting duties:

- (a) separating the duties of providing information about sums due to or from the authority and calculating, checking and recording these sums from the duty of collecting or disbursing them
- (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

- F1.39 To make proper arrangements for the audit of the authority's accounts in accordance with the Accounts and Audit Regulations 2003 (as amended 2006).
- F1.40 To ensure that all claims for funds including grants are made by the due date.
- F1.41 To prepare and publish the audited accounts of the authority for each financial year, in accordance with the statutory timetable and with the requirement for the Council to approve the statement of accounts within that timetable before they are submitted for audit.
- F1.42 To administer the authority's arrangements for under- and overspendings to be carried forward to the following financial year.
- F1.43 To ensure the proper retention of financial documents in accordance with the requirements set out in the authority's document retention schedule.
- F1.44 To access, as necessary, financial information held by and in respect of schools and to make any returns required to government agencies. Headteachers will ensure that the Head of Finance is given access as required.

### **Responsibilities of Strategic Directors**

- F1.45 To consult and obtain the approval of the Head of Finance before making any changes to accounting records and procedures.
- F1.46 To comply with the principles outlined in paragraph 1.38 when allocating accounting duties.
- F1.47 To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.
- F1.48 To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Head of Finance.

### **THE ANNUAL STATEMENT OF ACCOUNTS**

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

- F1.49 The authority has a statutory responsibility to prepare its own accounts to present fairly its operations during the year. The Audit & Performance Review Panel, is responsible for approving the statutory annual statement of accounts.

#### **Key controls**

- F1.50 The key controls for the annual statement of accounts are:



- the authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of these affairs. In this authority, that officer is the Head of Finance
- the authority's statement of accounts must be prepared in accordance with proper practices as set out in the *Code of Practice on Local Authority Accounting in the United Kingdom*: (the COPLAA) (CIPFA/LASAAC).
- the authority is required to prepare an Annual Governance Statement to accompany the annual statement of accounts as set out in the Accounts and Audit Regulations 2006.

### **Responsibilities of the Head of Finance**

- F1.51 To select suitable accounting policies and to apply them consistently.
- F1.52 To make judgements and estimates that are reasonable and prudent.
- F1.53 To comply with the COPLAA.
- F1.54 To sign and date the statement of accounts, stating that it presents fairly the financial position of the authority at the accounting date and its income and expenditure for each year ended 31 March.
- F1.55 To draw up the timetable for final accounts preparation and to advise staff and external auditors accordingly.

### **Responsibilities of Strategic Directors**

- F1.56 To comply with accounting guidance provided by the Head of Finance and to supply the Head of Finance with information when required.

### **Responsibilities of the Leader and Managing Director**

- F1.57 To sign off an Annual Governance Statement, which will accompany the annual statement of accounts in accordance with the Accounts and Audit Regulations 2006.

## **FINANCE RULE B: FINANCIAL PLANNING**

### **RULE IN SUMMARY**

#### **INTRODUCTION**

- B.1** The Council is responsible for agreeing the authority's policy framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:
- the budget, incorporating the elements referred in Article 4.01 b) and
  - the capital programme.

#### **Policy Framework**

- B.2** The Council is responsible for approving the policy framework and budget. The policy framework comprises the plans and strategies set out in Part 3B of the Constitution and the Budget.
- the Asset Management Plan
  - Annual Revenue Budget
  - Medium Term Financial Plan
- B.3** The Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework and for determining the circumstances in which a decision will be deemed to be contrary to the budget or policy framework. Decisions should be referred to the Council by the Monitoring Officer
- B.4** The Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.

#### **BUDGETING**

##### **Budget format**

- B.5** The general format of the budget will be approved by the Council and proposed by the Cabinet on the advice of the Head of Finance. The draft budget should include allocation to different services and projects, proposed taxation levels and contingency funds.

##### **Budget preparation**

- B.6** The Head of Finance is responsible for ensuring that a revenue budget is prepared on an annual basis and a three year medium term plan for consideration by the Cabinet, before submission to the Council. The Council may amend the budget or ask the Cabinet to reconsider it before approving it.

- B.7** The Cabinet is responsible for issuing guidance on the general content of the budget in consultation with the Head of Finance as soon as possible following approval by the Council.
- B.8** It is the responsibility of Strategic Directors to ensure that budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet.

### **Budget monitoring and control**

- B.9** The Head of Finance is responsible for providing appropriate financial information to enable budgets to be monitored effectively. He or she must monitor and control expenditure against budget allocations and report to the Cabinet on the overall position on a regular basis.
- B.10** It is the responsibility of Strategic Directors to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Head of Finance. They should report on variances within their own areas. They should also take any action necessary to avoid exceeding their budget allocation and alert the Head of Finance to any problems immediately they become known.

### **Resource allocation**

- B.11** The Head of Finance is responsible for developing and maintaining a resource allocation process that produces budget targets that supports the implementation of the Council's policy framework.

### **Preparation and revision of the capital programme**

- B.12** The Head of Finance is responsible for ensuring that a capital programme is prepared on an annual basis for consideration by the Cabinet before submission to the Council.

### **Guidelines**

- B.13** Guidelines on budget preparation are issued to members and Strategic Directors by the Cabinet following agreement with the Head of Finance. The guidelines will take account of:
- legal requirements
  - medium-term planning prospects
  - available resources
  - spending pressures
  - best value and other relevant government guidelines
  - other internal policy documents
  - cross-cutting issues (where relevant).
  - results of consultations carried out?
  - results of exercises to prioritise budget proposals

## **MAINTENANCE OF RESERVES**

- B.14** It is the responsibility of the Head of Finance to advise the Cabinet and/or the Council on prudent levels of reserves for the authority.

**FINANCIAL PLANNING****APPENDIX B****DETAILED RULES****PERFORMANCE PLANS****Why is this important?**

F2.01 Each local authority has a statutory responsibility to publish various performance plans. The purpose of performance plans is to explain overall priorities and objectives, current performance, and proposals for further improvement.

**Key controls**

- F2.02 The key controls for performance plans are:
- (a) to ensure that all relevant plans are produced and that they are consistent
  - (b) to produce plans in accordance with statutory requirements
  - (c) to meet the timetables set
  - (d) to ensure that all performance information is accurate, complete and up to date
  - (e) to provide improvement targets which are meaningful, realistic and challenging.

**Responsibilities of the Head of Finance**

- F2.03 To advise and supply the financial information that needs to be included in performance plans in accordance with statutory requirements and agreed timetables.
- F2.04 To contribute to the development of corporate and service targets and objectives and performance information in accordance with the priorities of the Council.
- F2.05 To ensure that systems are in place to measure activity and collect accurate information for use as performance indicators.
- F2.06 To ensure that performance information is monitored sufficiently frequently to allow corrective action to be taken if targets are not likely to be met.

**Responsibilities of Strategic Directors**

- F2.07 To contribute to the development of performance plans in line with statutory requirements.
- F2.08 To contribute to the development of corporate and service targets and objectives and performance information.

## **BUDGETING**

### **Format of the budget**

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

F2.09 The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

#### **Key controls**

F2.10 The key controls for the budget format are:

- (a) the format complies with all legal requirements
- (b) the format complies with CIPFA's Service Reporting Code of Practice for Local Authorities (**SeRCOP**)
- (c) the format reflects the accountabilities of service delivery.

#### **Responsibilities of the Head of Finance**

F2.11 To advise the Cabinet on the format of the budget that is approved by the Council.

#### **Responsibilities of Strategic Directors**

F2.12 To comply with accounting guidance provided by the Head of Finance.

### **Revenue Budget Preparation, Monitoring and Control**

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

F2.13 Budget management ensures that once the budget has been approved by the Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the authority to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

F2.14 By continuously identifying and explaining variances against budgetary targets, the authority can identify changes in trends and resource requirements at the earliest opportunity. The authority itself operates within an annual cash limit, approved when setting the overall budget. To ensure that the authority in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.

F2.15 For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required.

## Key controls

- F2.16 The key controls for managing and controlling the revenue budget are that:
- (a) service heads should be responsible only for income and expenditure that they can influence
  - (b) there is a nominated unit/service manager for each cost centre heading
  - (c) service heads accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities
  - (d) service heads follow an approved certification process for all expenditure
  - (e) income and expenditure are properly recorded and accounted for
  - (f) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.

## Responsibilities of the Head of Finance

- F2.17 To establish an appropriate framework of budgetary management and control that ensures that:
- (a) budget management is exercised within annual cash limits unless the Council agrees otherwise
  - (b) each Strategic Director has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
  - (c) expenditure is committed only against an approved budget head
  - (d) all officers responsible for committing expenditure comply with relevant guidance, and the Finance Rules
  - (e) each cost centre has a single named manager, determined by the relevant Strategic Director. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure
  - (f) significant variances from approved budgets are investigated and reported by budget managers monthly in accordance with agreed timetable
  - (g) each capital project has a designated Project Manager responsible for the delivery of that project to time and within budget.
- F2.18 To administer the authority's scheme of virement.
- F2.19 To submit reports to the Cabinet and to the Council, in consultation with the relevant Strategic Director, where a Strategic Director is unable to balance expenditure and resources within existing approved budgets under his or her control.
- F2.20 To prepare and submit reports to Cabinet (or sub-committee set up by Cabinet to, inter alia, deal with financial matters) on the authority's projected income and expenditure compared with the budget on a regular basis.

## **Responsibilities of Strategic Directors**

- F2.21 To maintain budgetary control within their Directorates, in adherence to the principles in 2.17, and to ensure that all income and expenditure are properly recorded and accounted for.
- F2.22 To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Strategic Director (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- F2.23 To ensure that spending remains within the service's overall cash limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- F2.24 To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
- F2.25 To prepare and submit to the Cabinet or sub-committee reports on the service's projected expenditure compared with its budget, in consultation with the Head of Finance and setting out what actions the Strategic Director proposes to take to remedy any overspendings that may have occurred.
- F2.26 To ensure prior approval by the Council or Cabinet (as appropriate) for new proposals, of whatever amount, that:
- (a) create financial commitments in future years
  - (b) change existing policies, initiate new policies or cease existing policies
  - (c) materially extend or reduce the authority's services
  - (d) a report on new proposals should explain the full financial implications, following consultation with the Head of Finance. Unless the Council or Cabinet has agreed otherwise, Strategic Directors must plan to contain the financial implications of such proposals within their cash limit
- F2.27 To ensure compliance with the scheme of virement.
- F2.28 To agree with the relevant Strategic Director where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Strategic Director's level of service activity.

## **Budgets and Medium-Term Planning**

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

- F2.29 The authority is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully



weighed priorities. The budget is the financial expression of the authority's plans and policies.

- F2.30 The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the Council. Budgets (spending plans) are needed so that the authority can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for an authority to set a budget that it cannot fully finance from its annual income and reserves.
- F2.31 Medium-term planning (or a three- to five-year planning system) involves a planning cycle in which managers develop their own plans. As each year passes, another future year will be added to the medium-term plan. This ensures that the authority is always preparing for events in advance. The Council has a five year medium term financial plan setting out its estimates of revenue expenditure over that time span.

### **Key controls**

- F2.32 The key controls for budgets and medium-term planning are:
- (a) specific budget approval for all expenditure
  - (b) budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Cabinet for their budgets and the level of service to be delivered
  - (c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

### **Responsibilities of the Head of Finance**

- F2.33 To prepare and submit reports on budget prospects for the Cabinet, including resource constraints set by the Government. Reports should take account of medium-term prospects, where appropriate.
- F2.34 To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by the Council, and after consultation with the Cabinet and Strategic Directors.
- F2.35 To prepare and submit reports to the Cabinet on the aggregate spending plans of Strategic Directorates and on the resources available to fund them, identifying, where appropriate, the implications for the level of Council tax to be levied.
- F2.36 To advise on the medium-term implications of spending decisions.
- F2.37 To encourage the best use of resources and value for money by working with Strategic Directors to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting

financial appraisals of development or savings options, and in developing financial aspects of service planning.

F2.38 To advise the Council on Cabinet proposals in accordance with his or her responsibilities under section 151 of the Local Government Act 1972.

### **Responsibilities of Strategic Directors**

F2.39 To prepare estimates of income and expenditure, in consultation with the Head of Finance, to be submitted to the Cabinet.

F2.40 To prepare budgets that are consistent with any relevant cash limits, with the authority's annual budget cycle and with guidelines issued by the Cabinet. The format should be prescribed by the Head of Finance in accordance with the Council's general directions.

F2.41 To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.

F2.42 In consultation with the Head of Finance and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by Cabinet.

F2.43 When drawing up draft budget requirements, to have regard to:

- (a) spending patterns and pressures revealed through the budget monitoring process
- (b) legal requirements (including health and safety)
- (c) policy requirements and priorities as defined by the Council in the approved policy framework
- (d) initiatives already under way.

### **Resource Allocation**

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

F2.44 A mismatch often exists between available resources and required resources. A common scenario is that available resources are not adequate to fulfil need/desire. It is therefore imperative that needs/desires are carefully prioritised and that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

#### **Key controls**

F2.45 The key controls for resource allocation are:

- (a) resources are acquired in accordance with the law and using an approved authorisation process
- (b) resources are used only for the purpose intended, to achieve the approved policies and objectives, and are properly accounted for

- (c) resources are securely held for use when required
- (d) resources are used with the minimum level of waste, inefficiency or loss for other reasons.

### **Responsibilities of the Head of Finance**

- F2.46 To advise the Council on any options that may exist to increase resources available to it.
- F2.47 To advise the Council on the totality of resources available to it.
- F2.48 To assist in the allocation of resources to unit/service managers.

### **Responsibilities of Strategic Directors**

- F2.49 To work within budget limits and to utilise resources allocated, and further allocate resources, in the most efficient, effective and economic way.
- F2.50 To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

### **Capital Programme**

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

- F2.51 Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the authority, such as land, buildings, and major items of intangible assets, plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.
- F2.52 The “Prudential Code for Capital Finance in Local Authorities” places a duty on the Council to ensure that its proposals to finance its capital programme are affordable, both in the short and long term.. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources.

#### **Key controls**

- F2.53 The key controls for capital programmes are:
- (a) specific approval by the Council for the programme of capital expenditure
  - (b) approval to enter a commitment on capital schemes is subject to the approval of CMT
  - (c) scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project.
  - (d) the scheme has been assessed under the Council's Prioritisation Scheme and been approved for implementation by the Prioritisation Sub-Committee.

- (e) approval by the Cabinet where capital schemes are to be financed from the revenue budget, **up to £500,000**, and subject to the approval of the Council, where the expenditure exceeds this amount
- (f) proposals for improvements and alterations to buildings must be approved by **the Strategic Director of Corporate and Community Services**.
- (g) schedules for individual schemes within the overall budget approved by the Council must be submitted to the Cabinet for approval (for example, minor works), or under other arrangements approved by the Council
- (h) the development and implementation of asset management plans
- (i) the development and implementation of a Capital Strategy
- (j) accountability for each proposal is accepted by a named manager
- (k) monitoring of progress in conjunction with expenditure and comparison with approved budget.

### **Responsibilities of the Head of Finance**

- F2.54 To prepare a three year programme of future capital expenditure estimates jointly with Strategic Directors and the Managing Director and to report them to the Cabinet for approval, together with a revised programme of estimates for the currently financial year. The Cabinet will make recommendations on the capital estimates and on any associated financing requirements to the Council. Cabinet member approval is required where a Strategic Director proposes to bid for or exercise additional borrowing requirement not anticipated in the capital programme. This is because the extra borrowing may create future commitments to financing costs.
- F2.55 To prepare and submit reports to the Cabinet on the projected income, expenditure and resources compared with the approved estimates.
- F2.56 To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of 'capital' will be determined by the Head of Finance, having regard to government regulations and accounting requirements.
- F2.57 To obtain authorisation from the Cabinet for individual schemes where the estimated expenditure exceeds the capital programme provision by more than a specified amount.
- F2.58 To identify and recover by way of a virement out of the capital project in question, any underspending compared to budget that is identified before the start of or during the implementation of the project.

### **Responsibilities of Strategic Directors**

- F2.59 To comply with guidance concerning capital schemes and controls issued by the Head of Finance.

- F2.60 To ensure that all capital proposals have undergone a project appraisal, using the prioritisation model adopted by the Council in accordance with guidance issued by the Head of Finance.
- F2.61 To prepare regular reports reviewing the capital programme provisions for their services. They should also prepare a quarterly return of estimated final costs of schemes in the approved capital programme for submission to the Head of Finance.
- F2.62 To ensure that adequate records are maintained for all capital contracts.
- F2.63 To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Head of Finance and the Managing Directors Management team, where required.
- F2.64 To prepare and submit reports, jointly with the Head of Finance, to the Cabinet, of any variation in contract costs greater than the approved limits. The Cabinet may meet cost increases of up to 5% by virement from savings elsewhere within their capital programme.
- F2.65 To prepare and submit reports, jointly with the Head of Finance, to the Cabinet, on completion of all contracts where the final expenditure exceeds the approved contract sum by more than 5% or £10,000 whichever is the higher amount.
- F2.66 To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Head of Finance and, if applicable, approval of the scheme through the capital programme.
- F2.67 To consult with the Head of Finance and to seek Cabinet approval where the Strategic Director proposes to bid for supplementary credit approvals to be issued by government departments to support expenditure that has not been included in the current year's capital programme.
- F2.68 To notify the Head of Finance of any underspendings compared to budget that occur before the start of or during implementation of the project.

## **MAINTENANCE OF RESERVES**

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

- F2.69 The local authority must decide the level of general reserves it wishes to maintain before it can decide the level of Council tax. Reserves are maintained as a matter of prudence. They enable the authority to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items.

### **Key controls**

- F2.70 To maintain reserves in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom*: (the COPLAA) (CIPFA/LASAAC) and agreed accounting policies.
- F2.71 For each reserve established, the purpose, usage and basis of transactions should be clearly identified.
- F2.72 Authorisation and expenditure from reserves by the appropriate Strategic Director in consultation with the Head of Finance.

### **Responsibilities of the Head of Finance**

- F2.73 To advise the Cabinet and/or the Council on prudent levels of reserves for the authority, and to take account of the advice of the external auditor in this matter.

### **Responsibilities of Strategic Directors**

- F2.74 To ensure that resources are used only for the purposes for which they were intended

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

### **RULE IN SUMMARY**

#### **Introduction**

- C.1** It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the authority. This should include the proactive participation of all those associated with planning and delivering services.

#### **RISK MANAGEMENT**

- C.2** The Audit and Performance Review Panel is responsible for approving the authority's risk management policy statement and strategy and for reviewing the effectiveness of risk management. The Panel is responsible for ensuring that proper insurance exist where appropriate.
- C.3** The Head of Finance is responsible for ensuring that the authority's risk management strategy is prepared, for promoting it throughout the authority and for advising the Panel on proper insurance cover where appropriate.

#### **INTERNAL CONTROL**

- C.4** Internal control refers to the systems of control devised by management to help ensure the authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the authority's assets and interests are safeguarded.
- C.5** The Head of Finance is responsible for advising on effective systems of internal control. These arrangements need to ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.
- C.6** It is the responsibility of Strategic Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

#### **AUDIT REQUIREMENTS**

- C.7** The Accounts and Audit Regulations 2003 (as amended 2006) issued by the Department of Communities and Local Government require every local authority to maintain an adequate and effective internal audit.
- C.8** The Audit Commission is responsible for appointing external auditors to each local authority. The basic duties of the external auditor are governed by

section 15 of the Local Government Finance Act 1982, as amended by section 5 of the Audit Commission Act 1998.

- C.9** The authority may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Customs and Excise and the Inland Revenue, who have statutory rights of access.

## **PREVENTING FRAUD AND CORRUPTION**

- C.10** The Head of Finance is responsible for the development and maintenance of an anti-fraud and anti-corruption policy.
- C.11** The Head of Finance is responsible for the development and maintenance of a whistle blowing policy.

## **ASSETS**

- C.12** Strategic Directors should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

## **TREASURY MANAGEMENT**

- C.13** The authority has adopted CIPFA's *Code of Practice for Treasury Management in Local Authorities*.
- C.14** The Council is responsible for approving the treasury management policy statement setting out the matters detailed in paragraph 15 of CIPFA's *Code of Practice for Treasury Management in Local Authorities*. The policy statement is proposed to the Council by the Cabinet. The Head of Finance has delegated responsibility for implementing and monitoring the statement.
- C.15** All money in the hands of the authority is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, referred to in the code as the Head of Finance.
- C.16** The Head of Finance is responsible for reporting to the Cabinet a proposed treasury management strategy for the coming financial year at or before the start of each financial year.
- C.17** All Cabinet decisions on borrowing, investment or financing shall be delegated to the Head of Finance, who is required to act in accordance with CIPFA's *Code of Practice for Treasury Management in Local Authorities*.
- C.18** The Head of Finance shall advise the Council on any long term borrowing requirements necessary to finance the Capital Programme. However, any decision to borrow money for periods in excess of one year can only be taken in consultation with the elected Member with responsibility for Finance.



**C.19** The Head of Finance is responsible for reporting to the Cabinet in each financial year on the activities of the treasury management operation and on the exercise of his or her delegated treasury management powers. The report will comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.

## **STAFFING**

**C.20** The Council is ultimately responsible for determining how officer support for executive and non-executive roles within the authority will be organised.

**C.21** The Managing Director is responsible for providing overall management to staff. He or she is also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.

**C.22** Strategic Directors are responsible for controlling total staff numbers by:

- advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels
- adjusting the staffing to a level that can be funded within approved budget provision, varying the provision as necessary within that constraint in order to meet changing operational needs
- the proper use of appointment procedures.

**APPENDIX C****RISK MANAGEMENT AND CONTROL OF RESOURCES****DETAILED RULES****RISK MANAGEMENT****Why is this important?**

- F3.01 All organisations, whether private or public sector, face risks to people, property and continued operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational well-being of the organisation. In essence it is, therefore, an integral part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action the organisation needs to take to control these risks effectively.
- F3.02 It is the overall responsibility of the Cabinet to approve the authority's risk management strategy, and to promote a culture of risk management awareness throughout the authority.

**Key controls**

- F3.03 The key controls for risk management are:
- (a) procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the authority
  - (b) a monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis
  - (c) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives
  - (d) provision is made for losses that might result from the risks that remain
  - (e) procedures are in place to investigate claims within required timescales
  - (f) acceptable levels of risk are determined and insured against where appropriate
  - (g) the authority has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

**Responsibilities of the Head of Finance**

- F3.04 To prepare and promote the authority's risk management strategy.
- F3.05 To develop risk management controls in conjunction with other Strategic Directors.
- F3.06 To include all appropriate employees of the authority in a suitable fidelity guarantee insurance.
- F3.07 To offer insurance cover to schools in accordance with Fair Funding arrangements.
- F3.08 To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.
- F3.09 To review annually, or at such a period as she considers appropriate or necessary, review all insurances with Strategic Directors and unit/service managers.

**Responsibilities of Strategic Directors**

- F3.10 To notify the Head of Finance immediately of any loss, liability or damage that may lead to a claim against the authority, together with any information or explanation required by the Head of Finance or the authority's insurers.
- F3.11 To take responsibility for risk management, having regard to advice from the Head of Finance and other specialist officers (eg crime prevention, fire prevention, health and safety).
- F3.12 To ensure that there are regular reviews of risk within their Strategic Directorates.
- F3.13 To notify the Head of Finance promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances.
- F3.14 To consult the Head of Finance and the Monitoring Officer on the terms of any indemnity that the authority is requested to give.
- F3.15 To ensure that employees, or anyone covered by the authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

## INTERNAL CONTROLS

### Why is this important?

- F3.16 The authority is complex and beyond the direct control of individuals. It therefore requires internal controls to manage and monitor progress towards strategic objectives.
- F3.17 The authority has statutory obligations, and, therefore, requires internal controls to identify, meet and monitor compliance with these obligations.
- F3.18 The authority faces a wide range of financial, administrative and commercial risks, both from internal and external factors, which threaten the achievement of its objectives. Internal controls are necessary to manage these risks.
- F3.19 The system of internal controls is established in order to provide measurable achievement of:
- (a) efficient and effective operations
  - (b) reliable financial information and reporting
  - (c) compliance with laws and regulations
  - (d) risk management.

### Key controls

- F3.20 The key controls and control objectives for internal control systems are:
- (a) Appropriate for and aligned to the corporate risk management strategy
  - (b) key controls should be reviewed on a regular basis and the authority should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively
  - (c) managerial control systems, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities
  - (d) financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems
  - (e) an effective internal audit function that is properly resourced. It should operate in accordance with the principles contained in CIPFA's *Code of Practice for Internal Audit in Local Government in the United Kingdom 2006* and with any other statutory obligations and regulations. CHECK

### Responsibilities of the Head of Finance

- F3.21 To assist the authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

## Responsibilities of Strategic Directors

- F3.22 To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- F3.23 To review existing controls in the light of changes affecting the authority and to establish and implement new ones in line with guidance from the Head of Finance. Strategic Directors should also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.
- F3.24 To ensure staff have a clear understanding of the consequences of lack of control.

## AUDIT REQUIREMENTS

### Internal audit

#### Why is this important?

- F3.25 The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2003 (as amended by the Accounts and Audit (Amendment) (England) Regulations 2006), more specifically require that a “relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems”.
- F3.26 Accordingly, internal audit is an independent and objective appraisal function established by the authority for reviewing the system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

### Key controls

- F3.27 The key controls for internal audit are:
- (a) that it is independent in its planning and operation;
  - (b) Head of Audit and Investigation - has direct access to the Managing Director, all levels of management and directly to elected members;
  - (c) the internal auditors comply with the *CIPFA Code of Practice for Internal Audit in Local Government in the United Kingdom 2006* in that the Internal Audit Section has sufficient resources with an appropriate range of skills to deliver the Audit Plan.

### Responsibilities of the Head of Finance

- F3.28 To ensure that internal auditors have the authority to:
- (a) access authority premises at reasonable times

- (b) access all assets, records, documents, correspondence and control systems
  - (c) receive any information and explanation considered necessary concerning any matter under consideration
  - (d) require any employee of the authority to account for cash, stores or any other authority asset under his or her control
  - (e) access records belonging to third parties, such as contractors, when required
  - (f) directly access the Managing Director, the Cabinet and Chair of the Audit and Performance Review Panel.
- F3.29 To approve for submission to the Audit and Performance Review Panel and Cabinet the annual audit plan prepared by the Head of Audit and Investigation – which take account of the characteristics and relative risks of the activities involved.
- F3.30 To receive the Authority's Audit Charter prepared by the Head of Audit and Investigation, setting out the Terms of Reference for the provision of internal audit services within the Authority, submitting the Charter to the Audit and Performance Review Panel for approval and revision on an annual basis.
- F3.31 To receive the Authority's Internal Audit Protocol, prepared by the Head of Audit and Investigation setting out the process adopted by the Audit and Investigation Unit in conducting audits and requirements that it imposes on the Authority's staff undertaking work subject to internal audit. The Protocol, and any amendments to it, will be submitted the Audit and Performance Review Panel for approval.
- F3.32 To ensure that there is an annual review of the effectiveness of the system of internal audit, in accordance with the Accounts and Audit Regulations 2003 (as amended by the Accounts & Audit (Amendment) (England) Regulations 2006).
- F3.33 To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

### **Responsibilities of Strategic Directors**

- F3.34 To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- F3.35 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- F3.36 To consider and respond promptly to recommendations in audit reports.
- F3.37 To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.

- F3.38 To notify the Head of Finance and the Head of Audit and Investigation immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources or any Council owned or occupied property is broken into. Pending investigation and reporting, the Strategic Director should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- F3.39 To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Head of Audit and Investigation - prior to implementation.

## **EXTERNAL AUDIT**

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

- F3.39 The Local Government Finance Act 1982 set up the Audit Commission, which is responsible for appointing external auditors to each local authority in England and Wales. The external auditor has rights of access to all documents and information necessary for audit purposes.
- F3.40 The basic duties of the external auditor are defined in the Audit Commission Act 1998 and the Local Government Act 1999. In particular, section 4 of the 1998 Act requires the Audit Commission to prepare a code of audit practice, which external auditors follow when carrying out their duties. The code of audit practice issued in March 2000 sets out the auditor's objectives to review and report upon:
- (a) the financial aspects of the audited body's corporate governance arrangements
  - (b) the audited body's financial statements
  - (c) aspects of the audited body's arrangements to manage its performance, including the preparation and publication of specified performance information and compliance in respect of the preparation and publication of the BVPP.
- F3.41 The authority's accounts are scrutinised by external auditors, who must be satisfied that the statement of accounts 'presents fairly' the financial position of the authority and its income and expenditure for the year in question and complies with the legal requirements.

### **Key controls**

- F3.42 External auditors are appointed by the Audit Commission normally for a minimum period of five years. The Audit Commission prepares a code of audit practice, which external auditors follow when carrying out their audits.

### **Responsibilities of the Head of Finance**

- F3.43 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets that the external auditors consider necessary for the purposes of their work.
- F3.44 To ensure there is effective liaison between external and internal audit.
- F3.45 To work with the external auditor and advise the Council, Cabinet and Strategic Directors on their responsibilities in relation to external audit.

### **Responsibilities of Strategic Directors**

- F3.46 To ensure that external auditors are given access at all reasonable times to premises, personnel, documents and assets which the external auditors consider necessary for the purposes of their work.
- F3.47 To ensure that all records and systems are up to date and available for inspection.

## **PREVENTING FRAUD AND CORRUPTION**

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

- F3.48 The authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority.
- F3.49 The authority's expectation of propriety and accountability is that members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- F3.50 The authority also expects that individuals and organisations (eg suppliers, contractors, service providers) with whom it comes into contact will act towards the authority with integrity and without thought or actions involving fraud and corruption.

### **Key controls**

- F3.51 The key controls regarding the prevention of financial irregularities are that:
- (a) the authority has an effective anti-fraud and anti-corruption policy and maintains a culture that will not tolerate fraud or corruption
  - (b) all members and staff act with integrity and lead by example
  - (c) senior managers are required to deal swiftly and firmly with those who defraud or attempt to defraud the authority or who are corrupt
  - (d) high standards of conduct are promoted amongst members
  - (e) the maintenance of a register of interests in which any hospitality or gifts accepted must be recorded
  - (f) whistle blowing procedures are in place and operate effectively



- (g) legislation including the Public Interest Disclosure Act 1998 is adhered to.

### **Responsibilities of the Head of Finance**

- F3.52 To develop and maintain an anti-fraud and anti-corruption policy.
- F3.53 To maintain adequate and effective internal control arrangements.
- F3.54 To ensure that all suspected irregularities are reported to the Head of Audit and Investigation, the Managing Director and the Cabinet.
- F3.55 To develop and maintain a whistle blowing policy.
- F3.56 To investigate and, if necessary, instigate prosecutions, for fraudulent activity in compliance with the Council's Anti Fraud and Anti Corruption Strategy.
- F3.57 To authorise the necessary investigations to take place and in particular to ensure that all necessary authorities for surveillance to be undertaken under the Regulation of Investigatory Powers Act 2000 are obtained from an Authorised Officer and to maintain the Corporate Register of Authorisations

### **Responsibilities of Strategic Directors**

- F3.58 To ensure that all suspected irregularities are reported to the Head of Audit and Investigation.
- F3.59 To instigate the authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour by a member of staff.
- F3.60 To ensure that where financial impropriety is suspected, the Head of Finance is informed. Where sufficient evidence exists to believe that a criminal offence may have been committed, the Strategic Director, in consultation with the Head of Finance, will ensure that the Police are called in to investigate the allegation and determine with the Crown Prosecution Service whether any prosecution will take place.
- F3.61 To maintain a directorate register of interests.

## **ASSETS**

### **Security**

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

- F3.62 The authority holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information

required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

### Key controls

- F3.63 The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:
- (a) resources are used only for the purposes of the authority and are properly accounted for
  - (b) resources are available for use when required
  - (c) resources no longer required are disposed of in accordance with the law and the regulations of the authority so as to maximise benefits
  - (d) an asset register is maintained for the authority, assets are recorded when they are acquired by the authority and this record is updated as changes occur with respect to the location and condition of the asset
  - (e) all staff are aware of their responsibilities with regard to safeguarding the authority's assets and information, including the requirements of the Data Protection Act and software copyright legislation
  - (f) all staff are aware of their responsibilities with regard to safeguarding the security of the authority's computer systems, including maintaining restricted access to the information held on them and compliance with the authority's computer and internet security policies.

### Responsibilities of the Head of Finance

- F3.64 To ensure that an asset register is maintained in accordance with good practice for all fixed assets with an individual value in excess of **£500**. The function of the asset register is to provide the authority with information about fixed assets so that they are:
- safeguarded
  - used efficiently and effectively
  - adequately maintained.
- F3.65 To receive the information required for accounting, costing and financial records from each Strategic Director.
- F3.66 To ensure that assets are valued in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice* (CIPFA/LASAAC).

### Responsibilities of Strategic Directors

- F3.67 The appropriate Strategic Director shall maintain a property database in a form approved by the Head of Finance for all properties, plant and machinery and moveable assets currently owned or used by the authority. Any use of property by a department or establishment other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.

- F3.68 To ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Strategic Director in consultation with the Monitoring Officer, has been established as appropriate.
- F3.69 To ensure the proper security of all buildings and other assets under their control.
- F3.70 Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a joint report by the Strategic Director, the Strategic Director of Environment and the Head of Finance.
- F3.71 To pass title deeds to the Monitoring Officer who is responsible for custody of all title deeds.
- F3.72 To ensure that no authority asset is subject to personal use by an employee without proper authority.
- F3.73 To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the authority.
- F3.74 To ensure that the Strategic Directors maintain a register of moveable assets in accordance with arrangements defined by the Head of Finance.
- F3.75 To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- F3.76 To consult the Head of Finance in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- F3.77 To ensure cash holdings on premises are kept to the minimum necessary for operational requirements and are within levels covered by the Council's insurance arrangements.
- F3.78 To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Head of Finance as soon as possible.
- F3.79 To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless, following consultation with the Head of Finance, the Cabinet agrees otherwise.
- F3.80 To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Head of Finance.
- F3.81 To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be

sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the authority in some way.

- F3.82 To notify the Head of Audit and Review and the Council's Insurance and Risk Officer in the event of any premises occupied by the Council suffering theft, burglary or destruction of Council assets.

### **Inventories**

- F3.83 To maintain inventories and record an adequate description of furniture, fittings, equipment, plant and machinery above £500 in value.
- F3.84 To carry out an annual check of all items on the inventory in order to verify location, review, condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the authority.
- F3.85 To make sure that property is only used in the course of the authority's business, unless the Strategic Director concerned has given permission otherwise.

### **Stocks and stores**

- F3.86 To make arrangements for the care and custody of stocks and stores in the department.
- F3.87 To ensure stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- F3.88 To investigate and remove from the authority's records (ie write off) discrepancies as necessary, or to obtain Cabinet approval if they are in excess of a predetermined limit.
- F3.89 To authorise or write off disposal of redundant stocks and equipment. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless, following consultation with the Head of Finance, the Cabinet decides otherwise in a particular case.
- F3.90 To seek Cabinet approval to the write-off of redundant stocks and equipment in excess of £20,000.

### **Intellectual property**

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

- F3.91 Intellectual property is a generic term that includes inventions and writing. If these are created by the employee during the course of employment, then,

as a general rule, they belong to the employer, not the employee. Various acts of Parliament cover different types of intellectual property.

F3.92 Certain activities undertaken within the authority may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

### **Key controls**

F3.93 In the event that the authority decides to become involved in the commercial exploitation of inventions, the matter should proceed in accordance with the authority's approved intellectual property procedures, if any.

### **Responsibilities of the Head of Finance**

F3.94 To develop and disseminate good practice through the authority's intellectual property procedures.

### **Responsibilities of Strategic Directors**

F3.95 To ensure that controls are in place to ensure that staff do not carry out private work in Council time and that staff are aware of an employer's rights with regard to intellectual property.

## **ASSET DISPOSAL**

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

F3.96 It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the authority.

### **Key controls**

F3.97 Assets for disposal are identified and are disposed of at the most appropriate time, and only when it is in the best interests of the authority, and best price is obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction.

F3.98 Procedures protect staff involved in the disposal from accusations of personal gain.

### **Responsibilities of the Head of Finance**

F3.99 To issue guidelines representing best practice for disposal of assets.

F3.100 To ensure appropriate accounting entries are made to remove the value of disposed assets from the authority's records and to include the sale proceeds if appropriate.

### **Responsibilities of Strategic Directors**

F3.101 To seek advice from purchasing advisors on the disposal of surplus or obsolete materials, stores or equipment.

F3.102 To ensure that income received for the disposal of an asset is properly banked and coded.

### **TREASURY MANAGEMENT**

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

F3.103 Many millions of pounds pass through the authority's books each year. This led to the establishment of codes of practice. These aim to provide assurances that the authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the authority's capital sum.

#### **Key controls**

F3.104 That the authority's borrowings and investments comply with the CIPFA *Code of Practice on Treasury Management* and with the authority's treasury policy statement.

#### **Responsibilities of Head of Finance – treasury management and banking**

F3.105 To arrange the borrowing and investments of the authority in such a manner as to comply with the CIPFA *Code of Practice on Treasury Management* and the authority's treasury management policy statement and strategy.

F3.106 To report annually on treasury management activities to the Cabinet.

F3.107 To operate bank accounts as are considered necessary – opening or closing any bank account shall require the approval of the Head of Finance.

#### **Responsibilities of Strategic Directors – treasury management and banking**

F3.108 To follow the instructions on banking issued by the Head of Finance.

#### **Responsibilities of Head of Finance – investments and borrowing**

F3.109 To ensure that all investments of money are made in the name of the authority or in the name of nominees approved by the Council.

F3.110 To ensure that all securities that are the property of the authority or its nominees and the title deeds of all property in the authority's ownership are held in the custody of the Monitoring Officer.

F3.111 To effect all borrowings in the name of the authority.

F3.112 To act as the authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the authority.

### **Responsibilities of Strategic Directors – investments and borrowing**

F3.113 To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Cabinet or Council, as appropriate, following consultation with the Head of Finance.

### **Responsibilities of Strategic Directors – trust funds and funds held for third parties**

F3.114 To arrange for all trust funds to be held, wherever possible, in the name of the authority. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Head of Finance, unless the deed otherwise provides.

F3.115 To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Head of Finance, and to maintain written records of all transactions.

F3.116 To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

### **Responsibilities of the Head of Finance – imprest accounts**

F3.117 To provide employees of the authority with cash or bank imprest accounts to meet minor expenditure on behalf of the authority and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed **£50**.

F3.118 To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.

F3.119 To reimburse imprest holders as often as necessary to restore the imprests, but normally not more than monthly.

### **Responsibilities of Strategic Directors – imprest accounts**

F3.120 To ensure that employees operating an imprest account:

- (a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained
- (b) make adequate arrangements for the safe custody of the account
- (c) produce upon demand by the Head of Finance cash and all vouchers to the total value of the imprest amount
- (d) record transactions promptly

- (e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
- (f) provide the Head of Finance with a certificate of the value of the account held at 31 March each year
- (g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made
- (h) on leaving the authority's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Head of Finance for the amount advanced to him or her.

## **STAFFING**

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

F3.121 In order to provide the highest level of service, it is crucial that the authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

### **Key controls**

**F3.122** The key controls for staffing are:

- (a) an appropriate staffing strategy and policy exists, in which staffing requirements and budget allocation are matched
- (b) procedures are in place for forecasting staffing requirements and cost
- (c) controls are implemented that ensure that staff time is used efficiently and to the benefit of the authority
- (d) checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy.

### **Responsibilities of the Head of Finance**

F3.123 To ensure that budget provision exists for all existing and new employees.

F3.124 To act as an advisor to Strategic Directors on areas such as National Insurance and pension contributions, as appropriate.

### **Responsibilities of Strategic Directors**

F3.125 To produce an annual staffing budget.

F3.126 To ensure that the staffing budget is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).

F3.127 To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.



F3.128 To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.

F3.129 To ensure that the Head of Finance is immediately informed if the staffing budget is likely to be materially over or underspent.

## **FINANCE RULE D : SYSTEMS AND PROCEDURES**

### **RULE IN SUMMARY**

#### **Introduction**

- D.1** Sound systems and procedures are essential to an effective framework of accountability and control.

#### **GENERAL**

- D.2** The Head of Finance is responsible for the operation of the authority's accounting systems, the form of accounts and the supporting financial records. Any changes made by Strategic Directors to the existing financial systems or the establishment of new systems must be approved by the Head of Finance. However, Strategic Directors are responsible for the proper operation of financial processes in their own Strategic Directorates.
- D.3** Any changes to agreed procedures by Strategic Directors to meet their own specific service needs should be agreed with the Head of Finance.
- D.4** Strategic Directors should ensure that their staff receive relevant financial training that has been approved by the Head of Finance.
- D.5** Strategic Directors must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Strategic Directors must ensure that staff are aware of their responsibilities under freedom of information legislation, and the Human Rights Act.

#### **INCOME AND EXPENDITURE**

- D.6** It is the responsibility of Strategic Directors to ensure that a proper scheme of delegation has been established within their area and is operating effectively. The scheme of delegation should identify staff authorised to act on the Strategic Director's behalf, or on behalf of the Cabinet, in respect of payments, income collection and placing orders, together with the limits of their authority. The Cabinet is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

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

- D.7** The Head of Human Resources is responsible for all payments of salaries and wages to all staff, including payments for overtime, and for payment of allowances to members.

## **TAXATION**

- D.8** The Head of Finance is responsible for advising Strategic Directors, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the authority.
- D.9** The Head of Finance is responsible for maintaining the authority's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

## **TRADING ACCOUNTS/BUSINESS UNITS**

- D.10** It is the responsibility of the Head of Finance to advise on the establishment and operation of trading accounts and business units.

**APPENDIX D****FINANCIAL SYSTEMS AND PROCEDURES****DETAILED RULES****GENERAL****Why is this important?**

- F4.01 Strategic Directorates have many systems and procedures relating to the control of the authority's assets, including purchasing, costing and management systems. Strategic Directorates are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.
- F4.02 The Head of Finance has a professional responsibility to ensure that the authority's financial systems are sound and should therefore be notified of any new developments or changes.

**Key controls**

The key controls for systems and procedures are:

- (a) basic data exists to enable the authority's objectives, targets, budgets and plans to be formulated
- (b) performance is communicated to the appropriate managers on an accurate, complete and timely basis
- (c) early warning is provided of deviations from target, plans and budgets that require management attention
- (d) operating systems and procedures are secure.

**Responsibilities of the Head of Finance**

- F4.03 To make arrangements for the proper administration of the authority's financial affairs, including to:
- (a) issue advice, guidance and procedures for officers and others acting on the authority's behalf
  - (b) determine the accounting systems, form of accounts and supporting financial records
  - (c) establish arrangements for audit of the authority's financial affairs
  - (d) approve any new financial systems to be introduced
  - (e) approve any changes to be made to existing financial systems.

**Responsibilities of Strategic Directors**

- F4.04 To ensure that accounting records are properly maintained and held securely.

- F4.05 To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Head of Finance.
- F4.06 To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- F4.07 To incorporate appropriate controls to ensure that, where relevant:
- (a) all input is genuine, complete, accurate, timely and not previously processed
  - (b) all processing is carried out in an accurate, complete and timely manner
  - (c) output from the system is complete, accurate and timely.
- F4.08 To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- F4.09 To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption.
- F4.10 To ensure that systems are documented and staff properly trained in operating these systems.
- F4.11 To consult with the Head of Finance before changing any existing system or introducing new systems that are financial in nature or that impact upon the financial systems of the Council.
- F4.12 To establish a scheme of delegation identifying officers authorised to act upon the Strategic Director's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.
- F4.13 To supply lists of authorised officers, with specimen signatures and delegated limits, to the Head of Finance, together with any subsequent variations.
- F4.14 To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building.
- F4.15 To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.

## Responsibilities of the Head of Customer and Business Services

- F4.16 To issue standards and guidelines for computer systems and take the necessary steps to ensure these are observed.
- F4.17 To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, virus attack, etc.
- F4.18 To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
- (a) only software legally acquired and installed by the authority is used on its computers
  - (b) staff are aware of legislative provisions
  - (c) in developing systems, due regard is given to the issue of intellectual property rights.

## INCOME AND EXPENDITURE

### Income

#### Why is this important?

- F4.19 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the authority's cashflow and also avoids the time and cost of administering debt recovery procedures.

#### Key controls

- F4.20 The key controls for income are:
- (a) all income due to the authority is identified and charged correctly, in accordance with an approved charging policy, which is regularly reviewed
  - (b) all income is collected from the correct person, at the right time, using the correct procedures and the appropriate stationery
  - (c) all money received by an employee on behalf of the authority is paid without delay, and without deduction, to the Head of Finance or, as he or she directs, to the authority's bank or National Giro account, and properly recorded. The responsibility for cash collection should be separated from that:
    - for identifying the amount due
    - for reconciling the amount due to the amount received
  - (d) effective action is taken to pursue non-payment within defined timescales
  - (e) formal approval for debt write-off is obtained
  - (f) appropriate write-off action is taken within defined timescales
  - (g) appropriate accounting adjustments are made following write-off action
  - (h) all appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule

- (i) money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.

### **Responsibilities of the Head of Finance**

- F4.21 To agree arrangements for the collection of all income due to the authority and to approve the procedures, systems and documentation for its collection.
- F4.22 To order and supply to departments all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control.
- F4.23 To agree the write-off of bad debts within those functions that fall within the responsibilities of the Strategic Director up to **£50,000** in each case and to refer larger sums to the Cabinet.
- F4.24 To approve all debts to be written off in consultation with the relevant Strategic Director and to keep a record of all sums written off up to the approved limit and to adhere to the requirements of the Accounts and Audit Regulations 2003 (as amended 2006).
- F4.25 To obtain the approval of the Cabinet in consultation with the relevant Strategic Director for writing off debts in excess of the approved limit.
- F4.26 To ensure that appropriate accounting adjustments are made following write-off action.

### **Responsibilities of Strategic Directors**

- F4.27 To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- F4.28 To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- F4.29 To establish and initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly.
- F4.30 To issue official receipts or to maintain other documentation for income collection.
- F4.31 To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- F4.32 To hold securely receipts, tickets and other records of income for the appropriate period.

- F4.33 To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.
- F4.34 To ensure that income is paid fully and promptly into the appropriate authority bank account in the form in which it is received. Appropriate details should be recorded on to paying-in slips to provide an audit trail. Money collected and deposited must be reconciled to the bank account on a regular basis.
- F4.35 To ensure income is not used to cash personal cheques or other payments.
- F4.36 To supply the Head of Finance with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Head of Finance to record correctly the sums due to the authority and to ensure accounts are sent out promptly. To do this, Strategic Directors should use established performance management systems to monitor recovery of income and flag up areas of concern to the Head of Finance. Strategic Directors have a responsibility to assist the Head of Finance in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the authority's behalf. Levels of cash held on the premises must not exceed the levels approved by the Council's insurers unless specific authority has been sought from the Head of Finance for those levels to be exceeded for short-term periods of operational necessity only.
- F4.37 To keep a record of every transfer of money between employees of the authority. The receiving officer must sign for the transfer and the transferor must retain a copy.
- F4.38 To recommend to the Head of Finance all debts to be written off and to keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- F4.39 To obtain the approval of the Head of Finance when writing off debts in excess of **£5000**, and the approval of the Cabinet where debts exceed **£50,000**.
- F4.40 To notify the Head of Finance of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Head of Finance and not later than 30 April.

## **Ordering and Paying for Work, Goods and Services**

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

- F4.41 Public money should be spent with demonstrable probity and in accordance with the authority's policies. Authorities have a statutory duty to achieve best



value in part through economy and efficiency. The authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the authority's Contract Rules.

### **General**

- F4.42 Every officer and member of the authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority, in accordance with appropriate codes of conduct, if any.
- F4.43 Official orders must be in a form approved by the Head of Finance and Monitoring Officer. Official purchase orders and Agresso must be issued for all work, goods or services to be supplied to the authority, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Head of Finance.
- F4.44 Each order must conform to contract rules and any guidelines approved by the Council on central purchasing and the standardisation of supplies and materials. Standard terms and conditions must not be varied without the prior approval of the Monitoring Officer.
- F4.45 Apart from petty cash, schools' own bank accounts and other payments from advance accounts, the normal method of payment from the authority shall be by cheque or other instrument or approved method, drawn on the authority's bank account or National Giro account by the Head of Finance. The use of direct debit shall require the prior agreement of the Head of Finance.
- F4.46 Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of authority contracts.

### **Key controls**

- F4.47 The key controls for ordering and paying for work, goods and services are:
- (a) all goods and services are ordered only by appropriate persons using the purchase order system on Agresso in accordance with F4.43 above and are correctly recorded unless the Head of Finance has given authority, in writing, for an exemption to this requirement.
  - (b) all goods and services shall be ordered in accordance with the authority's contract rules unless they are purchased from sources within the authority and, where necessary, comply with European legislation
  - (c) goods and services received are checked to ensure they are in accordance with the order. Goods should not be received by the person who placed the order
  - (d) payments are not made unless goods have been received by the authority to the correct price, quantity and quality standards
  - (e) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method

- (f) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period, in accordance with the document retention schedule
- (g) all expenditure, including VAT, is accurately recorded against the right budget and any exceptions are corrected
- (h) in addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

### **Responsibilities of the Head of Finance**

- F4.48 To ensure that all the authority's financial systems and procedures are sound and properly administered.
- F4.49 To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- F4.50 To approve the form of official orders and associated terms and conditions.
- F4.51 To make payments from the authority's funds on the Strategic Director's authorisation that the expenditure has been duly incurred in accordance with Finance Rules.
- F4.52 To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- F4.53 To make payments to contractors on the certificate of the appropriate Strategic Director, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- F4.54 To provide advice and encouragement on making payments by the most economical means.
- F4.55 To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.
- F4.56 To make payments to suppliers within appropriate timescales.

### **Responsibilities of Strategic Directors**

- F4.57 To ensure that unique numbered official orders are used for all goods and services, other than the exceptions specified in 4.43.
- F4.58 To ensure that orders are only used for goods and services provided to the department Strategic Directorate. Individuals must not use official orders to obtain goods or services for their private use.

- F4.59 To ensure that only those staff authorised by him or her sign orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained in accordance with contract rules. Best value principles should underpin the authority's approach to procurement. Value for money should always be achieved.
- F4.60 To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.
- F4.61 To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:
- (a) receipt of goods or services
  - (b) that the invoice has not previously been paid
  - (c) that expenditure has been properly incurred and is within budget provision
  - (d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices
  - (e) correct accounting treatment of tax
  - (f) that the invoice is correctly coded
  - (g) that discounts have been taken where available
  - (h) that appropriate entries will be made in accounting records.
- F4.62 To ensure that two authorised members of staff are involved in the ordering, receiving and payment process. If possible, a different officer from the person who signed the order, and in every case, a different officer from the person checking a written invoice, should authorise the invoice.
- F4.63 To ensure that the Strategic Directors maintain and review periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Head of Finance.
- F4.64 To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice and other e payment methods . Any instances of these being rendered should be reported to the Head of Audit and Review. -
- F4.65 To encourage suppliers of goods and services to receive payment by the most economical means for the authority. It is essential, however, that payments made by direct debit have the prior approval of the Head of Finance.
- F4.66 To ensure that the Strategic Directorate obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the best practice guidelines

issued by the Head of Finance, which are in line with best value principles and contained in the authority's code of practice for tenders and contracts.

- F4.67 To utilise any central purchasing procedures which may involve the Council in putting purchases, where appropriate, out to competitive quotation or tender. These will comply with the Contract Rules and will cover:
- (a) authorised officers and the extent of their authority
  - (b) advertisement for tenders
  - (c) procedure for creating, maintaining and revising a standard list of contractors
  - (d) selection of tenderers
  - (e) compliance with UK and EC legislation and regulations
  - (f) procedures for the submission, receipt, opening and recording of tenders
  - (g) the circumstances where financial or technical evaluation is necessary
  - (h) procedures for negotiation
  - (i) acceptance of tenders
  - (j) the form of contract documentation
- (k) cancellation clauses in the event of corruption or bribery
- (l) contract records.
- F4.68 To ensure that employees are aware of the code of conduct for employees contained in Part 5 of the Constitution
- F4.69 To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Head of Finance. This is because of the potential impact on the authority's borrowing powers, to protect the authority against entering into unapproved credit arrangements and to ensure that value for money is being obtained.
- F4.70 To notify the Head of Finance of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Head of Finance and, in any case, not later than 30 April.
- F4.71 With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Head of Finance the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
- F4.72 To notify the Head of Finance immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- F4.73 To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the document retention schedule.

## **PAYMENTS TO EMPLOYEES AND MEMBERS**

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

F4.74 Staff costs are the largest item of expenditure for most authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that members' allowances are authorised in accordance with the scheme adopted by the Council.

### **Key controls**

- F4.75 The key controls for payments to employees and Members are:
- (a) proper authorisation procedures are in place and that there is adherence to corporate timetables in relation to:
    - starters
    - leavers
    - variations
    - enhancementsand that payments are made on the basis of timesheets or claims
  - (b) frequent reconciliation of payroll expenditure against approved budget and bank account
  - (c) all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule
  - (d) that Inland Revenue regulations are complied with.

### **Responsibilities of the Head of Human Resources**

- F4.76 To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.
- F4.77 To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions.
- F4.78 To make arrangements for payment of all travel attendance and subsistence claims or financial loss allowance.
- F4.79 To make arrangements for paying Members basic and any Special Responsibility Allowances, as contained in the approved Members' Allowances Scheme, and to pay travel or other allowances upon receiving the prescribed form, duly completed and authorised.
- F4.80 To provide advice and encouragement to secure payment of salaries and wages by the most economical means.

F4.81 To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.

### **Responsibilities of Strategic Directors**

F4.82 To ensure appointments are made in accordance with the policies and procedures rules of the authority and approved establishments, grades and scale of pay and that adequate budget provision is available.

F4.83 To notify the Head of Human Resources of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Head of Finance.

F4.84 To ensure that adequate and effective systems and procedures are operated, so that:

- payments are only authorised to bona fide employees
- payments are only made where there is a valid entitlement
- conditions and contracts of employment are correctly applied
- employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.

F4.85 To send an up-to-date list of the names of officers authorised to sign records to the Head of Human Resources, together with specimen signatures. The payroll provider should have signatures of personnel officers and officers authorised to sign timesheets and claims.

F4.86 To ensure that payroll transactions are processed only through the payroll system .Strategic Directors should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. The Inland Revenue applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Head of Finance.

F4.87 To certify travel and subsistence claims and other allowances. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the authority, ensuring that cost-effective use of travel arrangements is achieved. Due consideration should be given to tax implications and that the Head of Finance is informed where appropriate. The arrangements will provide that such claims may only be certified by a more senior officer to the officer making the claim. This will usually be the officer's Line Manager. For Strategic Directors, certification shall be another Strategic Director, the Head of Finance or the Monitoring Officer.

F4.88 To ensure that the Head of Human Resources is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.

F4.89 To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the document retention schedule.

### **Responsibilities of Members**

F4.90 To submit claims for Members' travel and subsistence allowances in accordance with the Members' Allowances Scheme (Part 6) on a monthly basis and, in any event, within one month of the year end.

## **TAXATION**

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

F4.91 Like all organisations, the authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

### **Key controls**

F4.92 The key controls for taxation are:

- (a) budget managers are provided with relevant information and kept up to date on tax issues
- (b) budget managers are instructed on required record keeping
- (c) all taxable transactions are identified, properly carried out and accounted for within stipulated timescales
- (d) records are maintained in accordance with instructions
- (e) returns are made to the appropriate authorities within the stipulated timescale.

### **Responsibilities of the Head of Finance**

F4.93 To complete all Inland Revenue returns regarding PAYE.

F4.94 To complete a monthly return of VAT inputs and outputs to HM Customs and Excise.

F4.95 To provide details to the Inland Revenue regarding the construction industry tax deduction scheme.

F4.96 To maintain up-to-date guidance for authority employees on taxation issues that may affect their work for the Council or themselves as employees of the Council.

### **Responsibilities of Strategic Directors**

F4.97 To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Customs and Excise regulations.

- F4.98 To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- F4.99 To ensure that all persons employed by the authority are added to the authority's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- F4.100 To follow the guidance on taxation issued by the Head of Finance in the authority's accounting manual and VAT manual.

## **TRADING ACCOUNTS AND BUSINESS UNITS**

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

- F4.101 Trading accounts and business units have become more important as local authorities have developed a more commercial culture. Under best value, authorities are required to keep trading accounts for services provided on a basis other than straightforward recharge of cost. They are also required to disclose the results of significant trading operations in the BVPP.

### **Responsibilities of the Head of Finance**

- F4.102 To advise on the establishment and operation of trading accounts and business units.

### **Responsibilities of Strategic Directors**

- F4.103 To consult with the Head of Finance where a business unit wishes to enter into a contract with a third party where the contract expiry date exceeds the remaining life of their main contract with the authority. In general, such contracts should not be entered into unless they can be terminated within the main contract period without penalty.
- F4.104 To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs, is charged, and to produce an annual report in support of the final accounts.
- F4.105 To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units.
- F4.106 To ensure that each business unit prepares an annual business plan, as necessary.



## **FINANCE RULE E : EXTERNAL ARRANGEMENTS**

### **RULE IN SUMMARY**

#### **INTRODUCTION**

- E.1** The local authority provides a distinctive leadership role for the community and brings together the contributions of the various stakeholders. It must also act to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

#### **PARTNERSHIPS**

- E.2** The Cabinet is responsible for approving delegations, including frameworks for partnerships. The Cabinet is the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- E.3** The Cabinet can delegate functions – including those relating to partnerships – to officers. These are set out in the scheme of delegation that forms part of the authority's Constitution. Where functions are delegated, the Cabinet remains accountable for them to the Council.
- E.4** The Managing Director or his representative represents the Authority on partnership and external bodies, in accordance with the scheme of delegation-
- E.5** The Monitoring Officer is responsible for promoting and maintaining the same high standards of conduct with regard to financial administration in partnerships that apply throughout the authority.
- E.6** The Head of Finance must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. He or she must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. He or she must ensure that the risks have been fully appraised before agreements are entered into with external bodies.
- E.7** **Strategic Directors** are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

#### **EXTERNAL FUNDING**

- E.8** The Head of Finance is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the authority's accounts.

### **Work for Third Parties**

- E.9** The Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies.

**APPENDIX E****EXTERNAL ARRANGEMENTS****DETAILED RULE****PARTNERSHIPS****Why is this important?**

- F5.01 Partnerships are likely to play a key role in delivering community strategies and in helping to promote and improve the well-being of the area. Local authorities are working in partnership with others – public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- F5.02 Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what they achieve in partnership with others.

**General**

- F5.03 The main reasons for entering into a partnership are:
- (a) the desire to find new ways to share risk
  - (b) the ability to access new resources
  - (c) to provide new and better ways of delivering services
  - (d) to forge new relationships.
- F5.04 A partner is defined as either:
- (a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project
- or
- (b) a body whose nature or status give it a right or obligation to support the project.
- F5.05 Partners participate in projects by:
- (a) acting as a project deliverer or sponsor, solely or in concert with others
  - (b) acting as a project funder or part funder
  - (c) being the beneficiary group of the activity undertaken in a project.
- F5.06 Partners have common responsibilities:
- (a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
  - (b) to act in good faith at all times and in the best interests of the partnership's aims and objectives
  - (c) be open about any conflict of interests that might arise
  - (d) to encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors

- (e) to hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature
- (f) to act wherever possible as ambassadors for the project.

### **Key controls**

- F5.07 The key controls for authority partners are:
- (a) if appropriate, to be aware of their responsibilities under the authority's Finance Rules and the Contract Rules
  - (b) to ensure that risk management processes are in place to identify and assess all known risks
  - (c) to ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
  - (d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences
  - (e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution
  - (f) to ensure, where necessary, that the appropriate checks on staff (e.g. C.R.B.) are undertaken prior to their employment in confidential or sensitive duties.

### **Responsibilities of the Head of Finance**

- F5.08 To advise on effective controls that will ensure that resources are not wasted.
- F5.09 To advise on the key elements of funding a project. They include:
- (a) a scheme appraisal for financial viability in both the current and future years
  - (b) risk appraisal and management
  - (c) resourcing, including taxation issues
  - (d) audit, security and control requirements
  - (e) carry-forward arrangements.
- F5.10 To ensure that the accounting arrangements are satisfactory.

### **Responsibilities of Strategic Directors**

- F5.11 To maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Head of Finance.
- F5.12 To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Head of Finance.
- F5.13 To ensure that such agreements and arrangements do not impact adversely upon the services provided by the authority.
- F5.14 To ensure that all agreements and arrangements are properly documented.

F5.15 To provide appropriate information to the Head of Finance to enable a note to be entered into the authority's statement of accounts concerning material items.

## **EXTERNAL FUNDING**

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

F5.16 External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the authority. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies such as the National Lottery and the single regeneration budget provide additional resources to enable the authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the authority's overall plan.

### **Key controls**

F5.17 The key controls for external funding are:

- (a) to ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood
- (b) to ensure that funds are acquired only to meet the priorities approved in the policy framework by the Council
- (c) to ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements.

### **Responsibilities of the Head of Finance**

F5.18 To ensure that all funding notified by external bodies is received and properly recorded in the authority's accounts.

F5.19 To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.

F5.20 To ensure that audit requirements are met.

### **Responsibilities of Strategic Directors**

F5.21 To ensure that all claims for funds are made by the due date.

F5.22 To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

## **WORK FOR THIRD PARTIES**

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

F5.23 Current legislation enables the authority to provide a range of services to other bodies. Such work may enable a unit or service to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires.

### **Key controls**

F5.24 The key controls for working with third parties are:

- (a) to ensure that proposals are costed properly in accordance with guidance provided by the Head of Finance;
- (b) to ensure that contracts are drawn up using guidance provided by the Head of Finance and Monitoring Officer and that the formal approvals process is adhered to;
- (c) to issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

### **Responsibilities of Head of Finance**

F5.25 To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

### **Responsibilities of Strategic Directors**

F5.26 To ensure that the approval of the Cabinet is obtained before any negotiations are concluded to work for third parties.

F5.27 To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Head of Finance.

F5.28 To ensure that appropriate insurance arrangements are made.

F5.29 To ensure that the authority is not put at risk of assuming the responsibility for any bad debts that may occur if the third party organisation is wound up.

F5.30 To ensure that no contract is subsidised by the authority.

F5.31 To ensure that, wherever possible, payment is received in advance of the delivery of the service.

F5.32 To ensure that the department/unit has the appropriate expertise to undertake the contract.

F5.33 To ensure that such contracts do not impact adversely upon the services provided for the authority.

F5.34 To ensure that all contracts are properly documented.

F5.35 To provide appropriate information to the Head of Finance to enable a note to be entered into the statement of accounts.

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**Royal Borough of Windsor and Maidenhead**

**Audit and Investigation Unit**

**INTERNAL AUDIT CHARTER**

**The Terms of Reference for the provision of the Internal Audit Service  
within the Royal Borough of Windsor and Maidenhead**

**A11.1**

*(This document revises and updates the previous Audit Charter approved by  
Cabinet. Reviewed annually. Last review undertaken April 2011)*

**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD**  
**AUDIT AND INVESTIGATIONS UNIT**  
**INTERNAL AUDIT CHARTER**

**Introduction**

1. The purpose of this Audit Charter is to set out the Terms of Reference for the provision of the Internal Audit Service within the Royal Borough of Windsor and Maidenhead Unitary Authority. This Charter, effective from 27 September 2007, is reviewed on an annual basis to ensure that current needs are met. The latest review was undertaken in April 2011.

**Authority**

2. The statutory basis for Internal Audit stems from the Accounts and Audit Regulations 2003 (as amended by the Accounts and Audit (Amendment)(England) Regulations 2006, which require every local authority to maintain an adequate and effective Internal Audit of their financial affairs and system of internal control.
3. Under S151 of the Local Government Finance Act 1972, the S151 Officer is responsible for ensuring that proper arrangements exist for the management of the Authority's financial affairs. Reliance upon Internal Audit is fundamental to the fulfilment of that responsibility.

**Role and Function**

4. Internal Audit within the Royal Borough of Windsor and Maidenhead is an independent appraisal function for the review and evaluation of financial, corporate and other systems of control. The Service is delivered by the Audit and Investigation Unit, within the Resources Directorate, reporting to the Head of Finance, who is also the Council's S151 Officer. The Audit and Investigation Unit delivers the Internal Audit, Corporate Fraud, Risk Management, Insurance Services. This Charter relates specifically to the work of the Internal Audit Service.
5. The Internal Audit Service provides:
  - the Managing Director, Strategic Directors, Heads of Service, other senior management and elected Members with assurances on the adequacy of control within the Authority's systems and activities.
  - the Section 151 Officer with the assurances required to discharge his statutory responsibilities.
  - a service to monitor the efficient and effective delivery of the Authority's objectives.
  - evidence regarding compliance with the Authority's Corporate procedures and the Council's policies and objectives.

- support to the Lean Systems Thinking approach and process.
6. All Internal Audit activity is carried out in accordance with the Authority's Finance Rules, which give specific authority for Internal Audit.
  7. The existence of Internal Audit does not diminish the responsibility of management to establish systems of internal control to ensure that activities are conducted in a secure, efficient and well-ordered manner.

### **Independence**

8. The main determinant of the effectiveness of Internal Audit is that it is seen to be independent. To ensure this, Internal Audit operates within a framework that allows:
  - unrestricted access to the Managing Director and senior management
  - reporting to Members (Audit and Performance Review Panel)
  - segregation from line operations.
9. Every effort is made to preserve objectivity by ensuring that all audit members of staff are free from any conflicts of interest.

### **Objectives of Internal Audit**

10. As an independent appraisal function within the Authority, the primary objective of Internal Audit is to review, appraise and report upon the adequacy of internal controls as a contribution to the proper, economic, efficient and effective use of resources. In addition, the other objectives of the function are to:
  - Ensure compliance with the Accounts and Audit Regulations 2003 (as amended by the Accounts and Audit (Amendment)(England) Regulations 2006
  - Review Corporate Governance arrangements – Deliver an annual internal audit opinion on the strength of the governance arrangements and control environment, to contribute towards the production of the Annual Internal Audit Report and the Annual Governance Statement.
  - Support managers with the management of risk including: -
    - Protection of assets from loss
    - Maintaining the reputation of the Authority
    - Protecting the organisation from litigation
    - Meeting statutory obligations
    - Meeting corporate objectives
    - Being aware of environmental implications
    - Being alert to the risk of fraud or irregularity
    - Contingency planning
    - Provide managers with support and advice to encourage consultation and the adoption of best practice.

- Seek to support the Lean System Thinking Process.
- Perform testing of key systems to inform the work of the External Auditors.
- Investigate alleged or suspected irregularities identified by managers, during audit work or reported under the Authority's Anti-Fraud and Anti-Corruption Strategy and Raising Concerns at Work (Whistle-blowing) Policy and the Crime and Irregularity Protocol.
- Undertake projects to meet the current concerns of the Cabinet, Audit and Performance Review Panel, Managing Director, Strategic Directors, Heads of Service, the Section 151 Officer and Monitoring Officer.
- Undertake an annual review of the effectiveness of the Council's system of internal audit, required under the Accounts and Audit Regulations 2003 (as amended by the Accounts and Audit (Amendment)(England) Regulations 2006. The Head of Audit & Investigation arranges this work and the outcomes are presented to the Audit and Performance Review Panel.
- Assist management with the provision of Consultancy work where appropriate, e.g. in the preparation for inspections, to implement best practice.

### **Scope of Internal Audit**

- 11 The scope of Internal Audit allows for unrestricted coverage of the Authority's activities and unrestricted access to all records (both electronic or otherwise), assets, personnel and premises and for obtaining such information and explanations it considers necessary to fulfil its responsibilities. These rights of access also apply to the Authority's partner organisations where embodied into the Partnership Agreement.
12. In addition, Internal Audit, through the Head of Audit and Investigation, has unrestricted access to Members, the Managing Director, Strategic Directors, Heads of Service, all Authority employees, external audit, suppliers and contractors.
13. Audit work covers all systems and activities in all directorates and locations throughout the Authority.

## Professional Standards and Ethics

14. The Head of Audit and Investigation applies the standards of practice published by the Chartered Institute of Public Finance and Accountancy (CIPFA) and the requirements of the Auditing Practices Board (APB), interpreted by the CIPFA *Code of Practice for Internal Audit in Local Government in the United Kingdom 2006* (the Code). These Guidelines, which provide the basis for undertaking audit work, set standards in respect of: scope of internal audits; independence; Audit Committees or equivalent; relations with management; other auditors and other review bodies; staffing, training and development; Audit Strategy; management of audit assignments; due professional care; reporting and quality assurance.

## Responsibility

15. Internal Audit has no executive responsibility for the Council's systems of internal control other than an appraisal of their effectiveness with regard to Council objectives.
16. Audit is not an extension of, or a substitute for, the functions of management. Responsibility for internal control rests fully with line managers, who should ensure that arrangements are appropriate and adequate. It is for management to address Internal Audit concerns or to accept the risk resulting from not taking action. However, it is the Head of Audit and Investigation's responsibility to consider taking matters to higher levels of management or to Members if it is felt that the risk should not (or need not) be borne.
17. The internal auditor should have regard to the possibility of such malpractice and should seek to identify serious defects in internal control, which might permit the occurrence of such an event.
18. An internal auditor who discovers evidence of, or suspects, malpractice should report, through the Head of Audit and Investigation, firm evidence, or reasonable suspicions, to the appropriate level of management. It is a management responsibility to determine what further action to take.
19. At management's request, Audit and Investigation (Corporate Investigation Team) will participate in the investigation of suspected fraud or irregularity. It is the responsibility of the Head of Audit and Investigation to keep the Managing Director, the Monitoring Officer, Section 151 Officer and relevant Strategic Directors and Heads of Service fully apprised of developments during the course of internal fraud investigations.

## Audit Style and Content

20. The primary task of Internal Audit is to review the systems of internal control operating throughout the Authority and in doing this will adopt a predominantly risk-based approach to audit, aligned to the RBWM Risk Register.

21. The Head of Audit and Investigation will be required, in addition to managing the investigation of Corporate/ Benefit Fraud, Insurance and Risk Management Services, manage the provision of a complete internal audit service to the Authority which will include systems, regularity, computer and contract audit and special investigations and in discharging this duty, the Head of Audit and Investigation will:
- prepare an annual risk-based audit plan in consultation with the Managing Director, Section 151 Officer, Strategic Directors, Heads of Service, client managers and External Audit for formal endorsement Audit and Performance Review Panel. This Plan will be regarded as flexible rather than as an immutable expression of audit policy.
  - translate the Annual Audit Plan into individual quarterly, operational plans for Auditors.
  - ensure that current entries in the RBWM Risk Register are reflected and included in the Audit Plan on a rolling basis.
  - ensure a system of close supervision of audit work, and maintain a review of audit files through the supervisory structure and a standardisation of documentation, as there may occasionally be a requirement to provide working papers, where requested.
  - ensure a system of computer and contract audit within the Authority is implemented and maintained.
  - ensure that Value for Money and “improving the business” considerations are included as part of audit reviews.
  - prepare, for agreement with the Managing Director and Section 151 Officer, regular reports on audit and fraud investigation activities for presentation to Members.
22. An Audit Protocol has been prepared describing the process adopted by the Internal Audit Team when undertaking their work and outlining what is expected of clients in response to the audit.

### **Audit Resources and Training**

23. Internal Audit resource will be determined by Members and will reflect the corporate needs of the Council. Resources will also reflect requirements needed to allow the S151 Officer to discharge his obligations.
24. The staffing structure of the Unit will comprise of suitably qualified posts with a mix of professional specialisms and skills to reflect the varied functions of the Unit and the need to evaluate the efficiency and effectiveness of the complex range of processes undertaken by RBWM. The Head of Audit and Investigation will arrange, as and when necessary and/or if such specialisms cannot be provided in-house, for such expertise to be provided by external providers.

25. The Head of Audit and Investigation will carry out a continuous review of the development and training needs of all audit personnel and will arrange appropriate in-service training.

**26. All Internal Audit staff will receive an annual and interim appraisal.**

### **Audit Reporting**

27. The Head of Audit and Investigation reports directly to the Head of Finance and shall reserve the right to report directly to the Managing Director on any matters of concern. In order to meet S151 responsibilities, copies of all final audit reports are sent to the Head of Finance.

28. Timely reporting is a key part of Internal Audit and reporting takes place: -

- a. To the responsible Strategic Director, Head of Service and Unit/Service Manager/Head Teacher at the conclusion of each audit review setting out an overall opinion and the main concerns.
- b. To the Head of Finance and External Audit at the conclusion of each audit review (with the exception of school's audits whereby reports are issued to the Strategic Director of Children's Services, Finance Partners and the Chair of Governors (via the Strategic School Leadership Team)).
- c. To the Audit and Performance Review Panel half-yearly and on an annual basis, to the Chair of the Audit and Performance Review Panel and the Corporate Management Board on a regular basis, reporting progress against the Audit Plan, summarising the outcome of audit reviews, to highlight where management have not responded to audit concerns, to identify the progress made by management in implementing the treatment of concerns and to emphasise any other key issues.
- d. The annual report to the Audit and Performance Review Panel will also include an overall opinion on the strength of the governance arrangements and control environment (which will also contribute towards the production of the Annual Governance Statement) and a review of the Effectiveness of Internal Audit, as required by the Accounts and Audit Regulations 2003 (as amended by the Accounts and Audit (Amendment)(England) Regulations 2006, will be provided to the Audit and Performance Review Panel.

### **Related Documents**

29. This document is one of a series that, together, constitute the policies of the Authority in relation to anti-fraud and anti-corruption. The other documents are:

- Corporate Anti-Fraud and Anti-Corruption Strategy
- Raising Concerns at Work (Whistle-blowing) Policy
- Benefit Fraud Prosecution Policy
- Crime and Irregularity Protocol
- Relevant Fraud Guidelines



# **PART 8 – OTHER RULES OF PROCEDURE**

## **D – PROPERTY PROCEDURE RULES**

## PROPERTY PROCEDURE RULES

The purpose of these rules is to set out the levels of authority and procedure for managing property.

### 1. Council

Where no specific budgetary provision has been made to authorise any expenditure relating to property, including:-

1. The acquisition of property
2. The taking of leases / licences
3. Repairs to Council Property (including where the Council is tenant)

FOR THE AVOIDANCE OF DOUBT this does not apply to any property obligation imposed by statute.

### 2. Cabinet Authority

Note: all sums exclude VAT. All sums are the monies actually paid or received. If no money is paid or received then the sum is the cash equivalent based upon the transaction being on market value terms.

#### A. Council as Seller / owner / landlord of Council Property:

- A1. To grant Occupation leases on Council Property where the term exceeds 25 years or the total rent received over the term exceeds £500,000.00
- A2. To grant Ground leases on Council Property where the term exceeds 125 years or where the total rent exceeds £500,000.00 or the capital premium received is greater than £100,000.00
- A3. To sell or grant any rights over Council Property where the total capital premium received exceeds £100,000
- A4. To enter into any agreement with any third party (including tenant under a lease) where a payment or obligation is incurred by the Council which is in excess of £50,000

#### B. Council as Purchaser / tenant of third party property:

- B1. To enter into, agree terms or authorise the Council to enter into any agreements where the term commitment exceeds 25 years or the total payments of money (whether as compensation or a capital payment or over the term of years or benefit in kind) exceeds £100,000.

### 3. Strategic Director and Property (Asset Management)

Subject to the items reserved specifically to Council or Cabinet and the procedure rules detailed below the Strategic Director of Corporate and Community Services has authority (together with officers authorised by such Director) to effect the day-to-day management of the Council's Property (including property it occupies as tenant / licensee).

Such authority includes, in consultation with other officers of the Council as necessary, agreeing the use, disposal, acquisition or renewal of any interest in land or property (including the taking of leases / licences or other interest) within the Council's budgetary framework and to enter into all ancillary documentation in respect of such properties and to take any necessary action in respect of ongoing agreements including strategic decisions for the improved use of return of Council Property such as submitting planning applications which is in accordance with approved Council strategies.

Specific property procedure rules:-

1. In respect of the Council's commercial property tenants and requests for rent reductions:-

- All tenants would have to demonstrate comprehensively via the provision of audited accounts and certified statements from their financial consultants/ banks that a rent reduction was essential to their survival
- A formal business plan would have to be provided to satisfy the Council that the company clearly had a future
- Any reductions would be on a 6/12 month reviewable basis
- Each case and the level of reduction would be decided on its individual merits, in consultation with the Head of Finance and the Cabinet Member with Responsibility for Property
- Total confidentiality being maintained subject to statutory requirements eg Freedom of Information Act 2000

2. To consult the Lead Member with responsibility for property:-

- for the grant of leases of Council Property where the term exceeds 10 years or the total rent received over the term exceeds £100,000.00; or
- the total capital premium received exceeds £25,000; or
- in any agreement with any third party (including tenant under a lease) where a payment or obligation is incurred by the Council which is in excess of £25,000; or
- any agreement where the Council is tenant or purchaser or a landowner or makes payment to a third party and the term of agreement exceeds 10 years or the total payments of money to a third party (whether as compensation or a capital payment or rent over the term of years) exceeds £25,000.

# **PART 8 – OTHER RULES OF PROCEDURE**

## **E – ACCESS TO INFORMATION PROCEDURE RULES**

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## **ACCESS TO INFORMATION PROCEDURE RULES**

### **1 SCOPE**

These rules apply to all meetings of the Council, its Committees, Forums, Panels and Regulatory panels and public meetings of the Cabinet (together called “meetings”).

### **2 ADDITIONAL RIGHTS TO INFORMATION**

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

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

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

### **4 NOTICES OF MEETING**

The Council will give at least five clear working days’ notice of any meeting by posting details of the meeting at the Town Hall, St Ives Road, Maidenhead, SL6 1RF, York House, Sheet Street, Windsor and on the Council’s website ([www.rbwm.gov.uk](http://www.rbwm.gov.uk)).

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

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection for the time the item was added to the agenda. These items will also be available on the Council’s website ([www.rbwm.gov.uk](http://www.rbwm.gov.uk)).

### **6 SUPPLY OF COPIES**

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Monitoring Officer thinks fit, copies of any other documents supplied to councillors in connection with an item to any person on payment of a charge for postage and any other costs.

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

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

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

## **8 BACKGROUND PAPERS**

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

The Democratic Services Manager will ensure that there is set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Cabinet reports, the advice of a political advisor

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

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

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

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public the Town Hall, St Ives Road, Maidenhead, SL6 1RF

## **10 EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS**

### **10.1 Confidential information – requirement to exclude public**

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

### **10.2 Exempt information – discretion to exclude public**

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

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

### 10.3 **Meaning of confidential information**

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

### 10.4 **Meanings of exempt information.**

Exempt information means information falling within the following 7 categories (subject to any condition) in the following table.

#### **Exempt Information**

<b>Categories</b>	
1.	Information relating to any individual
2.	Information which is likely to reveal the identify of an individual
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officeholders under the authority.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6.	Information which reveals that the authority proposes – <ul style="list-style-type: none"> <li>a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>b) To make an order or direction under any enactment</li> </ul>
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime



In addition the seven criteria listed above are subject to a 'Public Interest Test' i.e. that there is a greater public interest in the information being exempt, than in making the report public. Guidance issued in relation to the Public Interest Test as applied to Freedom of Information exemptions, gives some assistance in assessing the public interest. The following are examples of factors which would encourage disclosure:

- furthering the understanding and participation in the public debate of issues of the day
- promoting accountability and transparency by public authorities for their decisions
- promoting accountability and transparency in the spending of public money
- allowing individuals and companies to understand decisions made by public authorities affecting their lives and in some cases assisting individuals in challenging such decisions

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

If the Monitoring Officer thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

## **12 APPLICATION OF RULES TO THE CABINET**

Rules 13-24 apply to the Cabinet and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is defined in Article 12 of this Constitution.

If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an Officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1-11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings the sole purpose of which is for Officers to brief Members.

Wherever possible, Cabinet meetings and reports to those meetings will also seek to comply with Rules 1-12.

## **13 PROCEDURES BEFORE TAKING KEY DECISIONS**

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

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

## **14 THE FORWARD PLAN**

### **14.1 Period of forward plan**

Forward plans will be prepared by the Democratic Services Manager on behalf of the Leader to cover a period of at least four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

### **14.2 Contents of forward plan**

The forward plan will contain matters which the Leader has reason to believe will be the subject a key decision to be taken by the Cabinet, a committee of the Cabinet, individual Members of the Cabinet, Officers, or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- a) the matter in respect of which a decision is to be made;
- b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- c) the date on which, or the period within which, the decision will be taken;
- d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- e) the means by which any such consultation is proposed to be undertaken;
- f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken;
- g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 14 days before the start of the period covered. The Monitoring Officer will publish once a year a notice in at least one newspaper circulating in the area, stating:

- a) that key decisions are to be taken on behalf of the Council;
- b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- c) the plan will contain details of the key decisions to be made for the four-month period following its publication.
- d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices.
- e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan;
- f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available.
- g) that other documents may be submitted to decision takers;
- h) that procedure for requesting details of documents (if any) as they become available; and
- i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a forward plan and confidential information cannot be included.

## **15 GENERAL EXCEPTION**

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

- a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- b) the Democratic Services Manager has informed the Chairman of the relevant Overview and Scrutiny Panel, or if there is no such person, each member of that Panel in writing, by notice, of the matter to which the decision is to be made;
- c) the Democratic Services Manager has made copies of that notice available to the public at the offices of the Council; and
- d) at least 5 clear days have elapsed since the Head of Democratic Services complied with (a) and (b).

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

## **16 SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman of the body making the decision, obtains the agreement of the Chairman of the Overview and Scrutiny Panel that the taking of the decision cannot be reasonably deferred. If there is no Chairman of the relevant Overview and Scrutiny Panel, or if the Chairman of the relevant Overview and Scrutiny Panel is unable to act, then the agreement of the Mayor of the Council, or in his/her absence the Deputy Mayor will suffice.

## **17 REPORT TO COUNCIL**

### **17.1 When the relevant Overview and Scrutiny Panel can require a report**

If the relevant Overview and Scrutiny Panel thinks that a key decision has been taken which was not:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant Overview and Scrutiny Panel Chairman, or the Chairman/Vice Chairman of the Council under Rule 16;

the Panel may require the Cabinet to submit a report to the Council within 8 weeks. The power to require a report rests with the Panel by a resolution passed at a meeting of the relevant Overview and Scrutiny Panel.

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

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

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

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

## **18 RECORD OF DECISIONS**

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Democratic Services Manager or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

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

The Cabinet will, wherever possible, hold meetings relating to matters which are not key decisions in public.

## **20 NOTICE OF OTHER MEETING OF THE CABINET**

Members of the Cabinet or its committees will be entitled to receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

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

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

Where an individual member of the Cabinet receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 5 clear days after receipt of that report.

### **21.2 Provision of copies of reports to Overview and Scrutiny Committee**

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 Overview and Scrutiny Panel as soon as reasonably practicable, and make it publicly available at the same time.

### **21.3 Record of individual decision**

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

## **22 OVERVIEW AND SCRUTINY PANELS' ACCESS TO DOCUMENTS**

## 22.1 Rights to copies

Subject to Rule 22.2 below, the relevant Overview and Scrutiny Panel will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to

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

## 22.2 Limit on rights

The relevant Overview and Scrutiny Panel will not be entitled to:

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

## 23 ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

### 23.1 Material relating to previous business

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

- a) it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information; or
- b) it contains the advice of a political adviser

### 23.2 Material relating to key decisions

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

### 23.3 Nature of rights

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

## 24 FREEDOM OF INFORMATION

#### 24.1 **Public right to copies of Information held by the Council**

The public has a right to request copies of any information held by the Council in any format, unless the information is exempt under the Data Protection Act or the Freedom of Information Act, and the public interest test, where it applies, does not support the information being made public, copies of the information must usually be supplied within 20 days. More information on the rights under the Freedom of Information Act and Environmental Information Regulations are available on the Council's website at [www.rbwm.gov.uk](http://www.rbwm.gov.uk).

### **25 NEED TO KNOW**

25.1 The common law principle of “need to know” refers to the requirement that access to the information is necessary for the conduct of one's official duties.

# **PART 9 – MISCELLANEOUS ITEMS**

## **A – MEMBERS' ALLOWANCES**



**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD****MEMBERS' ALLOWANCES SCHEME**

1. This Scheme is the Royal Borough of Windsor & Maidenhead's Members' Allowances Scheme and shall have effect for the year ending 31 March 2015, and subsequent years.
2. The Scheme is made under the Local Authorities (Members' Allowances) (England) Regulations 2003.

In this scheme:

"Councillor" means an elected Member of the Royal Borough of Windsor and Maidenhead.

"Co-optee" means a non-councillor co-opted or appointed to serve on the Council's Committees or Panels.

"year" means the financial year ending on 31 March in any year.

4. **Basic Allowance**

The Council shall pay equally to each Councillor a Basic Allowance of £7,983 each year.

This allowance is intended to recognise the time each Councillor spends on their work, and associated costs which includes all Council related telephone calls; including calls on mobile phones, broadband costs, postage and stationery, routine travel (such as meetings with Ward residents) and subsistence costs and other incidental costs, such as office equipment for home use (other than IT equipment which can be claimed for under 'Information and Computer Technology (ICT) Allowance' (see paragraph 10).

5. **Special Responsibility Allowances**

The Council shall pay each year an allowance to those Councillors who hold the positions of office as specified in Schedule 1 to this Scheme.

Where a Councillor holds more than one of the positions attracting a Special Responsibility Allowance as specified in Schedule 1, the Councillor will only be eligible to receive one such allowance. The sum to be paid to be the highest eligible allowance.

6. **Travelling Allowance**

Councillors and co-optees should seek to choose a mode of transport that is both cost-effective and environmentally responsible, making an appropriate judgement between the cost and convenience of the mode of travel selected.

Councillors/Co-optees shall normally be expected to make use of public transport as a first choice of travel.

Travelling expenses incurred in the performance of an “approved duty” referred to in Schedule 2 may be reclaimed from the Council subject to the following conditions:-

#### *Public Transport*

The rate of travel by public transport shall not exceed the amount of the ordinary fare or any available cheap fare. Where more than one class of fare is available the standard class fare should be claimed.

With regard to rail fare, the second class or any cheap day travel fare may be claimed. The rate specified above may be increased by supplementary allowances not exceeding expenditure actually incurred:

- i) on Pullman Car or similar supplements, reservation of seats and deposit or portage of luggage; and
- ii) on sleeping accommodation for an overnight journey.

#### *Own Vehicle*

The rate claimed shall be the following rates approved by the Inland Revenue (Approved Mileage Allowance Payments).

Cars	-	45p per mile
Motorcycles	-	24p per mile
Bicycles	-	20p per mile
Passengers	-	5p per mile for each passenger* carried

\* Passenger must be a Councillor, co-optee or an officer of the Royal Borough of Windsor and Maidenhead.

If a Councillor/co-optee uses his or her car to travel to a conference or a meeting outside of the borough and the mileage rate exceeds the cost of an ordinary class rail fare, the cost of the rail fare only will be reimbursed, unless good reason could be given for necessitating car travel.

#### *Parking and toll charges*

The cost of parking, including overnight garaging, and toll charges may be claimed provided these were necessarily incurred.

#### *Travel by taxi*

Taxi fares and any reasonable gratuity paid, may be claimed in the following circumstances:-

- a) in cases of urgency;

- b) where no public transport is reasonably available;
- c) where luggage or equipment has to be carried; or
- d) where the claimant has a medical condition or disability which necessitates the use of a taxi.

In any other case where a taxi is used, the amount that may be claimed shall be the amount of the fare for travel by appropriate public transport.

#### *Hired Motor Vehicle*

the cost of a hired motor vehicle other than a taxi shall not exceed the total mileage costs which would have been applicable had the vehicle belonged to the Councillor/co-optee who hired it.

#### *Travel by Air*

The rate of travel by air shall not exceed the rate applicable to travel by appropriate alternative means of transport. Where the saving in time is so substantial as to justify payment of the fare for travel by air, an amount not exceeding the following will be paid;

- i) the ordinary fare or any available cheap fare for travel by regular air service, or
- ii) where no such service is available or in case of urgency, the fare actually paid.

#### *Start and finish points for a journey*

The starting and finishing point for any journey made by a Councillor shall be either the Councillor's home within the Borough or the Town Hall, St Ives Road, Maidenhead. If Councillors start and/or finish their journey from a place other than their home within the Borough, the claim shall be in respect of the lesser of the cost of either the journey to/from that other place or to/from their home within the Borough.

### 7. **Subsistence Allowance**

No Subsistence allowances shall be paid.

### 8. **Dependants' Carers' Allowance**

The Dependants' Carers' Allowance can be claimed by all Members who are the main carers of dependant relatives. The allowance will be paid where a Member requires care provision for a dependant relative or co-habitee to enable the Member to perform an Approved Duty (as defined in Schedule 2).

There are two categories of dependants:

- Childcare – i.e. children aged fifteen or less
- Care for dependants on social/medical grounds – i.e. elderly parents or disabled children/siblings who are dependant upon a Member.

The Dependants' Carers' Allowance may be claimed from the Council subject to the following conditions:-

- The allowance is payable for the length of the qualifying approved duty and can include travel time up to a maximum of one hour per claim.
- The total amount claimable per approved duty is capped at 4 hours and within any one week a maximum of 18 hours can be claimed.
- No claims are permitted for when dependant children are at school.
- The hourly rate payable will be as follows:
  - Childcare - to be paid at and indexed to the hourly minimum wage applicable to the age of the carer (who must be 16 years of age or over) or less for actual reimbursement.
  - Care for dependants on social/medical grounds – the hourly rate paid to be the Royal Borough's average hourly homecare charge.
- Councillors wishing to claim the allowance will need to complete a Dependants' Carers' Allowance claim form and sign a declaration that states:
  - the carer provided a babysitting/carer service to the Member in order that the Member could attend the meetings listed in the claim.
  - the carer is 16 years of age or over and not an immediate member of the claimant's family or person residing with the Councillor who has provided the care.

#### 9. **Co-optees Allowance**

No Co-optees allowances are payable.

*The following remuneration is not within the formal scope of the 2003 Regulations but has been included in the scheme for transparency purposes.*

The payment of a financial loss allowance to Independent Education Appeal Panel and Independent Review Panel Members will be paid. The payment to be the actual financial loss incurred (not the loss of potential earnings) up to an agreed maximum as follows:

- not exceeding 4 hours - £31.74 for a period
- exceeding 4 hours but not exceeding 24 hours - £63.47. for a period

#### 10. **Information and Computer Technology (ICT) Allowance**

An ICT Allowance of £250 per financial year is claimable by all Members upon the production of receipts. The allowance can be claimed to reimburse the Member for costs incurred to purchase IT equipment, computer consumables; e.g. paper and ink cartridges, and for IT support and maintenance. With approval from the Managing Director, two consecutive years' allowance can be combined to enable

a Councillor to purchase higher-cost IT items (e.g. laptop/tablet). Two years' allowances cannot be combined if the second year is in a new electoral term.

11. **Record of Allowances Paid**

A record will be kept of the payments made in accordance with this Scheme, including the name of the recipients of the payment and the amount and nature of each payment. The record of the payments made in accordance with this Scheme shall be made available on the borough website following the end of the financial year (see paragraph 12 below). Current year payments will be made available at all reasonable times for inspection at no charge. A hard copy shall also be supplied to any person who requests it on payment of a reasonable fee.

12. **Publicity**

As soon as reasonably practicable after the end of the financial year, arrangements will be made to publish the total sums paid to each recipient in respect of basic, special responsibility, travel, dependants' carers' and co-optees allowances.

As soon as reasonably practicable after receiving a report from the Remuneration Panel setting out the Panel's recommendations, copies will be made available for inspection and a notice will be published in a local newspaper.

Once the Scheme has been made or amended, copies will be made available for inspection and a further notice published in a local newspaper with details of the scheme and also of the recommendations of the Remuneration Panel.

A notice be published as soon as possible after the expiration of twelve months after the previous publication of such a notice, irrespective of whether the scheme has been amended during that twelve month period.

13. **Pensions**

No Councillor shall be eligible to join the Local Government Pension Scheme.

14. **Withholding and Repayment of Allowances**

- a) When a member of the Council, or co-optee, is suspended fully or partly from their duties, all allowances, with the exception of childcare and dependants' carers' allowances, will be withheld for the period of suspension.
- b) Any allowance that has been paid to a Councillor/co-optee whilst on suspension or any allowance paid after a Councillor has ceased to be a Member of the authority shall be recovered.

15. **Payment and Submission of Claims**

- a) Basic and Special Responsibility Allowances will be paid monthly direct into the Members bank account on the 25th day of the month.

- b) Claims for travel, child care and dependants' carers' allowances, if submitted by the 25<sup>th</sup> day of the month together with any necessary supporting receipts, will be paid on the 25th day of the following month. Claims shall be made on the prescribed claim form within two months of the date on which the duty in respect of which the entitlement to the allowance arises is carried out.
- c) Receipts or other proof that expenditure has been incurred should always be provided in support of any claim.
- d) Claims that are received six months after the date on which the duty in respect of which the entitlement to the allowance arises is carried out will not be paid without the specific authorisation of the Cabinet.

#### 16. **Renunciation**

Councillors may by notice in writing given to the Democratic Services Manager elect to forego any part of their entitlement to an allowance under this scheme.

#### 17. **Part-Year Entitlements**

Part-year apportionment's under this scheme shall be made in accordance with the regulations and on the basis of Schedule 3.

#### 18. **Annual Adjustments**

The following allowances will be automatically increased annually (and rounded as appropriate to the nearest pound), on the following basis:-

- Basic, special responsibility, Civic allowances, ICT and financial loss allowances shall be updated annually in line with the average pay increase given to Royal Borough employees (and rounded to the nearest pound as appropriate). Any implementation of this index should continue to be applicable from the same date that it applies to officers.
- Travelling allowances shall be adjusted on the 1 April each year by reference to the approved HMRS AMAP (authorised Mileage allowance Payments) approved rates..
- The Dependant Carer's Allowance be paid at the maximum hourly minimum wage applicable to the age of the carer (who must be 16 years of age or over) or, for carers for dependants on social/medical grounds, the Royal Borough's average hourly homecare charge
- The adjustments above to be made each year for a period of up to 4 years (until December 2018) without the need for a review by the Remuneration Panel, unless such a review is requested by the Panel or the Council.

The Democratic Services Manager is authorised to amend the scheme in accordance with any annual adjustment by reference to the approved index.

18. **Civic Allowances**

The following allowances are paid under the Local Government act 1972 and are subject to the same annual index that applies to the Basic Allowance and SRAs

Mayor: £10,000

Deputy Mayor: £3,500

**SCHEDULE 1****SPECIAL RESPONSIBILITY ALLOWANCES**

The following payments shall be paid to those Councillors holding the following positions:-

<b>POSITION</b>	<b>Allowance £ p.a</b>
Leader of the Council	23,949
Deputy Leader of the Council	13,171
Deputy Chairman of Cabinet	13,171
Cabinet Members and Principal Members (maximum of 4 Principal Members)	11,975
Deputy Lead Members (maximum of 9)	2,395
Chairmen of the Development Management Panels (maximum of 3)	5,987
Chairmen of the Licensing Panel (maximum of 1)	5,987
Chairmen of the Overview and Scrutiny Panels (maximum of 7)	5,987
Chairmen of the Audit and Performance Review Panel	4,790
Chairmen of the Berkshire Pension Fund Panel	4,790
Chairmen of the Rights of Way & Highway Licensing Panel	2,395
Chairmen of the Sustainability Panel	2,395
Members of the Licensing Panel Sub-Committee and Appeals Panel	£30 (meetings up to a maximum of three hours in length); £60 (meetings over three hours in length)
Leader of the main Opposition Group*	4,790
Leader of minority Opposition Groups (minimum of 5 Members)	1,197

\* where there are two or more Opposition Groups of equal size, the allowance to be divided equally among the Opposition Group Leaders.

**NOTE**

Leader of the Council	- basic allowance multiplied by 3.00
Deputy Leader of the Council	- Leader's allowance multiplied by 55%
Deputy Chairman of Cabinet	- Leader's allowance multiplied by 55%
Cabinet Members/Principal Members	- Leader's allowance multiplied by 50%
Deputy Lead Members	- Leader's allowance multiplied by 10%
Chairmen of Development Management Panels	- Leader's allowance multiplied by 25%
Chairmen of Overview and Scrutiny Committee	- Leader's allowance multiplied by 25%
Chairman of Licensing Panel	- Leader's allowance multiplied by 25%
Chairmen of Audit and Performance Review Panel	- Leader's allowance multiplied by 20%
Chairman of Rights of Way and Highway Licensing Panel	- Leader's allowance multiplied by 10%
Chairman of Berkshire Pension Fund Panel	- Leader's allowance multiplied by 20%
Chairman of Sustainability Panel	- Leader's allowance multiplied by 10%
Leader of the main Opposition Group	- Leader's allowance multiplied by 20%
Leader of minority Opposition Groups	- Leader's allowance multiplied by 5%



**SCHEDULE 2****APPROVED DUTIES**

Approved Duties for the purpose of paying the Travelling Allowances are as follows:-

For all Councillors in receipt of a Special Responsibility Allowance

- All duties carried out in connection with that responsibility

For all Councillors:

- a) Meetings of the full Council
- b) Attendance as a voting Member at Cabinet, Committee, Panel, Forum, working party, Task & Finish Group or steering group set up by the Council, Committee or Panel which is properly established by the Council, Cabinet, Committee or Panel and formally and properly convened (i.e. there is a resolution to this effect).
- c) Attendance as a non-voting Member to discuss the Member's own motion that has been referred to Cabinet/Committee/Panel by the Council;
- d) Attendance at meetings of a Committee or Panel when the Councillor concerned is not a Member of that Committee or Panel but is attending to represent the views of the Ward on a specific matter relating to that Ward.
- e) Attendance at meetings of any other body as the fully authorised appointee, representative or nominee of the Council or on any committee or Sub-Committee of such body (excluding an appointment as a School Governor).
- f) Attendance at a meeting of any association of authorities of which the Council is a member as the Council's appointed representative which includes meetings of any committee or Sub-Committee of that body.
- g) Attendance as the Council's appointed representative at meetings of any external organisation, its Committees or Sub-Committees (except where such organisations pay the Councillor's expenses)
- h) Attendance at a meeting, briefing, or event at the invitation of a Director or their nominee.

Members cannot claim allowances for the following type of meetings:

- Political group or party meetings.
- School Governing Bodies
- Events primarily of a social nature
- Meetings with Ward residents (covered by Basic Allowance)

- **SCHEDULE 3**

**PART-YEAR ENTITLEMENTS**

1. The provisions of this paragraph shall have effect to regulate the entitlements of a councillor to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that councillor becomes, or ceases to be, a councillor, or accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.
2. If an amendment to this scheme changes the amount to which a councillor is entitled by way of a basic or a special responsibility allowance, then in relation to each of the periods
  - (a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
  - (b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year,

the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.

3. Where the term of office of a councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which his/her term of office subsists bears to the number of days in that year.
4. Where this scheme is amended as mentioned in sub-paragraph 2, and the term of office of a councillor does not subsist throughout the period mentioned in sub-paragraph 2 (a), the entitlement of any such councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during which his/her term of office as a councillor subsists bears to the number of days in that period.
5. Where a councillor has during part of, but not throughout, a year such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.
6. Where this scheme is amended as mentioned in sub-paragraph 2, and a councillor has during part, but does not have throughout the whole, of any period mentioned in sub-paragraph 2 (a) of that paragraph any such special responsibilities as entitle him or her to a special responsibility allowance, that councillor's entitlement shall be to

payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which he or she has such special responsibilities bears to the number of days in that period.



## Version Control

Version	Date & Author	Authority	Changes	Relevant Part of Constitution
15.15	23/09/15 (KS)	Council 22/09/15	Call in changes PSPO Panel Employment Panel Corporate Parenting Forum Adult Services & Health O&S Panel	Various - change 4 members to 3 members Part 6, F3 Part 6, D5 Part 6, F10 Part 4B(c)
15.15	5/10/15 (SOC)	Council 22/9/15	Removal Head of Legal	Various
15.16	29/10/15 (KS)	Council 22/9/15	Code of Conduct	Part 7A
15.16	29/10/15 (KS)	Constitution Sub Cttee	Part 7D – addition of paragraph 2.4	Part 7D para 2.4
15.16	10/11/15 (SOC)	-	Typographical errors in Code of Conduct amended by MO	Part 7A
15.17	18/12/15 (KS)	Council 15/12/15	CDOSP terms of reference, Regeneration SubCommittee Borough Planning Manager, Members Allowances scheme, Constitution Sub Cttee, ERO and RO. Delegation of Planning Functions	Part 2B A3(c) Part 3 Part A2.18 Part 2B Table 2, Part 6 Para D3, Part 7B, para 16 Part 9 Article 14 para 14.2, Part 6 para F9 Part 5A para 3, Part 5B Part 6 Para D3 & D4
16.1	15/1/16 (KS)	MO in conjunction with Leader – Article 14.2	Area and Joint Development Control Panels – clarification of meaning	Part 6 - D3 i (f)
16.2	27/4/16 (KS)	Council 26/4/16	Enforcement notices/ DC Panels Local Pension Board – membership/quorum Appointment of senior officers	Part 6 D3 9 (k) Part 6 D10 (10.2 and 10.3)  Part 8 B (para 2, 4, 5, 7)

16.3	28/4/16 (KS)	MO in conjunction with (Deputy) Leader – Article 14.2	Licensing Panel Sub Committee – SEV applications	Part 6 D8
16.4	25/5/16 (KS)	Full Council 24/5/16	<p>Deletion of Big Society Panel, Policy Cttee and Headteachers’ Policy Forum</p> <p>Cabinet Sub Committee Terms of Reference changes</p> <p>Membership numbers for MDCP, WUDCP, Sustainability Panel, Staff Forum</p> <p>Membership number for Culture &amp; Communities O&amp;S Panel</p> <p>Deletion of SRA for Policy C’ttee chairman</p>	<p>Part 6 A F8, F13, F29</p> <p>Part 3 A2.15, 2.16, 2.17, 2.18</p> <p>Part 6 D3.2/D3.5, F23, F21.2</p> <p>Part 4B 7</p> <p>Part 9A Schedule 1</p>
16.5	3/6/16	MO in conjunction with Chairman of the CSC – Article 14.2	<p>To restore correct previous decisions of Council relating to planning</p> <p>Reference to electors not Councillors (as per LGA 1972)</p> <p>HWB TOR – amended to reflect revised Lead Member titles</p> <p>Updated job titles</p> <p>Updated job titles</p>	<p>Part 6 D3 - Purpose</p> <p>Part 1b Article 2 - 2.2</p> <p>Part 6 E5.2</p> <p>Part 5B – scheme of delegation</p> <p>Part 6 - ROWHLP TOR</p>
16.6	11/8/16	MO in conjunction with Chairman of the CSC –	To move authority to consider Social Enterprise grants from the Big Society Sub Committee (now defunct) to the Grants Panel	Part 6 F12

		<b>Article 14.2</b>		
		<b>Full Council 10/8/16</b>	<b>Increase in membership of Employment Panel and Visitor Management Forum</b>	<b>Part 6 D5 and F25</b>
		<b>Full Council 10/8/16</b>	<b>Amendments to the Code of Conduct</b>	<b>Part 7 A Appendix 4</b>
<b>16.7</b>	<b>05/09/16</b>	<b>MO in conjunction with Chairman of the CSC – Article 14.2</b>	<b>Amendments to officer titles/roles</b>	<b>Part 1B Article 11, 11.2 b and c; Part 5A 2.1; Part 5B (table after 12.); Part 7C table after 13.2</b>
			<b>Amendment to Lead Member title</b>	<b>Part 6 F19.2</b>
			<b>Clarification that Full Council approves changes to Terms of Reference</b>	<b>Part 6 F201.1 (8)</b>
			<b>Addition of ‘Cabinet’ to match Part 8A 8.1</b>	<b>Part 8A 14.1</b>
<b>16.8</b>	<b>29/9/16</b>	<b>MO in conjunction with Chairman of the CSC – Article 14.2</b>	<b>Correcting quorum for Employment Panel</b>	<b>Part 6 D4</b>
			<b>Grammatical amendments to Local Pension Board</b>	<b>Part 6 D10</b>
			<b>Staff Forum – minor amendments</b>	<b>Part 6 F21</b>
			<b>Addition of bullying clause to Code of Conduct to reflect delegation at Full Council 10/8/16</b>	<b>Part 7A ix) and new Appendix 6</b>
			<b>Amendment of Director title</b>	<b>Part 8 D3</b>
		<b>Full Council 27/9/16</b>	<b>Thresholds for officer authorisation for revenue expenditure</b>	<b>Article 12.3; Part 3 B5 a and b; Part 8C F1.12, F1.14, F2.53</b>

			<p align="center"><b>CRCS Terms of Reference</b></p> <p align="center"><b>Joint arrangements for Adopt Berkshire</b></p> <p align="center"><b>Deletion of Admissions Forum</b></p> <p align="center"><b>Contractual arrangements with elected Members</b></p>	<p><b>Part 3A 2.18 d)</b></p> <p><b>Part 6 E1</b></p> <p><b>Part 6 F2</b></p> <p><b>Part 8A new 3.5</b></p>
16.9	15/12/16	MO in conjunction with Chairman of the CSC – Article 14.2	Amendment of references to Development Control Panels to be Development Management Panels	Part 1A 2.4; Part 1B 3.3, Part 2B Table 2, Part 2C Contents and C15, C17,3, C29.3; Part 3 A2.18f; Part 6 Contents, D3, D4; Part 7B 3.5, 4, 5.3, 5.4, 6.10, 8.4, 11.4, 11.5, 11.6, 17; Part 7F1, F4; Part 9A Schedule 1
			References to Borough Planning Manager amended to Head of Planning	Throughout
			Development control corrected to planning enforcement	Part 6 D3 k
			Added: The Council's complaints process will not deal with dissatisfaction with a planning decision that has been made.	Part 7B 14.1
			Addition of wording to Staff Forum terms of reference: This Forum is a works council pursuant to The Information and Consultation of Employees Regulations 2004 and is not a committee discharging a Council function (i.e. making decisions) pursuant to s101 and 102 of the Local Government Act 1972. It is not a public meeting.	Part 6 F21
		Property Procedure rules - clarifications	Part 8 D	
		Constitution Sub Cttee 29/11/16	Addition of terms of reference for the Berkshire Pension Fund Panel Sub Committee	Part 6 D11



17.1	01/03/17	Council 21/3/17	Omit reference to speeches at DM Panels	Part 2C15
			Revised speaking arrangements at DM Panels including revised paragraph numbering	Part 7F Section 1
			Change of name – VMF to TDM	Part 6F25
			Amended ToR Employment Panel	Part 6D5.1
			Amendments to Appointment of Directors and Deputy Chief Officers	Part 8B 4
			Addition of Borough-wide DM Panel	Part 6D3.2 and 3.5
			Increase in Membership WRDM Panel	Part 6D3.2 and 3.5
			Amended ToR for HWB	Part 6 E5
			Amended ToR Grants Panel	Part 6F12
			Omission of CPBSC	Part 3A2.16
			Amended ToR to BPPF Sub Committee	Part 6 D11
			Amending delegated function from PFP to EP	Part 2B Table 2
		MO in conjunction with Chairman of the CSC – Article 14.2	Removal of references to electronic voting	Part 2C17.3
			Omit reference to Standards Committee	Part 2c1.1E
17.2		MO in conjunction	Addition of Proper Officer for Neighbourhood planning processes	Part 5B

		<b>with Chairman of the CSC – Article 14.2</b>	<b>Addition of proper officer for publication of information relating to Neighbourhood Plan referenda</b>	<b>Part 5B</b>
<b>17.3</b>	<b>24/5/17</b>	<b>Annual Council 23/5/17</b>	<b>Membership and Quorum of MDMP (9/3) and BWDMP (13/4)</b>	<b>Part 6 D3.2 and D3.5</b>
			<b>Membership of CRSC</b>	<b>Part 2 A2.18</b>
		<b>Indexation in Member Allowance Scheme</b>	<b>Increase Basic Allowance and SRAs by 0.8% to reflect staff pay increase</b>	<b>Part 9A Para 4 and Schedule 1</b>