

# The Constitution of the Council

November 2021

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# Part 1

## Summary and Explanation

# Summary and Explanation

## The Council's Constitution

Eastleigh Borough Council has agreed a constitution which 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. Some of these processes are required by the law, while others are a matter for the Council to choose such as exploring and embracing partnership working approaches wherever possible and appropriate.

The Constitution is divided into 18 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

## What's in the Constitution?

Article 1 of the Constitution commits the Council to efficient, effective and accountable decision-making, whilst maximising the involvement of the community. Articles 2-18 explain the rights of members of the public and how the key parts of the Council operate. These are:

- [Members of the Council \(Article 2\)](#).
- [Members of the public and the Council \(Article 3\)](#).
- [The Council Meeting \(Article 4\)](#).
- [The Mayor and Deputy Mayor \(Article 5\)](#).
- [Overview and Scrutiny of Decisions \(Article 6\)](#).
- [The Cabinet \(Article 7\)](#).
- [Regulatory and Other Functions \(Article 8\)](#).
- [Audit and Resources Committee \(Article 9\)](#).
- [Area Committees \(Article 10\)](#).
- [Administration Committee \(Article 11\)](#).
- [Licensing Committee \(Article 12\)](#).
- [Joint Arrangements \(Article 13\)](#).
- [Staff \(Article 14\)](#).
- [Decision Making \(Article 15\)](#).
- [Finance, Contracts and Legal Matters \(Article 16\)](#).
- [Review and Revision of the Constitution \(Article 17\)](#).
- [Suspension, Interpretation and Publication of the Constitution \(Article 18\)](#).

## How the Council Operates

The Council is composed of 39 Councillors with one-third elected three years in four. Councillors are democratically accountable to members of the public 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.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties.

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 appoints the Leader of the Council and Committees (except Cabinet). At its ordinary meetings, the Council considers recommendations from the Cabinet and other Committees on those matters which only the Council can decide.

## How Decisions are Made

The Cabinet is the part of the Council which is responsible for day-to-day decisions other than 'local' issues (see Area Committees) and miscellaneous matters (see Administration Committee). The Cabinet is made up of between two and nine Councillors who are appointed by the Leader. When major decisions are to be discussed or made these are published in the Cabinet's forward plan insofar as they can be anticipated. Meetings of the Cabinet are generally open to the public except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole, to decide.

## Overview and Scrutiny

The Policy and Performance Scrutiny Panel supports the work of the Cabinet and the Council as a whole. The Panel scrutinises decisions of the Cabinet and Local Area Committees, assists with policy development and undertakes best value work. These lead to reports and recommendations which advise the Cabinet and the Council as a whole, on its policies, budget and service delivery.

## Area Committees

In order to give local members of the public a greater say in Council affairs, five Area Committees have been created. These cover the following areas and are responsible for taking decisions on local services, development control and licensing matters and working with the Cabinet to secure integrated policies:

- Bishopstoke, Fair Oak and Horton Heath
- Bursledon, Hamble-le-Rice and Hound
- Chandler's Ford and Hiltingbury
- Eastleigh
- Hedge End, West End and Botley

The Committees membership only includes Councillors who represent the members of the public who live in the geographical area covered by the Committee.

Articles [6](#), [7](#), [10](#) and [11](#) respectively show in more detail the responsibilities of the Scrutiny Panel, the Cabinet, Local Area Committees and the Administration Committee. There is a [diagram](#) on page 8 showing the overall structure.

## The Council's Staff

The Council has people working for it (called 'staff') to give advice, implement decisions and manage the day-to-day delivery of its services. Some staff have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol ([Part 5 of the Constitution](#)) governs the relationships between staff and members of the Council.

## Members of the public's Rights

Members of the public 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.

Members of the public have the right to:

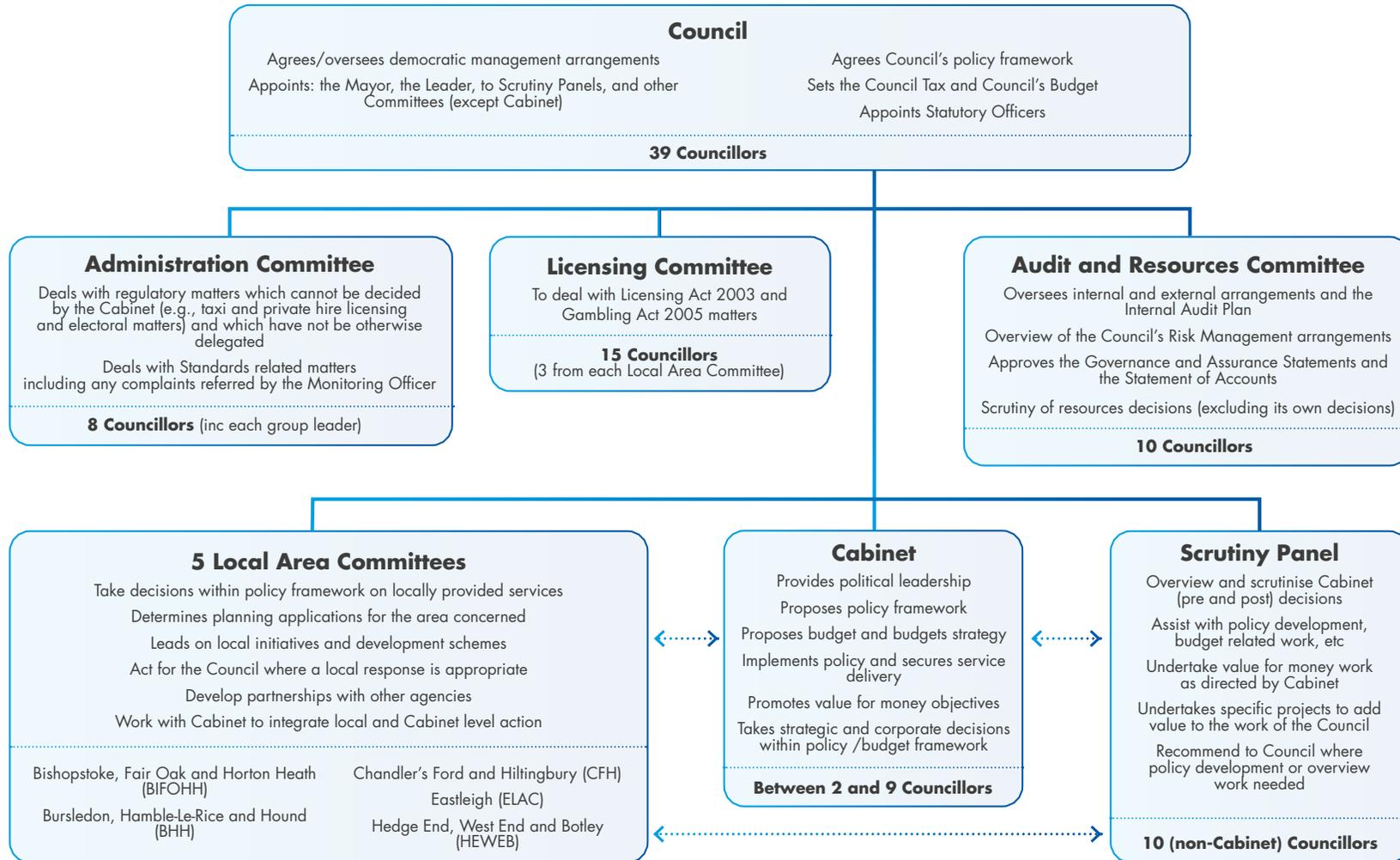
- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- [view the Constitution in line with accessibility regulations](#);
- attend meetings of the Council, Cabinet, Committees and Panels except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of Cabinet;
- contribute to debates at all meetings, subject to the Council's public participation rules (see [Appendix to Council and Committee Procedure Rules in Part 4](#));
- find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or staff, and when;
- attend meetings of the Cabinet where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council, Cabinet, Area Committees and any other Committees of the Council;
- complain to the Council (using the Complaints process) about a failure to follow agreed procedures, give proper advice or deliver an acceptable standard of service;
- complain to the Local Government 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;
- inspect the Council's accounts and make their views known to the external auditor.

The Council welcomes participation by its members of the public in its work. For further information on your rights as a member of the public, please contact the Council's Monitoring Officer:

Eastleigh House  
Upper Market Street  
Eastleigh SO50 9YN  
Telephone: 023 8068 8015  
E-mail: [joanne.cassar@eastleigh.gov.uk](mailto:joanne.cassar@eastleigh.gov.uk)

[Part 4 of this Constitution](#) contains information on the rights of members of the public to inspect agendas and reports and attend meetings.

# Democratic Structure Chart



## **Part 2**

# Articles of the Constitution

# Article 1 - The Constitution

## 1.01 Powers of the Council

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

## 1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of Eastleigh Borough Council.

The purpose of the Constitution is to:

- a. enable the Council to provide clear leadership to the community in partnership with members of the public, businesses and other organisations;
- b. support the active involvement of members of the public in the process of local authority decision-making;
- c. help Councillors represent their constituents more effectively;
- d. enable decisions to be taken efficiently and effectively;
- e. create a powerful and effective means of holding decision-makers to public account;
- f. ensure that no-one will review or scrutinise a decision in which they were directly involved;
- g. ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
- h. provide a means of improving the delivery of services to the community.

## 1.03 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will seek to 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 17](#).

# Article 2 - Members of the Council

## 2.01 Composition and Eligibility

- a. **Composition:** The Council will comprise 39 Councillors. Councillors will be elected by the voters of each ward in accordance with the approved scheme drawn up by the Local Government Boundary Commission.
- b. **Eligibility:** The eligibility criteria for a person to be qualified to be elected and be a Councillor are set out in section 79 of the Local Government Act 1972.

## 2.02 Election and Terms of Councillors

The regular election of a third (or as near as may be) of all Councillors will be held on the first Thursday in May each year, except in every fourth year after 2021. The normal term of office of a Councillor is four years, starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

## 2.03 Roles and Functions of all Councillors

- c. **Key Roles:** All Councillors will: -
  - i. collectively be the ultimate policymakers and carry out a number of strategic and corporate management functions;
  - ii. participate in the governance and management of the Council;
  - iii. contribute to the good governance of the area and actively encourage community participation and members of the public involvement in decision-making;
  - iv. effectively represent the interests of their ward and of individual constituents;
  - v. deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
  - vi. balance different interests identified within the ward and represent the ward as a whole;
  - vii. be involved in decision-making;
  - viii. be available to represent the Council on other bodies; and
  - ix. maintain the highest standards of conduct and ethics.

A fuller description of each Councillors role in the form of a role description is shown in Appendix A.

- d. **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 staff entitled to know it.
- iii. For these purposes, 'confidential' and 'exempt' information are defined in the Access to Information Rules in Part 4 of this Constitution.

## 2.04 Conduct

Councillors will at all times observe the Councillor Code of Conduct, the Protocol on Councillor/Staff Relations and the Code of Conduct for Councillors and Staff Dealing with Planning Matters (Part 5 of the Constitution).

## 2.05 Allowances

Councillors will be entitled to receive allowances in accordance with the Councillors' Allowances Scheme set out in Part 6 of the Constitution.

# Appendix A

## Councillor Roles in Democratic Structure

### **The Leader**

- Is appointed by the Council.
- Provides political leadership and vision for the Cabinet and the Council.
- Leads on the formulation and overview of the Budget, and capital projects.
- Leads the Cabinet and chairs its meetings.
- Appoints the deputy leader and Cabinet members and allocates areas of responsibility (portfolios).
- Leads the community planning process at democratic management level.
- Represents the views, policies and decisions of the Cabinet within and outside the Council.
- Represents the Council on the Local Government Association, Hampshire and Isle of Wight Local Authority Association and other organisations as nominated.
- Decides on party representation in Councillor participation.
- Promotes compliance with Codes of Conduct and Protocols.
- Engages and encourages Councillor Development and Training to enhance corporate and personal effectiveness of themselves and group members.

### **Cabinet Member - Portfolio Lead**

- Provides a clear sense of direction and oversees the management of the organisation and political leadership and vision, within Portfolio responsibilities allocated by the Council.
- Within the allocated Portfolio area, and more generally, participates in the development of budget priorities and strategies for recommendation to the Council.
- Acting jointly with other Cabinet Members, promotes an integrated and corporate approach to the Council's democratic management.
- With the Leader and other Cabinet Members, takes forward the community planning process at democratic management level.
- In the context of the Corporate Plan and more generally, encourages effective partnerships with local public, private, voluntary and community organisations.
- Provides leadership for the implementation of the Council and Cabinet agreed policies and action in one of the five local areas, working closely with the relevant Local Area Committee.
- Oversees the implementation of agreed action and policy priorities.
- Takes decisions on Cabinet business matters, within agreed delegations.
- Works closely with the Corporate Leadership Team and other managers and staff.
- Represents the Council on other organisations, particularly on partnerships relating to the allocated Portfolio area.
- Takes account of the needs and views of the community, other Councillors and staff.

## **Minority Group Leader**

- Is chosen by their political party group.
- Provides political leadership and vision for the political group and acts as a spokesperson.
- Promotes compliance with Codes of Conduct and Protocols.
- Engages and encourages Councillor Development and Training to enhance corporate and personal effectiveness of themselves and group members.

## **Local Area Committee Chair**

- Chairs the Local Area Committee, with the objective of ensuring the best possible decisions are taken at local level, and that development control responsibilities are exercised on the basis of material planning considerations.
- Maintains effective liaison with the Local Area Manager on day-to-day issues affecting devolved budgets, service responsibilities, capital project implementation and work with partner Local Councils and agencies.

## **Local Area Committee Vice Chair**

- Assists the Committee Chair in the discharge of their role.
- Deputises for the Chair as necessary.

## **Local Area Committee (LAC) Members** (applies to all Councillors)

- Ensure local decisions take consideration of the Corporate Strategy and Council priorities and are within agreed budgets.
- Participate in the determination of action, within the Council's protocol on Planning Business, on local planning applications and other development control matters referred to the Committee, visiting the sites as appropriate.
- If required, participate in the determination of licensing applications.
- Use local knowledge and awareness of local community priorities, and feed this into both formal and informal Committee meetings, and more generally into the Council's decision and management processes.
- Assist the Committee to manage and monitor its devolved budgets and service responsibilities effectively.
- Contribute to the development of Local Action Plans, particularly in the areas of Community Development, Local Youth Initiatives and Community Safety.
- Assist in the development and continual review of local Community Investment Programme priorities, and the implementation of local projects.
- Work on behalf of local people, organisations and business in their wards, participating in consultations and, where appropriate, inter-agency meetings. This local representational work may require direct liaison with appropriate staff.
- Act as advocates for the local area and its members of the public – where necessary liaising with local members of the public and Town or Parish Councils.
- Liaise, where necessary, with the Cabinet Member to ensure they are aware of local perspectives that need to be referred to the Cabinet.
- Maintain an awareness of Council priorities and improves personal competencies for example by participating in training events, Councillors' briefing and seminars.

## **Policy and Performance Scrutiny Panel / Audit and Resources Committee Chair**

- Promotes a positive approach to the overview and scrutiny function.
- Chairs the relevant meetings.
- Creates and facilitates effective working relationships with Cabinet Councillors (particularly those leading on Portfolios within the Panel's/Committee's terms of reference) and LAC Chairs.
- In liaison with the Vice Chair, develops a work plan for the Panel/Committee, so that it is able to focus on topics where it can add value to the Council's democratic management processes.

## **Policy and Performance Scrutiny Panel / Audit and Resources Committee Vice Chair**

- Assists the Panel / Committee Chair in the discharge of their role.
- Deputises for the Chair as necessary.

## **Policy and Performance Scrutiny Panel / Audit and Resources Committee Members**

- Participate in the review and scrutiny of decisions or action taken in respect of any functions, which are the responsibility of the Cabinet in relation to the Portfolio areas within the Panel's/Committee's terms of reference.
- Participates in the review or scrutiny of decisions or action taken in respect of any functions, which are the responsibility of the Area Committees within the scope of the Panel's/Committee's terms of reference.
- Contributes to the making of reports or recommendations to the Cabinet, Local Area Committees and/or the Council, on topics reviewed or scrutinised. Where strong disagreement exists, Councillors may produce a minority report.
- Contributes to reports or recommendations to the Cabinet or the Council, on matters that affect the Borough or its inhabitants.
- Keep themselves apprised of issues and, if necessary, questions the responsible Cabinet Member or Local Area Committee Chair.
- Take part in debate to develop or review policy in relation to matters within the scope of the Panel's/Committee's terms of reference.
- Represents the views of the local community and other organisations to the Cabinet and Council.
- Helps to ensure that the Cabinet is held to account.

## **Administration Committee Members**

- Deal with taxi and hackney carriage licensing issues.
- Deal with all electoral registration and election issues.
- Deal with code of conduct related matters referred by the Monitoring Officer.

## **Licensing Committee Members**

- Deal with the discharge of such functions which fall within the ambit of the Licensing Act 2003 (or any amendment thereof) and the Gambling Act 2005 (or any amendment thereof).

# Article 3 - Members of the Public and the Council

## 3.01 Members of the Publics' Rights

Members of the public have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of the Constitution.

- a. **Voting and Petitions:** Members of the public on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- b. **Information:** Members of the public have the right to:
  - i. attend meetings of the Council, Cabinet, Committees 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. see reports and background papers, and any records of decisions made by the Council, Cabinet, Area Committees and other Committees;
  - iv. inspect the Council's accounts and make their views known to the external auditor;
  - v. to make representations about why a Cabinet meeting, or part of a Cabinet meeting, should be open to the public when notice of an intention to meet in private has been published;
- c. **Participation:** Members of the public have the right to speak at all meetings of the Council, Cabinet, Committees and Panels, subject to the public participation rules set out in the Appendix to the Council and Committee Procedure Rules (Part 4).
- d. **Complaints:** Members of the public have the right to complain to:
  - i. the Council itself under its complaints procedure; and
  - ii. the Local Government and Social Care Ombudsman after using the Council's own complaints procedure.

## 3.02 Members of the Publics' Responsibilities

Members of the public must not be violent, abusive or threatening to Councillors or staff and must not wilfully harm anything owned by the Council, Councillors or staff. The public are entitled to attend meetings in public of the Council, Cabinet Committees and Panels, and must comply with the rulings of the Chair. They may not disrupt the meeting or cause undue disturbance, or they may be removed from the meeting at the Chair's discretion (see Part 4, section 18).

# Article 4 - The Full Council

## 4.01 Meanings

- a. **Policy Framework:** The policy framework means the following plans and strategies:
- i. Plans and strategies which together comprise the Development Plan;
  - ii. Council's Corporate Strategy;
  - iii. Food Law Enforcement Service Plan;
  - iv. The plan and strategy which comprise the Housing Investment Programme;
  - v. Equality and Diversity Strategy
- together with other plans and strategies which the Council may decide should be adopted by the Council as a matter of local choice.
- b. **Budget:** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the overall control of its capital expenditure and the setting of virement limits.

## 4.02 Functions of the Full Council

The Council will exercise the following functions:

- a. adopting and changing the Constitution;
- b. adopting the policy framework;
- c. approving the budget;
- d. subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of a Cabinet function which is covered by the policy framework or the budget where the decision-maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- e. electing the Leader, removing them from office and noting their appointment of the Deputy Leader and members of the Cabinet, and areas of responsibility (portfolios);
- f. agreeing and/or amending the terms of reference for Committees and Panels, deciding on their composition and making appointments to them (except the Cabinet);
- g. appointing the Civic Mayor and Deputy Mayor;
- h. appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- i. determining matters referred by the Cabinet or Committees;
- j. determining planning applications not otherwise delegated;
- k. adopting a Members allowance scheme under Article 2.05;
- l. changing the name of a local area;

- m. conferring the title of Honorary Alderman or Freedom of the Borough;
- n. confirming the appointment of the Head of Paid Service, Chief Finance Officer (s151) and Monitoring Officer;
- o. making, amending, revoking, re-enacting or adopting bylaws unless such actions are within policy framework, in which case they may be exercised by the relevant Local Area Committee;
- p. promoting or opposing the making of local legislation or personal bills such as a local act.
- q. all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- r. all other matters which, by law, must be reserved to Council.

#### 4.03 Council Meetings

There are four types of Council meeting:

- a. the Mayor-making meeting (to appoint the Mayor and Deputy Mayor);
- b. the Annual General Meeting (AGM) (to deal with other annual business);
- c. ordinary meetings;
- d. extraordinary meetings;

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

Under current arrangements, there will be a minimum of three ordinary meetings of the Council each year (one of which will be for budget-setting), plus the Annual and Mayor-Making meetings.

#### 4.04 Responsibility for Functions

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not executive functions.

# Article 5 - The Mayor and Deputy Mayor

## 5.01 Role and Function

The Mayor and Deputy Mayor will be elected by the Council annually. The Mayor (and in their absence, the Deputy Mayor) will have the following responsibilities:

- a. to be the Civic head of the Borough and act at all times in an inclusive non-partisan manner;
- b. to carry out Civic, ceremonial and community activities and foster community identity and pride;
- c. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- d. 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;
- e. 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 Councillors who are not on the Cabinet are able to hold the Cabinet to account;
- f. to promote public involvement in the Council's activities; and to endorse urgent action proposed by the Cabinet.

(Note: Under the provisions of the Local Government Act 2000, neither the Mayor nor Deputy Mayor can be members of the Cabinet.)

# Article 6 - Policy and Performance Scrutiny Panel

## 6.01 Terms of Reference

The Council will appoint one or more overview and scrutiny panels to discharge the functions conferred by section 9F of the Local Government Act 2000 or regulations under that Act. The number, size and composition of these committees will be determined by Council and reflect the respective size of the political groups of the council as it sees fit.

The Policy and Performance Scrutiny panel has overview and scrutiny responsibilities for the following areas, which are related to Cabinet lead responsibilities.

The Audit and Resources Committee also has some scrutiny responsibilities as set out in [Article 9](#) of this Constitution.

Notwithstanding the above, the Policy and Performance Scrutiny Panel is able to review, scrutinise, and submit reports or recommendations in respect of any decision or action by the Audit and Resources Committee.

The appointment of Scrutiny Panel shall be deemed to satisfy the requirement under Section 21 of the Local Government Act 2000 to appoint one or more overview and scrutiny panels.

## 6.02 General Role

Within their terms of reference, the Scrutiny Panel will:

- Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions (including executive functions);
  - Assist with policy development, budget scrutiny prior to Council approval and overview and scrutinise policy implementation;
- a. To overview and scrutinise the decisions of the Cabinet and Local Area Committees and regularly review the contents of the Forward Plan.
  - b. The overview and scrutiny of policy implementation, and the effectiveness of policy in achieving objectives via the annual strategic cycle.
  - c. To assist with policy development, budget evolution or other work evolving from the annual strategic cycle and when requested by either the Cabinet or Council.
  - d. In liaison with the Cabinet or relevant lead, to undertake efficiency and improvement work related to their theme areas through the creation of task and finish groups (where necessary).
  - e. To monitor the implementation of improvement plans arising from efficiency and improvement reviews related to their theme areas;
  - f. To make recommendations to the Cabinet, Local Area Committee or the Council in the light of (a) to (e);
  - g. To recommend to the Council that other policy development, overview or scrutiny work should be undertaken;
  - h. To scrutinise organisational performance related to theme areas, including the outcomes achieved and key performance indicators; and
  - i. To liaise with other external organisations operating in the area to ensure that the interests of local people are enhanced by collaborative working.

In carrying out this role, the Scrutiny Panel will liaise with the lead Cabinet Member for its theme areas, and with Local Area Committee Chairs and relevant staff members where appropriate, to facilitate effective working relationships.

### 6.03 Proceedings of the Scrutiny Panel

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

### 6.04 Crime and Disorder Overview and Scrutiny

The Policy and Performance Scrutiny Panel has been designated as the Council's crime and disorder overview and scrutiny panel, as set out in the Crime and Disorder (Overview and Scrutiny) Regulations 2009. The terms of reference for the Panel shall also include the following:

- a. To review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;
- b. To make reports or recommendations to the Council with respect to the discharge of those functions;
- c. To have at least one meeting each municipal year to scrutinise crime and disorder matters; and
- d. To co-opt members from the Eastleigh Community Safety Partnership should it wish to when reviewing certain projects/decisions.

### 6.05 Task and Finish Groups

Where appropriate, the Scrutiny Panel may use time limited Task and Finish Groups to carry out detailed work on specific topics or issues.

Councillors are appointed to Task and Finish Groups based on their interest, either on the issue or as a representative of a relevant ward, and personal knowledge or expertise.

The Groups will be Councillor led and conduct their business on an informal basis. They have no decision-making powers but aid the policy development of the Council by examining important issues and preparing ideas and recommendations for consideration. A Protocol for organising Task and Finish Groups is available on the Council's website.

# Article 7 - The Cabinet

## 7.01 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.

Its overall role will be:

- a. To provide political leadership.
- b. To propose for approval by the Council:
  - i. the Council's policy framework and its overall community and corporate strategies; and
  - ii. budget strategy and each year's revenue and capital budgets.
- c. To implement policy, to secure service delivery and to oversee the management of Council assets.
- d. To take Cabinet decisions within policy framework and budget other than on those matters delegated to the Local Area, Licensing, Audit and Resources or Administration Committees.
- e. To consider the recommendations of the Scrutiny Panel and Audit and Resources Committee in the context of both policy and budget development and Cabinet decisions/actions.
- f. To consider motions or proposals from Councillors.

## 7.02 Form and Composition

The Cabinet will consist of the Leader together with between two and up to nine Councillors appointed to the Cabinet by the Leader (one of whom will be appointed by the Leader to act as Deputy Leader) and the Leader will allocate areas of responsibility (portfolios) to them. The Leader may appoint and/or remove Cabinet members to/from the Cabinet at any time.

Deputy or substitute arrangements are not permitted.

The composition of the Cabinet is subject to change by the Leader following written notification to the Monitoring Officer.

The Cabinet is exempt from the provisions of Section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups).

## 7.03 Portfolio Arrangements

Each of the Cabinet Members will have lead responsibilities for a portfolio or policy/service/Community Plan related themes.

The Portfolio Annex following this section sets out the current allocation of activity areas between those portfolio themes at November 2021. This can be changed by the Leader at any time following written notification to the Chief Executive.

The lead Cabinet Member for each theme area will ensure that there is an effective working relationship with the Policy and Performance Scrutiny Panel.

Portfolios	Key outcome measures	Services, Projects and Campaigns
<p><b>Transport</b></p> <ul style="list-style-type: none"> <li>• Transport/Planning and policy</li> <li>• Traffic, parking studies and management</li> <li>• Engineering including coastal protection</li> <li>• Fleet Transport</li> <li>• Sustainable Transport inc public transport</li> <li>• Air and water quality</li> <li>• Taxi/Private Hire Licensing policy</li> <li>• Airport Liaison</li> </ul>	<ul style="list-style-type: none"> <li>• Air quality</li> <li>• Transport infrastructure delivery (milestones)</li> <li>• Non car usage (rail, walk, cycle, bus)</li> <li>• Electric vehicle infrastructure</li> </ul>	<ul style="list-style-type: none"> <li>• Transport Specialist Services</li> <li>• (Localities) Parking</li> <li>• OPE</li> <li>• Parking review</li> <li>• Modal shift / Air quality campaigns</li> <li>• Promotion of electric vehicles</li> </ul>
<p><b>Environment</b></p> <ul style="list-style-type: none"> <li>• Sustainability (Examples)</li> <li>• Green infrastructure (including Country Parks, parks and open spaces)</li> <li>• Renewable energy</li> <li>• Biodiversity</li> <li>• Contaminated land</li> <li>• Urban environment</li> <li>• Enviro Crime</li> <li>• Grounds Maintenance</li> <li>• Waste and Recycling</li> <li>• Cemeteries</li> <li>• Noise</li> <li>• Bonfires</li> <li>• Animal Welfare</li> </ul>	<ul style="list-style-type: none"> <li>• ASPE measures e.g. Streetscene</li> <li>• Recycling rate</li> <li>• Overall CO2</li> <li>• Renewable energy</li> <li>• Use of open space/parks</li> </ul>	<ul style="list-style-type: none"> <li>• Direct services (Streetscene)</li> <li>• Direct Services (waste and recycling)</li> <li>• Locality services</li> <li>• Environment</li> </ul>
<p><b>Health and Social Policy</b></p> <ul style="list-style-type: none"> <li>• Healthy Communities</li> <li>• Health promotion (smoking, alcohol, diet and exercise)</li> <li>• Mental health</li> <li>• Health works</li> <li>• Creative learning – health and wellbeing programmes</li> <li>• Dementia</li> <li>• Community Safety and Safeguarding</li> <li>• Social Exclusion of Elderly People</li> <li>• Equalities: race, religion, age, sex, sexuality, disability, transsexuality, pregnancy/maternity, marriage/civil partnership</li> <li>• Provision of benefits</li> <li>• Poverty and deprivation</li> <li>• Cultural outreach</li> <li>• Cultural opportunities for young people</li> <li>• Increasing participation</li> <li>• Clubs and volunteering</li> <li>• Community Development Grants</li> </ul>	<ul style="list-style-type: none"> <li>• Physical inactivity</li> <li>• Excess weight</li> <li>• Social isolation</li> <li>• Attendance at parks, leisure centres and theatres</li> <li>• Participation of inactive people at EBC physical activities</li> <li>• Attendance at social groups</li> <li>• Homelessness</li> <li>• Debt</li> <li>• Life expectancy gap</li> <li>• NEETs</li> <li>• Deprivation levels</li> </ul>	<ul style="list-style-type: none"> <li>• Health and Wellbeing Executive Area</li> <li>• Sport Works</li> <li>• Health Works</li> <li>• Community Development</li> <li>• Events (wellbeing)</li> <li>• Health and wellbeing campaigns (national and county)</li> <li>• Country Parks</li> <li>• Benefits</li> <li>• Voluntary Sector Grants</li> <li>• Arts and Culture</li> <li>• Pilands and Velmore Partnerships</li> <li>• Youth offer</li> <li>• Review of pricing and subsidies/loyalty card</li> <li>• Customer service enhancement</li> </ul>

Portfolios	Key outcome measures	Services, Projects and Campaigns
<p><b>Economy</b> <b>Skills and Business</b></p> <ul style="list-style-type: none"> <li>• Talent, education, training and skills (STEM, apprenticeships, level 4+)</li> <li>• Business survival and growth</li> <li>• Licensing and regulation of businesses (e.g. food hygiene, health and safety)</li> <li>• Employment land</li> <li>• Entrepreneurship and Innovation</li> <li>• Development of economic clusters (e.g. Creative Industries)</li> <li>• Capital investment in creative spaces and start-ups</li> <li>• Broadband and ICT infrastructure</li> <li>• Fair Trade</li> </ul>	<ul style="list-style-type: none"> <li>• Increase standard of living (GVA)</li> <li>• Economic activity</li> <li>• Educational attainment</li> <li>• Employment by occupation</li> <li>• No. of businesses</li> <li>• Business births/deaths</li> </ul>	<ul style="list-style-type: none"> <li>• Planning and Economy</li> <li>• Wessex house</li> <li>• Sorting Office</li> <li>• Sorting Office expansion project (feasibility)</li> </ul>
<p><b>Economy</b> <b>Skills and Business</b></p> <ul style="list-style-type: none"> <li>• Talent, education, training and skills (STEM, apprenticeships, level 4+)</li> <li>• Business survival and growth</li> <li>• Licensing and regulation of businesses (e.g. food hygiene, health and safety)</li> <li>• Employment land</li> <li>• Entrepreneurship and Innovation</li> <li>• Development of economic clusters (e.g. Creative Industries)</li> <li>• Capital investment in creative spaces and start-ups</li> <li>• Broadband and ICT infrastructure</li> <li>• Fair Trade</li> </ul>	<ul style="list-style-type: none"> <li>• Increase standard of living (GVA)</li> <li>• Economic activity</li> <li>• Educational attainment</li> <li>• Employment by occupation</li> <li>• No. of businesses</li> <li>• Business births/deaths</li> </ul>	<ul style="list-style-type: none"> <li>• Planning and Economy</li> <li>• Wessex house</li> <li>• Sorting Office</li> <li>• Sorting Office expansion project (feasibility)</li> </ul>
<p><b>Housing and Development Group</b> <b>Planning and Property</b></p> <ul style="list-style-type: none"> <li>• Strategic land use</li> <li>• Commercial property portfolio</li> <li>• Infrastructure to support growth (housing and economic)</li> <li>• Planning policy</li> <li>• Developers Obligations (CIL, s106)</li> <li>• Quality design</li> <li>• Housing development</li> <li>• Heritage and conservation areas</li> </ul>	<ul style="list-style-type: none"> <li>• Housing delivery</li> <li>• Affordable housing delivery</li> <li>• 5yr land supply</li> <li>• Property portfolio performance</li> </ul>	<ul style="list-style-type: none"> <li>• Development Management (Housing and Development Specialists)</li> <li>• Asset Management Service</li> <li>• Delivery of Local Plan, (including CIL)</li> <li>• Housing Programme</li> <li>• Growth Areas master planning</li> <li>• Communications</li> <li>• Strategic Planning</li> <li>• Housing and Development Specialist Services</li> <li>• Regeneration Board</li> </ul>
<p><b>Regeneration (North)</b></p> <ul style="list-style-type: none"> <li>• Town centre policy</li> <li>• Economic, social and physical regeneration</li> <li>• Non-housing infrastructure (north)</li> <li>• Attracting inward investment</li> <li>• Stakeholders inc BID</li> <li>• Homelessness/Housing Register</li> <li>• Assessing housing need delivery of specialist housing (extra care)</li> <li>• Private sector renting, HMOs</li> <li>• Disabled Facilities Grants</li> <li>• Gypsies and travellers</li> <li>• Housing Revenue Account</li> </ul>	<ul style="list-style-type: none"> <li>• Town centre footfall</li> <li>• Vacancy rates</li> <li>• Town Centre regeneration outcome measures to be established</li> </ul>	<ul style="list-style-type: none"> <li>• Regeneration Board (project based)</li> <li>• Central Precinct</li> <li>• Chandler's Ford Industrial Areas</li> <li>• Housing Options</li> <li>• Homelessness</li> <li>• Private renting regulation</li> <li>• HMS's</li> <li>• DFGs</li> </ul>

Portfolios	Key outcome measures	Services, Projects and Campaigns
<b>Regeneration (South)</b> <ul style="list-style-type: none"> <li>Local centres</li> <li>Out of town retail</li> <li>Economic, social and physical regeneration</li> <li>Non-housing infrastructure (south)</li> <li>Attracting inward investment</li> <li>SPV/JV Boards - housing</li> </ul>	<ul style="list-style-type: none"> <li>Hedge End town centre footfall</li> <li>Local centre regeneration outcome measures to be established</li> <li>SPV performance measures</li> </ul>	<ul style="list-style-type: none"> <li>Regen Board (project based)</li> <li>SPV/JB Boards e.g. (Aspect Building Communities Ltd)</li> <li>Hedge End Industrial Areas</li> <li>One Horton Heath</li> </ul>

The list does not include functions that are directly managed by Local Area Committees (November 2021)

## 7.04 Leader and Deputy Leader

The Leader and Deputy Leader will each be a Councillor.

The Leader will be elected to the position by the Council for their term of office. The term of office of the Leader starts on the day of their election as Leader and ends on the day when the Council holds its first Annual General meeting after the Leader's normal day of retirement as a Councillor unless they:

- are removed from Office by resolution of the Council or resigns;
- cease to be a Councillor; or
- are disqualified from being a Councillor before that day.

The Leader will appoint one of the Members of the Cabinet to be their deputy, to hold office until the end of the term of office as Leader (unless the person resigns as Deputy Leader, ceases to be a Councillor or is disqualified or removed from office by the Leader). The Leader may, if they think fit, remove the Deputy Leader from office, but must then appoint another person in their place. The Deputy Leader will carry out the functions of the Leader when they are absent (including portfolio functions).

## 7.05 Other Cabinet Members

Other Cabinet members shall hold office until:

- they resign from office; or
- 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
- they are no longer Councillors; or
- they are removed from office, either individually or collectively, by the Leader.

## 7.06 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution. Also see Schedule 1 - Description of Cabinet Arrangements.

## 7.07 Delegation

The Leader can delegate any of the executive functions to a Committee of the Cabinet, an individual member of the Cabinet, to an Area or other Committee or to a member of staff. Details of the delegation shall be recorded in the minutes of the meeting at which the delegation is authorised. The Leader will report to Council on all appointments and changes to the Cabinet scheme of delegation.

## Article 8 - Regulatory and Other Functions

- 8.01 Regulations made under the Local Government Act 2000 specify that certain functions shall be the responsibility of the Council (rather than the Cabinet). There are also 'Local Choice' functions which may or may not be the responsibility of the Cabinet. Part 3 of this Constitution shows the allocation of these responsibilities. In particular, the Council has agreed to delegate its development control and licensing functions to Local Area Committees.

# Article 9 – Audit and Resources Committee

## 9.01 Appointment

The Council will appoint an Audit and Resources Committee.

## 9.02 Composition

The size and composition of this committee will be determined by Council from time to time as it sees fit but will be separate, organisationally and practically, from the executive and will not comprise of any Cabinet members.

The committee will meet as needed and in public (subject to confidential and exempt business).

The Chair shall be elected by full Council.

## 9.03 Role

The Committee will have the following roles and functions:

### **Audit functions:**

- Act as the Council's Audit Committee for internal and external audit.
- Agree and oversee the Council's Asset Management Strategy and Internal Audit Plan and monitor progress against this Plan.
- Receive and consider the work of the external auditor.
- Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
- Seek assurances that action is being taken on risk-related issues identified by auditors and inspectors.
- Approve the Annual Governance Statement, Statement of Accounts and anti-fraud and anti-corruption arrangements.
- To notify, report or recommend to Council as appropriate.
- Have continued due regard for CIPFA (Chartered Institute of Public Finance and Accountancy) guidance.
- Regular review of Council wide staffing issues and implications.

The Audit and Resources Committee is able to scrutinise or review any decision made by this Committee relating to the above functions.

### **Scrutiny functions:**

All items relating to the asset portfolio and management and staffing issues (but excluding decisions made by the Audit and Resources Committee itself):

- To review and/or scrutinise decisions made relating to audit, risk or governance;
- Make reports and/or recommendations to the Cabinet, Local Area Committees or the Council in connection with the discharge of any functions;
- To review, on a regular basis, the contents of the Forward Plan;

- To assist with budget evolution or other work when requested by either the Cabinet or the Council;
- To scrutinise property transactions as necessary;
- To scrutinise and monitor the delivery of programmes and projects subsequent to the associated land and property acquisitions.

#### 9.04 Proceedings of the Committee

The conduct of the proceedings at the Audit and Resources Committee will be in accordance with the Procedure Rules set out in Part 4 of the Constitution with a clear separation of the scrutiny and audit functions.

# Article 10 - Area Committees

## 10.01 Appointment

The Council will appoint Local Area Committees in the context of more efficient, transparent and accountable decision making at local level.

## 10.02 Form, Composition and Function

a. There will be five Local Area Committees (LACs) covering respective parts of the Borough as follows:

### **Bishopstoke, Fair Oak and Horton Heath LAC -**

All six Councillors representing:

Bishopstoke Ward	3
Fair Oak and Horton Heath Ward	3

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### **Bursledon, Hamble-le-Rice and Hound LAC -**

All six Councillors representing:

Bursledon and Hound Ward	3
Hamble and Netley Ward	3

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### **Chandler's Ford and Hiltingbury LAC -**

All six Councillors representing:

Chandler's Ford Ward	3
Hiltingbury Ward	3

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### **Eastleigh LAC -**

All nine Councillors representing:

Eastleigh Central Ward	3
Eastleigh North Ward	3
Eastleigh South Ward	3

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### **Hedge End, West End and Botley LAC -**

All twelve Councillors representing:

Botley Ward	2
Hedge End South Ward	3
Hedge End North Ward	3
West End North Ward	2
West End South Ward	2

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b. The terms of reference of Local Area Committees are as follows:

- i. To take Cabinet decisions within policy framework and budget on locally provided services (including matters delegated to them by either the Council or the Cabinet).
- ii. To take local planning, licensing (subject to the provisions of 10.05) and bye-law decisions within policy framework and to make recommendations to the Council on development management matters outside the terms of their delegated powers.

- iii. To determine complaints made by the owner/occupiers of domestic property adversely affected by evergreen hedges over two metres high (in the case of hedges owned by the Council).
  - iv. To act for the Council where a local response is appropriate to a local community issue.
  - v. To develop partnerships/links with other agencies to the benefit of the local area community, and in particular with Local Councils.
  - vi. To contribute to the wider community planning process and to the Council's related corporate planning process.
  - vii. To promote efficiencies at local level and to work with the Cabinet and Scrutiny Panel on the wider promotion and securing of related objectives.
  - viii. If appropriate, to report to the Council on the local impact of the decisions of the Cabinet.
  - ix. To authorise direct action under section 219 of the Town and Country Planning Act 1990.
- c. The Council and the Cabinet will include details of the delegations to Area Committees in Part 3 of this Constitution, including the functions delegated (showing which are the responsibility of the Cabinet and which are not), budgets and any limitations on delegation.
  - d. The proceedings of Area Committees will be in accordance with the Council and Committee Procedure Rules set out in Part 4 of this Constitution.
  - e. At its meeting on 24 July 2014, Council approved the creation of a 'Horton Heath Development Management Committee' to deal solely with planning applications in the area of West End north of the railway line, and adjacent/within the Fair Oak and Horton Heath Parish. The membership of this committee will comprise the three Fair Oak and Horton Heath Councillors and the four West End Councillors.

### 10.03 Conflicts of Interest - Membership of Area Committees and Scrutiny Panel

- a. Conflict of Interest: If the Policy and Performance Scrutiny Panel is scrutinising specific decisions or proposals in relation to the business of the Area Committee of which the Councillor concerned is a member, then the Councillor may not speak or vote at the Scrutiny Panel meeting unless a dispensation to do so is given by the Monitoring Officer.
- b. General Policy Reviews: Where the Policy and Performance Scrutiny Panel is reviewing policy generally the Councillor must declare their interest before the relevant agenda item is reached but need not withdraw.

### 10.04 Area Committees - Access to Information

Area Committees will comply with the Access to Information Rules in Part 4 of this Constitution.

Agendas and notices for Area Committee meetings which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet will state clearly which items are which.

### 10.05 Licensing Panels

- a. Local Area Committees shall appoint Licensing Panels for relevant licensing functions. Such panels shall consist of three Councillors, appointed on a non-political basis.
- b. Appeals to Licensing Panels shall be discharged by all Councillors of the relevant Panel. However, where all parties to an appeal who appear so agree, the appeal may be decided by two Councillors (ie, one fewer than the total).

- c. Should, in exceptional circumstances a Local Area Committee be unable to convene a Panel to determine a Licensing Appeal, the matter may be transferred for determination by either, any three Members of the Administration Committee, if available, or, any three Members of the Council nominated by the Chair of the Administration Committee. The Chair of the Administration Committee will seek, where possible, to include a Member of the relevant Local Area Committee on the Licensing Panel.

# Article 11 – Administration Committee

## 11.01 Appointment

The Council will appoint an Administration Committee.

## 11.02 Composition

- a. The Administration Committee composition shall be determined by the Annual General Meeting of the Council to include each of the Group Leaders.
- b. The Administration Committee will meet as needed and in public (subject to confidential and exempt business considerations).
- c. The following rules will apply:
  - i. Cabinet Members cannot form the majority of the Committee;
  - ii. The Chair shall not be the Chair of the Cabinet, a Local Area Committee or the Scrutiny Panel.

## 11.03 Quorum

The quorum for the Administration Committee under (a) in 11.02 above shall be three members.

## 11.04 Role

The Administration Committee will have the following delegated responsibilities:

- To deal with the discharge of such functions which cannot be the responsibility of the Cabinet (under the Local Government Act 2000) and which have not been delegated or allocated to another Committee, Panel or member of staff. (Specific issues include some aspects of licensing and the making of byelaws.)
- To deal with matters that need to be referred to a Committee of the Council relating to elections and electoral registration (e.g. the setting of election fees).
- To notify, report or recommend to Council as appropriate.
- Promoting and maintaining high standards of conduct by Councillors and any co-opted members.
- Assisting the Councillors and co-opted members to observe the Councillor's Code of Conduct.
- To operate the overall scheme in respect of the local determination of Code of Conduct complaints against Borough and Parish/Town Councillors, via sub-committees where appropriate.
- Approving, and keeping under review, codes of conduct and protocols for Councillors and staff.
- Monitoring the local operation of codes and protocols.
- Promoting training of Councillors and co-opted members in the context of codes and protocols.
- Granting dispensations, where referred by the Monitoring Officer and in accordance with the Localism Act 2011 or other legislation.
- To monitor the use of dispensations.
- Dealing with any reports from the Monitoring Officer on any matter relating to standards issues or standards complaints.

- To appoint sub-committees consisting of Councillors drawn from its own membership, excluding group leaders, to determine complaints under the Code of Conduct and referred by the Monitoring Officer. Meetings of these sub-committees are to follow the procedure as set out in the Council's agreed procedure for dealing with Code of Conduct complaints.
- Overview of the Council's whistle blowing policy.
- To grant exemptions for politically restricted posts.
- The Administration Committee is authorised by Council to delegate such work as the law permits and it considers appropriate to Council staff or nominated third parties.

The following rules will apply:

- Minority order provision will not apply on issues where the Committee has met in quasi-judicial mode (e.g. certain licensing issues), as determined by the Monitoring Officer.
- There should be an option for any decision to be referred back to the Committee, where an error of fact or law has been made and where permissible under the legislation, particularly if there is time for it to meet prior to the next meeting of Council.

# Article 12 - Licensing Committee

## 12.01 Appointment

The Council will appoint a Licensing Committee.

## 12.02 Composition

- a. The Committee will:
  - i. comprise fifteen Councillors.
  - ii. seek to comprise three Councillors from each Local Area Committee.
  - iii. meet as needed and in public (subject to confidential and exempt business considerations and/or only specific rules or good practice guidance issued under the Licensing Act 2003 and/or the Gambling Act 2005, or any amendment thereof).
- b. The following rules will apply:
  - i. The Chair shall be elected by Full Council.
  - ii. Up to five Sub-Committees (to be known as Licensing Panels) may be created. Such Panels will consist of three Councillors and will determine licensing applications on a local area basis wherever possible and will comprise where the law and availability permits three local area committee members.
  - iii. Where the licensing committee is unable to discharge any Function because of the number of Councillors unable to participate the Committee must refer the matter back to the licensing authority (Council).
  - iv. In the event of any conflict between the contents of this Article and any regulation or rule to be issued under the provisions of the Licensing Act 2003 and/or the Gambling Act 2005 the Council's Monitoring Officer is authorised to appropriately amend this Article and to put into effect the requirements of the legislation subject to a report to Council being made as soon as practicable thereafter on all matters of a significant nature.

## 12.03 Role

The Committee will have the following responsibilities:

- To deal with the discharge of such functions which fall within the ambit of the Licensing Act 2003 (or any amendment thereof) and the Gambling Act 2005 (or any amendment thereof).
- To notify, report or recommend to Council as appropriate.
- The Licensing Committee is authorised by Council to delegate such work as the law permits and it considers appropriate to Council Staff or nominated third parties.

The following rules will apply:

- Minority order provision will not apply on issues where the Committee has met in quasi-judicial mode, as determined by the Monitoring Officer or on matters solely the responsibility of the Licensing Committee.
- Any decision may be referred back (at the Committees discretion) to the Committee, where an error or fact or law has been made and where permissible under the legislation.

# Article 13 - Joint Arrangements

## 13.01 Arrangements to Promote Well Being

The Council or 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; and
- c. exercise on behalf of that person or body any functions of that person or body.

## 13.02 Joint Arrangements

- a. The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions (which are not Cabinet functions) in any of the participating authorities, or to 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 Cabinet functions. Such arrangements may involve the appointment of Joint Committees with these other local authorities.
- c. Except as set out below, the Cabinet may only appoint Cabinet members to a Joint Committee and those Councillors need not reflect the political composition of the local authority as a whole.
- d. The Cabinet may appoint members to a Joint Committee from outside the Cabinet in the following circumstances:
  - i. 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;
  - ii. the Joint Committee is between a County Council and a single District Council and relates to functions of the Cabinet of the County Council. In such cases, the Cabinet of the County Council may appoint to the Joint Committee any Councillor who is a member for an electoral division which is wholly or partly contained within the area.

In both of these cases the political balance requirements do not apply to such appointments.

- e. Details of any joint arrangements including any delegations to Joint Committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

## 13.03 Access to Information

- a. The Access to Information Rules in Part 4 of this Constitution apply.
- b. If all the Councillors 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.
- c. If the Joint Committee contains Councillors who are not on the Cabinet of any participating authority then the Access to Information Rules in Part VA of the Local Government Act 1972 will apply.

## 13.04 Delegation to and from Other Local Authorities

- a. The Council may delegate non-Cabinet functions to another local authority or, in certain circumstances, the Cabinet of another local authority.

- b. The Cabinet may delegate Cabinet functions to another local authority or the Cabinet 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.

### 13.05 Contracting Out

The Council and the Cabinet, as regards their respective functions, may contract out to another body or organisation functions which may be exercised by a member of staff 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.

# Article 14 - Staff

## Terminology

The use of the word "staff" means all employees and staff engaged by the Council to carry out its functions. This word also covers those engaged under short-term, agency or other non-employed situations.

### 14.01 Management Structure

- a. **General:** The Full Council may engage such staff as it considers necessary to carry out its functions.
- b. **Statutory Staff Member:** The Full Council will engage persons for the following statutory posts:

Post	Designation
Chief Executive	Head of Paid Service
Monitoring Officer	Monitoring Officer
Chief Financial Officer	Chief Financial Officer

Such posts will have the functions described in Article 14.02 - 14.04 below.

- c. **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 staff. This is set out at Part Z of this Constitution.

### 14.02 Functions of the Head of Paid Service

- a. **Functions and Areas of Responsibility:**
  - i. Overall corporate management and operational responsibility (including overall management responsibility for all staff).
  - ii. Provision of professional advice to all parties in the decision-making process.
  - iii. Together with the Monitoring Officer, responsibility for a system of record-keeping for all the Council's decisions.
  - iv. Representing the Council on partnership and external bodies (as required by statute or the Council).
  - v. To grant dispensations to any Councillor or staff member in respect of any declared conflict of interest in an executive decision to be made by that Councillor or staff member as an individual.
- b. **Discharge of Functions by the Council:** The Head of Paid Service will report as necessary to Council and the Cabinet on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of staff required for the discharge of functions and the organisation of staff.
- c. **Restrictions on Functions:** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

### 14.03 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 Councillors, staff and the public.
- b. **Ensuring Lawfulness and Fairness of Decision-Making:** After consulting with the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the full Council (or to the Cabinet in relation to

a Cabinet function) if they consider 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. **Supporting the Administration Committee:** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Administration Committee.
- d. **Conducting Investigations:** The Monitoring Officer will conduct investigations into alleged breaches of the code of conduct and make reports or recommendations in respect of them to the Administration Committee where appropriate.
- e. **Proper Officer for Access to Information:** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions, and relevant staff reports and background papers are made publicly available as soon as possible.
- f. **Advising whether Cabinet Decisions are within the Budget and Policy Framework:** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- g. **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.
- h. **Restriction on Posts:** The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.

#### 14.04 Functions of the Chief Financial Officer

- a. **Ensuring Lawfulness and Financial Prudence of Decision-Making:** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the Full Council (or to the Cabinet in relation to a Cabinet function) and the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.
- b. **Administration of Financial Affairs:** The Chief Financial Officer will have responsibility for the administration of the financial affairs of the Council.
- c. **Contributing to Corporate Management:** The Chief Financial Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d. **Providing Advice:** The Chief Financial 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 staff in their respective roles.
- e. **Give Financial Information:** The Chief Financial Officer will provide financial information to the media, members of the public and the community.

#### 14.05 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Financial Officer

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

#### 14.06 Conduct

Staff will comply with the Staff Code of Conduct, the Protocol on Staff/Councillor Relations and the Code of Conduct for Councillors and Staff Dealing with Planning Matters, as set out in Part 5 of this Constitution.

#### 14.07 Employment

The recruitment, selection and dismissal of staff will comply with the Staff Employment Procedure Rules set out in Part 4 of this Constitution.

# Article 15 - Decision Making

## 15.01 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 3 of this Constitution.

## 15.02 Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:

- a. proportionality (i.e. the action must be proportionate to the desired outcome);
- b. due consultation and the taking of professional advice from staff;
- c. respect for human rights (see below for further details);
- d. a presumption in favour of openness; and
- e. clarity of aims and desired outcomes.

## 15.03 Recording and Notification of Decisions

- a. In the case of Council, Cabinet, or Local Area Committee meetings, a note of decisions will be recorded within the minutes.
- b. The minutes of the meeting will contain the following:
  - i. a record of the decision;
  - ii. a record of the reasons for the decision;
  - iii. details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
  - iv. a record of any conflict of interest in relation to the matter decided which is declared by any member of the decision-making body; and
  - v. in respect of any declared conflict of interest, a note of any dispensation granted by the Monitoring Officer.
- c. Decisions of the Cabinet, Area Committees and other Committees are subject to the call-in arrangements as set out in the Council and Committee Procedure Rules in Part 4 (Standing Order 24.02).
- d. As soon as is reasonably practical after a member of staff has made a decision which is a key decision, a written statement will be produced containing the information shown in paragraph 15.03(b) (i) - (v) above.

## 15.04 Types of Decision

- a. **Decisions Reserved to Full Council:** Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.

b. **Key Decisions:**

- i. A key decision means a Cabinet decision which is likely:
  1. to result in the Council incurring expenditure or making savings which amount to either £50,000 or 20% (whichever is the larger) of the gross expenditure budget for the service or general function to which the decision relates; or
  2. to be significant in terms of its effect on communities living or working in an area comprising two or more wards within the Borough of Eastleigh.
- ii. Paragraph (i) above shall not apply:
  1. if the expenditure or savings are part of a programme already approved; or
  2. if it is a decision taken by the Corporate Director (CFO) (or statutory Chief Financial Officer) in accordance with the approved Treasury Management Policy.
- iii. A decision-taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

15.05 Decision Making by the Full Council

Subject to Article 15.09, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

15.06 Decision Making by the Cabinet

Subject to Article 15.09, the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

15.07 Decision Making by Scrutiny Panels

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

15.08 Decision Making by Other Committees and Sub-Committees established by the Council

Subject to Article 15.09, other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

15.09 Decision Making by Council Bodies Acting as Tribunals

The Council, a Councillor, Committee or a member of staff 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 Human Right Act 1998.

# Article 16 - Finance, Contracts and Legal Matters

## 16.01 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

## 16.02 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

# Article 17 - Review and Revision of the Constitution

## 17.01 Duty to Monitor and Review the Constitution

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

## 17.02 Protocol for Monitoring and Review of Constitution

A key role for the Chief Executive and 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 they may:

1. observe meetings of different parts of the Councillor and staff structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with them by Councillors, staff, the public and other relevant stakeholders; and
4. compare practices in this Council with those in other comparable authorities, or national examples of best practice.

## 17.03 Changes to the Constitution

- a. **Approval:** Changes to the Constitution will only be approved by the Full Council after they have first been considered by the Chief Executive and Monitoring Officer. Any alterations to Cabinet arrangements may be made only after complying with any necessary statutory requirements.
- b. **Change from a Leader and Cabinet Form of Cabinet to a Mayoral Form of Cabinet:**  
This will require a referendum.

# Article 18 - Suspension, Interpretation and Publication of the Constitution

## 18.01 Suspension of the Constitution

- a. **Limit to Suspension:** The Articles of this Constitution may not be suspended. The Rules specified below may be suspended by a simple majority by the full Council, the Cabinet or a Committee to the extent permitted within those Rules and the law.
- b. **Procedure to Suspend:** A motion to suspend any Rules (including Standing Orders) will not be moved without notice unless at least one half of the whole number of Councillors of the relevant body is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in [Article 1](#).
- c. **Rules Capable of Suspension:** The Rules which may be suspended in accordance with Article 18.01 are those [Rules of Procedure](#) contained in Part 4 that Councillors consider it appropriate to suspend in order to facilitate the conduct of meetings or the discharge of the Council's functions.

## 18.02 Interpretation

The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in [Article 1](#).

## 18.03 Publication

The Monitoring Officer will ensure that a copy is available for inspection at Council offices and published online.

# Schedule 1 - Description of Cabinet Arrangements

The following parts of this Constitution constitute the Cabinet arrangements:

1. Article 6 (Policy and Performance Scrutiny Panel) and the Overview and Scrutiny Procedure Rules;
2. Article 7 (The Cabinet) and the Cabinet Procedure Rules;
3. Article 9 (Audit and Resources Committee);
4. Article 10 (Area Committees);
5. Article 11 (Administration Committee);
6. Article 13 (Joint Arrangements);
7. Article 15 (Decision Making) and the Access to Information Procedure Rules;
8. Part 3 (Responsibility for Functions).

## **Part 3**

# Responsibility for Functions

# Responsibility for Functions

1.01 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ("the Functions Regulations") give effect to section 13 of the Local Government Act 2000 by specifying three kinds of functions:

- a. those functions which may (but need not) be the responsibility of the Cabinet (the "Local Choice Functions");
- b. those functions which must not be the responsibility of the Cabinet ("Council Functions");
- c. those functions which are to some extent the responsibility of the Cabinet (the "Shared Functions").

The following tables show how the Council will discharge functions in each of these categories. All other functions are to be the responsibility of the Cabinet.

## Part 3 of the Constitution also contains:

- [Appendix B](#). Details of the appointment and functions of Proper and Designated Officers; and
- [Appendix C](#). The Council's Scheme of Delegation specifying those functions which, by virtue of the adoption of this Constitution, are deemed to be delegated by the responsible body to Council staff.

## Responsibility for Local Choice Functions

Functions (as set out in Schedule 2 to the Functions Regulations) (Functions which may (but need not be) the responsibility of the Cabinet)	Decision Making Body	Functions Delegated
Any functions under a local Act	Council	Local Area Committees (where local issue)
Determination of appeals against Council decisions (except employment issues covered below)	Cabinet	Local Area Committees (where local issue)
Functions relating to contaminated land	Cabinet	Local Area Committees
Functions relating to the control of pollution or the management of air quality	Cabinet	Local Area Committees
Functions relating to statutory nuisances pursuant to ss.79-80 Environmental Protection Nuisance Act 1990	Cabinet	Local Area Committees
Application of Schedule 2 Noise and Statutory Nuisance Act 1993	Cabinet	Local Area Committees
Information requisition pursuant to s.330 Town and Country Planning Act 1990	Cabinet	Local Area Committees
Information requisition pursuant to s.16 Local Government (Miscellaneous Provisions) Act 1976	Cabinet	Local Area Committees
Appointment (and revocation) of individuals to other offices or bodies	Cabinet	Local Area Committees (where local issue)
Making of agreements for the execution of highway works	Council	Local Area Committees

## Responsibility for Council Functions

Functions (as set out in Schedule 1 to the Functions Regulations) (Functions not to be the responsibility of the Cabinet)	Decision Making Body	Functions Delegated
Functions relating to town and country planning and development	Council	Local Area Committees
Functions relating to licensing and registration	Council	Admin Committee/Area Committees
Functions relating to health and safety at work	Council	Audit and Resources
Functions relating to elections and parishes	Council	Admin Committee
Functions relating to name and status of areas and individuals	Council	
Powers to make, amend, revoke or re-enact byelaws	Council	Local Area Committees (where local issue)
Power to promote or oppose local or personal bills	Council	
Functions relating to pensions (nb the pension service is administered by Hampshire Pension Services)	Council	
Miscellaneous functions relating to footpaths, bridleways and highways	Council	Local Area Committees
Functions relating to financial matters	Council	
Functions relating to sea fisheries	Council	Admin Committee
Miscellaneous functions relating to trees, hedgerows and limestone pavements	Council	Local Area Committees
Miscellaneous functions relating to standing orders	Council	
Functions relating to the appointment of staff at Executive Head Level and above	Council	Executive Heads, Chief Executive or Corporate Directors for staff below Executive Heads
Functions relating to payments or benefits in cases of maladministration etc	Council	Committee responsible for relevant function (or Chief Executive, Chief Financial Officer and Monitoring Officer if a Cabinet function)

## Responsibility for Shared Functions

Functions (as set out in Schedule 3 to the Functions Regulations)	Responsible Body
Crime and Disorder Reduction Strategy: - To coordinate the production of the Council's Crime and Disorder Reduction Strategy  - Formulation of the Council's Plan and Strategies which together comprise the Development Plan	The Cabinet will be responsible for preparing the draft Plans/Strategies and submitting them to the Council.  The Council will be responsible for approving and adopting the final Plans/Strategies

## Other Functions Expressly Delegated by Council

Legislation	Description	Body/Committee function delegated to	Date of delegation
<u>Localism Act 2011</u> - Part 5 Chapter 2	Community Right to Challenge	Cabinet	18 October 2012

# APPENDIX B

## (Part 3 - Responsibilities for Functions)

### Appointment of Proper and Designated Officers

For the purposes of relevant legislation the Council has made the following appointments for the duties or functions shown in the Appendix following this page.

\* The **Proper Officer** means an **Officer** appointed by the Council to discharge a particular function as set out in section 270(3) of the Local Government Act 1972.

Act	Section of Act	Description of the Responsibility	The Officer of the Council Appointed as the Proper Officer for the Duty or Function Referred to
<u>LOCAL GOVERNMENT ACT 1972</u>	13(3)	The Officer to act as Parish Trustee in a parish which does not have a Parish Council.	Monitoring Officer
	83(1)	The Officer before whom a person elected to the Officer of Chair, Vice-Chair or Councillor the District shall make a declaration of acceptance of office in a form prescribed by rules under s.42 of the Act and to whom such a declaration shall be delivered.	Chief Executive or Monitoring Officer
	84	The Officer to whom a person elected to any office under the Act may at any time give written notice of his resignation from that office.	Chief Executive or Monitoring Officer
	89(1)	The Officer to receive notice in writing given by two local government electors for the District of a casual vacancy occurring in the office of Councillor.	Chief Executive or Monitoring Officer
	100B, C D and F	The Officer responsible for providing access to agendas, minutes, reports and background documents in respect of meetings of the Authority.	Executive Head of Governance
	115(2)	The Officer to whom all money due from every officer employed by the Council shall be paid.	Chief Financial Officer
	146	The Officer to make any statutory declaration in connection with the transfer of securities.	Chief Financial Officer

<b>Act</b>	<b>Section of Act</b>	<b>Description of the Responsibility</b>	<b>The Officer of the Council Appointed as the Proper Officer for the Duty or Function Referred to</b>
	151	The Officer who shall be responsible for the proper administration of the Council's financial affairs.	Chief Financial Officer
	210(6) and (7)	The Officer in whom shall vest the powers with respect to Charities carried out by officers of the "old" local authority where there is no corresponding officer in the new authority.	Monitoring Officer
	225(1)	The Officer to receive and retain a document of any description deposited pursuant to the Standing Orders of either House of Parliament or to any enactment or instrument.	Monitoring Officer
	229(5)	The Officer to certify a photographic copy of a document in the custody of or under the control of the Council or of a document which has been destroyed while in the custody of the Council, or of any part of any such document.	Legal Services Manager
	234(1)	The Officer to sign any notice, order or other document made or issued by the Council.	Legal Services Manager
	236(1) and (9)	The Officer to send to the Council and each Parish Council a copy of every byelaw made by the Council and confirmed.	Legal Services Manager
	238	The Officer to certify a printed copy of a byelaw made by the Council.	Legal Services Manager
	248(2)	The Officer to keep the roll of freedom of the town.	Monitoring Officer
	Schedule 12 para 4 (2) (b)	The Officer to sign the summons to attend meetings of the Council and specifying the business proposed to be transacted thereat.	Monitoring Officer
	4(3)	The Officer to receive the notice in writing from a member of the Council giving notice that such member desires summonses to attend meetings of the Council to be sent to him at some address specified in the notice other than his place of residence.	Monitoring Officer

<b>Act</b>	<b>Section of Act</b>	<b>Description of the Responsibility</b>	<b>The Officer of the Council Appointed as the Proper Officer for the Duty or Function Referred to</b>
	Schedule 14 para 25(7)	The Officer to certify in writing a true copy of the resolution of the Council applying or disapplying various provisions of the Public Health Acts 1875 to 1925.	Legal Services Manager
	Schedule 16	The Officer to receive and deposit lists of buildings of special architectural or historic interest.	Executive Head of Planning and Economy
<u>LOCAL GOVERNMENT ACT 1974</u>	30(5)	The Officer to give public notice of the availability of reports of the Local Commissioner for Administration.	Chief Executive
<u>PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984</u>	74 (as amended)	Consultant in Communicable Disease Control / Consultant in Health Protection at Public Health England Southeast (or equivalent), to act as Proper Officer for the following purposes.	Executive Head of Environment
<u>THE HEALTH PROTECTION (NOTIFICATION) REGULATIONS 2010</u>	2, 3, 6	<p>Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons.</p> <p>Public Health (Control of Disease) Act 1984 Section 48 as amended by Health and Social Care Act 2008.</p> <p>Preparation of certificate to Justice of Peace for removal of body to mortuary and for burial within a prescribed time or immediately.</p>	Executive Head of Environment
<u>LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976</u>	41	The Officer signing certificates as evidence of resolutions and minutes of proceedings, etc.	Monitoring Officer
<u>REPRESENTATION OF THE PEOPLE ACT 1983</u>	8	The Officer to act as Electoral Registration Officer.	Chief Executive
<u>REPRESENTATION OF THE PEOPLE ACT 1983</u>	35	The Officer to act as Returning Officer for elections of Borough Councillors and Parish Councillors.	Chief Executive
<u>THE LOCAL ELECTIONS (PRINCIPAL AREAS) (ENGLAND AND WALES) RULES 2006</u>		The Officer of the Borough Council to act under the Rules for the purposes of elections, including the receipt of all documents and returns.	Monitoring Officer

<b>Act</b>	<b>Section of Act</b>	<b>Description of the Responsibility</b>	<b>The Officer of the Council Appointed as the Proper Officer for the Duty or Function Referred to</b>
<u>THE LOCAL ELECTIONS (PARISHES AND COMMUNITIES) (ENGLAND AND WALES) RULES 2006</u>		The Officer of the Borough Council to act under the Rules for the purposes of parish elections, including the receipt of all documents and returns.	Monitoring Officer
<u>PARISH AND COMMUNITY MEETINGS (POLLS) RULES 1987</u>		The Officer to act as Returning Officer.	Chief Executive
HOUSING		The Officer to sign certificates submitted in the Council's role as lending authority for any housing association schemes.	Legal Services Manager
<u>HEALTH AND SAFETY AT WORK ACT ETC 1974</u>	39	Power to institute proceedings for breaches of provisions under the Act.	Executive Head of Environment
<u>LOCAL GOVERNMENT AND HOUSING ACT 1989</u>	4	The Officer to act as head of the paid service.	Chief Executive
	5	The Officer to act as the monitoring officer.	Monitoring Officer
<u>LOCAL GOVERNMENT (COMMITTEES AND POLITICAL GROUPS) REGULATIONS 1990 AND 1991</u>		The Officer to accept political group notices.  The Officer to receive notices of Councillors' pecuniary interests.	Chief Executive  Monitoring Officer
<u>BUILDING ACT 1984</u>	S.78	The Officer to deal with dangerous buildings or structures in emergencies.	Executive Head of Planning and Economy

Act	Section of Act	Description of the Responsibility	The Officer of the Council Appointed as the Proper Officer for the Duty or Function Referred to
GENERAL		<p>Any reference in any enactment passed before or during the 1971 /72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972 to the Town Clerk of the Borough which, by virtue of any provision of the said Act was to be construed as reference to the Proper Officer of the Council.</p> <p>Any reference in the Local Government Act 1972 to the Proper Officer of the Council except where one has been designated above.</p> <p>Any reference in any enactment passed after the 1971 /72 session of Parliament or to be passed to the Proper Officer of the Council unless or until a specific appointment of another Officer has been made by the Council.</p>	<p>Monitoring Officer</p> <p>Monitoring Officer</p> <p>Monitoring Officer</p>
<u>LOCALISM ACT 2011</u>		The Proper Officer to receive written requests for and grant dispensations.	Monitoring Officer (with the ability to refer to the Administration Committee if necessary)
<u>THE LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012</u>		The Proper Officer	Monitoring Officer
<u>LOCAL GOVERNMENT ACT 2000</u>		The Officer to whom a member of the Council shall give written notice to the effect that they or their partner is a member or in the employment of a specified company or other body or that they or their partner is a partner or in the employment of a specified person, or that they or their partner is the tenant of any premises owned by the Council.	Monitoring Officer
<u>LICENSING ACT 2003</u>		The Officer to receive notices of applications for Justices' Licences under Schedule 2 to the Licensing Act, 1964.	Legal Services Manager
<u>LOCAL LAND CHARGES ACT 1975</u>		The Officer to act as local registrar for local land charges.	Executive Head of Planning and Economy

# APPENDIX C

## (Part 3 – Responsibility of Functions)

### **Scheme of Delegation to Staff**

#### **1.0 General Scheme of Delegation**

- 1.01 Subject to the following conditions and to any special conditions which may in future be applied in respect of particular matters, the Chief Executive, Corporate Directors, Executive Heads and Service Managers, or equivalent, are authorised to make such decisions and to initiate such action as they shall deem necessary in the interest of the efficient running of their teams or the services which they administer. In the absence of the Chief Executive, or at any time when they are unavailable, any or all of their powers shall be exercisable by any one of the Corporate Directors.
- 1.02 Any exercise of these delegated powers: -
- a. Shall comply with the Council Constitution.
  - b. Shall not authorise expenditure except in accordance with approved estimates, and where loan sanction or other approval is required shall not precede the loan sanction or approval.
  - c. Shall not involve a new policy or extend an existing policy of the Council.
  - d. Shall not depart from any approved scale, or scheme, or any direction of the Cabinet or appropriate Committee.
  - e. Shall be the subject of prior consultation with the Chief Executive and the appropriate professional or technical officers of the Council in any case involving considerations not wholly within the province of the Chief Officer concerned.
- 1.03 In the absence of a Service Manager or equivalent, powers delegated to them by this Scheme may be exercised by the next above senior officer. The question of whether a Service Manager or equivalent, or any other officer has exercised a power shall not be of any concern nor prejudice in any way any person dealing with the Council.
- 1.04 It is recognised that it is not possible for the Chief Executive, Corporate Directors, Executive Heads and Service Managers or equivalent, nor the next Senior Officers in the absence of the Service Manager to perform personally all the diverse and various matters delegated to them by this scheme. Therefore such Senior Officers may make internal arrangements under which other staff will be authorised to carry out the functions delegated to the named officers in this Scheme. Such arrangements may be made formally in writing but, in the event of an emergency, shall be equally valid if made orally and informally. Such arrangements shall provide generally that any formal documents which need to be issued are issued and signed in the name of the officer to whom the delegation is made by this Scheme. Such signature may be a facsimile in accordance with s234(2) of the Local Government Act 1972. Officers authorised to carry out the function delegated to the named officer in this scheme shall not sub-delegate the authority. Staff will be delegated powers by the relevant named officer based on competency and details will be retained in a competency matrix by the relevant Executive Area.
- 1.05 Officers must have due regard to the document relating to Scheme of Delegation (Appendix C).
- 1.06 The statutory provisions mentioned in this Appendix shall be deemed to include any statutory amendment, modification or re-enactment of any of those provisions.

## 2.0 Specific Staff Delegations

- 2.01 For the avoidance of doubt and without prejudice to the exercise of the powers delegated above in part 1 the following specific functions are expressly delegated to the following Officers, except where under any Council approved Scheme of Management Devolution, whether a Pilot Project or not, powers of management have been devolved from an Service Manager, or equivalent, to the next senior officer or other officer, when such officer shall have full power in place of the relevant Service Manager. Any conditions applying to the delegation are shown in italics in each case: -

Specific Function	Delegation
<b>General Functions</b>	
1. Authority to act on behalf of any other manager having delegated authority under the scheme.	Chief Executive or Corporate Directors
2. Power to act in an emergency.	Chief Executive or Corporate Directors
3. Power to act in matters of urgency: (a) Cabinet level action In consultation with the relevant Cabinet Member (or, in their absence, the Leader) (b) LAC or other level action In consultation with Cabinet Member of relevant Committee (or Chair of Committee where statute precludes decision by the Cabinet).	Chief Executive or Corporate Directors
4. The appointment of Service Managers	Chief Executive, Corporate Directors or Executive Heads
5. Exploring and embracing partnership working approaches wherever possible and appropriate.	Chief Executive, Corporate Directors or Executive Heads
6. The responsibility for risk management in liaison with the Chief Financial Officer.	Chief Executive
7. Sign jointly with the Leader of the Council the Annual Governance Statement	Chief Executive
<b>Finance Functions</b>	
8. Management of the Collection Fund. <i>Subject to periodic report to the Cabinet</i>	Chief Financial Officer
9. The agreement of precept payment dates for County Council precept.	Chief Financial Officer
10. The premature re-payment of mortgage loans in cases where applications are received from the personal representatives of deceased investors for such repayment.	Chief Financial Officer
11. The administration on the Council's Treasury Management function in accordance with the annual investment borrowing strategy. <i>Subject to report to the Council</i>	Chief Financial Officer
12. The writing off: - (a) of debts not exceeding £5,000 in any case where the Chief Financial Officer is satisfied that there are sound reasons for doing so; and (b) of debts for whatever amount when compulsory liquidation or bankruptcy proceedings are commenced and where voluntary arrangements with creditors are started by or in relation to insolvent companies or individuals.	Chief Financial Officer
13. Responsibility for maintaining an adequate and effective system of internal audit.	Chief Financial Officer
14. Maintain and develop the Council's risk management policy in liaison with the Chief Executive	Chief Financial Officer
<b>Functions relating to staff resources</b>	

Specific Function	Delegation
15. (a) The appointment of Service Managers (or equivalent)  (b) The appointment of staff below the level of Service Manager (or equivalent) in line with the agreed establishment in their area of responsibility.	Corporate Director or Executive Head  Executive Head or Service Manager
16. The appointment of temporary staff as and when required for the effective operation of the authority subject to availability of finance from the team's staffing budget.	Executive Head or Service Manager
17. Before taking any decision in discharge of their responsibilities, Executive Head or Service Managers should consider relevant risk management issues.	Executive Head or Service Manager
18. The authorisation of car allowances, loans or leases within Council policy.	Executive Head or Service Manager
19. The authorisation of telephone allowances.	Executive Head or Service Manager
20. The attendance of officers on full or part-time courses of study (including correspondence courses), conferences and seminars.	Executive Head or Service Manager
21. The authorisation of planned overtime.	Executive Head or Service Manager
22. The authorisation of travelling and subsistence allowances.	Executive Head or Service Manager
23. The authorisation of unpaid leave up to three months.	Executive Head or Service Manager
24. Variations in establishments involving the replacement of individual posts by lower graded posts.	Executive Head or Service Manager (in consultation with Human Resources)
25. Approval of changes to designations of posts below Service Managers or equivalent.	Executive Head or Service Manager
26. To approve up to 18 days paid leave of absence a year for employees undertaking public duties specified in the Employment Protection Act.	Executive Head or Service Manager
27. To grant compassionate leave as appropriate to the circumstances.	Executive Head or Service Manager
28. Exploring and embracing partnership working approaches wherever possible and appropriate.	Executive Head or Service Manager
<b>Functions relating to lettings, leases and licences</b>	
29. The management and letting of The Point and The Berry Theatres in accordance with the policy laid down by the Council.	Head of Arts and Culture (in consultation with the Lead Asset Manager)
30. The granting or new leases or licences in The Point or Berry Theatres or variation to existing leases and licences.	Head of Arts and Culture (in consultation with the Lead Asset Manager)
31. The granting or new leases or licences in the Country Parks or variation to existing leases and licences.	Countryside Manager (in consultation with the LAC Chair and Lead Asset Manager)
32. The letting of leisure and sports facilities in accordance with the policy laid down by the Council.	Executive Head of Health and Wellbeing (in consultation with Lead Asset Manager)

Specific Function	Delegation
33. The letting of accommodation at sports pavilions in accordance with the policy laid down by Council.	Executive Head of Health and Wellbeing (in consultation with Lead Asset Manager)
<b>Functions relating to housing matters, homelessness and benefits</b>	
34. The exercise of powers and duties under homelessness legislation.	Executive Head of Health and Wellbeing
35. Liaison with Health Authorities in respect of the provision of medical advice to the Local Authority on housing matters.	Executive Head of Health and Wellbeing
36. Liaison with external agencies such as the Cabinet Office, Social Services, Health Authorities, housing associations, etc on matters relevant to the provision, repair, improvement, management, etc of social housing.	Executive Head of Health and Wellbeing
37. Payments to Registered Social Landlords in relation to mortgage rescue.	Executive Head of Health and Wellbeing
38. The determination of applications for home loss, disturbance and removal in accordance with statutory requirements.	Executive Head of Health and Wellbeing
39. The determination of applications for Disabled Facilities Grants, other grants and loans in accordance with the statutory requirements and within the limits of Council policy.	Executive Head of Health and Wellbeing
40. The determination of applications for continuation or restoration of services under Section 33 of the Local Government (Miscellaneous Provisions) Act 1976.	Executive Head of Health and Wellbeing
41. To submit applications to Homes England to waive conditions related to grant funded shared ownership housing in Designated Protection Areas.	Executive Head of Health and Wellbeing
42. To deal with all matters relating to the administration of Housing Benefit, including the determination and payment of benefit, the exercising of discretionary powers, all decisions relating to the recovery or non-recovery of recoverable overpayments of this benefit, and determining appropriate sanctions to administer in case of fraud in accordance with the Social Security Contributions and Benefits Act 1992 and the Social Security Administration Act 1992 as amended by Schedule 9 of the Local Government Finance Act 1992 and any regulations or any subsequent re-enactment or statutory provision.	Executive Head of Finance and Housing Programme
43. To determine and pay claims for Discretionary Housing Payments in accordance with the scheme policy statement	Executive Head of Finance and Housing Programme
44. The authorisation of persons to appear in Magistrates' Court on behalf of the Council for the recovery of benefit overpayments and to prove any such sums due to the Council, pursuant to Section 223 of the Local Government Act 1972.	Executive Head of Finance and Housing Programme
45. The completion and signing off, of all financial and statistical returns for Benefits, as required by Government, in consultation with the Chief Financial Officer.	Executive Head of Finance and Housing Programme
46. To deal with all matters relating to the administration of the Council Tax Reduction Scheme (Council Tax Support) including the determination of appropriate sanctions.	Executive Head of Finance and Housing Programme
47. To authorise the write-off of debts relating to Housing Benefit for debts below £5,000.	Executive Head of Finance and Housing Programme
<b>Functions relating to planning and development matters</b>	
48. The signing of notices conveying decisions of the Council in respect of applications for planning permission, discharge of planning conditions, the display of advertisements, listed building and conservation area consent and applications for felling, topping, lopping etc of trees covered by Tree Preservation Orders.	Executive Head of Planning and Economy

Specific Function	Delegation
<p>49. The determination of planning applications (excluding those relating to trees which are dealt with below) except: -</p> <p>(a) Applications which, in the opinion of the Executive Head of Planning and Economy have a significant impact on the environment, or are controversial or potentially controversial;</p> <p>(b) Applications which three members from the Local Area Committee require to be submitted to Committee within 21 calendar days of that application appearing on the weekly list of planning applications received;</p> <p>(c) Any application which the Executive Head of Planning and Economy wishes for any reason to submit to the Committee;</p> <p>(d) Any application where a Councillor has declared or is shown to have a disclosable pecuniary interest;</p> <p>(e) Any application where a member of staff would have a personal interest and could be seen to influence the decision;</p> <p>(f) Any applications submitted by former planners or technical staff band 8 or above within one year of leaving the Council's service or from applicants or agents employing such former members of staff.</p>	Executive Head of Planning and Economy
<p>50. The determination of observations on 'County matter' planning applications except those within 2(a) - (e) above</p>	Executive Head of Planning and Economy
<p>51. The determination of observations to neighbouring Planning Authorities in respect of planning applications within their area on which the Borough Council has been formally consulted.</p>	Executive Head of Planning and Economy
<p>52. The determination of applications for consent to fell, lop or top any trees covered by a tree preservation order except where:</p> <p>(a) three members from the Local Area Committee require the matter to be submitted to Committee within 21 calendar days of that application appearing on the weekly list of planning applications received;</p> <p>(b) the matter, in the opinion of the Executive Head of Planning and Economy, is controversial or potentially controversial; or</p> <p>(c) Any application where a Councillor has declared or is shown to have a disclosable pecuniary interest;</p> <p>(d) Any application where a member of staff would have a personal interest in the outcome of the decision.</p>	Executive Head of Planning and Economy
<p>53. Minor amendments to approved details.</p>	Executive Head of Planning and Economy

Specific Function	Delegation
54. Subject to consultation with the Legal Services Manager: <ul style="list-style-type: none"> <li>(i) Authorise the issue of Enforcement Notices;</li> <li>(ii) Authorise the issue of Stop Notices;</li> <li>(iii) Authorise the issue of Breach of Conditions Notices;</li> <li>(iv) Authorise the issue of Section 215 Notices;</li> <li>(v) Authorise the issue of Section 330 Notices;</li> <li>(vi) Authorise the issue of Tree Replacement Notices;</li> <li>(vii) Authorise the issue of Planning Contravention Notices;</li> <li>(viii) Authorise the issue of Section 3 Listed Building Preservation Notices;</li> <li>(ix) Authorise the issue of Section 38 Listed Building Enforcement Notices;</li> <li>(x) Authorise the issue of Section 54 Listed Building Urgent Repairs Notices;</li> <li>(xi) Authorise the issue of Section 48 Listed Building Repairs Notices;</li> <li>(xii) Authorise prosecution for failure to comply with requirements of i-x;</li> <li>(xiii) Authorise prosecution for illegal advertising;</li> <li>(xiv) Authorise prosecution for unauthorised works to protected trees;</li> <li>(xv) Authorise injunction and similar enforcement proceedings in the courts;</li> <li>(xvi) Authorise prosecution and committal proceedings for breach of orders obtained under any of the foregoing;</li> <li>(xvii) Authorise any other enforcement or remedial action including direct action as permitted by statute.</li> </ul>	Executive Head of Planning and Economy (in consultation with the Legal Services Manager)
55. To refuse an application not otherwise delegated to them, where the applicant has delayed unreasonably provision of information needed to facilitate the determination of the application.	Executive Head of Planning and Economy
56. The exercise of power of entry, sampling and inspection given by any relevant legislation, including the authority to authorise anyone to effect such entry etc, subject to compliance with the limits of any enactment.	Executive Head of Planning and Economy
57. To determine complaints made by the owner/occupiers of domestic property adversely affected by evergreen hedges over two metres high (in the case of hedges not owned by the Council).	Executive Head of Planning and Economy
58. (i) To determine whether an environmental assessment and/or statement and/or similar appraisal is required under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 or any amended, re-enacted or equivalent legislation. (ii) To decide whether to adopt a screening opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 or any amended, re-enacted or equivalent legislation. (iii) To give a scoping opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 or any amended, re-enacted or equivalent legislation. (iv) Determine whether an application should be accompanied by an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 or any amended, re- enacted or equivalent legislation.	Executive Head of Planning and Economy
59. To determine and/or decide and/or advise about whether or not any requirement prerequisite to the proper exercise of any of the above functions is fulfilled (refer to function 58).	Executive Head of Planning and Economy
60. To perform or procure the performance of any duties or requirements which are necessary, desirable or otherwise ancillary to the proper discharge of any of the above functions (refer to function 58).	Executive Head of Planning and Economy
61. Determination of the type of planning appeal and amendments to Council's case during the course of appeal, subject to consultation as deemed appropriate with the Chair of the relevant Local Area Committee and Legal Services Manager and representing the Council at appeal as necessary.	Executive Head of Planning and Economy
62. To carry out all functions and responsibilities associated with the Local Land Charges Act 1975, any subsequent legislation or regulations and the Council's responsibilities for maintaining and operating the Register of Local Land Charges including, but not limited to, the setting of fees.	Executive Head of Planning and Economy

Specific Function	Delegation
63. To determine applications for hazardous substances consent and related powers under section The Planning (Hazardous Substances) Act 1990	Executive Head of Planning and Economy
64. The administration of The Building Regulations 2010 and other related legislation to include:  (i) Hampshire Act 1980 (ii) Sustainable and Secure Buildings Act 2004 (iii) Safety at Sports Grounds Act 1975 (iv) Disability Discrimination Act 1995 (v) Licensing Act 2003 (vi) Local Govt (Misc. Provisions) Act 1982 (vii) Clean Neighbourhoods and Environment Act 2005	Executive Head of Planning and Economy
65. Power to deal with dangerous structures.	Executive Head of Planning and Economy
66. The approval and extension for temporary periods not exceeding three years of buildings constructed of short-lived materials. The approval of grants for listed buildings in accordance with current policy.	Executive Head of Planning and Economy
67. The service of Hedgerow Retention Notices.	Executive Head of Planning and Economy
68. The exercise of power of entry, sampling and inspection given by any relevant legislation, including the authority to authorise anyone to effect such entry etc, subject to compliance with the limits of any enactment.	Executive Head of Planning and Economy
<b>Functions relating to neighbourhood services</b>	
69. The enforcement of the legislation below (Function 70) relating to neighbourhood services, including the appointment of named officers or as inspectors, and the designation of powers that they may use, including issuing fixed penalty notices, directions and orders, serving notices and seizure.	Executive Head of Neighbourhood Services
70. Environment Protection Act 1990: Part II – Waste on Land; Part IV – Litter, Refuse Disposal Amenity Act 1978: Sections 2 and 3 (abandoned vehicles), Clean Neighbourhoods and Environment Act 2005: Part 2 – Vehicles; Part 3 – Litter and refuse; Part 4 – Graffiti and other defacement; Part 5 – Waste, transport, deposit and disposal; Part 9 – Miscellaneous powers.	Executive Head of Neighbourhood Services
71. The maintenance of individual grave spaces, the erection of headstones, memorials, inscriptions etc in the Council’s cemeteries and burial grounds.	Executive Head of Neighbourhood Services
72. The grant, surrender and repurchase of exclusive rights of burial in grave spaces.	Executive Head of Neighbourhood Services
73. The powers to make, modify, vary, and confirm, not to confirm or revoke a Tree Preservation Order except where:  (a) three members from the Local Area Committee require the matter to be submitted to Committee;  (b) the matter, in the opinion of the Executive Head of Neighbourhood Services, is controversial or potentially controversial; or  (c) Any application where a Councillor has declared or is shown to have a disclosable pecuniary interest;  (d) Any application where a member of staff would have a personal interest in the outcome of the decision.	Executive Head of Neighbourhood Services
74. The exercise of power of entry, sampling and inspection given by any relevant legislation, including the authority to authorise anyone to effect such entry etc, subject to compliance with the limits of any enactment.	Executive Heads

Specific Function	Delegation
75. The issue and revocation of parking permits for members of the public, businesses, visitors and carers for any resident parking scheme in the Borough within the policy of the Council.	Executive Head of Neighbourhood Services
<b>Functions relating to statutory enforcement</b>	
76. Delegated authority for the following, in conjunction with as necessary, the relevant Service Lead to carry out a range of tasks such as: <ul style="list-style-type: none"> <li>• Site inspections from public land or where invited onto private land</li> <li>• Posting site notices and serving notices</li> <li>• Initial investigations and assessments, evidence gathering and preliminary interviews</li> <li>• Monitoring and compliance – contracts, repairs and assets</li> <li>• Customer visits</li> <li>• Enforcement visits</li> <li>• Liaison role</li> </ul> And to be given authority to authorise and determine which powers under the relevant legislation are to be exercised by particular authorised staff.	Executive Heads of Customer Care/ Neighbourhood Services/ Planning and Economy / Environment
77. The exercise of power of entry, sampling and inspection given by any relevant legislation, including the authority to authorise anyone to effect such entry etc, subject to compliance with the limits of any enactment.	Executive Heads of Customer Care/ Neighbourhood Services/ Planning and Economy / Environment
78. The cancellation, as appropriate, of penalty charge notices which have been issued on or off the streets under the Road Traffic Act 1991 / Traffic Management Act 2004.	Executive Head of Neighbourhood Services/ Parking and CCTV Manager
79. To register any unpaid parking fines from the implementation of the Road Traffic Act 1991 / Traffic Management Act 2004 with the Traffic Enforcement Centre, so as to enforce the charge by requesting a warrant, and, on issue of that, to employ certificated enforcement agents (bailiffs) to execute the warrant.	Executive Head of Neighbourhood Services/ Parking and CCTV Manager
<b>Functions relating to council tax and business rate matters</b>	
80. The demand, collection and recovery of Council Tax and Business Rate.	Executive Head of Finance and Housing Programme
81. The grant of mandatory rate relief under section 43(6) of the Local Government Finance Act 1988.	Executive Head of Finance and Housing Programme
82. The approval of applications for discretionary rate relief (under sections 44A and 47 of the Local Government Finance Act 1988) and reduction of remission of liability (under section 49 of the Local Government Finance Act 1988).	Executive Head of Finance and Housing Programme
83. The authorisation of persons to appear in Magistrates' Court on behalf of the Council for the recovery of unpaid Council Tax and Non-Domestic Rates and to prove any such sums due to the Council, pursuant to Section 223 of the Local Government Act 1972.	Executive Head of Finance and Housing Programme
84. The completion and signing off, of all financial and statistical returns for Council Tax, National Non-Domestic Rates as required by Government, in consultation with the Chief Financial Officer.	Executive Head of Finance and Housing Programme
85. To decide whether to apply penalties for non-disclosure or late disclosure of change of circumstances for Council Tax in accordance with prescribed regulations.	Executive Head of Finance and Housing Programme
86. To authorise the write-off of debts relating to Council Tax and Business Rates for debts below £5,000.	Executive Head of Finance and Housing Programme
<b>Functions relating to highways, roads and traffic matters</b>	
87. The numbering and re-numbering of houses.	Executive Head of Neighbourhood Services

Specific Function	Delegation
88. The closure of the use of a highway by vehicles for a period not exceeding three months in cases of emergency.  <i>Subject to reporting to the relevant Ward Councillors.</i>	Executive Head of Neighbourhood Services
89. Authority to make unopposed Traffic Regulation Orders.	Executive Head of Neighbourhood Services
90. The approval of temporary closure of roads.  <i>Subject to notification of such approvals to the Group Spokespersons and Ward Councillors.</i>	Executive Head of Neighbourhood Services
91. The issue of hazardous substances contravention notices.	Executive Head of Environment
92. The implementation of disabled driver bays, subject to no objections being received through the statutory process.	Executive Head of Neighbourhood Services
93. The power to enter land, under Sections 14, 26 and 64 of the Land Drainage Act 1991, to enable officers to maintain, improve or construct watercourses or drains as defined in the legislation.	Executive Head of Neighbourhood Services

Specific Function	Delegation
<b>Functions relating to Environment and Health Permits/Consents/ Registrations/Enforcement</b>	
<p>94. The enforcement of any relevant legislation and the appointment of named officers or categories of officers as authorised officers or as inspectors (including the power to designate the powers they may exercise) under any relevant legislation including:</p> <ul style="list-style-type: none"> <li>• Dogs Act 1871</li> <li>• Public Health Act 1875</li> <li>• Open Spaces Act 1906</li> <li>• Public Health Acts Amendment Act 1907</li> <li>• Public Health Act 1936</li> <li>• Prevention of Damage by Pests Act 1949</li> <li>• Pet Animals Act 1951</li> <li>• Caravan Sites and Control of Development Act 1960</li> <li>• Public Health Act 1961</li> <li>• Animal Boarding Establishments Act 1963</li> <li>• Riding Establishments Act 1964 and 1970</li> <li>• Local Government Act 1972</li> <li>• European Communities Act 1972; <ul style="list-style-type: none"> <li>- Regulation (EC) 852/2004</li> <li>- Regulation (EC) 853/2004</li> <li>- Regulation (EC) 854/2004</li> </ul> </li> <li>• The General Food Regulations 2004</li> <li>• The Food Hygiene (England) Regulations 2006</li> <li>• Official Control (Animals Food and Feed) (England) Regulations 2006</li> <li>• Official Feed and Food Controls (England) Regulations 2009</li> <li>• Trade in Animals and Related Products Regulations 2011</li> <li>• Health and Safety at Work etc. Act 1974</li> <li>• Control of Pollution Act 1974</li> <li>• Local Government (Miscellaneous Provisions) Acts 1976 and 1982</li> <li>• Dangerous Wild Animals Act 1976</li> <li>• Refuse (Disposal) Amenity Act 1978</li> <li>• Animal Health Act 1981</li> <li>• Public Health (Control of Disease) Act 1984</li> <li>• Zoo Licensing Act 1981</li> <li>• Building Act 1984</li> <li>• Housing Act 1985</li> <li>• Hampshire Act 1983</li> <li>• Local Government and Housing Act 1989</li> <li>• Environmental Protection Act 1990</li> <li>• Food Safety Act 1990</li> <li>• Water Industry Act 1991</li> <li>• Dangerous Dogs Act 1991</li> <li>• Control of Dogs Order 1992</li> <li>• Clean Air Act 1993</li> <li>• Noise and Statutory Nuisance Act 1993</li> <li>• Sunday Trading Act 1994</li> <li>• Environment Act 1995</li> <li>• Noise Act 1996</li> <li>• Housing Grants, Construction and Regeneration Act 1996</li> <li>• Pollution Prevention and Control Act 1999</li> <li>• Vehicle (Crime) Act 2001</li> <li>• The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002</li> <li>• Licensing Act 2003</li> <li>• Housing Act 2004</li> <li>• Clean Neighbourhoods and Environment Act 2005</li> <li>• Health Act 2006</li> </ul>	<p>Executive Heads of Customer Care /Health and Wellbeing /Neighbourhood Services / Environment</p>

Specific Function	Delegation
<ul style="list-style-type: none"> <li>• Animal Welfare Act 2006</li> <li>• The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018</li> <li>• Control of Horses Act 2015</li> <li>• Environmental Protection (Stray Dogs) 1992</li> <li>• Sunbeds (Regulation) Act 2010</li> <li>• Mobile Homes Act 2013 The Anti-Social Behaviour, Crime and Policing Act 2014</li> </ul> <p>and regulations made thereunder.</p>	
<p>95. The service of statutory notices under the following legislation:</p> <ul style="list-style-type: none"> <li>• the Public Health Acts,</li> <li>• the Food Acts and regulations,</li> <li>• the Health and Safety at Work etc Act 1974,</li> <li>• the Control of Pollution Act 1974,</li> <li>• the Environmental Protection Act 1990,</li> <li>• the Refuse (Disposal) Amenity Act 1978,</li> <li>• the various Local Government (Miscellaneous Provisions) Acts,</li> <li>• the Prevention of Damage by Pests Act 1949,</li> <li>• the Clean Air Acts,</li> <li>• the Housing Act 2004,</li> <li>• the Clean Neighbourhoods and Environment Act 2005,</li> <li>• the Health Act 2006,</li> <li>• the Mobile Homes Act 2013,</li> <li>• the Building Act 1984,</li> <li>• the Pollution Prevention and Control Act 1999,</li> <li>• the Environment Act 1995</li> <li>• the Anti-Social Behaviour, Crime and Policing Act 2014 (also see 96)</li> </ul> <p>and the determination of any matter, e.g. satisfaction/opinion which must precede the service of such notices.</p>	<p>Executive Heads of Customer Care /Health and Wellbeing /Neighbourhood Services / Environment</p>
<p>96. The Specific delegations under the Anti-Social Behaviour, Crime and Policing Act 2014</p> <ul style="list-style-type: none"> <li>• Civil injunctions</li> <li>• Community Protection Notice</li> <li>• Public Spaces Protection Order</li> <li>• Closure Powers</li> </ul>	<p>Legal Services Manager</p> <p>Executive Head of Environment</p> <p>Relevant Local Area Committee or Cabinet (when proposed PSPO covers more than one local area)</p> <p>Chief Executive</p>
<p>97. The execution of works required by statutory notice in default of compliance by the owner or occupier or person responsible.</p>	<p>Executive Heads of Customer Care /Health and Wellbeing /Neighbourhood Services / Environment</p>
<p>98. Authorisations, variations and revocations of such authorisations for prescribed processes under the Environmental Protection Act 1990.</p>	<p>Executive Heads of Customer Care /Health and Wellbeing /Neighbourhood Services / Environment</p>

Specific Function	Delegation
<p>99. The exercise of all licensing, registration and approval functions including revocations, refusals, transfers and variations in connection with <i>(subject to consultation with the appropriate Cabinet Member in respect of matters not within established Council policy)</i>:</p> <ul style="list-style-type: none"> <li>• pet animals, riding, animal boarding and dog breeding establishments, zoos and dangerous wild animals subject to a veterinary surgeon's report where appropriate.</li> <li>• performing animal exhibition trainers;</li> <li>• food premises;</li> <li>• egg producers;</li> <li>• shops or places for Sunday trading;</li> <li>• pleasure boats and boatmen's licences;</li> <li>• caravan sites;</li> <li>• meat preparations and meat products;</li> <li>• skin-piercers;</li> <li>• rag flock and other filling materials;</li> <li>• street trading;</li> <li>• certain types of industrial activity;</li> <li>• pollution and prevention and control.</li> </ul>	<p>Executive Heads of Customer Care /Health and Wellbeing /Neighbourhood Services / Environment</p>
<p>100. The application of regulations 5 and 6 of the Health and Safety (Enforcing Authority) Regulations 1998.</p>	<p>Executive Head /Environment</p>
<p>101. The appointment and revocation of Proper Officers for public health functions.</p>	<p>Executive Head of Environment</p>
<p>102. The response to requests for information under the Environmental Information Regulations 1992.</p>	<p>Legal Services Manager</p>
<p>103. The maintenance of Public Registers in respect of: -</p> <ul style="list-style-type: none"> <li>• Food Premises</li> <li>• Health and Safety notices affecting the public</li> <li>• Cooling Towers</li> <li>• Caravan Sites</li> <li>• Prescribed Processes</li> <li>• Contaminated Land</li> <li>• Radioactive Substances</li> <li>• Found Stray Dogs</li> </ul>	<p>Executive Heads of Customer Care /Health and Wellbeing /Neighbourhood Services / Environment</p>
<p>104. The execution of works required by statutory notice in default of compliance by the owner or occupier or person responsible.</p>	<p>Executive Heads of Customer Care /Health and Wellbeing /Neighbourhood Services / Environment</p>
<p>105. The exercise of power of entry, sampling and inspection given by any relevant legislation, including the authority to authorise anyone to effect such entry etc, subject to compliance with the limits of any enactment.</p>	<p>Executive Heads of Customer Care /Health and Wellbeing /Neighbourhood Services / Environment</p>
<p>106. The determination of applications for continuation or restoration of services under Section 33 of the Local Government (Miscellaneous Provisions) Act 1976.</p>	<p>Executive Heads of Customer Care /Health and Wellbeing /Neighbourhood Services / Environment</p>
<p><b>Functions relating to pay and expenses</b></p>	
<p>107. Implementation of amendments to car mileage rates in accordance with nationally agreed scales. <i>In conjunction with the Chief Financial Officer.</i></p>	<p>Human Resources Lead</p>

Specific Function	Delegation
108. Implementation of nationally and locally agreed amendments to salaries, rates of pay and conditions of service. <i>In conjunction with the Chief Financial Officer (in terms of budgetary considerations) and subject to a report to the Cabinet (other than for minor conditions of service changes).</i>	Human Resources Lead
<b>Functions relating to legal proceedings, litigation and prosecution</b>	
109. The institution of any legal proceedings in any criminal or civil courts or tribunals wherever this is considered appropriate and the defence of any proceedings brought against the Council, together with authority to take any necessary incidental steps connected therewith.	Legal Services Manager
110. To instigate, defend, participate in, settle or withdraw a prosecution or other legal proceedings where it is in the interest of the Council under section 222 of the Local Government Act 1972 and where the prosecution or other legal proceedings can be seen as assisting in fulfilling the Council's functions.	Legal Services Manager
111. The service of notice to quit where required to protect the Council's interest. After consultation with the Lead Asset Manager	Legal Services Manager
112. The signing of all documents and notices on behalf of the Council in relation to any formal or legal proceedings.	Legal Services Manager
113. The authorisation of persons: <ul style="list-style-type: none"> <li>(a) to prosecute or defend on behalf of the Borough Council and appear in proceedings before the Magistrates Court pursuant to Section 223 of the Local Government Act 1972;</li> <li>(b) to appear in the County Court on behalf of the Borough Council in actions for the recovery of possessions of housing and commercial premises belonging to the Borough Council pursuant to Section 60 of the County Court Act 1984; and in actions for the recovery of debts and arbitration hearings;</li> <li>(c) to appear on behalf of the Borough Council at Local Inquiries arising under the Town and Country Planning Acts and legislation relating to compulsory purchase.</li> </ul>	Legal Services Manager
114. The execution of agreements for minor wayleaves over Council properties for drainage, gas, electricity and telephone facilities.	Legal Services Manager
115. The burial of deceased persons for whom no other arrangements have been made.	Executive Head of Environment
116. The service of notices under Land Drainage legislation.	Legal Services Manager
117. The execution of deeds under the Power of Attorney contained in the Highways Agency Agreement with the Hampshire County Council.	Legal Services Manager
118. Authority to affix the Common Seal of the Council to mortgage discharge deeds and other miscellaneous legal documents without the need for a formal resolution of the Council.	Legal Services Manager

Specific Function	Delegation
<p>119. Subject to the restrictions shown at the end of this item, the exercise of licensing functions, including the issue, refusal, suspension or revocation of licences, permits and registrations as follows: -</p> <ul style="list-style-type: none"> <li>(a) Permits for amusement with prizes in accordance with Council policy.</li> <li>(b) Registration of organisations for the conduct of small lotteries.</li> <li>(c) Game dealers' licences.</li> <li>(d) Licences for house to house collections and permits for street collections.</li> <li>(e) Late night refreshment house licences.</li> <li>(f) Registration of scrap metal dealers.</li> <li>(g) Licences for the use of premises for cinematographic purposes.</li> <li>(h) Theatre licences.</li> <li>(i) Exercise of the various powers contained in the Local Government (Misc. Provisions) Act 1976 and the Town Police Clauses Act 1847 in connection with licences for hackney carriages (and private hire vehicles).</li> <li>(j) Licences for places of entertainment.</li> <li>(k) Applications for registration of door supervisors for places of public entertainment and public houses.</li> <li>(l) The determination of applications for track betting licences, unless particularly controversial in which case this would be dealt with by the licensing panel of the relevant local area committee.</li> <li>(m) The determination of applications under the powers of the Licensing Act 2003 and the Gambling Act 2005.</li> </ul> <p>These matters are dealt with on the Council's behalf by Southampton City Council under a partnership agreement.</p> <p>Restrictions on delegation Subject to: For items (a) to (m)</p> <ul style="list-style-type: none"> <li>(i) consultation with the Chair of the relevant committee in respect of matters not within Council policy</li> <li>(ii) consultation with the Chair of the relevant committee on any proposal to refuse, suspend or revoke a licence (for reasons other than the fitness of a vehicle, the non-production of documents or in the in the interest of public safety under section 61 (2B) Local Government (Miscellaneous Provisions) Act 1976 in the case of hackney carriage or private hire licences {item(i)})</li> </ul>	<p>Legal Services Manager</p>
<p>120. Additionally, for items (g), (h) and (j) (above): After Consultation with the Executive Head of Planning and Economy determination of applications under sections 191 (as amended) and 192 of the Town and Country Planning Act 1990 (certificates of lawful use or development or proposed use or development) and section 64 (applications to determine whether planning permission is required).</p>	<p>Legal Services Manager</p>

Specific Function	Delegation
121. The consultation processes required by the Highways Act 1980 and the Wildlife and Countryside Act 1981 in relation to public footpaths.	Legal Services Manager
122. The exercise of power of entry, sampling and inspection given by any relevant legislation, including the authority to authorise anyone to effect such entry etc, subject to compliance with the limits of any enactment.	Legal Services Manager
123. To enter into agreements in respect of parking adjudication.	Legal Services Manager
124. To authorise officers (from this Council or its local authority partners or agents) to issue cautions under the Licensing Act 2003 and the Gambling Act 2005.	Legal Services Manager
125. To certificate films, in consultation with the Chair or Vice Chair of the Licensing Committee.	Legal Services Manager
126. To carry out the duties and responsibilities of the Data Protection Officer.	Legal Services Manager

Specific Function	Delegation
<p data-bbox="153 165 662 197"><b>Functions relating to property and assets</b></p> <p data-bbox="143 217 352 248">127. The approval of:</p> <p data-bbox="188 280 1142 405">(a) All non-contentious leases, licences, tenancy, rent reviews for terms up to 125 years at rentals up to £200,000 a year exclusive, where the principle of letting has been approved by the Cabinet or relevant Committee and for rents over £200,000 per annum, where the change in rental is less than 10%, following consultation with the relevant Cabinet Member.</p> <p data-bbox="188 441 1142 533">(b) The purchase of land required for highway schemes under the Highways Agency Agreement up to £50,000 in value subject to approval by the Cabinet or relevant Committee and the Hampshire County Council, and to the availability of finance.</p> <p data-bbox="188 568 1142 629">(c) The purchase of land up to £1,000,000 in value, subject to Cabinet or Committee approval having been obtained for the scheme and the availability of finance.</p> <p data-bbox="188 665 1142 725">(d) Disturbance payments up to £50,000 subject to the scheme having been approved by the Cabinet or appropriate Committee.</p> <p data-bbox="188 761 1142 853">(e) Home loss payments complying with the provisions of the Land Compensation Act 1973 of 10% of the market value of the property, subject to the statutory minimum and maximum payments current at the time.</p> <p data-bbox="188 889 1142 949">(f) The granting of easements up to £1,000,000 in value, where approved by Cabinet or relevant Local Area Committee.</p> <p data-bbox="188 985 826 1016">(g) The sale of residential freehold reversions to the leaseholders.</p> <p data-bbox="188 1052 1142 1113">(h) The sale of commercial freehold reversions to the leaseholders up to £1,000,000 where approved by Cabinet.</p> <p data-bbox="188 1149 1142 1209">(i) To place property on the market in accordance with Corporate Standards with a view to disposal.</p> <p data-bbox="188 1245 1142 1337">(j) To appoint external agents or consultants to provide specialist services in respect of the Council's property portfolio and land, subject to compliance with Financial Procedure Rules and Contract Procedure Rules.</p> <p data-bbox="188 1373 1142 1464">(k) To approve, in consultation with the Chief Financial Officer, claims for dilapidations in respect of leasehold interests granted to or from the Council, provided the consideration does not exceed £1,000,000, and provided sufficient finance is available.</p> <p data-bbox="188 1500 1142 1626">(l) To authorise, in consultation with the Chief Financial Officer, lease surrenders and/or renewals to Scout or Guide Groups or other community or charitable organisations which include any underlet for any purpose authorised by Section 1 Localism Act at rents less than best consideration where it is proposed to underlet to a nursery provider or similar community use.</p> <p data-bbox="188 1662 1142 1787">(m) To approve lettings or lease renewals at less than best consideration where the principle of letting to the organisation has already been approved (by virtue of a previous letting or other appropriate means) or where the Council is obliged to renew a letting by virtue of Landlord or Tenant legislation.</p> <p data-bbox="188 1823 1142 1915">(n) Incidental approvals and consents under conveyances, transfers, leases and temporary lettings, to include variations, assignments, surrenders, sub-lettings and Landlords' consent when the consideration for the variation does not exceed £100,000 per annum.</p>	<p data-bbox="1174 217 1385 248">Lead Asset Manager</p>

Specific Function	Delegation
<p>(o) The granting of approvals and consents under conveyances, leases, agreements and temporary lettings of properties purchased for redevelopment.</p> <p>(p) To manage the Council's investment, social and general purpose property and land assets.</p> <p>(q) The acceptance of dedications of land for the improvement or construction of highways on payment of surveyors' fees and any necessary accommodation works.</p> <p>(r) The conduct of negotiations for the purchase of properties in mortgage hardship cases and the making of any necessary tenancy arrangements.</p> <p>(s) Non contentious sales up to £1,000,000 where approved in principle by Cabinet.</p> <p>(t) Free dedication to the highway authority of small areas of Borough-owned land required for highway purposes in connection with schemes approved by the holding Committee.</p> <p>(u) The submitting of appeals and agreeing proposed assessments in respect of the revaluation of non-domestic property, including reference to the Upper Tribunal in cases of ongoing appeals.</p> <p>(v) The authorising of the service of notices and counter-notices under Part II of the Landlord and Tenant Act 1954 and to determine the contents thereof.</p> <p>(w) The negotiation and agreement of terms for the imposition, modification and conveyances on property titles.</p> <p>(x) The taking of any necessary steps against encroachments on Council owned or managed land.</p>	
128. The acquisition and sale of mobile homes at Grange Park at market value and the development of plots at Grange Park.	Lead Asset Manager
129. The approval of assignment and grant of Grange Park mobile home site agreements at market value.	Lead Asset Manager
130. Authority to make comments on relevant planning applications and Listed Building Notifications, as provided for in Appendix 1 of Part II of Standing Orders (Proceedings and Business of the Cabinet and Committees) (see Part 4 - Council and Committee Procedure Rules).	Lead Asset Manager
131. The making of minor changes to the Asset Management Strategy document that do not involve policy and/or financial considerations.	Executive Head of Assets
<b>Functions relating to elections</b>	
132. The selection of premises as polling stations.  <i>In consultation with Group Leaders and relevant Ward Councillors.</i>	Returning Officer
<b>Miscellaneous Functions</b>	
133. To act as the proper officer for the purposes of the access to information rules, including determination, in consultation with the Leader of the Council, of a response to any representations received about why a Cabinet meeting, or part of a Cabinet meeting, should be held in public following publication of a notice to meet in private.	Monitoring Officer
134. Power to grant dispensations to Councillors in accordance with section 33 of the Localism Act 2011	Monitoring Officer

## **Part 4**

# Rules of Procedure

# Council and Committee Procedure Rules

## **Specific Staff Delegations**

The Appendix following this page contains the Council's Standing Orders in relation to:

- Proceedings and Business of the Council (Part I)
- Proceedings and Business of the Cabinet and Committees (Part II)
- Miscellaneous Matters (Part III)

# APPENDIX 1: GENERAL STANDING ORDERS

## Part I: Proceedings and Business of the Council

### **Meetings of the Council**

- 1.0 In a year of ordinary election of Councillors, the Annual General Meeting (AGM) will take place within 21 days of the retirement of outgoing Councillors. In any other year, the AGM will take place in March, April or May.
- 1.01 Ordinary meetings of the Council will be held on such dates and times as the Council shall decide, subject to Article 4.
- 1.02 Ordinary meetings of the Council can be rescheduled or cancelled by the Mayor on the advice of the Leader, the Chief Executive and the Monitoring Officer.

### **Extraordinary Meetings of the Council**

- 2.0 The following may request an extraordinary meeting of the Council:
  - a. the Council by resolution;
  - b. the Mayor, or in their absence, the Deputy Mayor;
  - c. the Monitoring Officer;
  - d. any five Members of the Council if they have signed a requisition presented to the Mayor and they have refused or failed to call a meeting within seven days of the requisition.
- 2.01 The meeting will be held only in relation to the business for which the extraordinary meeting has been called:
  - a. To receive any questions, statements or petitions from the public in accordance with Public/Stakeholder Participation Rules ([Appendix F](#))
  - b. To receive any questions from councillors in accordance with Council and Committee Procedure Rules.
- 2.02 The Mayor may at their absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.

### **Time and Place**

- 3.0 Extraordinary meetings shall be held on such days and times as may be determined by the Council Resolution or the Monitoring Officer, in consultation with the Mayor.

### **Chair of Meeting**

- 4.0 Any power or duty assigned to the Mayor in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

## Quorum

- 5.0 The quorum for a meeting of the Council shall be at least one quarter of the Councillors.
- 5.01 If during any meeting of the Council the Mayor after counting the number of persons present declares that there is not a quorum present, the meeting shall stand adjourned for fifteen minutes.
- 5.02 If, after fifteen minutes, the person presiding, after again causing the number of persons present to be counted, declares that there is still no quorum present, the meeting shall end.
- 5.03 The consideration of any business not transacted shall be adjourned to the next ordinary meeting of the Council unless the Mayor indicates otherwise. (Note: The quorum prescribed by the Local Government Act 1972 is at least one quarter of the Councillors).

## Order of Business

### Meeting to Elect the Mayor and Deputy Mayor (Mayor-Making)

- 6.0 The order of business at the Mayor-making meeting of the Council shall be as follows:
- a. To choose a person to preside if the Mayor and Deputy Mayor are absent;
  - b. Election of Mayor;
  - c. Election of Deputy Mayor;
  - d. Appointment of a Faith Leader(s), at the discretion of the Mayor.

### Annual General Meeting

- 6.01 Except as otherwise provided by Standing Order 7.0 below, the order of business at the Annual General Meeting of the Council shall be as follows:-
- a. To choose a person to preside if the Mayor and Deputy Mayor are absent;
  - b. Chief Executive's report upon result of elections of Councillors, where appropriate;
  - c. Confirmation of the minutes of the previous meeting;
  - d. To receive communications from the person presiding;
  - e. Apologies from Councillors in respect of absence;
  - f. To appoint the Leader of the Council if required. The Leader of the Council is appointed for their term of office as a Councillor. See paragraph 21 Appointment of Leader of the Council, chairs and vice-chairs;
  - g. To receive a report from the Leader;
  - h. To appoint the Committees, Scrutiny Panels and other bodies for the ensuing year (excluding Cabinet);
  - i. To appoint the Chairs and Vice-Chairs of Committees and other bodies (excluding Cabinet);
  - j. Other business, if any, specified in the summons or matters taken as a matter of urgency under 7.01 below.

### Ordinary Meetings

- 6.02 Except as otherwise provided by Standing Order 7.0 below, the order of business at all other meetings of the Council shall be as follows:

- a. To choose a person to preside if the Mayor and Deputy Mayor are absent;
- b. Apologies from Councillors in respect of absence;
- c. Declaration of interest;
- d. Confirmation of minutes of the previous meeting;
- e. To receive communications from the person presiding;
- f. To receive a report from the Leader;
- g. To dispose of any business (if any) outstanding from the previous meeting;
- h. To receive any petitions presented under Standing Order 19.0;
- i. To deal with minutes of the Cabinet (in accordance with Standing Order 8.0), including 'called-in' decisions;
  - i. To receive statements (if any) by the Leader/Cabinet Councillors on Cabinet matters;
  - ii. To deal with questions from Councillors to the Leader and Cabinet Members on Cabinet decisions, performance and strategy;
- j. To deal with minutes of Committees and Scrutiny Panels in accordance with Standing Order 8.0, including 'called-in' decisions;
- k. Where the meeting is the last ordinary meeting before 11 March in any year, and where the Council has not set, for the ensuing financial year, amounts of Council Tax for each category of dwelling in its area, to set such amounts. Provided that the Council Tax shall not be set before 1 March prior to the year in question unless all precepts from major precepting authorities have been received;
- l. To deal with questions submitted in accordance with Standing Order 12.0;
- m. To consider notices of motion in the order in which they were received;
- n. To fill vacancies on Committees or other bodies or to appoint new Committees or other bodies as required;
- o. Other business, if any, specified in the summons or matters taken as a matter of urgency under 7.01 below.

## Variation of Order of Business

- 7.0 A motion to vary the order of business:
- a. shall not displace business falling under item (a) of Standing Orders 6.01 or 6.02;
  - b. may at any time when an item of business on the agenda has been disposed of, be proposed by the Mayor or any Councillor and shall be put to the vote without discussion.
- 7.01 If the person presiding decides that an item of business not included in the agenda for the meeting sent with the summons for the meeting may be taken for reasons of urgency, that item shall, subject to any direction or resolution under Standing Order 7.0, be taken at the end of the other items of business.

## Minutes

- 8.0 Under section 41(1) of Schedule 12 of the Local Government Act 1972, minutes of every meeting of the Council shall be submitted to, and signed at, that meeting or at the next following meeting provided that, if the next following meeting is an extraordinary meeting, the minutes shall be signed instead at the next ordinary meeting of the Council.

- 8.01 As soon as the minutes have been read, or if under Standing Order 17.01 they are taken as read, the Mayor shall put the proposal that the minutes of the meeting of the Council held on the \_\_\_\_\_ day of \_\_\_\_\_ be signed as a true record.
- 8.02 No motion or discussion shall take place upon the minutes except upon their accuracy, and any question of their accuracy shall be raised by motion. If no such question is raised, or if it is raised, then as soon as it has been disposed of, the Mayor shall sign the minutes.

## **Presentation of Minutes**

- 9.0 Minutes of the Cabinet, Committees or other bodies shall be divided as between:
- a. recommended items, ie those requiring confirmation of the Council, including matters referred under Standing Order 24.02.
  - b. resolved, or delegated, items which do not require confirmation by the Council.
- 9.01 The adoption of the recommendations shall be moved by the Chair of the body, or in their absence, another member of such body. Any member of the Council may move an amendment (as defined in Standing Order 13.04) to, or demand a separate vote on, any of the recommendations contained therein. When all such amendments have been dealt with or separate votes have been taken, the motion to adopt the recommendations, subject to any amendments that may have been made thereto by the Council, shall be put to the meeting for adoption without debate.
- 9.02 On resolved items, Councillors shall be permitted only to ask questions and no debate on such items shall be allowed. Questions may be asked in accordance with the procedure set out in Standing Order 12.0 below.

## **Notices of Motion**

### Motions Submitted to Council

- 10.0 Any member of the Council may give notice of a motion for consideration at any meeting of the Council.
- 10.01 Except as provided by Standing Order 11.0, every notice of motion shall be in writing, signed by the Councillor or members of the Council giving the notice, and delivered at least ten clear calendar days before the meeting of the Council to the Monitoring Officer by whom it shall be dated, numbered in the order in which it is received and entered into a record which shall be open to the inspection of every member of the Council. For the avoidance of doubt, this means that if the meeting is held on a Friday, written notice of the Motion would need to be delivered on the Monday of the previous week at the latest.
- 10.02 The Executive Head of Governance shall insert in the summons for every meeting of the Council all notices of motion duly given in the order in which they have been received, unless the Councillor giving such a notice has, when giving it, intimated in writing that they propose to move it at some later meeting or has withdrawn it in writing.
- 10.03 If a motion, notice of which is specified in the summons, be not moved either by the Councillor who has given the notice or by such other Councillor duly authorised on their behalf it shall, unless postponed by consent of the Council, be treated as abandoned and shall not be moved without fresh notice.

## Motions within the domain of Committees, etc

- 10.04 Subject to 10.05 below, if the subject matter of any motion comes within the domain of the Cabinet, a Committee or other body, it shall upon being formally moved and seconded stand referred without discussion to such body as the Council may determine, for consideration and report. The motion shall be further moved and seconded at the meeting to which it has been referred.
- 10.05 The Proposer of a motion (or another member of Council) if they believe the contents of the motion require urgent debate may request that the motion be dealt with at the meeting at which it is brought forward. Upon such a request being made the Mayor will immediately put before Councillors for determination (without further debate) the proposal that the motion be heard. If the majority of Councillors present and entitled to vote at the meeting agree to the request the motion will be debated as the next item of business at the meeting.
- 10.06 A Councillor whose notice of motion is referred to the Cabinet, a Committee or other body for consideration shall, if not a member of that body, be permitted to move the motion at the meeting to which it is referred and shall have a right of reply in accordance with Standing Order 13.10. These provisions do not entitle the member to vote.

## Notices of Motion Out of Order

- 10.07 Every notice of motion shall be relevant to some question over which the Council has power, or which affects the Borough.
- 10.08 If notice be given of any motion which, in the opinion of the Monitoring Officer, is out of order, illegal, irregular, or improper, the motion shall forthwith be submitted to the Mayor and it shall not be placed on the agenda paper without the Mayor's sanction. In the event of non acceptance of the motion, the Monitoring Officer shall forthwith inform the Councillor(s) giving the notice and a report of the action taken shall be submitted to the next meeting of the Council.

## Motions Which May be Moved Without Notice

- 11.0 The following motions may be moved without notice:
- a. Election of a Mayor or Deputy Mayor or appointment of a Chair of the meeting at which the motion is made;
  - b. Motions relating to the accuracy of the minutes, closure, adjournment, termination, order of business or next business;
  - c. Adoption of reports and recommendations of the Cabinet, Committees or staff and any consequent motions;
  - d. Reference to the Cabinet, a Committee or Scrutiny Panel, including the appointment of a special Committee or other body as necessary;
  - e. Appointment of a Committee or members thereof (excluding the Leader), so far as arising from an item mentioned in the summons to the meeting;
  - f. Appointment of representatives to outside bodies;
  - g. That leave be given to withdraw a motion;
  - h. Amendments to motions;
  - i. Extending the time limit for speeches;
  - j. That an item of business specified in the summons has precedence;
  - k. Suspension of any provisions of the Constitution Rules (where permitted in law) in accordance with Standing Order 41.0;

- l. Exclusion of the public;
- m. That a member named under Standing Order 18.0 be not further heard or do leave the meeting;
- n. Inviting a member to remain under Standing Order 20.0;
- o. Motions to refer a petition to the Cabinet, a Committee or other body for consideration;
- p. Giving consent of the Council where the consent of the Council is required by standing orders.

## Questions By Councillors

- 12.0 Each Council meeting shall include a session for the Leader and Cabinet Councillors to present/be questioned on Cabinet decisions, performance, strategy and related matters. Questions on Cabinet matters shall be subject to written notice and submitted by 12 noon, five clear working days before the Council meeting. For the avoidance of doubt, this means that if the meeting is held on a Tuesday, written notice of the questions would need to be delivered by 12 noon on the Monday of the previous week (where there are no bank holidays). The provisions of Standing Orders 12.03 to 12.06 shall apply in relation to such questions, with Councillors' questions lasting no longer than 30 minutes. Questions will be answered in the order received with any unanswered questions given a written answer in accordance with Standing Order 12.04c. Where a Councillor submits more than one question the order of questions shall be amended so that every other Councillor's first question is taken first.
- 12.01 A member of the Council may ask a question on any resolved item at a meeting of the Council of:
- a. the Mayor;
  - b. the Leader of the Council (if any);
  - c. the person appointed or chosen to preside in any Committee or Scrutiny Panel;
  - d. a member of the Council appointed by the authority to any joint authority or joint board of which the authority is a constituent authority;
  - e. a member of the Council who is, as a result of action taken by or on behalf of the authority, a member or director of any company.
- 12.02 Written questions may be put by a Councillor to the Mayor or other person specified in 12.01 above at a meeting of the Council provided the Monitoring Officer has had ten clear calendar days' notice of the Councillor's intention to ask such questions. The Monitoring Officer shall communicate the questions to the Mayor, Chairs, and staff concerned and such questions shall be placed on the agenda in the order in which they are received.
- 12.03 Every question shall be put and answered without discussion, but the person to whom the question has been put may decline to answer it. If the person presiding permits, the member asking a question may ask one relevant supplementary question which shall be put and answered without discussion.
- 12.04 An answer to a question may be given by the person to whom it is addressed or by a person on their behalf, and may take the form of:
- a. an oral answer;
  - b. a reference to information contained in some publication;
  - c. a written answer, which shall be circulated to members of the Council at the latest with the summons for the next meeting of the Council.

- 12.05 If notice of a question has been given, and that question is not for any reason asked orally, and unless the Councillor who gave notice of it withdraws the question or the member to whom it is addressed refuses to answer, the question shall be given a written answer in the same way as under paragraph 12.04(c).
- 12.06 Every question shall be relevant to some matter in relation to which the authority has functions, or which affects the area of the authority, or part of it, or the inhabitants of that area, or some of them.

## Rules of Debate

### Motions and Amendments

- 13.0 Subject to Standing Order 11.0, a motion or amendment shall not be discussed unless it has already been proposed and seconded and, unless notice has already been given in accordance with Standing Order 10.0, it shall be put into writing and handed to the Mayor before it is further discussed or put to the meeting, except where the Mayor rules otherwise. The Mayor may ask for copies of a motion or amendment to be supplied to all Councillors present before the debate proceeds.

### Secunder's Speech

- 13.01 A member when seconding a motion or amendment may, by declaring the intention to do so at that time, reserve their speech until a later period of the debate. Every motion should have a definitive outcome including, where appropriate, deferral.

### Content and Length of Speeches

- 13.02 A Councillor shall direct a speech to the question under discussion or to a personal explanation or to a point of order. Except by consent of the Council, signified without comment, no speech shall exceed:
- ten minutes in respect of the proposer of a motion;
  - five minutes in respect of any other Councillor speaking in the debate on a motion or amendment;
  - five minutes in the case of the mover of a motion (but not amendment) exercising their right of reply at the end of the debate on the motion.

This paragraph shall not apply to the Leader.

### When a Councillor May Speak Again

- 13.03 A Councillor who has spoken on any motion shall not speak again whilst it is the subject of debate, except:
- a. to speak once on an amendment is moved by another Councillor;
  - b. if the motion has been amended since they last spoke to move a further amendment;
  - c. if their first speech was on an amendment moved by another member, to speak on the main issue, whether or not the amendment on which they spoke was carried;
  - d. in exercise of a right of reply given by Standing Order 13.10;
  - e. on a point of order;
  - f. by way of personal explanation;
  - g. the Leader where speaking in reply to the debate or matters raised during public participation.

## Amendments to Motions

13.04 An amendment shall be either:

- i. to leave out words;
- ii. to leave out words and insert or add others;
- iii. to insert or add words;

but such omission or insertion of words shall not have the effect of introducing unrelated matter into or of negating i.e. being the direct opposite of the substance of the motion before the Council. Provided that the substitution by amendment of a positive course of action for a proposal involving no action shall be valid. The Mayor's judgement is final.

13.05 If an amendment is not carried, other amendments may be moved on the original motion. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the motion upon which any further amendment shall be moved.

13.06 A further amendment shall not be moved until the Council shall have disposed of every amendment previously moved.

13.07 Appendix D details the process to follow when dealing with amendments to motions. Refer to Appendix D – Dealing with amendments.

## Alteration of Motion

13.08 A Councillor may, with the consent of the seconder alter:

- a motion or amendment which they have proposed;
- a motion of which they have given notice;

if the alteration is one which could have been made as an amendment to the motion.

## Withdrawal of Motion

13.09 A motion or amendment may be withdrawn by the proposer with the consent of the seconder. No Councillor may speak upon it after the proposer has asked permission for its withdrawal, unless such permission has been refused.

## Rights of Reply

- 13.10
- a. The proposer of a motion, but not of an amendment, shall have a right to reply (but for not more than five minutes) at the close of the debate immediately before it is put to the vote.
  - b. If an amendment is proposed the proposer of the original motion shall be entitled also to reply at the close of the debate upon the amendment.
  - c. The proposer of the amendment shall have a right of reply immediately after the reply on the amendment by the mover of the original motion.
  - d. A Councillor exercising a right of reply shall not introduce new matters or material.

After every reply to which this standing order refers a decision shall be taken without further discussion.

## Motions Which May be Moved During Debate

- 13.11 When a motion is under debate no other motion shall be moved except the following:
- a. to amend the motion;
  - b. to postpone consideration of the motion;
  - c. to adjourn the meeting (see 13.12);
  - d. to adjourn the debate (see 13.12);
  - e. to proceed to the next business (see 13.12);
  - f. that the question be now put (see 13.12);
  - g. that a Member be not further heard (see 18.0);
  - h. that a Member do leave the meeting (see 18.0);
  - i. that the subject of debate be referred back to the Cabinet, a Committee or Scrutiny Panel;
  - j. to exclude the public;
  - k. to suspend procedural rules under the Constitution (including standing orders) (see Standing Order 41).

## Closure Motions

- 13.12 A Councillor may move without comment on the conclusion of a speech of another Councillor:-

"That the Council proceed to the next business",

"That the question be now put",

"That the debate be now adjourned",

"That the Council do now adjourn",

on the seconding of which the Mayor shall proceed as follows:-

- a. On a motion to proceed to next business  
unless in their opinion the matter before the meeting has been insufficiently discussed, the Mayor shall first give the mover of the original motion a right of reply, and then put to the vote the motion to proceed to the next business.
- b. On a motion that the question be now put  
unless in their opinion the matter before the meeting has been insufficiently discussed, the Mayor shall first put to the vote the motion that the question be now put, and if it is passed then give the mover of the original motion a right of reply before putting the motion to the vote.
- c. On a motion to adjourn the debate or the meeting  
if the person presiding is of the opinion that the matter before the meeting has been sufficiently discussed, they may refuse to accept either of these motions, and instead put the motion that the question be now put: if in their opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion the Mayor shall put the adjournment motion to the vote without giving the mover of the original motion a right of reply on that occasion.
- d. The Mayor if they consider it appropriate can close the debate on any motion and move to the vote.

## Personal Explanation and Points of Order

- 13.13 A Councillor may speak for no more than two minutes in personal explanation, but such explanation shall be confined to some material part of a former speech by the Councillor at the same meeting which may have been misunderstood. The Councillor shall be entitled to be heard.
- 13.14 A Councillor may raise a point of order but in so doing shall intimate to the Mayor the particular Standing Order under which such point arises.
- 13.15 The ruling of the Mayor on a point of order or on the admissibility of a personal explanation shall not be open to discussion.

## Respect for the Mayor

- 13.16 Whenever the Mayor speaks during a debate the Councillor speaking and the Council shall be silent.

## Rescission and Alteration of Resolutions

### Rescission of Preceding Resolution

- 14.0 At a meeting of the Council, no motion or amendment shall be moved to rescind any resolution of the Council which was passed within the preceding six months or which is to the same effect as one which has been rejected within that period. Provided that such a motion may be moved if:
- a. it is recommended by the Cabinet or a Committee; or
  - b. notice of such motion has been given by as many members as would constitute a quorum of the Council.

### Rescinding Motion

- 14.01 Notice of motion to rescind a previous decision shall set out the whole or such part of the resolution which it is proposed to rescind and shall specify the date on which the resolution was passed by the Council.

### Alteration to Resolution at Same Meeting

- 14.02 No resolution or other act of the Council shall be revoked or altered at the meeting at which such resolution was made or such act done, except with unanimous consent of the members of the Council who passed such resolution, in order to correct some manifest error.

## Voting

### General Provisions

- 15.0 Except where otherwise requested, and subject to 15.01 below, the method of voting at meetings of the Council, Cabinet, Committees and Scrutiny Panels shall be by show of hands.
- 15.01 On the request of any Councillor, made before the vote is taken and supported by three other Councillors who signify their support by indicating their preference to the Mayor/Chair, the voting on any question shall be recorded so as to show whether each Councillor present gave their vote for or against that question or abstained from voting. Unless the Mayor indicates otherwise, Councillors shall indicate orally their voting preference, "For", "Against" or "Abstain", which shall be recorded accordingly.
- 15.02 If a vote is taken by show of hands, any Councillor who is present when the vote was taken may require that their vote or abstention shall be recorded in the minutes by notifying the proper officer of their wish immediately after the vote has been taken.

## Casting Vote

- 15.03 In the event of a motion being tied the Mayor may exercise a casting vote. If declining to give a second or casting vote, the motion, amendment, or other matter under consideration shall be declared to be “not carried” and shall thereupon fall.

## Voting on Appointments

- 15.04 Where a vote is required on a motion to appoint or elect a member of the Council to a position to be filled by the authority, and there are two or more Councillors nominated for that position, the names of all those nominated shall be put to the meeting in alphabetical order of surname. Those entitled to vote shall each vote for only one person. If there is not a majority of those voting in favour of one person, the name of the person having the least number of votes shall be struck off the list and a fresh vote shall be taken, and so on until a majority of votes is given in favour of one person.
- 15.05 In the case of nominations for more than one vacancy, a simple majority of votes shall suffice.

## Motions Affecting Persons Employed by the Council

- 16.0 If any question arises at a meeting of the Council, Cabinet, Committee or Scrutiny Panel as to the appointment, promotion, dismissal, salary, superannuation or conditions of service or as to the conduct of any person employed by the Council, a motion under section 100A(4) of the Local Government Act 1972 to exclude the public shall be moved forthwith by the Mayor or Chair of the meeting and, upon being formally seconded, shall be put to the meeting without debate.

## General Provisions Concerning Minutes and Reports

- 17.0 Officers’ reports to the Council, Cabinet, Panels and Committees shall, as far as practicable, be presented in writing, unless the Chair considers it conducive and convenient to the despatch of business to receive an oral report.
- 17.01 Reports, minutes or other documents shall, unless the meeting otherwise requires, be taken as read when presented thereto, provided they have been made available at least five clear working days before the meeting.

## Disorderly Conduct

### Misconduct by a Councillor

- 18.0 If the person presiding is of the opinion that a Councillor has misconducted, or is misconducting themselves by persistently disregarding the ruling of the Mayor, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Council, they may notify the meeting of that opinion, and may take any of the following courses, either separately or in sequence:
- a. they may move that the Councillor named be not further heard; this motion shall not require to be seconded, but shall be put and decided without comment; if it is carried, the Councillor named shall not speak further at that meeting;
  - b. they may move that the Councillor named shall leave the meeting; this motion shall not require to be seconded, but shall be put and decided without comment; if it is carried, the Councillor named shall forthwith leave the meeting;
  - c. they may adjourn the meeting for fifteen minutes or such period as shall seem expedient to them.

## Disturbance by Members of the Public

- 18.01 If a member of the public interrupts the proceedings at any meeting the Mayor shall warn the person concerned. If the interruption continues the Mayor shall order the person to leave the room. If they do not leave the Mayor shall order the person's removal. If a member of the public persistently creates a disturbance, the Mayor may adjourn the meeting for fifteen minutes or such other period as may seem expedient.

## Adjournment or Suspension of Sitting

- 18.02 In the event of a general disturbance in any part of the room where any meeting is being held which is open to the public, the Mayor shall order that part to be cleared and may: -
- a. suspend or adjourn the sitting of the Council for such period as the Mayor in their discretion shall consider expedient; or
  - b. transfer the meeting to some other convenient location where the business may be conducted without hindrance.
- 18.03 The powers conferred by this Standing Order are in addition to any other powers which the person presiding may lawfully exercise.

## Petitions

### Petitions Presented by Councillors

- 19.0 At a meeting of the Council (other than the Annual General Meeting or a meeting convened for a specific purpose) any Councillor may present a petition which is relevant to some matter in relation to which the authority has functions, or which affects the area of the authority, or part of it, or the inhabitants of that area, or some of them. A guide to the Council's Petition Scheme will be found as in Appendix L.
- 19.01 No notice shall be required but the presentation shall not be accompanied by any speech or comment other than in the course of the Councillor's contribution to a relevant debate at that meeting.
- 19.02 Any petition presented to a Council meeting shall stand referred to the Cabinet, Committee or Scrutiny Panel within whose terms of reference it falls, who shall report to the Council thereon, unless the matter the subject of the petition has already been considered and determined by the Council.

### Petitions Presented by a Member of the Public

- 19.03 At any meeting of the Cabinet, a Committee or Scrutiny Panel (other than a meeting convened for a specific purpose) a member of the public may present a petition which is relevant to some matter in relation to which the authority has functions or which affects the area of the authority, or part of it, or the inhabitants of that area or some of them.
- 19.04 The member of public wishing to present the petition shall give at least ten days' notice of their intention to do so to the Monitoring Officer and shall show the petition to them. The petition shall not be accepted unless the Monitoring Officer is satisfied that the petition is proper to be presented. In consultation with the Chair, a decision will be made as to whether the presentation of the petition shall form an item on the agenda for the relevant body.

- 19.05 The presentation of the petition shall be limited to not more than five minutes, and shall be confined to reading out, or summarising, the subject matter of the petition, indicating the number and description of the signatories, and making such further supporting remarks relevant to the petition as the person presenting it shall think fit.
- 19.06 No more than one petition from a member of the public shall be submitted to the Cabinet, Committee or Scrutiny Panel at any one meeting.
- 19.07 On receipt of a petition, the relevant body shall proceed to discuss the matter or matters raised by the petition unless the matter the subject of the petition has already been considered and determined by the Council within the previous twelve months. In every case, the body shall have the discretion to defer all debate and decision on a petition to a subsequent meeting.

## **Interest of Councillors in Contracts and Other Matters**

### Disclosure of Personal Interests at Meetings

- 20.0 Subject to the generality of the Code of Conduct (reproduced in full in Part 5 of the Constitution), a Councillor with a non-disclosable pecuniary interest or a non-pecuniary interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence of that interest at the commencement of that consideration, or when the interest becomes apparent.

For the purposes of clarification, "meeting" in this context means any meeting organised by or on behalf of the authority, including:

- i. Any meeting of the Council, or a Committee or sub-committee of Council;
- ii. In taking a decision as a ward councillor or as a member of any body of the Council; and
- iii. At any site visit to do with business of the authority.

- 20.01 Subject to the requirements set out in the Code of Conduct, a Councillor with a disclosable pecuniary interest in any matter must:

- i. withdraw from the room or chamber where the meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless they have obtained a dispensation from the authority's Monitoring Officer or Administration Committee; and
- ii. not seek improperly to influence a decision about that matter.

The circumstances in which a dispensation may be obtained are prescribed in Section 33 of the Localism Act 2011.

### Register of Councillors' Interests

- 20.02 A Councillor or Co-opted Councillor must, before the end of 28 days beginning with the day on which the councillor becomes a councillor or co-opted councillor of the authority, notify the Monitoring Officer, in writing, of any disclosable pecuniary interests as set out in Part 5 Code of Conduct, or of any changes to those interests.
- 20.03 The Monitoring Officer must maintain a register of the financial and other interests specified in the Code of Conduct, which must be available for inspection by members of the public at all reasonable hours.

# Part II: Proceedings and Business of the Cabinet, Committees and Panels

## **Appointment of the Committees and Panels, Chairs and Vice-Chairs**

### **Appointment**

- 21.0 The Council shall at the Annual General Meeting appoint such Committees (excluding Cabinet) and Scrutiny Panels as they are required to appoint by statute, and may at any time appoint such other Committees or Panels as are necessary to carry out the work of the Council but, subject to any statutory provisions in that behalf and to the provisions of Standing Order 23.0:
- a. shall not appoint any member of a Committee (excluding Cabinet) or Panel so as to hold office later than the next Annual General Meeting of the Council;
  - b. may at any time dissolve or alter the membership of a Committee (excluding Cabinet) or Panel.

### **Appointment of the Leader of the Council, Chairs and Vice-Chairs**

- 21.01 The Council shall at the Annual General Meeting elect the Chairs and Vice-Chairs of Committees (excluding Cabinet) and Scrutiny Panels and such other bodies as it may decide.
- 21.02 The Leader will be elected to the position by the Council for their term of office unless they:
- a. are removed from Office by resolution of the Council (see Standing Order 21.04) or resigns;
  - b. ceases to be a Councillor; or
  - c. is disqualified from being a Councillor before that day.
- 21.03 The Leader will appoint one of the Members of the Cabinet to be their deputy, to hold office until the end of the term of office as Leader (unless the person resigns as Deputy Leader, ceases to be a Councillor or is disqualified or removed from office by the Leader). The Leader may, if they think fit, remove the Deputy Leader from office, but must then appoint another person in their place. The Deputy Leader will carry out the functions of the Leader when they are absent (including any portfolio functions).
- 21.04 The Council can remove the Leader by way of resolution by a simple majority provided that no such resolution may be moved unless a notice of motion is given in accordance with Standing Order 10.0 of Part 4 of this Constitution.
- 21.05 In the event of a vacancy occurring in the office of the Leader of the Council, the vacancy shall be filled at the meeting at which the Leader was removed from office or at the next meeting or a subsequent meeting of the Council. A vacancy occurring in the office of a Chair or Vice-Chair of a Committee (excluding Cabinet) or Scrutiny Panel shall be filled at a subsequent Council meeting.

### **Membership**

- 21.06 Membership of the Cabinet, Area Committees, Administration Committee, Audit and Resources Committee, Licensing Committee and Policy and Performance Scrutiny Panel shall be as contained in the relevant Article of the Constitution. Membership of the Cabinet is subject to change by the Leader.

21.07 Membership of any other Committees or Panels shall be as determined by the Council.

## Deputies

21.08 Political groups may appoint or send deputies or substitutes for meetings of Policy and Performance Scrutiny Panel and Audit and Resources Committee. Such deputy shall be allowed to attend in the place of one of the appointed members of that group on the respective body and with full powers to speak and vote. Provided that such powers of a deputy shall lapse on the attendance of the appointed member.

## Terms of Reference

21.09 Except as the Council otherwise determine, the terms of reference of the Cabinet, Committees and Scrutiny Panels shall be as contained in the relevant Article of the Constitution.

21.10 The terms of reference and powers of such other Committees or Panels as the Council may appoint shall be as ordered by the Council.

## Panels

### Appointment

22.0 The Council, Cabinet or any of its Committees may appoint panels as required for particular functions. Any panels as are in existence at the Annual General Meeting each year shall be re-appointed at such meeting unless, for reasons specified by the Council or relevant body, the panel is no longer required.

22.01 Such panels as are currently in existence, together with their terms of reference, appear in Appendix G at the end of this section.

22.02 The term 'panel' in 22.0 and 22.01 above shall exclude 'Scrutiny Panels', provision for which is made elsewhere in the Constitution.

## Review of Allocation of Seats to Committees and Scrutiny Panels

23.0 Except in relation to the appointment of members to the Cabinet or Local Area Committees, whenever

- a. the Council is required to review the allocation of seats on Committees or Scrutiny Panels between political groups, or
- b. the Council resolves to carry out such a review,

the Monitoring Officer shall submit a report, first to the relevant body and then to the Council, showing what allocation of seats would, in their opinion, best meet the requirements of section 15(4) of the Local Government and Housing Act 1989.

23.01 In the light of such a report, the Council shall determine the allocation of seats to political groups.

23.02 Whenever an appointment of a voting member of the Cabinet, a Committee or Scrutiny Panel fails to be made in accordance with the wishes of a political group to whom the seat has been allocated, and whenever such an appointment falls to be terminated in accordance with such wishes, then the Monitoring Officer shall make or terminate the appointment accordingly.

## Delegation Scheme

### Delegation to the Cabinet and Committees

- 24.0 Subject to these Standing Orders and to any direction of the Council, the Cabinet, Committees and Panels shall have delegated powers as specified in their terms of reference. Such delegated powers shall be executed and performed on behalf of the Council until such time as the delegation shall be varied or revoked, provided that the Cabinet, Committee or a Panel may not exercise any function specifically referred by statute to the whole Council including (but not limited to):
- a. A local authority's functions with respect to levying or issuing a precept for a rate (s 101 (6) Local Government Act 1972);
  - b. The approval of schemes for local lotteries (Gambling Act 2005);
  - c. The consideration of an Auditor's Report or recommendation (s5 Local Government Act 1992);
  - d. The consideration of a Report of the Council's Chief Financial Officer under s 114 Local Government Finance Act 1988;
  - e. The removal of a councillor from a Committee or Panel (s 102 LGA 1972);
  - f. The consideration of a Report of the Council's Monitoring Officer (s5 Local Government and Housing Act 1989);
  - g. The consideration of a Report of the Council's Head of Paid Service (s4 Local Government and Housing Act 1989);
  - h. The following duties/powers under the Local Government Finance Act 1992:
    - i. s8(2) - to make owners of specified dwellings, rather than residents, liable to pay Council Tax;
    - ii. ss 32-37 and 60 - calculating the budget requirement, the basic amount of Council Tax, special items, tax for different valuation bands etc; and
    - iii. Setting an amount of Council Tax for a financial year under Chapter III of Part I;
  - i. Power to promote or oppose local or personal Bills of Parliament (s239 Local Government Act 1972); and
  - j. Proposals for the discharge of functions, by or on behalf of another local authority.
- 24.01 The Cabinet or any Committee or Panel to which a matter has been delegated may decline to act under the delegated power and choose instead to make a recommendation to the Council.

### Call In/Minority Order Arrangements

- 24.02 Where a matter has been determined by the Cabinet or a Committee or Panel in accordance with delegated powers then, subject to the provisions in [24.03](#) below, such matter may be referred to Council for determination/review. In the case of a Committee decision, the matter may be referred back to the Committee if the Committee is to meet earlier than the Council. The requirements for referral are:
- a. In the case of the Cabinet or after a delegated Cabinet decision being made by a Local Area Committee:

The request may be made by any five Councillors of the Council or the relevant Scrutiny Panel. Such request shall be made in writing and be delivered to the Monitoring Officer not later than 5.00pm on the fifth working day after the meeting.
  - b. In the case of Area or other Committees:
    - i. Dealing with a non regulatory matter  
The request may be made by any two Members (one of whom shall be a member of the Committee). Any

such request shall be made in writing and be delivered to the Monitoring Officer not later than 5.00pm on the second working day after the meeting.

ii. In respect of a regulatory matter

The request may be made by such number of members of the Committee making the decision who comprises at least 50% of the total number of members appointed to that Committee.

24.03 The provisions of 24.02 above shall not apply in the following circumstances:

- a. where the matter has been delegated by express resolution of the Council; or
- b. where a Committee has met in quasi-judicial mode (eg certain licensing issues) as determined by the Monitoring Officer (see paragraph 12.03 of Article 12); or
- c. where 'special urgency' conditions apply in the case of a key decision (see paragraphs 16.0 and 17.0 of the Access to Information Procedure Rules in Part 4 of the Constitution).

24.04 The Provisions of Paragraph 24.02 above shall be amended to provide that in the case of a non-Cabinet function of a regulatory nature be referred back, in any event, to the decision making Committee for further consideration rather than to Council.

24.05 In referring a matter under this Standing Order, the Councillors concerned shall give notice of any proposed amendment to the relevant recommendation(s) at the same time as they request referral. Details of the amendment shall be circulated with the agenda for the meeting at which the referred item will be discussed.

24.06 Where a matter has been referred up under the provisions of Standing Order 24.02, the original resolution of the Cabinet or Committee shall be deemed a recommendation and form part of the recommendations of that body. Any alteration to the recommendation shall be dealt with by way of an amendment to which the Chair of the Cabinet or Committee shall have a right of reply at the end of the amendment debate.

## Delegation to Staff

24.07 The persons referred to in Part 3 of the Constitution shall have powers to deal with such matters as are so listed and these matters shall be executed and performed on behalf of the Council as delegated powers until such time as the delegation is revoked or varied by resolution of the Council.

24.08 Any person or persons to whom a matter has been delegated may decline to act under the delegated power and choose instead to make a recommendation to the Council, Cabinet or Committee as the case may be.

## Meetings of the Cabinet, Committees and Scrutiny Panels

### Date and Time of Meetings

25.0 Subject to the relevant statutory provisions, the ordinary meetings of the Cabinet, Committees and Scrutiny Panel shall be held on such days and at such hours as the Council or relevant body shall fix or, if none are fixed, the respective Chair or Vice-Chair may determine.

25.01 Subject to the relevant statutory provisions, the Chair of the Cabinet, Committee or Scrutiny Panel or the Mayor may direct the Monitoring Officer to summon a special meeting of the Cabinet, Committee or Scrutiny Panel at any time. A special meeting shall also be summoned by the Monitoring Officer on the requisition in writing of three members of the Cabinet, Committee or Scrutiny Panel.

## Quorum

- 25.02 Except where authorised by statute or ordered by the Council, business shall not be transacted at a meeting of the Cabinet or any Committee or Scrutiny Panel unless at least one quarter of the whole number of the body is present. Provided that the quorum in either case shall not be less than three members.

## Attendance by Non-Members

- 25.03 Any member of the Council may attend a meeting of the Cabinet, Committee or Scrutiny Panel of which they have received notice, but if they are not a member of the body then, except as provided in 25.04 below, they shall take no part in the proceedings save with the consent of the Chair. In any case, they shall not be entitled to vote.

## Attendance of Proposer of Motion

- 25.04 In the case of a member of the Council who has proposed a motion which has been referred to a body of which they are not a member, then the provisions of standing order 10.06 shall apply.

## Adjournment of Meetings

- 25.05 A meeting of the Cabinet, Committee or other body may, by virtue of a simple majority vote, be adjourned, either for a short period or to such other time and date as may be agreed.

## Recording Support or Objection

- 25.06 Councillors who speak at a Cabinet/Scrutiny/Panel/Committee meeting, where they are a member of that body can request that their support or objection to a decision be recorded and this will be subject to the agreement of the Chair of the meeting. Where a councillor is not attending a meeting as a member of the committee, their support or objection will not normally be recorded.

## **Resignation from the Cabinet, Committees, etc**

- 26.0 Any member of the Cabinet, a Committee or Scrutiny Panel desiring to resign therefrom shall signify their resignation in writing to the Monitoring Officer.

## **Confidential and Exempt Proceedings**

- 27.0 Business transacted by the Cabinet, a Committee or Scrutiny Panel from whose meeting the press and public have been excluded, and all documents relating thereto, shall be regarded as private until such business or documents have been disclosed to the Council or unless a specific or general permission has been given by the Council for prior disclosure. No information relating to business transacted at such meeting shall be communicated to the press before it has been reported to the Council, unless, in any specific case, the Cabinet, a Committee or Scrutiny Panel otherwise direct, when the Chief Executive will be authorised to communicate such information to the press as directed.

## **Planning Applications**

- 28.0 Planning applications will be determined in accordance with the procedure set out in Appendix E following this section.

## Public Participation

29.0 A scheme of public participation shall apply to meetings of the Council, Cabinet, Committees and Scrutiny Panels in accordance with the provisions of Appendix F following this section.

## Standing Orders to Apply to the Cabinet, Committees and Panels

30.0 In addition to Standing Orders expressly stated to refer to Committee proceedings, the following Standing Orders shall, with the necessary changes to take account of different situations but ensuring the main point remains the same, apply to the Cabinet, Panel and Committee meetings:

10.0 (Submission of Motions)

11.0 (Motions which may be moved without notice)

13.0 (Rules of Debate) (except that these Rules may be relaxed by the Cabinet to facilitate the effective conduct of business).

14.02 (Alteration to Resolution at Same Meeting)

15.0 (Voting)

18.0 (Disorderly conduct, disturbance by members of the public and suspension of sittings)

19.0 (Petitions presented by members of the Council but not those presented by members of the public)

20.0 (Interest of members in contracts and other matters)

41.0 (Suspension of Standing Orders)

# APPENDIX D

## (Part 4 – Rules of Procedure)

### **Council Non-Budget Debating Process**

#### Dealing with Amendments

- Councillor moves the original motion (has 10 minutes to speak). The seconder can then speak (5 minutes) or reserve their right to speak later in the debate.
- Amendments can be moved at any point after the original motion is moved and seconded.
- The motion is then debated and Councillors can speak for a maximum of **5 minutes**. Councillors cannot then speak again on the original motion.
- The Amendment is then moved. Then proposed and seconded (the seconder can reserve their right to speak later in the debate); both can speak for **5 minutes**.
- The amendment is then debated by Councillors who can speak for 5 minutes. (Councillors who have already spoken on the original motion can also speak on the amendment)
- The mover of the Original Motion has a right of replay and sums up (5 minutes) – For the avoidance of doubt the mover of the amendment has no right of reply
- Vote on the Amendment – **FOR, AGAINST, ABSTAIN. Motion Carried/lost**
- If the amendment is **lost** then the debate continues on the original motion as normal
- (Any Councillor who has spoken on original motion before the amendment was proposed is not permitted to speak again)
- After the proposer has had the opportunity for a further right to reply the vote is then moved on the **ORIGINAL MOTION - FOR, AGAINST, ABSTAIN. Motion Carried/lost**
- If the amendment is **carried** then the vote moves to **VOTE ON THE ORIGINAL MOTION AS AMENDED - FOR, AGAINST, ABSTAIN. Motion Carried/lost**
- Multiple amendments to motions can be made but only one amendment can be tabled/debated at a time.

# APPENDIX E

## (Part 4 – Rules for Procedure)

### **Planning Applications**

It is important to separate the decision making process leading to the resolution to seek planning permission from the decision making process on the planning application itself.

Accordingly, the following is the agreed procedure for planning applications under the Council's Constitution. See also the delegations to the Executive Head of Planning and Economy in PART 3 (Appendix C – Scheme of Delegation).

- a. Where the Council's only interest is as landowner and the application is made by a third party, then the application will be referred by the Executive Head of Planning and Economy to the Lead Asset Manager for comment and may be determined by the Executive Head of Planning and Economy or Local Area Committee as appropriate.
- b. (Save where paragraph (c) applies) Where the development is wholly within the geographical area of the Local Area Committee the decision to seek planning permission in respect of Borough Council promoted development will be made by the relevant Service Lead, Area Manager or by the Cabinet as appropriate in consultation with Legal Services Manager.

The application will be determined by the Executive Head of Planning and Economy or Local Area Committee as appropriate.

- c. Where Council development is being promoted in relation to a Borough-wide asset, which is an asset provided for the whole Borough, the decision to submit a planning application will be authorised by the Cabinet.
- d. Where third party development is being promoted in relation to a Council owned Borough-wide asset, the application will be determined by the Local Area Committee.
- e. Development which is likely to cause wide public controversy extending into the area of adjoining Local Area Committee, or which has a clear impact beyond the boundaries of a single area, the Local Area Committee in which the development would be situated can determine in consultation with Members of any other interested Local Area Committee.
- f. The following categories of development applications shall remain for determination by the Council:
  - i. Development constituting a substantial departure from any approved statutory or non-statutory plan where the Local Area Committee wishes to take a decision contrary to the recommendation of the Executive Head of Planning and Economy.
  - ii. Development which has a Borough-wide significance or impact\* and is likely to cause wide public interest beyond the boundary of the Borough where the Local Area Committee wishes to take a decision contrary to the recommendation of the Executive Head of Planning and Economy.

\*the Executive Head of Planning and Economy in liaison with the Portfolio Holder responsible for Planning will determine as soon as possible after the receipt of an application if a development is likely to have Borough-wide significance or impact and is likely to cause wide public interest and if (ii) will apply.

# APPENDIX F

## (Part 4 – Rules of Procedure)

### **Public and Stakeholder Participation**

#### A. Cabinet, Committee and Scrutiny Panel Meetings

1. Members of the public and stakeholders shall be entitled to speak at all meetings of the Cabinet, Committees and Scrutiny Panel. The Council has approved the following procedure to guide and control this process:

Acknowledging the need for the public and stakeholder participation process to be fair, properly structured and well-ordered the following framework shall apply for public participation at all relevant meetings.

- a. At the beginning of each meeting the Chair should welcome those attending and outline the approach to public participation. In this way the expectations of the public are placed immediately into the context of Borough Council committee meetings at which decisions of the Council are to be made. They will know that the same guidelines will apply to them as to others. Indeed the public may themselves be encouraged to monitor those who unreasonably abuse the process.
  - b. A general public session should take place at the beginning of the meeting. Speakers will be called in the order that names and addresses are received by the Democratic Services Officer. A statement or question should not exceed three minutes. The issues raised will not be discussed by Councillors but will be answered by the Chair or officers if possible. A written answer will be provided where a satisfactory verbal response cannot be given.
  - c. The Cabinet, Committees and Scrutiny Panel should encourage public participation on any agenda item when the item is reached.
  - d. Such participation should be limited to a reasonable length of time to be determined by the Chair with equal time allowed for persons wishing to express opposing views. Parish Council contributions should be made within the time allowed.
  - e. Those wishing to speak should wherever possible advise the Democratic Services Officer before the meeting commences. In exceptional circumstances, should it not be possible to attend the meeting in person, a statement may be provided in advance of the meeting to be read aloud to those in attendance by an officer of the Council. ([democratic.services@eastleigh.gov.uk](mailto:democratic.services@eastleigh.gov.uk))
  - f. Nobody should normally be permitted to speak more than once on the same item and individuals should address the meeting only when called by the Chair. The Chair has the discretion to allow a person to speak again.
  - g. Where it is apparent that a number of people wish to express a common view, they should be encouraged to nominate a spokesperson. In such circumstances the Chair will ask members of the public to express their support for a particular speaker by a show of hands.
  - h. Repetition of points made by previous speakers should be discouraged.
2. These guidelines should be fairly and sensibly applied by Chairs. Rigid and inflexible application cannot be justified: neither can disregard.

3. It is imperative that these guidelines are presented in a manner which encourages people to participate in a productive and orderly fashion.

## B. Council Meetings

At Council meetings, members of the public shall be entitled to speak on any recommended item, including those referred under minority order provisions (Standing Order 24.02). The guidelines approved for Cabinet, Committee and Scrutiny Panel meetings shall apply in all other respects. **Public Participation will follow the proposal and seconding of any motion.**

## Part III: Miscellaneous

### Custody of Seal

31.0 The Common Seal of the Council shall be kept in a safe place in the custody of the Legal Services Manager.

### Sealing of Documents

32.0 The Common Seal of the Council shall not be affixed to any document unless the sealing has been authorised by a resolution of the Council, Cabinet or Committee, or officer to whom the Council has delegated its powers in this behalf. A resolution of the Council (or of the Cabinet or a Committee where that body has the power) authorising the transaction shall be a sufficient authority for sealing any document necessary to give effect to the resolution.

32.01 The seal shall be attested by one at least of the following persons present at the sealing, namely, the Mayor or Deputy Mayor, the Chief Executive, the Legal Service Manager, Monitoring Officer, Senior Solicitor or Senior Chartered Legal Executive and an entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for the purpose and shall be signed by the person or persons who shall have attested the seal.

### Signature of Documents

33.0 Where any document will be a necessary step in legal proceedings on behalf of the Council it shall, unless any enactment otherwise requires or authorises or the Council shall have given the necessary authority (either specifically or by virtue of the delegation scheme) to some other person for the purpose of such proceedings, be signed by the Legal Services Manager or in their absence, the Chief Executive or Monitoring Officer.

### Advertisements and Public Notices

34.0 All press advertisements and public notices, statutory or otherwise, on behalf of the Council, the Cabinet or any Committee, shall be issued in the name of one or other of the Chief Executive, Legal Services Manager or relevant Service Manager.

### Conduct of Negotiations Relating to Land and Property Assets

35.0 All negotiations for the acquisition, appropriation, exchange, development, lease or sale of land and property assets, other than the management of Grange Park (Mobile Homes) and other matters specifically assigned by the Council to other staff shall be conducted on behalf of the Council by delegated staff members, under the supervision of, the Lead Asset Manager who shall report initially on the proposal to the Cabinet and relevant Committee.

35.01 When entering into any contract, lease agreement or other document relating to such a transaction (other than as specifically authorised within these Standing Orders) the Lead Asset Manager shall report upon the terms negotiated to the Cabinet.

35.02 For the purposes of this Standing Order "land" shall include the rights in land and buildings erected thereon.

### Inspection of Documents

36.0 A Councillor of the Council may, for the purpose of their duty but not otherwise, inspect any document which has been or is to be considered by the Council, the Cabinet, a Committee or Scrutiny Panel, and if copies are available shall on request be supplied for the like purpose with a copy of such document. Provided that:

- a. The provision described above shall not apply to categories of exempt information contained in paragraphs 16, 9, 11, 12 and 14 of Part I of Schedule 12A of the Local Government Act 1972.
- b. A Councillor shall not knowingly inspect and shall not call for a copy of any document relating to a matter in which they are professionally interested or in which they are directly or indirectly any pecuniary interest within the meaning of sections 94 and 95 of the Local Government Act 1972; and
- c. This Standing Order shall not preclude the Legal Services Manager from declining to allow inspection of any document which is or in the event of legal proceedings would be protected by privilege arising from the relationship of solicitor and client.

## Inspection of Works

- 37.0 A Councillor, subject to any restrictions necessary in the interests of health and safety and the legal rights of third parties, may inspect any property or works carried out by the Council. Before doing so, as a matter of courtesy, the Councillor shall first inform the Service Manager or other accredited person concerned of their intention.
- 37.01 Suitable identification shall be produced to a responsible person on the site of any such property or works before the inspection is commenced.
- 37.02 No member of the Council shall be allowed to give direct or indirect instructions to any officer or workman of the Council, unless specifically authorised by the Council or a Committee to do so.

## Interests of Staff in Contracts

- 38.0 The Legal Services Manager shall keep a record of particulars of any notice given by an officer of the Council under section 117 of the Local Government Act 1972, of an interest in a contract and shall be available during office hours to the inspection of any member of the Council.

## Interpretation of Standing Orders

- 39.0 In the event of a difference arising as to the interpretation of any Standing Order, an appeal shall lie:
- a. at a meeting of the Council to the Mayor; and
  - b. at a meeting of the Cabinet, Committee or a Panel to the Chair of that body and in each case the decision of the Mayor or Chair shall be final.

## Variation and Revocation of Standing Orders

- 40.0 Any motion made at a Council meeting to vary or revoke Standing Orders shall when proposed and seconded stand adjourned without discussion to the next ordinary meeting of the Council.

## Suspension of Standing Orders

- 41.0 Subject to 41.01 below any Standing Orders may be suspended so far as regards any business at the meeting where its suspension is moved.

- 41.01 Except in the case of a motion under Standing Order 24.05, a motion to suspend Standing Orders shall not be moved under Standing Order 11.0 - that is without notice given in pursuance of Standing Order 10.0 - unless there shall be present at least a quarter of the members of the Council, or in the case of the Cabinet or a Committee, at least three members.

## Waiver of Standing Orders - Procurement

- 42.0 On behalf of the Council's Procurement Executive Group which has been granted delegated authority to consider and decide on requests to waive Standing Orders in relation to procurement.
- 42.01 The terms of reference of the Procurement Executive Group follow at Appendix G.

## Use of Email

- 43.0 Where the context allows, and subject to no legal requirement to the contrary, a reference in this Constitution to the submission of documents in writing and/or to the Monitoring Officer shall be construed as including the use of email.

# APPENDIX G

## (Part 4 – Rules of Procedure)

### **Procurement Executive Group**

#### Terms of Reference

#### **Aims and Purpose**

The Eastleigh Borough Council (EBC) Procurement Executive Group aims to ensure that the procurement of goods services and works achieves value for money in delivering the Council's corporate strategy and strategic priorities through fair and proper processes.

#### **Objectives**

To achieve this aim the Group will:

1. Ensure that the EBC Procurement Policy is up-to-date and in line with EBC Corporate Priorities, Public Contracts Regulations (PCR 2015) and good practice.
2. Ensure the Procurement Policy, Constitution, Contracts Standing Orders and Financial Regulations align.
3. Ensure that the Procurement Policy, and procurement activities reflect:
  - Sustainability/environmental impact
  - community development and community safety
  - diversity
  - economic development
  - equalities and health
4. Provide a forum for debate about good practice.
5. Promote and monitor compliance with Procurement Policy and identify actions to be taken in response to non-compliance.
6. Approve or reject waiver requests relating to Contract Standing Orders, as appropriate. Waivers need to be submitted within a reasonable timeframe to allow members to give full and proper consideration.
7. To ensure that the Council provides opportunities for staff to learn about procurement systems and skills. This includes publishing Procurement Policy, Best Practice Guide and relevant government Procurement Policy Notes on the staff hub.

#### **Responsibilities of the Procurement Executive Group**

The Group considers both strategic and operational procurement matters. The principal responsibilities are:

1. To respond to any procurement issues identified by internal or external audit. To ensure recommendations in Procurement Audit Reviews are reviewed and monitored through to implementation.
2. Approve the Procurement Officer's Annual Report and set objectives for the following year.
3. To consider performance monitoring data, including spend analysis, on compliance and non-compliance trends; to identify any action points to avoid recurrence.
4. To suggest items for inclusion in the Action Plan.
5. To suggest items for inclusion in the Procurement Policy.

## Scope and Constraints

The Procurement Executive Group's scope includes all procurement carried out by EBC, including joint procurement with other authorities.

The scope does not include:

- Sold services (commercialisation)
- Collaborative arrangements to provide services with other public sector agencies

The Group makes recommendations to Council, Audit and Resources Committee or Cabinet and does not have the power to make decisions itself, in relation to amending the Constitution, Standing Orders or Financial Regulations.

It has delegated power to define the Procurement Policy and to waive Contracts Standing Orders; this decision should be made by a majority of elected members of the group.

The Group does not have the power to take disciplinary action against any officer for procurement non-compliance, but can recommend to management that disciplinary action be considered.

## Structure and Membership

The Group's membership is:

1. Corporate Director (Chief Financial Officer) or nominee
2. Senior Solicitor or Legal Services representative (Chair)
3. Procurement and Insurance Officer
4. Finance representative
5. Internal Audit representative
6. Legal Services representative
7. Corporate Project Team representative
8. Environmental and Climate Change representative
9. Building Surveyor representative
10. Neighbourhood Services representative
11. Four Councillors: two appointed by Cabinet including the relevant Portfolio lead and two appointed by Audit and Resources Committee. Elected Members should aim to reflect the political make-up of the Council.

Administrative Support to the Group will be provided by Case Management or Democratic Services.

The Group may invite other people for their specialist expertise for one or more meetings.

To maintain their independence as per the Public Sector Internal Audit Standards 2017, the Chief Internal Auditor or Nominee shall not have any voting rights but will take an advisory/consultative role in any decision making.

The Group may invite but cannot require any other Member or officer to join them for whole or part of any meeting.

The Board may set up short-term 'Task and Finish' groups for any related purpose, with membership drawn from a wider group than Board membership if necessary.

## **Protocols**

The Procurement Executive Group will meet on a quarterly basis (additional meetings will be called if required) at which the following protocols will apply:

1. Agendas for meetings will be drawn up by the Democratic Services Officer in consultation with the Chair and circulated at least seven days before the meeting.
2. In the absence of the Chair, meetings will be chaired by the most senior officer present.
3. All Councillors must declare any financial or conflicts of interest at the start of the meeting particularly if a waiver of Contract Standing Orders is being requested.
4. Minutes will be taken by the Democratic Services Officer and approved by whoever chaired the meeting before circulation.
5. Email will be the main method of communication outside meetings.
6. These Terms of Reference are reviewed annually and are dated accordingly.

## **Decision-Making and Reporting**

Decisions are taken by consensus. If there is no majority decision, then the Chief Financial Officer (CFO) is able to make the final decision. If this is impossible to achieve, a report will be submitted to Cabinet seeking a decision.

The Group will be considered quorate if there are minimum of 3 Councillors present.

The Group will produce an annual report on procurement which it will make available to members of the Executive Leadership Board, Cabinet and Audit and Resources Committee.

The report will include details of decisions taken by the Group during the year – including waiving of Contracts Standing Orders.

## **Inter-dependencies with other Groups, Boards, Committees etc.**

1. Cabinet, Audit and Resources Committee and Council (constitution, Standing Orders and financial regulations).
2. Programme Boards (guidance/gateways on procurement).
3. The Corporate Leadership Board (in relation to financial management and performance management).
4. Finance Specialist Team (to receive recommendations about audit, financial regulations and Contracts Procedure Rules).

# Access to Information Procedure Rules

## 1.0 Scope - Cabinet Arrangements

These rules apply to all meetings of the Council, the Cabinet, Committees and Scrutiny Panel (together called meetings).

## 2.0 Additional Rights to Information

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

## 3.0 Rights to Attend Meetings

Members of the public may attend all meetings (subject only to the exceptions in these rules) and may contribute to debates at meetings (subject to the public/stakeholder participation rules in Part 4).

## 4.0 Notices of Meetings

The Council will give at least five clear days' notice of any meeting by publishing details of the meeting.

## 5.0 Access to Agenda and Reports before the Meeting

The Council will publish copies of the agenda and reports open to the public at least five clear 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 from the time the item was added to the agenda.

## 6.0 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 Executive Head of Governance 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.

## 7.0 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; and
- d. reports relating to items when the meeting was open to the public.

## 8.0 Background Papers

### 8.01 List of Background Papers

The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their 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 - Exclusion of access](#)).

### 8.02 Public Inspection of Background Papers

The report author will ensure a copy of the background papers, set out in every report, will be provided for inspection upon request for four years after the date of the meeting.

## 9.0 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 at Eastleigh House.

As the Constitution must be available to the public, these Rules will constitute the written summary.

## 10.0 Exclusion of Access by the Public to Meetings

### 10.01 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.

### 10.02 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.

### 10.03 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. The meeting must first consider the "public interest test" to ascertain whether disclosing the information contained in those items of business deemed exempt are outweighed by the public interest in maintaining the exemption.

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 the said Article 6.

### 10.04 Meaning of Exempt Information

Exempt information means information falling within the following seven categories (subject to any condition):

# Local Government Act 1972

## Schedule 12 A

Note: Schedule 12A was substituted by the Local Government (Access to Information) (Variation) Order 2006.

### Access to Information: Exempt Information

#### Part 1:

##### Description of exempt information: England

- 1.0 Information relating to any individual
- 2.0 Information which is likely to reveal the identity of an individual
- 3.0 Information relating to the financial or business affairs of any particular person (including the authority holding that information)
- 4.0 Information relating to any consultations or negotiations, or contemplated consultations or negotiations in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the Authority
- 5.0 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings
- 6.0 Information which reveals that the authority proposes
  - a. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - b. to make an order or direction under any enactment
- 7.0 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

#### Part 2:

##### Qualifications: England

- 8.0 Information falling within paragraph 3 above is not exempt information by virtue of that paragraph if it is required to be registered under—
  - a. the Companies Act 1985;
  - b. the Friendly Societies Act 1974;
  - c. the Friendly Societies Act 1992;
  - d. the Industrial and Provident Societies Acts 1965 to 1978;
  - e. the Building Societies Act 1986; or
  - f. the Charities Act 1993.
- 9.0 Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992
- 10.0 Information which—
  - a. falls within any of paragraphs 1 to 7 above; and
  - b. is not prevented from being exempt by virtue of paragraph 8 or 9 above, is exempt information if and so long, as in all

the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## Part 3

### Interpretation: England

#### 11.0

1. In Parts 1 and 2 and this Part of this Schedule—

“employee” means a person employed under a contract of service;

“financial or business affairs” includes contemplated, as well as past or current, activities;

“labour relations matter” means—

- a. any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or
- b. any dispute about a matter falling within paragraph (a) above; and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;

“office-holder”, in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority;

“registered” in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

2. Any reference in Parts 1 and 2 and this Part of this Schedule to “the authority” is a reference to the principal council or, as the case may be, the committee or subcommittee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference—

- a. in the case of a principal council, to any committee or sub-committee of the council; and
- b. in the case of a committee, to—
  - i. any constituent principal council;
  - ii. any other principal council by which appointments are made to the committee or whose functions the committee discharges; and
  - iii. any other committee or sub-committee of a principal council falling within sub-paragraph (i) or (ii) above; and
- c. in the case of a sub-committee, to—
  - i. the committee, or any of the committees, of which it is a sub-committee; and
  - ii. any principal council which falls within paragraph (b) above in relation to that committee.

Information falling within any of [Schedule 12A paragraphs 1-7](#) is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

#### 12.0 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 their opinion relate to items during which, in accordance with [Rule 10](#), the meeting is likely not to be open to the public (subject to the

“public interest test” referred to earlier). Such reports will be marked “Not for publication” together with the category of information likely to be disclosed.

### 13.0 Application of Rules to the Cabinet

Rules 13 - 22 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 16 (general exception) or Rule 17 (special urgency) apply. A key decision is defined in Part 2, Article 15 of this Constitution.

### 14.0 Procedure before Taking Key Decisions

Subject to Rule 16 (general exception) and Rule 17 (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 28 clear 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).

## The Forward Plan

### 15.01 Period of Forward Plan

Forward plans will be prepared on a monthly basis by the Leader to cover a period of four months.

### 15.02 Contents of Forward Plan

The forward plan will contain matters which the Leader has reason to believe will be the subject of a key decision to be taken by the Cabinet, a Committee of the Cabinet, individual members of the Cabinet, staff, Area Committees or under joint arrangements in the course of the discharge of a Cabinet 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 their 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. a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the decision is to be made;
- e. the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- f. that other documents relevant to those matters may be submitted to the decision maker;
- g. the procedure for requesting details of those documents (if any) as they become available.

Exempt information need not be included in a forward plan and confidential information cannot be included.

## 16.0 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 17 (special urgency), the decision may still be taken:

- a. where the Monitoring Officer has informed the chairperson of the relevant overview and scrutiny panel or, if there is no such person, each member of the relevant overview and scrutiny panel by notice in writing, of the matter about which the decision is to be made;
- b. where the proper officer has made available at Eastleigh House for inspection by the public and published on the Council's website a copy of the notice given pursuant to sub-paragraph (a); and
- c. after five clear days have elapsed following the day on which the proper officer made available the notice referred to in sub-paragraph (b).

As soon as reasonably practicable after the proper officer has complied with the above they must:

- a. make available at the offices of the relevant local authority a notice setting out the reasons why compliance with Rule 13 is impracticable; and
- b. publish that notice on the Council's website.

## 17.0 Special Urgency

If by virtue of the date by which a decision must be taken Rule 16 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of a relevant Scrutiny Panel that the taking of the decision cannot be reasonably deferred. If there is no Chair of a relevant Scrutiny Panel, or if the Chair of the relevant Scrutiny Panel is unable to act, then the agreement of the Mayor, or in their absence the Deputy Mayor will suffice.

As soon as is reasonably practicable after the decision taker has obtained the agreement, as above, that the making of the decision is urgent and cannot reasonably be deferred, the decision maker must –

- a. Publish a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and
- b. publish that notice on the Council's website.

## 18.0 Report to Council

### 18.01 When a Scrutiny Panel can require a report

If Policy and Performance Scrutiny Panel or Audit and Resources Committee 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 Scrutiny Panel Chair, or the Mayor/Deputy Mayor under Rule 17;

The Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Panel specifies. The power to require a report rests with the Committee, but is also delegated to the Monitoring Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman or any five members of that Committee. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Scrutiny Panel.

## 18.02 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 seven 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.

## 18.03 Quarterly Reports on Special Urgency Decisions

In any event the Leader will submit at least annually a report to the Council on the Cabinet decisions taken in the circumstances set out in [Rule 17 \(special urgency\)](#) in the preceding year. The report will include the number of decisions so taken, the particulars of each decision made and a summary of the matters in respect of which those decisions were taken.

## 19.0 Record of Decisions

After any meeting of the Cabinet or any of its Committees, whether held in public or private, the minutes produced will record every decision taken at that meeting. The minutes will include a statement of the reasons for each decision, details of any alternative options considered and rejected at that meeting, any conflict of interest declared at the meeting and a note of any dispensation given by the Head of Paid Service.

## 20.0 Decisions by Individual Members of the Cabinet

### 20.01 Reports Intended to be Taken into Account

Where an individual member of the Cabinet receives a report which they intend to take into account in making any key decision, then they will not make the decision until at least five clear days after receipt of that report.

### 20.02 Provision of Copies of Reports to Scrutiny Panels

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 Chair of every relevant Scrutiny Panel as soon as reasonably practicable and make it publicly available at the same time.

### 20.03 Record of Individual Decision

As soon as reasonably practicable after a Cabinet decision has been taken by an individual member of the Cabinet they will prepare, or instruct the Monitoring Officer to prepare, a record of the decision, a statement of the reasons for it, any alternative options considered and rejected, details of any conflict of interest declared and a note of any dispensation given for that conflict of interest by the Head of Paid Service. 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.

## 21.0 Scrutiny Panels Access to Documents

### 21.01 Rights to Copies

Subject to Rule 21.02 below, a 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 meeting of the Cabinet or its Committees; or
- b. any decision taken by an individual member of the Cabinet.

The documents must be provided as soon as practicable but no later than 10 clear days after the request is received.

## 21.02 Limit on Rights

A Scrutiny Panel will not be entitled to:

- a. any document that is in draft form (unless the Cabinet or a Committee has considered the document in its draft form);
- b. any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision it is reviewing or scrutinising or intends to scrutinise.

Where the Cabinet determines that a member of Scrutiny Panel is not entitled to a copy of a document or part of a document that has been requested for the reasons set out in 20.01 above, the Cabinet must provide the relevant Scrutiny Panel with a written statement setting out its reasons for that decision.

## 22.0 **Additional Rights of Access for Councillors**

### 22.01 Material Relating to Previous Business

All Councillors 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 unless it contains exempt information falling within paragraphs 1 to 6, 9, 11, 12 and 14 of the categories of exempt information. Such documents will be made available for inspection at least five clear days before the meeting except where an item is added to the agenda at shorter notice when the document must be made available as soon as it is added to the agenda.

Any document which is in the possession or control of the Cabinet and contains material relating to business transacted at a private meeting must be available for inspection by any Member when the meeting concludes, except where that information falls within the description of paragraph 3 or 6 of Schedule 12A of the Local Government Act 1972.

### 22.02 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 it contains exempt or confidential information.

### 22.03 Nature of Rights

These rights of a member are additional to any other right they may have.

# Budget and Policy Framework Procedure Rules

## 1.0 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.

## 2.0 Process for Developing the Framework

The process by which the budget and policy framework shall be developed is:

- a. The Cabinet will publicise 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. The Chairs of the Scrutiny Panels will also be notified. The consultation period shall in each instance be not less than two weeks.
- b. At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If a relevant Scrutiny Panel wishes to respond to the Cabinet in that consultation process then it may do so. The Cabinet will take any response 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 response.
- c. Once the Cabinet has approved the firm proposals, the minutes setting out the recommendations will be referred 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 recorded votes cast at the meeting.
- f. The Monitoring Officer shall supply to the Leader a copy of the minute of the Council's decision.
- g. An in-principle decision will automatically become effective within five working days from the date of the Council's decision, unless the Leader informs the Monitoring Officer in writing within that period that they object to the decision becoming effective and provides reasons why.
- h. In that case, the Monitoring Officer will call a Council meeting within a further 20 working days. The Council will be required to re-consider its decision and the Leader's written submission.

The Council may, by a simple majority of recorded votes cast at the meeting:

- i. approve the Cabinet's recommendation; or
  - ii. approve a different decision which does not accord with the recommendation of the Cabinet.
- i. The decision shall then be made public and shall be implemented immediately.
  - j. In approving the budget and policy framework, the Council will also specify the extent of virement within the budget which may be undertaken by the Cabinet, in accordance with [paragraph 5](#) of these Rules. Any other changes to the policy and budgetary framework are reserved to the Council.

## 3.0 Decisions Outside the Budget or Policy Framework

Subject to the provisions of [paragraph 5](#) (virement) the Cabinet, any Committees appointed by the Cabinet, individual members of the Cabinet or any staff, Area Committees, other Committees or joint arrangements discharging Cabinet functions may only take decisions which are in line with the budget and policy framework. If any of these bodies

or persons wishes to make a decision which is contrary to the policy framework, or contrary to or not wholly in accordance with the budget approved by full Council, then that decision may only be taken by the Council, subject to 4 below.

- a. If the Cabinet, any Committees appointed by Cabinet, individual members of the Cabinet or any staff, Area Committees, other Committees or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either of those Officers is that the decision would not be in line with the existing budget and/or policy framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget and policy framework) shall apply.

#### 4.0 Urgent Decision Outside the Budget or Policy Framework

- a. The Cabinet, any Committees appointed by Cabinet, an individual member of the Cabinet or staff, Area Committees, other Committees or joint arrangements discharging Cabinet functions may take a decision which is contrary to the Council's policy framework or contrary to or not wholly in accordance with the budget approved by full Council if the decision is a matter of urgency. However, the decision may only be taken:
  - i. if it is not practical to convene a quorate meeting of the full Council; and
  - ii. if the chair of a relevant Scrutiny Panel agrees that the decision is a matter of urgency.

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

#### 5.0 Virement

Steps taken by the Cabinet, any Committees appointed by Cabinet, an individual member of the Cabinet or staff, Area Committees, other Committees or joint arrangements discharging Cabinet functions to implement Council policy shall not exceed those budgets allocated to each budget head. However, virement (movement of budgets) across budget heads will be allowed in accordance with the Council's financial regulations contained in the Financial Procedure Rules in Part 4 of this Constitution.

#### 6.0 In-year Changes to Policy Framework

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, any Committees appointed by Cabinet, an individual member of the Cabinet or staff, Area Committees, other Committees or joint arrangements discharging Cabinet 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 which are necessary to ensure compliance with the law, Ministerial direction or Government guidance.

## 7.0 Call-in of Decisions Outside the Budget or Policy Framework

- a. Where a Scrutiny Panel is of the opinion that a Cabinet decision is contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Financial Officer.
- 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 Council in the event that the Monitoring Officer or the Chief Financial Officer conclude that the decision was a departure, and to the Scrutiny Panel if the Monitoring Officer or the Chief Financial Officer conclude that the decision was not a departure.
- c. Following a report to the Council, the Council may either:
  - i. endorse a decision of the Cabinet decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - ii. amend the Council's financial regulations or policy concerned to encompass the decision of the body or individual responsible for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
  - iii. require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or the Chief Financial Officer where the Council accepts that the decision 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.

# Cabinet Procedure Rules

## 1.0 How Does the Cabinet Operate?

### 1.01 Who May Make Cabinet Decisions?

The arrangements for the discharge of Cabinet functions are set out in the Cabinet arrangements adopted by the Council. The arrangements provide for Cabinet functions to be discharged by:

- i. the Cabinet as a whole;
- ii. a Committee of the Cabinet;
- iii. an individual member of the Cabinet;
- iv. a member of staff;
- v. an Area Committee;
- vi. joint arrangements; or
- vii. another local authority.

### 1.02 Sub-Delegation of Cabinet Functions

- a. Where the Cabinet, a Committee of the Cabinet or an individual member of the Cabinet is responsible for a Cabinet function, they may delegate further to an Area Committee, joint arrangements or a member of staff.
- b. Even where Cabinet functions have been delegated, that fact does not preclude the discharge of delegated functions by the person or body who delegated.

### 1.03 The Council's Scheme of Delegation and Cabinet Functions

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 [Article 7](#) and set out in [Part 3 of this Constitution](#).

### 1.04 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 Councillors](#) in Part 5 of the Constitution.
- b. If any 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 Councillors in [Part 5 of the Constitution](#).
- c. If the exercise of a Cabinet function has been delegated to a Committee of the Cabinet, an individual councillor or a member of staff, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Councillors in [Part 5 of this Constitution](#).

### 1.05 Cabinet Meetings - When and Where?

The Cabinet will meet as required for the purpose of conducting its business. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Monitoring Officer in consultation with the Leader.

## 1.06 Public or Private Meetings of the Cabinet?

All meetings of the Cabinet shall be open to the public unless the items under discussion would involve the disclosure of exempt or confidential information.

## 1.07 Quorum

The quorum for a meeting of the Cabinet, or a Committee of it, shall be one quarter of the members. Provided that a quorum shall not be less than three members.

## 1.08 How are Decisions to be taken by the Cabinet?

- a. Cabinet decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- b. Where Cabinet decisions are delegated to a Committee of the Cabinet, the rules applying to Cabinet decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## 2.0 How are Cabinet Meetings Conducted?

### 2.01 Who Presides?

If the Leader (or in their absence the Deputy Leader) is present they will preside. In their absence, then a person appointed to do so by those present shall preside.

### 2.02 Who May Attend?

A Councillor other than a Cabinet member may attend a meeting of the Cabinet and may speak in the circumstances described in the Council and Committee Procedure Rules in Part 4. Cabinet meetings are also open to members of the public, subject to paragraph 1.06 above.

### 2.03 What Business?

At each meeting of the Cabinet the business shall include:

- i. consideration of the minutes of the last meeting;
- ii. declarations of interest, if any;
- iii. matters referred to the Cabinet (whether by a Scrutiny Panel or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of the Constitution;
- iv. consideration of reports from Scrutiny Panels; and
- v. matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of the Constitution.

### 2.04 Consultation

All reports to the Cabinet from any member of the Cabinet or a member of staff on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Scrutiny Panel and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

## 2.05 Who Can Put Items on the Cabinet Agenda?

- a. The Leader may put on the agenda of any Cabinet meeting any matter which they wish, whether or not authority has been delegated to the Cabinet, a Committee of it or any Councillor or member of staff in respect of that matter. The Monitoring Officer will comply with the Leader's request in this respect.
- b. The Monitoring Officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant Scrutiny Panel or the full Council so request.
- c. The Head of Paid Service, the Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the proper officer 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 convened at which the matter will be considered.

# Overview and Scrutiny Procedure Rules

## 1.0 Arrangements for Overview and Scrutiny

The Council will have the Scrutiny Panels set out in [Article 6](#) and [9](#) and will appoint to them as it considers appropriate from time to time.

- 1.01 Panels of a minimum of eight non-Cabinet Councillors will be the normal size, but the Council retains the flexibility to vary Panel size if considered appropriate.

## 2.0 Who May Sit on Scrutiny Panels?

All Councillors, except members of the Cabinet, may be members of a Scrutiny Panel. However, no member may be involved in scrutinising a decision in which they have been directly involved.

## 3.0 Co-optees

Each Scrutiny Panel shall be entitled to include third parties in their meetings in a non-voting capacity.

## 4.0 Meetings of Scrutiny Panels

Scrutiny Panels will determine their own frequency of meetings. A Panel meeting may be called by the Chair of the Panel or by the Monitoring Officer if they consider it necessary or appropriate.

## 5.0 Quorum

The quorum for a Scrutiny Panel shall be as set out for [Committees in the Council and Committee Procedure Rules in Part 4 of the Constitution](#).

## 6.0 Who Chairs Scrutiny Panel Meetings?

The Panel Chairs and Vice-Chairs will be appointed annually by the Council.

## 7.0 Work Programme

The Scrutiny Panels will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that Panel who are not members of the largest political group on the Council. Panels will also receive staff support to assist with their work.

## 8.0 Agenda Items

The Scrutiny Panels shall respond, as soon as their work programme permits, to requests from the Council, and if it considers it appropriate the Cabinet, to review particular areas of Council activity. Where they do so, the Scrutiny Panel shall report its findings and any recommendations back to the Cabinet and/or Council for consideration as soon as reasonably possible.

## 9.0 Policy Review and Development

- a. The role of the 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, a Scrutiny Panel may make proposals to the Cabinet for developments insofar as they relate to matters within its terms of reference.
- c. 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. Such activities as are mentioned in this paragraph shall be carried out within the limits of the budget established for this purpose.

## 10.0 Reports from Scrutiny Panels

- a. Once it has formed recommendations on proposals for policy development, the relevant Scrutiny Panel will prepare a formal report and submit it to the Monitoring Officer for consideration, as appropriate, by the Cabinet, an Area Committee or the Council.
- b. The relevant body shall consider the report at the next available meeting.

## 11.0 Making sure that Scrutiny Reports are Considered by the Cabinet

- a. Once a scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next available meeting of the Cabinet, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of two months. In such cases, the report of the Scrutiny Panel shall be considered by the Cabinet when it considers that matter. If for any reason the Cabinet does not consider the scrutiny report within three months then the matter will be referred to Council for review, and the Monitoring Officer will call a Council meeting to consider the report and make a recommendation to the Cabinet.
- b. 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 a 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.

## 12.0 Rights of Scrutiny Panel Members to Documents

- a. In addition to their rights as Councillors, members of Scrutiny Panels have the additional rights to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution. In particular, they will have access to all Council papers, including Internal and External Audit reports relevant to their theme areas, subject to preserving the confidentiality of those relating to exempt business of the kind referred to in legislation.
- b. Nothing in this paragraph prevents more detailed liaison between the Cabinet and Scrutiny Panels as appropriate depending on the particular matter under consideration.

## 13.0 Members and Staff Giving Account

- a. Any Scrutiny Panel 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 member of staff 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. their performance;and it is the duty of those persons to attend if so required.
- b. Where any Councillor or member of staff is required to attend a Scrutiny Panel under this provision, the Chair of that Panel will inform the Monitoring Officer. The latter shall inform the Councillor or member of staff in writing giving at least 5 working days notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are 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 Councillor or member of staff concerned will be given sufficient notice to allow for preparation of that documentation.
- c. Where, in exceptional circumstances, the Councillor or member of staff is unable to attend on the required date, then the Scrutiny Panel shall in consultation with the person concerned arrange an alternative date for attendance.

## 14.0 Attendance by Others

A Scrutiny Panel may invite people other than those people referred to in paragraph 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Councillors and staff in other parts of the public sector and may invite such people to attend.

## 15.0 Call-in

Provisions enabling members to call-in decisions of the Cabinet, Local Area Committees or other Committees of the Council are included in the Council and Committee Procedure Rules in Part 4 of the Constitution. These are available to all Councillors and not reserved exclusively to members of Scrutiny Panels.

## 16.0 The Party Whip

No party whip shall be applied to the proceedings of Scrutiny Panels.

## 17.0 Procedure at Scrutiny Panel Meetings

- a. Scrutiny Panels shall consider the following business:
  - i. minutes of the last meeting;
  - ii. declarations of interest;
  - iii. responses of the Cabinet to reports of the Panel;
  - iv. the business otherwise set out on the agenda for the meeting.
- b. Where the Panel conducts investigations (for example with a view to policy development), the Panel may also ask people to attend to give evidence at 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.

## 18.0 Matters Within the Remit of More Than One Scrutiny Panel

Where a matter for consideration by a Scrutiny Panel also falls within the remit of one or more other Scrutiny Panels the decision as to which Panel will consider it will be resolved by the Cabinet or Council as appropriate. In any event, the Chair(s) of the other Panel(s) will be invited to attend meetings at which the matter is being discussed.

# Procedure Rules for Area Committees and the Administration Committee

## 1.0 How do the Committees Operate?

### 1.01 Committee Meetings - When and Where?

Area Committees and the Administration Committee will meet in accordance with a timetable or at such other times as may be agreed by the relevant Committee Chair. Area Committees shall determine their own meeting places and shall publicise details of the venues and meeting dates accordingly. The Administration Committee will meet at the Council's main offices or another location to be agreed by the Monitoring Officer in consultation with the Committee Chair.

### 1.02 Public or Private Meetings?

All meetings of Area Committees and the Administration Committee shall be open to the public unless the items under discussion would involve the disclosure of exempt or confidential information.

### 1.03 Quorum

The quorum for a meeting of an Area Committee or the Administration Committee shall be one quarter of the number of the whole body. Provided that a quorum shall not be less than three members.

### 1.04 How are Decisions to be Taken?

Cabinet decisions which have been delegated to an Area Committee or the Administration Committee will be taken at a meeting convened in accordance with the [Access to Information Rules in Part 4 of the Constitution](#).

## 2.0 How are Committee Meetings Conducted?

### 2.01 Who Presides?

The Chair of the Committee (or in their absence the Vice-Chair) will preside. In their absence, then a person appointed to do so by those present shall preside. The Chairs and Vice-Chairs of Area Committees and the Administration Committee are appointed annually by the Council.

### 2.02 Who May Attend?

A Councillor other than a Committee member may attend a meeting and may speak in the circumstances described in the [Council and Committee Procedure Rules in Part 4](#). Committee meetings are also open to members of the public (subject to paragraph 1.2 above) and may speak in accordance with the [public participation rules in Part 4](#).

### 2.03 What Business?

At each meeting of a Committee the business shall include:

- i. consideration of the minutes of the last meeting;
- ii. declarations of interest, if any;

- iii. matters set out in the agenda for the meeting, which shall indicate which are key decisions and which are not, and also (in the case of Area Committees) which are functions of the Cabinet and which are not, in accordance with the Access to Information Procedure Rules set out in Part 4 of the Constitution.

The Chair of the Committee may, at their discretion, alter the order of business shown on the agenda.

#### 2.04 Who Can Put Items on a Committee Agenda?

- a. The Chief Executive, a Corporate Director or an appropriate Service Manager or Local Area Manager may ask the Monitoring Officer to include in an agenda for a meeting of an Area Committee or the Administration Committee any item requiring a Cabinet decision.
- b. The Leader or the Chair or Vice-Chair of an Area Committee or the Administration Committee may put on the agenda of a relevant Committee meeting any matter which they wish, whether or not authority has been delegated to the Committee or any Councillor or member of staff in respect of that matter. The Monitoring Officer will comply with the member's request in this respect.
- c. The provisions in paragraph (b) above are in addition to the right of members to submit a Notice of Motion to a Committee on any matter relevant to that Committee, in accordance with standing order 7 (in Council and Committee Procedure Rules in Part 4).
- d. The Monitoring Officer may request an item related to a standards matter be added to the agenda for the Administration Committee.

#### 2.05 Sub-Committees

The Administration Committee may appoint sub-committees for the purpose of considering a complaint(s) that a Member has breached the Council's Code of Conduct referred to the sub-committee by the Monitoring Officer. The procedure for these meetings will be in accordance with the procedure agreed by the Council and published here.

# Financial Procedure Rules

The Appendix below contains the Council's Financial Regulations.

## APPENDIX H

### (Part 4 – Rules of Procedure)

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## 1.0 Status of Financial Regulations

- 1.01 Financial regulations provide the framework for managing the Council's financial affairs. They apply to every member, all staff of the Council and anyone acting on its behalf. Failure to comply with these regulations could result in disciplinary action being taken.
- 1.02 The regulations identify the financial responsibilities of the full Council, the Cabinet, Local Area Committees and Scrutiny Members, the Head of Paid Service, the Monitoring Officer, the Chief Financial Officer (CFO), Deputy CFO, Corporate Directors, Executive Heads and budget holders.
- 1.03 Unless specifically stated, for the purpose of these regulations the Chief Executive is deemed to be the Head of Paid Service, the Monitoring Officer is deemed to be the Monitoring Officer and the Chief Financial Officer is deemed to be the Council's Chief Financial Officer or Deputy Chief Financial Officer. Any reference to a budget holder is deemed to include any staff holding a designated position of financial responsibility.
- 1.04 All reference to "Scheme of Delegation to Staff" refers to the latest approved Management Scheme of Delegation.
- 1.05 All reference to "The Constitution" refers to the current Eastleigh Borough Council Constitution. Reference is included in this document as necessary to reflect financial management issues.
- 1.06 The Chief Financial Officer is responsible for maintaining a continuous review of the financial regulations and submitting any additions or changes necessary to the Full Council for approval. The Chief Financial Officer is also responsible for reporting, where appropriate, breaches of the financial regulations to the Council and/or to the Cabinet Members. The Chief Financial Officer is responsible for issuing advice and guidance to underpin the financial regulations that Councillors, staff and others acting on behalf of the Council are required to follow.
- 1.07 Managers are responsible for ensuring that all staff for whom they are responsible are aware of the existence and content of the Council's Financial Regulations and other internal regulatory documents and that they comply with them. They must also ensure that the financial regulations are available for reference to their sections. All Councillors 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, properly authorised, provides value for money and achieves best value.
- 1.08 These regulations are effective from 11 November 2021.

## 2.0 Financial Regulations – Financial Management

### **Introduction**

2.01 Financial management covers all financial accountabilities in relation to the running of the Council, including the policy framework and budget and should be read in conjunction with the Council's Constitution.

### **The Full Council**

2.02 The Full Council is responsible for adopting and changing the Council's constitution and Councillors' Code of Conduct and for approving or adopting the policy framework, the budget and budget strategy within which the Cabinet operates.

### **The Cabinet**

2.03 The Cabinet is responsible for proposing the policy framework, its overall community and corporate strategies and budget strategy to the Full Council, and for discharging Cabinet functions in accordance with the policy framework and budget.

2.04 Cabinet decisions, excluding key decisions, can be delegated to a committee of the Cabinet, an individual Cabinet member (Cabinet Lead), an Area or other Constituted committee or to a member of staff.

## Key Decisions

2.05 A key decision means a Cabinet decision which is likely:

- a. to result in income, expenditure or savings which amount to greater than £50,000 of the gross expenditure or income budget for the service or general function to which the decision relates; or
- b. to be significant in terms of its effect on communities living or working in an area comprising two or more wards within the Borough of Eastleigh.

2.06 Paragraph 2.05 above shall not apply:

- a. if the expenditure or savings are part of a programme already approved; or
- b. if it is a decision taken by the Chief Financial Officer in accordance with the approved Treasury Management Policy.
- c. a decision-taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of the Constitution.

2.07 The Cabinet is responsible for establishing protocols to ensure that individual Cabinet Members consult with relevant officers before taking a decision within their 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.

### **Scrutiny Panels**

2.08 The Scrutiny Panels are responsible for the review and/or scrutiny of decisions of the Cabinet and Local Area Committees. Scrutiny Panels are also responsible for making recommendations on future policy development, overview or scrutiny and for reviewing the general policy and service delivery of the Council. The Audit and Resources Committee will agree and oversee the Council's Internal Audit Plan.

## Local Area Committees

- 2.09 Local Area Committees are responsible for taking Cabinet decisions within policy framework and budget on locally provided services and the local Community Investment Programme (including matters delegated to them by either the Council or the Cabinet).

## Statutory Officers

- 2.10 **Head of Paid Service** - The Head of Paid Service is responsible for overall corporate management and operational responsibility for the management of the Council as a whole. They must report as necessary to the Council and Cabinet. They are responsible for the provision of professional advice to all parties in the decision-making process. The Head of Paid Service is also responsible, together with the Monitoring Officer, for the system of record keeping in relation to all the full Council's decisions.
- 2.11 **Monitoring Officer** - The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Administration Committee. The Monitoring Officer is also responsible for reporting any actual or potential breaches of the law or maladministration to the full Council and/or to the Cabinet, and for ensuring that procedures for recording and reporting key decisions are operating effectively
- 2.12 The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions, and relevant staff reports and background papers are made publicly available as soon as possible.
- 2.13 The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- 2.14 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.
- 2.15 After consulting with the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the Full Council (or to the Cabinet in relation to a Cabinet function) if they consider 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 matter has been resolved.
- 2.16 The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Councillors, staff and the public.
- 2.17 **Chief Financial Officer** - The Chief Financial Officer has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:
- a. Section 151 of the Local Government Act 1972 amended 2003
  - b. The Local Government Finance Act 1988
  - c. The Local Government and Housing Act 1989
  - d. The Accounts and Audit Regulations 2015.

- 2.18 The Chief Financial Officer is responsible for:
- a. the proper administration of the Council's financial affairs
  - b. setting and monitoring compliance with financial management standards
  - c. advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
  - d. providing financial information
  - e. preparing the revenue budget and Capital Strategy
  - f. Treasury Management
  - g. maintaining an adequate and effective system of internal audit in accordance with the Accounts and Audit Regulations 2015.

2.19 The Chief Financial Officer shall make a report to the Council under sub-section 2 of S114 of the Local Government Finance Act 1988 where the Council, a Committee or a member of staff, or a Joint Committee on which the Council is represented:

- a. has made or is about to make a decision which involves or would involve the Council incurring unlawful expenditure;
- b. has taken, or is about to take, a course of action which if pursued to its conclusion would be unlawful and likely to cause a loss or deficiency; or
- c. is about to enter an item of account which is unlawful.

In preparing a report the Chief Financial Officer shall consult as far as practicable with the person designated as the Head of the Council's Paid Service and with the person responsible for performing the duties of the Council's Monitoring Officer under the Local Government and Housing Act 1989.

The Chief Financial Officer shall make a report under sub-section 3 of S114 of the Local Government Finance Act 1988 if it appears to them that the expenditure of the Council incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

2.20 Members and Officers shall draw to the attention of the Chief Financial Officer, at the earliest opportunity, any subject which may lead to a formal report.

2.21 Section 114 of the 1988 Act also requires:

- a. the Chief Financial Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally.
- b. the Council to provide the Chief Financial Officer with sufficient staff, accommodation and other resources (including legal advice where this is necessary) to carry out the duties under section 114.

2.22 **Other Staff** - The Chief Executive, Corporate Directors and Executive Heads will exercise an overview of the activity of services and capital schemes within their respective portfolio. They will ensure that managers consult with the Chief Financial Officer and seek approval on any matter liable to affect the Council's finances materially, before any commitments are incurred.

- 2.23 Budget holders 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 Chief Financial Officer.
- 2.24 All staff are responsible for the financial processes under their control, or influence. In order to fulfil this duty, budget holders, in consultation as necessary with the responsible Executive Head and Corporate Director, shall have a primary responsibility for the observance of the Council's Financial Regulations throughout the area under their control and ensure that adequate operational controls are in place.
- 2.25 Staff shall comply with all financial principles and policies, contained within any Management Scheme of Delegation or Empowerment, which the Council may introduce, whether specific reference is contained within these Financial Regulations or not.

### **Accounting**

- 2.26 All prime accounting forms, records, systems (including financial systems operated on PC software) and procedures of the Council shall be subject to the approval of the Chief Financial Officer. Such procedures shall have regard to S 115 of the Local Government Act 1972, the Accounts and Audit Regulations 2015 and appropriate accounting Standards.
- 2.27 A budget holder shall consult the responsible Executive Head and Chief Financial Officer before introducing, amending or discontinuing any record or procedure related to accounting for cash, stores or equipment, or dealing with income, expenditure or other financial transactions in the area under their control.
- 2.28 The following principles shall be observed in the allocation of accounting duties and responsibilities:
- a. So far as it is practicable, the duties of providing information on, calculating, checking and recording sums due to or from the Council shall be separated from duties of collection or disbursement.
  - b. Staff responsible for the examination and checking of cash transactions shall not themselves be engaged in any such collection procedures.

## 3.0 Financial Regulations – Financial Planning

### Introduction

- 3.01 The Full Council is responsible for agreeing the policy framework and budget, which will be proposed by the Cabinet. In terms of financial planning, the key elements are:
- Corporate Strategy
  - the Medium-Term Financial Plan
  - the Capital, Investment and Treasury Management Strategy
- 3.02 The Council will be responsible for the adoption of its budget and policy framework. Once a budget or policy framework is in place, it will be the responsibility of the Cabinet to implement it.

### Budgetary Control

- 3.03 **Budget format** - The general format of the budget will be prepared in accordance with appropriate legislation and codes of practice. It will be approved by the full Council and proposed by the Cabinet on the advice of the Chief Financial Officer. The draft budget should include allocation to different services and projects, proposed taxation levels and reserve funds.
- 3.04 **Budget preparation** - The Chief Financial Officer is responsible for ensuring that the following is prepared on an annual basis for consideration by the Cabinet, before submission to the full Council.
- a revenue budget
  - a capital budget (Community Investment Programme)
  - a rolling medium term financial plan of at least three years for presentation to the Cabinet
- The full Council may amend the budget or ask the Cabinet to reconsider it before approving it.
- 3.05 It is the responsibility of budget holders to ensure that budget estimates submitted to the Cabinet in consultation with the Chief Financial Officer reflect agreed plans and that these estimates are prepared in line with guidance issued by the Cabinet.
- 3.06 **Budget monitoring and control** - The Chief Financial Officer is responsible for providing appropriate financial information systems to enable budgets to be monitored effectively. The Chief Financial Officer must monitor and exercise overall control of expenditure and income against budget allocations and report to the Cabinet on the overall position quarterly.
- 3.07 Budget Holders are accountable for the control of income and expenditure within their area and to monitor performance, taking account of the financial information available. They should report actual and forecast variances within their own areas. They should also take appropriate action necessary to avoid exceeding their budget allocation and alert the responsible Executive Head and Chief Financial Officer to any problems.
- 3.08 All Budget Holders are required to comply with the Council's Corporate Financial Monitoring process as directed by the Chief Financial Officer.
- 3.09 Where it appears that the approved budget on any element of revenue or capital expenditure is likely to be exceeded

or that the amount of expected income may not be received, it shall be the duty of the budget holder concerned, to inform the Chief Financial Officer, who may then inform the Cabinet or appropriate Local Area Committee.

- 3.10 Budget Holders may delegate authority to other staff to act on their behalf in sanctioning orders for payment, but such delegation shall not in any way reduce the accountability of the Manager.
- 3.11 No expenditure may be incurred unless it has been included in budgets approved by the Cabinet and Council. Subject to the virement limits in regulation 3.24 any proposed new policy or any changes in policy likely to affect the financial resources of the Council shall be proposed to the Cabinet who shall make recommendations to the Council.
- 3.12 Where expenditure or income involves a contract with a third party Budget Holders must follow procedures laid down in Contract Standing Orders.
- 3.13 Where service areas operating under an approved Scheme of Management Delegation are able to generate additional income from external sources, which does not impact upon the parameters or policies agreed by the Council, the income can be reinvested in the service with the agreement of the relevant Portfolio Lead, Corporate Director, Executive Head and subsequent approval from the Chief Financial Officer.
- 3.14 **Resource allocation** - The Chief Financial Officer is responsible for developing and maintaining a financial resource allocation process that ensures due consideration of the full Council's policy framework.
- 3.15 **Capital Programme** (Community Investment Programme) - Draft estimates for the ensuing year, together with a financial report shall be presented to the Cabinet so that provision for approved items may be made in revenue estimates. The budget process shall be as follows:
- a. The CIP shall be prepared by the Chief Financial Officer who shall identify appropriate sources of funding.
  - b. The Chief Financial Officer shall prepare revenue budgets in consultation with each budget holder consistent with the general directions of the Cabinet. Such budgets must take account of the revenue effects of any capital expenditure. Budget holders should be confident that their budgets can bear the longer term consequences of any expenditure that they authorise.
  - c. The Cabinet shall consider the aggregate effect of the programmes and budgets upon the resources of the Council and will submit these to Council for approval.
- 3.16 A forward provisional programme of at least three years shall be maintained.
- 3.17 Before any scheme can be added to the CIP the following criteria must be met:
- a. The nature of the project and its links to the Corporate Strategy and Portfolio/Local Area Committee/Service Plans must be identified.
  - b. The project has been subject to an appropriate feasibility study (the level depends on the nature of the project).
  - c. The structure, delivery and monitoring of the project is in line with the Council's Project Management Methodology.

- 3.18 Subject to paragraph 5.54 no expenditure may be incurred upon a capital scheme until it has been included in the capital programme approved as follows:
- a. if within an existing budget, up to a set sum of £50,000, agreement by the relevant Executive Head in conjunction with the Chief Financial Office.
  - b. if a new budget, up to a set sum of £50,000, agreement by Local Area Committee or Cabinet, subject to the identification of financing.
  - c. if over £50,000 agreement by Council.
- A scheme may only be committed when an estimate of the associated revenue expenditure and income has been approved by the relevant committee.
- 3.19 **Virement and Supplementary Estimates** - Expenditure shall not be incurred, or a voluntary reduction of income authorised, unless it is covered by the annual budget, special financial provision or a supplementary estimate.
- 3.20 When it is desired to direct a budget to a purpose other than that for which it has been approved, as part of the budgetary process, virement will be permitted subject to the limits detailed below.
- 3.21 Virement within any controllable individual portfolio budget (as defined by the Chief Financial Officer), whether capital or revenue is permitted subject to the financial limits and virement authority levels contained in paragraph 3.24 below.
- Note: This will allow virement between services provided they are within the same portfolio. Virement between portfolios are the subject to approval from all relevant portfolio leads.
- 3.22 Virement of any budget within a service is permitted, with the exception of internal recharges, subject to the financial limits and virement authority levels contained in paragraph 3.24 below.
- 3.23 Virement between any service within a LAC budget will be permitted with the exception of internal recharges, subject to the financial limits and virement authority limits contained in paragraph 3.24 below.
- 3.24 **Virement Limits and Authority Levels** - The following financial limits shall apply in respect of any virement. Such limits are to be viewed per transaction. If any virement affects the level of service provided for a devolved function approval must also be gained from the relevant LAC Chair.
- a. **Between service budgets within portfolio (revenue or CIP)**

Up to £50,000 at the discretion of the appropriate Executive Head(s) in consultation with the relevant Budget Holder(s). Approval must be obtained from the Chief Financial Officer.

Any virement above £50,000 shall require the approval of the relevant Local Area Committee or the Cabinet.

For the avoidance of doubt, "Service" means an individual page of the budget book, e.g. car parks.
  - b. **Within a Service**

Any sum within the approved budget (excluding internal recharges) at the discretion of the Budget Holder.

For the avoidance of doubt, "Within a Service" means a virement between subjective headings, e.g. supplies and services to property within the same Service.

**c. Between services within a LAC budget (capital or revenue)**

Up to £25,000 at the discretion of the LAC Chair in consultation with the relevant Executive Head and relevant Budget Holders.

For the avoidance of doubt, "Between Services", is as per the principle in b) above, but relates to virements between subjective headings in different Services, but within the same LAC budget.

**d. Between portfolios**

Virement between portfolios are the subject to approval from all relevant budget holders, Executive Heads and Portfolio Leads.

For the avoidance of doubt, "Service" means an individual page of the budget book, e.g. Car parks.

- 3.25 Any virement which is undertaken within the parameters of these regulations must also reflect the Corporate Strategy and policy decisions of the Council.
- 3.26 Where a supplementary estimate is required, a request will be made to the Chief Financial Officer in accordance with the procedures laid down from time to time. Such requests shall be considered by the Chief Financial Officer and the Cabinet. All requests must identify the following:
- a. Nature and reason for growth
  - b. Cost (including 5 year projection)
  - c. Link to Portfolio and Corporate Strategy
  - d. Proposed source of funding
- 3.27 Where virement is not possible a Cabinet Member or LAC must seek the approval of the Cabinet for a supplementary estimate. The Cabinet will consider the reasons why a supplementary estimate is required which may include: -
- a. circumstances of an exceptional nature which could not have been foreseen.
  - b. a change in Council or National Policy, in providing a new service or altering an existing one which was not known at the time budgets were proposed.
- 3.28 **Maintenance of Reserves** - It is the responsibility of the Chief Financial Officer to advise the Cabinet and/or the full Council on prudent levels of reserves for the Council.

## 4.0 Risk Management and Control of Resources

### Introduction

4.01 It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.

### Risk Management

4.02 The Cabinet is responsible for approving the Council's policy on risk management and for defining the member, staff and committee structure through which risk management will be planned and monitored. A Strategic Risk Management Group, chaired by the Executive Head of Governance, has been established to oversee the Risk Management Framework. A member from Cabinet and the Audit and Resources Committee will be appointed annually to the Group. A copy of the Terms of Reference for this group can be found at [Appendix I](#) (page 149).

4.03 The Chief Executive and Chief Financial Officer are accountable for preparing the Council's risk management policy statement for submission to the Cabinet.

4.04 The Chief Financial Officer shall consider and advise the Cabinet on those risks which are to be covered by a policy of insurance, which have been identified to them, and shall advise relevant Managers of any changes in such cover.

4.05 Managers shall give prompt notification to the Chief Financial Officer of:

- a. All risks in the control of their unit or area, covered by such a policy of insurance, with the estimate of value in the case of property, vehicles or plant or other intangible assets.
- b. Any alteration which may affect existing insurances.
- c. Any loss, liability or damage, or any event likely to lead to a claim.
- d. All leases of property granted by or to the Council which involve a transfer of insurance cover.
- e. The terms of any indemnity which the Council is requested to give.

4.06 The Chief Financial Officer shall periodically review insurances in consultation with other Managers as appropriate.

### Internal Control

4.07 Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Council's assets and interests are safeguarded.

4.08 The authority must ensure that it has a sound system of internal control which:

- a. facilitates the effectiveness of its functions and the achievements of its aims and objectives
- b. ensure that the financial and operational management of the authority is effective
- c. includes effective arrangements for the management of risk.

- 4.09 The Chief Financial Officer 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.
- 4.10 It is the responsibility of Managers to maintain internal control and 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**

### Internal Audit

- 4.11 These regulations are supplemented to the powers and duties of the Chief Financial Officer imposed by Regulation 5 of the Accounts and Audit Regulations 2015.
- 4.12 The Council shall be responsible for maintaining an adequate and effective internal audit service. This shall be delegated to the Head of Internal Audit in accordance with the Accounts and Audit Regulations 2015. This shall enable an independent, continuous examination of the internal control systems, all accounts, records and terms of the Council and the achievement of economic, efficient and effective use of resources, and the Council shall make sufficient resources available for this.
- 4.13 Internal Audit will comply with the requirements of the Public Sector Internal Audit Standards and any subsequent amendments. Compliance with the Standards will be reviewed through self-assessment every two years and by external assessment every five years in line with the Internal Audit Charter and Internal Audit Quality Assurance and Improvement Programme.
- 4.14 The Chief Financial Officer and Head of Internal Audit or their authorised representatives shall have authority to:
- a. Enter at all times any Council premises land;
  - b. Have access to any information from the Council which they require in order to carry out their duties;
  - c. Require and receive any such explanations as the Chief Financial Officer/Head of Internal Audit deems necessary concerning any matter under examination;
  - d. Require any employee of the Council to produce cash, or other Council property, records or data under their control upon request; and
  - e. Undertake planned observation or surveillance in accordance with relevant legislation following authorisation by the Authorised Officer, who shall be the Chief Financial Officer or in their absence the Legal Services Manager.
- 4.15 When any matter arises which involves, or is thought to involve, irregularities or theft concerning cash, stores, data or other property or functions of the Council, the appropriate Manager shall forthwith notify the Head of Internal Audit who shall take such steps as they consider necessary by way of investigation and report. If there is evidence or strong suspicion of fraud the Head of Internal Audit will normally bring the matter to the attention of the Chief Financial Officer and/or Chief Executive.

- 4.16 The Head of Internal Audit shall report promptly and fully to the Chief Financial Officer and Chief Executive and, if appropriate to the Chair of the Audit and Resources Committee, on the results of an investigation into an irregularity or suspected irregularity.
- 4.17 The Head of Internal Audit shall submit a report to the Audit and Resources Committee on the performance of Internal Audit activity for the financial year, by the 31 July of the following year and at other times as circumstances dictate.

#### External Audit

- 4.18 The Council have chosen to appoint Public Sector Audit Appointments Limited (PSAA) to appoint external auditors for the audit of accounting statements. The basic duties of the external auditor are governed by the Local Audit and Accountability Act 2014. The external auditor of Housing Benefit claims is appointed separately by the Council.
- 4.19 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs Excise, who have statutory rights of access.

### **Preventing Fraud and Corruption**

- 4.20 The Head of Internal Audit is responsible for the development and maintenance of the policy on the Prevention of Fraud and Corruption. All staff are to comply with these policies.
- 4.21 Managers are responsible for ensuring compliance with the above policies by the staff, including any temporary staff, under their control and by external contractors/consultants employed by the Council from time to time.

### **Assets**

- 4.22 The Chief Financial Officer should ensure that asset registers are maintained by designated Managers in accordance with good practice for all fixed assets with a value in excess of £5,000, with the exception of IT equipment which is the responsibility of the Head of IT. Where a record must be maintained of all assets held. The Chief Financial Officer can request information for accounting, costing and financial management from each Manager charged with maintaining an asset register.
- 4.23 Managers should ensure that records and assets are properly maintained and securely held. They should ensure that information is supplied to the Chief Financial Officer when requested, to support the valuations contained the accounts of the Council. They should also ensure that contingency plans for the security of assets and continuity of service in the event of a disaster or system failure are in place.
- 4.24 The Lead Asset Manager in liaison with the relevant Cabinet Lead, is responsible for the development and review of a strategy to encourage the efficient use of land and buildings and to secure the proper maintenance of buildings. This strategy will have regard to the effect of acquisition, disposal and long-term lettings on the Council's capital programme and revenue budget.
- 4.25 The Lead Asset Manager will be responsible for the maintenance of a property data management system for all properties owned by the Council, the purpose for which held, the location, the extent and plan reference, purchase details, particulars of nature of interest and rents payable and particulars of tenancies granted.

- 4.26 Disposals must be recorded in the record and reference made to the Council for disposal, together with details of purchaser, income received and any other details relevant to the disposal.
- 4.27 The Legal Services Manager shall have the custody of all title deeds under secure arrangements and shall, on completion of any deed or agreement, notify the Chief Financial Officer of any financial rights or liabilities arising therefrom.
- 4.28 All negotiations for the purchase, occupation and development of land or buildings owned by third parties, or for the sale to, or use of Council land or buildings by third parties (with the exception of casual lettings) will be carried out by the Lead Asset Manager in consultation with the relevant managers.
- 4.29 Managers will be responsible for the maintenance of a register of all vehicles, plant and equipment owned and recorded by the Council as a fixed asset, or held under a lease arrangement, or sub-leased to an external contractor. Information held must include the identification of each asset by a unique number and by registration (if applicable), the description of the asset together with the details and dates of purchase, disposal details and lease arrangements.

### **Treasury Management**

- 4.30 The Council has adopted CIPFA's Code of Practice for Treasury Management in Local Authorities.
- 4.31 The full Council is responsible for approving the Treasury Management Policy statement setting out the matters detailed in section 6 of CIPFA's Code of Practice for Treasury Management in Local Authorities 2017. The policy statement is proposed to the full Council by the Cabinet. The Chief Financial Officer has delegated responsibility for implementing and monitoring the statement.
- 4.32 All money in the hands of the Council is to be aggregated for the purpose of Treasury Management and controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, referred to in the code as the Chief Financial Officer.
- 4.33 The Chief Financial Officer is responsible for reporting to the Cabinet a proposed Treasury Management Strategy for the coming year at or before the start of each financial year.
- 4.34 All Cabinet decisions on borrowing, investment or financing shall be delegated to the Chief Financial Officer or a staff member nominated by them who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities.
- 4.35 The Chief Financial Officer is responsible for reporting to the Cabinet not less than twice in each financial year on the activities of the treasury management operation and on the exercise of their delegated treasury management powers. One such report will comprise an annual report on treasury management for presentation by 30 September of the succeeding financial year.
- 4.36 If the Chief Financial Officer wishes to depart in any material respect from the main principles of the CIPFA Code, the reasons should be disclosed in the report to the Cabinet.

## **Borrowing and Investments**

- 4.37 All borrowing shall be effected in the name of the Council and shall have regard to the Council's statement on Treasury Management in paragraphs 4.30 – 4.36 of these regulations.
- 4.38 The Chief Financial Officer shall have authority within any declared policy of the Council to raise loan monies to meet the expenses of the Council and to make and realise investments.
- 4.39 The Chief Financial Officer shall be the Council's Registrar of stocks, bonds and mortgages, and shall maintain records of all borrowing and lending of money by the Council.
- 4.40 The Chief Financial Officer shall be authorised to arrange such overdraft facilities and other borrowing as they consider reasonable as long as it:
- a. is in accordance with the Local Authorities (Borrowing) Regulations 1990; and
  - b. is within the borrowing limits approved by the Council.
- 4.41 In accordance with S45 of the Local Government and Housing Act 1989 the Chief Financial Officer shall make recommendations to the Cabinet by the 31 March each year on the borrowing limits to be set for the following financial year, which are to include:
- a. an amount of money (the "overall borrowing limit") which is for the time being the maximum amount which the Council may have outstanding by way of borrowing;
  - b. an amount of money (the "short term borrowing limit") being a part of the overall borrowing limit, which is for the time being the maximum amount which the Council may have outstanding by way of short term borrowing; and
  - c. a limit on the proportion of the total amount of interest payable by the Council where the rate is variable by the lender or external factors.

## **Security**

- 4.42 Managers shall be responsible for maintaining proper security at all times of all assets and resources of the Council, both tangible and intangible which are under their control.
- 4.43 The Lead Asset Manager be informed of any building where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 4.44 The Chief Financial Officer shall be informed, as soon as possible, of any break- in, theft or attempt at such, and any loss otherwise suffered together with the estimated value of such loss.
- 4.45 The Chief Financial Officer shall inform the Chief Executive, Head of Internal Audit and the appropriate Manager of any such loss and shall submit a statement of the circumstances and the loss sustained to the Council's insurers.
- 4.46 Each Manager shall be responsible for maintaining proper security and privacy with respect to information held within their department and have particular regard to the requirement of the Data Protection Act 2018 and General Data Protection Regulations 2018.

- 4.47 Maximum limits for cash holdings shall be agreed with the Chief Financial Officer and shall not be exceeded without their permission. Staff responsible for the collection and custody of cash shall apply the same security over the latter as they would their own monies.
- 4.48 In addition to the requirement of paragraph 5.14 staff responsible for the collection and custody of cash outside Eastleigh House shall bank such monies when the limit reaches the maximum cash holding as advised in the above paragraph or weekly, whichever is the sooner.

## **Information Technology**

- 4.49 The Information Technology Board, in liaison with the relevant Cabinet Lead, is responsible for overseeing the development, review and compliance with Digital Strategy.
- 4.50 The Information Technology Board are authorised to make minor changes to the Digital Strategy in the light of changing circumstances, and in particular to keep it up to date.
- 4.51 The Information Technology Board are authorised to agree and amend the annual investment programme within the CIP, in consultation with the Leader, subject to the Council's normal budgetary processes, including the consideration of ongoing revenue costs.
- 4.52 The Head of IT is responsible for the development and implementation of Information Technology standards drawing on guidance from Government Digital Services and ISO 27000 series.
- 4.53 The Head of IT in liaison with The Corporate Leadership Board, is responsible for ensuring that computing is approached in a uniform and professional manner by providing detailed guidance to staff and members as appropriate.
- 4.54 Each Manager or Councillor, shall:
- a. Liaise with the Head of IT to ensure compliance with the Council's Digital Strategy and ensure that technical expertise is utilised to the fullest extent.
  - b. Be responsible for maintaining security systems which prevent unauthorised access to all data held by computer or other methods of storage, and in particular financial and personal data, and have particular regard to the requirements of the General Data Protection Regulations 2018, the Computer Misuse Act 1990 and the Council's Internet, E-Mail and Social Media Acceptable Usage policy.  
  
Note: All IT hardware and software which is to be used by Council staff must be purchased via Support Services.
  - c. In liaison with the Head of IT, develop and maintain a contingency plan for implementation in the event of a disaster for the restoration of systems at each installation under their control. Such plans are to include a periodic backup of system information and programs in a form agreed by the Head of IT. Contingency plans must be drawn up in consultation with the Head of IT and the relevant Business Lead.
- 4.55 Each Manager shall ensure that only licensed software is used in systems under their control and shall seek advice from the Head of IT as necessary.

## **Stores and Stocks**

- 4.56 Managers shall be responsible for the care and safe custody of the stocks and stores under their control.
- 4.57 Stock levels shall not be in excess of reasonable requirements consistent with operational needs.
- 4.58 Managers shall maintain a system of continuous stocktaking of stores under their control, with periodical test examination by persons other than those who have a responsibility for the stock control system. All managers shall ensure that the total stock is checked annually at 31 March and certified as correct, under the supervision of the relevant Manager.
- 4.59 Any adjustment of stores records to account for a variance between physical and book stock shall be authorised by the appropriate Manager and shall be reported to the Chief Financial Officer. Where a deficiency occurs or obsolete stock is identified a Manager may write off such amounts and advise the Chief Financial Officer who will report such sums to the Cabinet if considered significant.
- 4.60 Stores records shall be maintained in a form agreed by the Chief Financial Officer. Details of stores received, returned or issued shall be entered promptly in the store's records. Stores issues and returns shall be made against properly completed issue notes.
- 4.61 Managers may sell obsolete or surplus equipment of a "revenue nature" to other units (of the Council) at an agreed price, or to third parties by competitive tender or public auction except where the anticipated value of the item or lots is less than £100 in which case a sealed bid method can be used. The process for disposal must be agreed by the Chief Financial Officer. Proceeds can be devoted to services under their control. The appropriate Manager shall dispose of the equipment in an effective and fair manner and shall keep adequate records of such disposals.
- 4.62 Managers are not free to spend the proceeds from the sale of capital equipment and should consult the Chief Financial Officer where such a sale is anticipated or effected.

## **Inventories**

- 4.63 Inventories of the Council's property other than land and buildings shall be maintained for each department by the accountable manager for all items of moveable equipment, furniture, vehicles, plant and machinery, where the value exceeds £100.
- 4.64 Inventories shall be checked annually at 31 March and be certified as correct, under the supervision of the appropriate Managers. The form in which the inventories shall be kept is to be determined by the appropriate Manager, with the agreement of the Chief Financial Officer.
- 4.65 Disposal of any items which are no longer serviceable or are obsolete shall be in accordance with paragraph 4.61 of these regulations and the inventory shall be endorsed accordingly.
- 4.66 The Council's property shall not be removed other than in the ordinary course of the Council's business except in accordance with directions issued by Manager concerned.
- 4.67 The Chief Financial Officer and Head of Internal Audit shall have access to all property and may audit the inventories at any time.

## 5.0 Systems and Procedures

### **Introduction**

5.01 Sound systems and procedures are essential to an effective framework of accountability and control.

### **General**

- 5.02 The Chief Financial Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records, budgetary control and paymaster functions. Any changes made to the existing financial systems or the establishment of new systems must be approved by the Chief Financial Officer. However, Managers are responsible for the proper operation of financial processes in their own areas.
- 5.03 Any changes to agreed procedures by Managers to meet their own specific service needs should be agreed with the Chief Financial Officer.
- 5.04 Managers should ensure that their staff receive relevant financial training that has been approved by the Chief Financial Officer.
- 5.05 Managers must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Managers must ensure that staff are aware of their responsibilities under freedom of information legislation.

### **Income and Expenditure**

- 5.06 It is the responsibility of Managers to ensure that proper delegation has been established within their area and is operating effectively. The nature of the delegation should identify staff authorised to act on the Manager's behalf, or on behalf of the Cabinet, in respect of payments, income collection and placing orders, together with the limits of their delegation. The Cabinet is responsible for approving procedures for writing off debts as part of the overall control framework of accountability and control.

### **Banking Arrangements and Cheques**

- 5.07 All arrangements with the Council's bankers shall be made by the Chief Financial Officer who shall be authorised to operate such banking accounts, as they may consider necessary.
- 5.08 All forms of cheque shall be ordered, issued and controlled by the Chief Financial Officer who shall make proper arrangements for their safe custody.
- 5.09 Cheques or other authorities for payment made on the Council's main banking accounts shall bear the facsimile signature of the Chief Financial Officer or be signed by them or by an officer nominated by them. They shall also sign all alterations and amendments to cheques.
- 5.10 All cheques which are manually produced or are for a value of £20,000 or more, shall be countersigned by an officer nominated by the Chief Financial Officer.
- 5.11 Where payments are to be transmitted electronically the transactions shall be countersigned by two independent officers.

- 5.12 Managers shall ensure that any imprest/petty cash accounts issued to them are operated in accordance with the criteria specified by the Chief Financial Officer, in these and any other regulations produced for that purpose. See paragraphs 5.43-5.48.
- 5.13 Where an officer in their official capacity is required to operate a bank account for the control of charitable, community or other funds not belonging to the Council, then the operation of that account shall be notified to the Chief Financial Officer. The operator of the account shall have regard to any guidance given by the Chief Financial Officer.

### **Income Collection**

- 5.14 The arrangement for the collection and receipt of all monies due to the Council shall be approved by the Chief Financial Officer. All monies received on behalf of the Council shall be receipted without delay and paid direct to the Council's banking account. No deduction therefrom may be made, save to the extent that the Chief Financial Officer may specifically authorise and documented evidence of the approval of this transaction must be retained.
- 5.15 Except where the Council has no discretion, all scales of charges or other levels of income shall be reviewed at least annually and approved by the Cabinet or the relevant Local Area Committee.
- 5.16 Each collecting officer shall be responsible for taking all necessary precautions to safeguard money whilst it is within their charge. Personal cheques must not be cashed out of monies held on behalf of the Council. All cheques and postal orders shall be crossed to the Council's bank account as soon as they are received.
- 5.17 Every transfer of official money from one member of staff to another must be recorded and signed for by the receiving officer.

### **Forms of Receipt**

- 5.18 The format of all official receipts, other forms, tickets, and documents representing money's worth shall be approved by the Chief Financial Officer who shall be satisfied as to the arrangements for their order, control and issue. Officers in possession of such forms shall be responsible for the safe custody and proper use thereof.
- 5.19 Official receipts or receipting arrangements in a form approved by the Chief Financial Officer, shall be used to acknowledge receipt of all income received. Receipts or tickets of the prescribed type shall be issued at the time payment is received and daily takes shall be reconciled and properly recorded.

### **Income Records**

- 5.20 Records relating to income maintained in any Service of the Council shall be in a form approved by the Chief Financial Officer.

### **Income Due**

- 5.21 Managers shall supply the Chief Financial Officer with all information necessary for them to secure promptly the complete and accurate recording, collection, and recovery of all sums due to the Council.
- 5.22 Debts shall be recovered in line with the relevant Council Debt Recovery Policy which is published on the Staff Hub and Website.

- 5.23 Managers are responsible for ensuring the prompt and regular reconciliation of income received and recorded in services to the Council's financial systems. Managers shall supply the Chief Financial Officer with details of the reconciliations on request and at a minimum at the end of each financial year.
- 5.24 In accordance with the Accounts and Audit Regulations 2015, every officer of the Council who pays money into a banking account of the Council, shall enter on the paying-in-slip and on the counterfoil or duplicate particulars of such payment including:
- a. amount of cash and cheque
  - b. a reference connecting the cash/cheque with the debt or debts in discharge.

### **Cheques etc. - Endorsement**

- 5.25 Cheques or other forms of orders payable to the Council and requiring endorsement shall be endorsed by the Chief Financial Officer or such other officer of their department so authorised by the Chief Financial Officer.

### **Bad Debts**

- 5.26 Any debt which is deemed to be irrecoverable and which is to be the subject of a write-off is to be notified to the Chief Financial Officer in writing. The Chief Financial Officer may write off debts due to the Council not exceeding £5,000 in any individual case where they are satisfied there are sound reasons therefore, and any balance outstanding where bankruptcy or liquidation proceedings have been instituted. In all other cases the approval of the Cabinet shall be obtained.
- 5.27 A record of all such sums written off shall be maintained by the Chief Financial Officer in a register kept by them for that purpose and a report shall be made, at least annually, to the Cabinet of the value of debts written off by the Chief Financial Officer under delegated powers.

### **Supplies and Official Orders**

- 5.28 Official orders in a form approved by the Chief Financial Officer shall be used for all goods, works and services required by the Council with the exception of:
- a. items of a recurring nature – e.g. gas, electricity, telephone.
  - b. purchases from Petty Cash.
  - c. such exceptions as the Chief Financial Officer may approve
- 5.29 Subject to Part III (Contracts) of Standing Orders official orders for supplies shall be made using the electronic ordering system, and shall not be issued unless:
- a. proper financial provision has been made in approved estimates;
  - b. they are authorised by the Manager as approved;
  - c. they indicate the nature and quality of the work, goods or services in sufficient detail to enable its complete identification;
  - d. reasonable endeavours have been made to obtain the most favourable terms for price, quality and delivery;
  - e. an estimate of the cost of supply or service is detailed on the order.

- 5.30 A list of officers authorised shall be supplied to the Chief Financial Officer by Managers who must advise of any amendments regarding authority levels or staff movements. An officer so authorised shall sign in their own name for the appropriate Manager.
- 5.31 All orders shall comply with any directions the Council may make with respect to central purchasing arrangements and annual quotations. The provisions of Standing Orders relating to contracts should be followed for obtaining tenders and quotations, and the tendered or quoted price of the work, goods or services shall be stated on the order.

## **Payment of Accounts**

### Payment

- 5.32 The Chief Financial Officer is authorised to pay all properly certified accounts payable by the Council provided they are satisfied that Managers have an adequate system to ensure that payment is legally due and within estimates. Managers shall ensure that all sums due are paid in accordance with local agreements or terms of trade.

### Invoices – Checking and Certification

- 5.33 All payments for goods, supplies and services shall be supported by invoices or proper accounts. Prior to an invoice being passed for payment the authorising officer concerned shall be responsible for the examination, and certification of the invoice.
- 5.34 Any amendment to the above authorisation including the termination of employment of any authorised signatory, shall be notified promptly to the Chief Financial Officer by the Manager.
- 5.35 Certification by an authorised officer means that they are certifying following has been checked:
- a. The correct expenditure code and job code has been allocated for each item and VAT has been properly accounted for and coded;
  - b. That the goods or services received correspond to the requirements of any official order and have been examined as to quantity and quality;
  - c. Any special discount or allowance available has been accepted;
  - d. Income tax has been deducted from payments to sub-contractors of the Council unless current documentary evidence has been sighted of the arrangements made with HMRC for the payment of such tax;
  - e. All expenditure has been properly incurred and is within current estimates;
  - f. All prices, charges and arithmetic are correct;
  - g. No account for the goods, or services supplied has been previously certified.
  - h. Any payment complies with contract terms where appropriate.
- 5.36 No member of staff shall certify an invoice or claim form for the reimbursement of expenditure to himself/herself. Certification shall be provided by a more senior member of staff.
- 5.37 Managers shall ensure wherever possible that a division of duties exists between the person ordering the goods, receiving the goods and authorising the invoice.

- 5.38 Certification of the invoice should be completed by the authorised officer for payment in sufficient time to comply with terms of trade or local agreement.

#### Invoices - Verification

- 5.39 The Chief Financial Officer shall implement a system to ensure that all invoices passed for payment have been certified in accordance with paragraph 5.35 and shall make such checks and impose such further examinations as they consider necessary.
- 5.40 The Chief Financial Officer shall implement a system to verify that the registered invoice details agree to the details on the actual invoice and that the correct supplier is to be paid.
- 5.41 Cheques, once produced, must not be passed to Case Management Officers operating the accounts payable system or to the originator of the payment, unless a specific request is made to and approved by the Chief Financial Officer.

### **Procurement Cards**

- 5.42 Procurement cards shall be issued and managed in line with the Council's procurement card policy published on the staff hub.

### **Petty Cash**

- 5.43 The Chief Financial Officer shall provide imprest accounts as they consider appropriate for such staff of the Council.
- 5.44 Income received on behalf of the Council must not be paid into an imprest account but paid to the Council as provided elsewhere in these Regulations.
- 5.45 Petty Cash disbursements shall be limited to minor items of expenditure not in excess of £25 and shall always be supported by receipts. Payments of salaries or wages shall not be made from petty cash except as may be authorised by the Chief Financial Officer to cover emergency arrangements.
- 5.46 Any staff member responsible for an imprest account shall, if so requested, give to the Chief Financial Officer a statement of their account. An annual certificate to this effect should also be included in the end of year accounts.
- 5.47 All claims for petty cash should be made on the official form and signed by a staff member duly authorised to certify such documents. The claimant should sign for receipt of cash, and all payments made out of the imprest should be recorded in a format approved by the Chief Financial Officer.
- 5.48 Managers shall ensure that any staff member has accounted to the Chief Financial Officer for the amount advanced prior to that staff member leaving the employment of the Council, or otherwise ceasing to be entitled to hold an imprest account.

### **Contracts**

- 5.49 All contracts shall be subject to the procedures prescribed in Part III of the Council's Standing Orders on contracts and Financial Regulations. Where contracts are controlled or supervised by private consultants, they shall be made aware of these Financial Regulations and shall comply with them.

- 5.50 Stage payments to contractors shall only be made by the Council when a certificate is issued and signed by the appropriate Manager or a staff member approved by that Manager in writing. Such payments shall be authorised by the appropriate Manager or by a senior staff member authorised by the Manager in writing.
- 5.51 Where contracts provide for payment to be made in instalments the Chief Financial Officer shall arrange for the keeping of an appropriate record to show the state of account on each contract, together with fees for all consultants and relevant minute references for committee approvals.
- 5.52 The final payment certificate shall not be issued until the Chief Financial Officer, or their delegated representative, has completed an examination of the contract final account and has reported to the appropriate authorised officer on such examination. For this purpose, such final accounts and all supporting documents shall be made available to the Chief Financial Officer, or their representative, sufficiently early to enable them to examine the final account before the date agreed for the release of the final retention monies, or in any case when the final account has been prepared, whichever date is the earlier.
- 5.53 Every variation of a contract for building or construction work, including any extension of time, shall be authorised in writing on an official variation order signed by the appropriate contract supervisor together with a reasonable valuation of the cost following consultation with the Contractor. Variation orders shall normally be issued prior to the work being carried out, or in confirmation of a site instruction.
- 5.54 Subject to financial regulation [3.19](#) the approval of the appropriate committee shall be obtained for variations in accordance with paragraphs 5.54 (a) and 5.54 (b) below.

a. Variations arising as a result of:

- unforeseen circumstances disclosed during the period of the contract
- errors in the preparation of the contract documents
- subsequent legislation

will be deemed essential works, necessary for the completion of the original contract as specified, and will be subject to reporting to the Cabinet or Local Area Committee as soon as practicable, if it is estimated that the total net value of such variations will cause the contract sum to be exceeded by 10% or £25,000, whichever is the lower (subject to a minimum threshold of £10,000). Between £10,000 and £25,000 the approval of the relevant Portfolio lead is required.

- b. Variations which fall outside of the above category including those relating to additional works or enhancements to the original specification, shall require the prior approval of the appropriate committee for each individual variation to the contract sum which involves estimated additional expenditure exceeding 2% or £5,000 whichever is the greater. Where this would cause unnecessary delay, the delegated powers of the Chief Executive in consultation with the appropriate Cabinet Member or LAC Chair shall be used. Savings and additions of a similar nature may be netted off for the purpose of calculating the value of the net variation.
- c. In any event, where the total cost of any work carried out under a contract exceeds the approved contract sum by 5% or £10,000 whichever is the greater, the final costs shall be reported to the Cabinet or appropriate LAC.
- d. Any claim, or notice of claim, against the Council which is likely to exceed £2,000 can only be agreed by the appropriate Manager after they have brought the matter to the attention of the Monitoring Officer, or an officer authorised by them, for consideration of the Council's legal liability. If the claim is likely to exceed

£5,000 then the matter shall be referred to the Chief Executive and Chief Financial Officer before a settlement is reached.

- e. When the completion date of a contract is delayed through the fault of a contractor, it shall be the duty of the Manager concerned to determine whether a claim for liquidated damages is to be made against that contractor.

## **Staffing**

- 5.55 The full Council is responsible for determining how staff support for Cabinet and non-Cabinet roles within the Council will be organised.
- 5.56 The Head of Paid Service is responsible for providing overall management to staff. They are also responsible for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- 5.57 Executive Heads and Managers are responsible for controlling total staff numbers by:
  - a. advising the Cabinet on the budget necessary in any given year to cover estimated staffing levels
  - b. 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
  - c. the proper use of appointment procedures.

## **Payments to Employees and Councillors**

- 5.58 The Chief Financial Officer is accountable for all payments of salaries to all staff, including payments for overtime, and for payment of allowances to members. Responsibility for this function has been delegated to the Head of Human Resources.

### Salaries

- 5.59 The payment of all salaries, compensation and other emoluments to employees of the Council or agency employees shall be made by the Chief Financial Officer or under arrangements approved by them.
- 5.60 All time records or other pay documents shall be in a form prescribed or approved by the Chief Financial Officer and shall be certified by or on behalf of a Manager.
- 5.61 The Head of HR shall be notified immediately by:
  - a. Managers or the relevant staff member under an approved Scheme of Management Delegation of all appointments, dismissals, resignations, suspensions, absence from duty (other than annual or special leave), secondments, transfers, changes in remuneration (other than normal increments) and
  - b. any change of circumstances affecting remuneration.
- 5.62 These staff members shall supply the information required to maintain all necessary records.
- 5.63 The Chief Financial Officer shall maintain all necessary personal records concerning pay; earnings related contributions, income tax and superannuation contributions and make all relevant payments on behalf of both employees and the Council to the appropriate agencies.

- 5.64 All employees paid by reference to hourly rates, schedule of rates or piecework and such other employees as may be required from time to time shall complete and sign documentation as agreed by the Chief Financial Officer. Managers shall ensure that these are properly completed and are examined and certified by a responsible member of their staff and costs are properly allocated to job codes.
- 5.65 In applying conditions of service, the Head of HR or appropriate officer under an approved Scheme of Management Delegation shall confer with the Chief Financial Officer on any financial implications.
- 5.66 Appointments of all employees shall be made in accordance with the regulations of the Council and the approved establishments and annual estimates, grades and rate of pay, and shall not subsequently be altered without approval of the Cabinet or Chief Executive in consultation with its Chair in cases of urgency. Except under a Scheme of Management Delegation where the relevant staff member may make changes to the establishment, following consultation with the Head of HR and make appointments in accordance with the revised establishment and within existing budget.
- 5.67 Managers have the ability to award salary increases from specific funds set aside for that purpose in liaison with the relevant Corporate Director.
- 5.68 No employment of temporary/agency or casual staff shall take place without the approval of the Manager, Head of HR, Executive Head and Head of Finance. Verbal approval may be given by the above to cover emergency arrangements but this must be confirmed in writing within 7 days. The relevant staff member under a Scheme of Management Delegation may employ temporary or casual staff so long as the financial rules applying to the scheme are observed.
- 5.69 All direct payments to casual or temporary staff shall be processed through the Payroll system and an appropriate contract issued.

### **Travelling, Subsistence and Other Allowances**

- 5.70 Travelling, subsistence and other allowances shall be managed in line with the Council's Travel and Subsistence policy as agreed at Joint Consultative Committee and published on the staff hub.
- 5.71 Travelling, subsistence and other allowances shall be processed through the Council's HR system.
- 5.72 No expenses will be paid without appropriate receipts and proofs of purchase.
- 5.73 Staff using a private vehicle on council business must ensure that they have appropriate business use insurance, an MOT if required and that the car is well maintained.
- 5.74 Authorising officers are responsible for checking that all receipts, documents and relevant insurance cover is place prior to approving any expenses.

### **Car Loans**

- 5.75 All car loans shall be the subject of a written agreement between the employee and the Council, signed by both parties. The agreement shall specify the terms and conditions surrounding repayment other than over the period specified in the contract.

- 5.76 The Chief Financial Officer shall make arrangements for the deduction from salary of all costs payable by the employee under any loan agreement and shall make the necessary declarations in respect of income tax, national insurance or any other such cost to the appropriate authorities.
- 5.77 The total amount and period of any car loan shall not exceed that approved from time to time by the Cabinet, as recorded in the car loan policy.
- 5.78 Interest shall be charged on all car loans in accordance with the policies agreed by the Cabinet.

### **Taxation**

- 5.79 The Chief Financial Officer is responsible for advising Managers, in the light of guidance issued by appropriate bodies and relevant legislation as it applies, on all taxation issues that affect the Council.
- 5.80 The Chief Financial Officer is responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and signing and submitting tax returns by their due date as appropriate.
- 5.81 Managers are responsible for the correct attribution of VAT on any payment, fee or charge authorised, or collected by them or their staff, subject to paragraph 5.79.

### **Trading Accounts/Service Units and Partnerships**

- 5.82 It is the responsibility of the Chief Financial Officer to advise on the establishment and operation of trading accounts, service units and partnerships. These responsibilities may be delegated to a Management Board, but their terms of reference must define the responsibilities laid down by the Council and detail the arrangements for sufficient record keeping and performance monitoring.

## **6.0 External Arrangements**

### **Introduction**

- 6.01 The Council 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 and External Funding**

- 6.02 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.
- 6.03 The Cabinet can delegate functions (including those relating to partnerships) to members of staff. These are set out in the scheme of delegation that forms part of the Council's constitution. Where functions are delegated, the Cabinet remains accountable for them to the Full Council.
- 6.04 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 Council.

- 6.05 The Chief Financial Officer must ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are satisfactory. They must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies. They must ensure that the risks have been fully appraised before arrangements are entered into with external bodies.
- 6.06 Managers are responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded, or commitment is made, in relation to work with external bodies.
- 6.07 Where sponsorship or grant funding is being sought which does not involve a formal application for funding, a written notification should be kept. This applies where such sponsorship exceeds £1,000 but is less than £10,000 in total for any one initiative. Below this sum, Service Managers are expected to exercise adequate control over these monies. Sponsorship or grant funding exceeding £10,000 in total should be approved by Cabinet.
- 6.08 In circumstances where the Council is to go through a formal bidding or application process for external funding, the application form together with all associated paperwork is to be sent to the Chief Financial Officer to satisfy themselves of the stipulated financial arrangements and verify or supply the financial information required in support of the application. Managers are to notify the Chief Financial Officer of the success of any application.
- 6.09 The Chief Financial Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- 6.10 The budget holder of the service receiving the external funding is responsible for ensuring that all financial conditions are complied with during the currency of this agreement, including any audit arrangements, and for ensuring that all financial information is supplied in accordance with the terms of the agreement.

### **Work for Third Parties**

- 6.11 The Cabinet is responsible for approving the contractual arrangements for any work for third parties or external bodies where net income will exceed £10,000 per annum. All such arrangements shall have regard to the terms and provisions of the relevant legislation.

### **Partnership Arrangements**

- 6.12 The Cabinet is responsible for approving partnership arrangements which the Council enters into. A partnership is defined as:
- a. An agreement between two or more independent bodies to work collectively to achieve an objective.
- It should not be confused with contracts – see Part III of the Council's Standing Orders on contracts and paragraph 5.49 of these Financial Regulations.

END

# APPENDIX I

## Strategic Risk Management Group

### **Terms of Reference**

The Strategic Risk Management Group's Terms of Reference are:

#### 1.0 Role

Develop and maintain a framework, to ensure integration of risk management into business planning, to establish an assessment process to enable corporate objectives to be met and to promote good risk management practice throughout the Council and where relevant, to share this with partner organisations.

#### 2.0 Membership

SRMG membership of the group includes:

- One Member representative – appointed by the Audit and Resources Committee
- Leader of the Council
- Executive Head of Governance & Monitoring Officer
- Chief Internal Auditor or representative
- Strategic Planning Manager
- Senior Projects & Programmes Officer
- Neighbourhood Services representative
- Safety and Resilience Manager
- One Local Area Manager
- Procurement and Insurance Officer
- Corporate Health and Safety Officer
- Finance Specialist
- Climate Change Manager
- Resource Manager

Other officers and Members may be invited as necessary, depending on the agenda items scheduled for each meeting.

#### 3.0 Protocols

The group will meet every eight weeks. Additional meetings will be held if circumstances require at which the following protocols will apply:

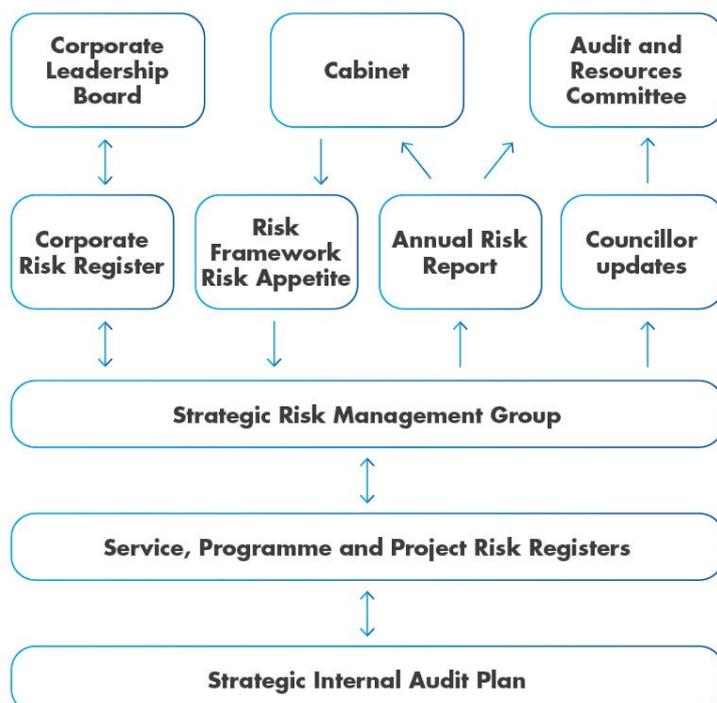
- Agendas for meetings will be drawn up by the Case Management/Democratic Services Officer in consultation with the Chair and circulated at least seven days before the meeting.
- In the absence of the Chair, meetings will be chaired by the most senior officer present.
- Minutes will be taken by the Case Management/Democratic Services Officer and approved by whoever chaired the meeting before circulation.
- Email will be the main method of communication outside meetings.
- These Terms of Reference are reviewed annually and are dated accordingly.

#### 4.0 Aims and Objectives

- Encourage a culture of risk management across the Council
- Ensure appropriate risk management is embedded in all business processes via the provision of guidance to Councillors and staff
- Manage and review the risk management framework to achieve continuous improvement
- Ensure effective risk and mitigation reporting structures and systems are operational
- Review service, programme, project, and corporate risks and advise as necessary
- Provide or arrange appropriate Risk Management training for Councillors and staff
- Periodically liaise with our Insurance consultants and external auditors to ensure the Council's risk management framework and risk profile are satisfactory
- Review and update the relevant risk management sections of the Council's Constitution

#### 5.0 Reporting Arrangements and Relationships

The flow of risk reporting information is set out below.



Any changes to the corporate risk profile will be reported to Cabinet, with the impact on corporate priorities and policy decision-making linked to these changes.

Additionally, Internal Audit will notify the SRMG of risks identified during its own risk assessment process, as the Chief Internal Auditor is a member of the group.

## 6.0 Performance Management

For each risk, the potential impact and likelihood are rated on scales of 1 to 5, then the resulting figures are multiplied together and rated such that a rating of 1 indicates very low risk and 25 indicates the highest level of risk.

The Risk Registers require users to record current risk ratings and ratings expected following a defined plan for mitigation.

## 7.0 Councillors' Responsibilities

Elected Councillors are responsible for governing the delivery of services to the local community. Failure to deliver services efficiently and high-level incidents and scandals often result in the public questioning the competence of those in charge. It often transpires that such failures and scandals could have been avoided if proper governance procedures had been operating effectively. Such questions can impact on the public perception of individual Councillors or the Council as a whole. Cabinet members have a responsibility to understand the strategic risks that their Council faces, and to decide how these risks should be managed. They should not seek to avoid or delegate this overall responsibility as it is key to their stewardship responsibilities. Cabinet members should:

- seek implementation of a strategic risk management process as soon as is practical;
- agree on the Councillor and staff structures for planning and monitoring risk management across the authority;
- correctly position risk management as a strategic and operational tool that can help Councillor and staff to meet the challenges and demands facing them, rather than as a mere compliance exercise;
- promote the desired mindset and attitude that is essential for successful implementation and robust, ongoing risk management processes;
- view the process as a significant management exercise, with the right level of resources committed to implementation of risk policy and risk management measures;
- take a top-down approach, focusing on issues of corporate significance rather than a 'bottom-up' exercise which would be too large to manage; and
- aim for continual improvement on a longer-term basis.

## 8.0 Key Tasks for Cabinet Members

Councillors need to determine within existing leadership structures how they will plan and monitor the Council's risk management arrangements. They should:

- decide on the structure through which risk management will be led and monitored;
- consider appointing a particular group or committee, such as an audit committee, to oversee risk management policy and to provide a focus for the process;
- approve the Council's policy on risk
- agree the Council's risk appetite i.e. the degree to which the Council is willing to accept risk;

- receive reports on risk management and internal control – officers should report annually on the effectiveness of the framework, with possibly interim reporting as necessary.

Cabinet Members must support and monitor both implementation and ongoing risk management processes. This includes:

- embracing risk management in a positive way to:
  - drive service and organisational improvement;
  - assist in the achievement of Council's objectives;
  - ensure that sensible management decisions are taken;
  - minimise the likelihood of things going wrong and their potential impact; and
  - provide a framework to meet new challenges.
- promoting the right management culture on an ongoing basis. Most problems that materialise are likely to be people-based and arise through lack of proper application of management processes rather than through weaknesses in systems.

# APPENDIX J

## (Part 4 – Rules of Procedure)

### **Staff Employment Procedure Rules**

#### 1.0 Recruitment and Appointment

a. Declarations:

- i. The Council's application process will include a statement requirement on any candidate for appointment as a member of staff to declare in writing whether they are a family relation or have a close personal relationship with an existing Councillor or member of staff of the Council.
- ii. No candidate so related to a Councillor or an existing member of staff will be appointed without the authority of the relevant recruiting manager and Executive Head.
- iii. No existing member of staff should be involved as the sole decision-maker in the selection or appointment of an individual with whom they have a close relationship.

b. Seeking support for appointment:

- i. The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor or existing member of staff for any appointment with the Council. The content of this paragraph will be included in any recruitment information
- ii. Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council
- iii. Paragraph (ii) above shall not preclude a Councillor from giving a written testimonial of a candidate's ability, experience or character, for submission to the Council with an application for appointment

c. Every member and officer of the Council taking part in a staff appointment process shall disclose to the recruiting manager any relationship known to them to exist between themselves and a candidate for an appointment of which they are aware.

d. Where relationship to a member of the Council is disclosed the standing order headed "Interests of members in contracts and other matters" (Standing Order 20.0) shall apply (Part 4 - Council and Committee Procedure Rules).

Candidates who are identified as the preferred candidate for appointment following a selection process shall be required to complete a medical detail form. The information thus supplied shall form a condition of any contract of employment offered by the Council.

Where required under legislation, candidates for a post with the Council shall be required to supply (for verification by the Police) details concerning the existence and content of any criminal record/cautions. An offer of employment may be withdrawn, or dismissal may result if previous cautions/convictions for criminal offences are not disclosed.

e. Recruitment of Chief Executive/Head of Paid Service, Other Statutory Officers and Corporate Directors.

Where the Council proposes to appoint a statutory officer or a member of The Corporate Leadership Board and it is not proposed that the appointment be made exclusively from among its existing officers, the Council will:

- f. 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;make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it.

## 2.0 Appointment of Chief Executive/Head of Paid Service

2.01 Responsibility for appointment of the Chief Executive/Head of Paid Service rests with the full Council. The Council will decide whether to:

- a. make an appointment on the recommendation of a Panel appointed for this purpose; or
- b. delegate responsibility for the appointment to an appointments panel.
- c. In either event, the appointments panel must include at least one member of the Cabinet

### Appointment of Corporate Directors and Executive Heads

- a. An appointments panel of the Council will appoint Corporate Directors and Executive Heads. That Committee or Sub-Committee must include at least one member of the Cabinet.
- b. An offer of employment as Corporate Director or Executive Head shall only be made where no well-founded objection from any member of the Cabinet has been received

## 3.0 Other Appointments

Officers Below Executive Head: Appointment of officers below Executive Head is the responsibility of the Executive Head or their nominee and may not be made by Councillors. The appointment of such staff may be delegated to Corporate Directors, Executive Heads or other appropriate senior managers.

## 4.0 Disciplinary Action

- a. **Suspension:** The Chief Executive/Head of Paid Service, Monitoring Officer and the Chief Financial Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and will ideally last no longer than two months. If this period is to be extended, the full reasons will be recorded in writing to the employee concerned.
- b. **Independent Person:** No other disciplinary action may be taken in respect of any of those members of staff except in accordance with a recommendation in a report made by a designated person.
- c. Councillors will not be involved in the disciplinary action against any member of staff below Executive Head 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 Councillors in respect of disciplinary action.

## 5.0 Dismissal

- d. Councillors will not be involved in the dismissal of any member of staff below Executive Head except where involvement is necessary for an 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 Councillors in respect of dismissals.

“The Chief Executive/Head of Paid Service, Monitoring Office and Chief Financial Officer may not be dismissed by the Council unless the procedure set out in Schedule 3 of The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 is complied with. This involves inviting the Council’s two Independent Persons (or, if more appropriate, using an Independent Person appointed by authority as one of the two Independent Persons) to be considered for appointment to the Panel considering the matter and that any Panel should be appointed at least 20 working days before the relevant meeting. Before any decision is made by Council, any advice, views or recommendations of the Panel, along with any investigation and representations of the officer in question must be taken into account by Council. It will also be important to ensure there is appropriate HR or employment solicitor advice before a dismissal is made to ensure a fair, legal and reasonable outcome is achieved.”

# APPENDIX K

## Part 4 (Rules of Procedure)

### **Contract Standing Orders**

#### Part IV: Contracts

##### **Sections:**

- A. General provisions
- B. Legal requirements for below EU threshold contracts
- C. Internal process for contracts above £50,000 and up to EU threshold
- D. Procedure for contracts above EU threshold
- E. Framework agreements
- F. Special contracts
- G. General principles applying to all contracts

#### **A. General Provisions**

##### 1.0 General Application

- 1.01 These Contract Standing Orders (CSOs) apply to all types of contracts where the Council either incurs expenditure or receives monies or some other form of consideration. They apply to the purchase of works, supplies (goods) and services by or on behalf of the Council.
- 1.02 These CSOs do not apply to (this is not an exhaustive list):
  - i. employment contracts for staff
  - ii. Property/land purchase or sales - refer to Part III of the Constitution
  - iii. contracts to appoint legal counsel and the appointment of expert witnesses in legal proceedings
  - iv. public service contracts awarded to one or more public bodies
  - v. arbitration or conciliation services contracts
  - vi. contracts for the lending or borrowing of money
- 1.03 'Works' cover construction, demolition, refurbishment and other building related works. 'Supplies' are all types of goods from stationery to furniture. 'Services' cover the full range of services purchased by the Council in its day to day activities. All values indicated are exclusive of VAT.
- 1.04 Every contract which the Council enters into must be recorded on the Contracts and Partnerships Register (under development). This register should be kept updated by every Lead Specialist and held centrally by the Chief Financial Officer. Details of the contracts register must also be published quarterly on the Council's website as part of the Government's transparency agenda.

## 2.0 Financial Thresholds and Procurement Procedures

- 2.01 The officer must calculate the likely contract value to ascertain which procurement procedure is applicable and is particularly important in determining whether an opportunity falls within the OJEU rules.
- 2.02 Regulation 6(16) of the Public Contract Regulations 2015 stipulates that supplies or services which are regular in nature or which are intended to be renewed within a given period must be aggregated. A procurement opportunity must not be subdivided or split into lots for the purpose of reducing the total value of the contract. Estimated contract values must follow the rules on aggregation as stipulated in Regulation 6 (16).
- 2.03 If quotes or tenders received from suppliers are above the officer's estimated contract value and limit of the process chosen, then the procurement process must be restarted at the correct level. To get an accurate estimate of contract value, soft market testing should be carried out.

a. **Contracts £9,999 and below (exclusive of VAT)**

The officer may select a supplier without tendering and issue a purchase order to the supplier which incorporates the Council's standard terms and conditions. These can be found on the Council's website.

b. **Contracts £10,000 to £74,999 (exclusive of VAT)**

The officer must obtain at least three written quotes from suppliers who can be approached directly or through the quick quote function of the e- tendering portal. Quotes must be assessed on the basis of the most economically advantageous tender (MEAT) and environmental and sustainable issues.

Alternatively, a supplier may be selected from a framework agreement (see section E) (if available) either by direct contract award or using a mini competition.

The officer must issue a purchase order to the supplier which incorporates the Council's standard terms and conditions. These can be found on the Council's website. Seek guidance from Legal Services if standard terms and conditions are not sufficient and the officer requires additional contract provisions.

The officer must ensure that a record is kept for six years confirming how the quotes were evaluated using the MEAT test i.e: the reasons why the successful supplier was chosen.

c. **Contracts £75,000 up to EU thresholds (exclusive of VAT)**

The officer shall comply with one of the following procurement processes to select a supplier:

- i. by means of the Council's formal tendering process set out in Section C. The officer may instruct Legal Services to prepare the contract prior to tendering if the Council's Terms and Conditions are not sufficient and the officer requires additional contract provisions.
- ii. by means of a framework agreement (if available) – refer to Section E.

d. **Contracts above EU thresholds (exclusive of VAT)** The officer must comply with the Public Contracts Regulations 2015 (PCR 2015) which governs the award of public contracts – refer to Section (D) for full details.

Waivers **cannot be sought** in these circumstances. The EU thresholds are:

Contract Type	Exclusive of VAT	Inclusive of VAT
Supply of goods and services	£177,898	£213,477
Execution of works	£4,447,448	£5,336,937
Light Touch Contracts	£552,950	£663,540

## B. **Legal Requirements for below EU Threshold Contracts**

3.01 Part 4 of the PCR 2015 imposes obligations relating to below EU threshold contracts to facilitate access to public contracts by SMEs (small and medium sized enterprises).

The additional provisions deal with:

- prohibitions on the use of pre-qualification questionnaires.
- publishing contract award notices on Contract Finder.
- prompt payment of sub-contractors.

## C. **Internal Process For Contracts Valued £75,000 but less than EU Thresholds**

### 4.0 Advertising

4.01 The contract opportunity must be advertised on:

- i. The E-tendering portal (Pro-Contract – this will place an advert on the South East Business Portal (SEBP).
- ii. Contracts Finder.
- iii. And may advertise in other trade publications depending on the specialised nature of the contract.

The officer must allow a minimum of 10 working days from the date of publication for bids to be returned. Advertising is not required if a framework agreement is being used.

### 5.0 Tender Documents

5.01 The officer shall prepare and publish the following tender documents on the e- tendering portal:

- i. a suitability assessment if required – there is a standard Selection Questionnaire (SQ) available from the Staff Hub.
- ii. an invitation to tender (ITT) detailing the specification of the goods, services or works required, the Council's project requirements and objectives, how to and when to submit the tender bid and how it will be evaluated. A template invitation to tender is available on the Staff Hub but this should be adapted for each project.
- iii. a form of contract.
- iv. any other documents which are ancillary to the specification (ITT) or the contract such as plans, drawings, parent company guarantees, bonds, deeds of novation etc.

5.02 Tender documents should make it clear that deadlines are strict; no submissions will be accepted after the applicable deadline and that tenders may be rejected if they do not provide complete responses to all questions. The use of pre-qualification questionnaires (PQQs) for contracts below EU thresholds is not permitted (Regulation 111 (1) PCR 2015).

### 6.0 Delivery and Receipt of Tenders

6.01 All requests for tenders and tender documents should be advertised and sent electronically through the e-tendering portal. Tenders operated in paper format are prohibited.

6.02 All tender submissions must be sent to the Council electronically through the e-tendering portal. The ITT must state that tender submissions will not be accepted by any other method.

## 7.0 Late Tender Returns

7.01 Any tender submission received after the deadline for receipt shall not be accepted unless there is satisfactory evidence that the cause was outside the tenderer's control (for example system malfunction). Note this is at the Council's discretion and late tenders may still be rejected.

7.02 Any tender submissions which are incomplete may be rejected.

7.03 The Council does, have the discretion to accept a late tender but if the officer chooses to extend a deadline, it is important that all bidders are treated equally and are aware of and given the extension.

## 8.0 Verification process

8.01 Once the tender submission deadline has passed, the 'seal' can be removed to begin the verification process. Note the system requires an appointed Verifier to perform this action. Once all tenders have been verified, evaluation can begin.

## 9.0 Requests for Information (pre and post tender clarifications)

9.01 If a tenderer requests further information to enable it to prepare its tender submission or at interview stage, then the question raised, and the Council's response must be submitted through the e-tendering portal and shared with all tenderers to ensure a fair process.

## 10.0 Selection of Successful Tender/Evaluation

10.01 After completion of the tender evaluation, the following shall be authorised to accept the most economically advantageous tender, (provided the tender does not exceed the approved budget or fall below the estimate in the case of a payment to the Council):

- i. for tenders valued up to £49,999 - Employed Executive Head
- ii. for tenders valued £50,000 to £74,999 - Corporate Director.
- iii. for tenders valued above £75,000 - Two Corporate Directors, employee/councillor on project board.

10.02 Winning tenders shall be reported to the appropriate body e.g. Procurement Executive Group (PEG) or the relevant Project Board together with an evaluation report to justify the winning tender.

## 11.0 Contract Award

11.01 Once the evaluation panel select the successful tenderer, the officer shall notify the decision to the successful and unsuccessful tenderers by email. The Contract Decision Notice has a prescribed form and is available on the Council's intranet.

- 11.02 A Contract Award Notice (available on the Council's intranet) must be published on Contracts Finder within a reasonable time. The notice should contain the following information:
- i. the name of the selected tenderer
  - ii. the date on which the contract was entered into
  - iii. the value of the contract
  - iv. whether the tenderer is a small or medium enterprise (SME) or voluntary community and social enterprise (VCSE).
- 12.0 Alteration to Tender Sum
- 12.01 No alteration to the tender sum shall be permitted except where there are obvious errors in calculations. Any errors shall be drawn to the attention of the tenderer, who shall be given the opportunity of confirming their offer or amending it to correct genuine errors.
- 12.02 In cases of abnormally low tenders, the provisions of Regulation 69 PCR 2015 should be followed.

## D. **Procedure for Contracts Above EU Thresholds**

- 13.01 Contracts which exceed EU thresholds must comply with EU and UK legislation, in addition to complying with these CSOs. The officer shall consult with the Monitoring Officer or Legal Services on the appropriate EU tendering procedures to be followed.
- 13.02 Contracts must be awarded by using either:
- i. a relevant framework agreement (see [Section E](#) for further details of framework agreements); or
  - ii. one of the following official procurement procedures set out in PCR 2015:
    1. **Open** – all tenders received by the contracting authority within the deadline are evaluated before the contract is awarded. This procedure is used where there are a limited number of suppliers who can provide the goods, services or works and must be awarded to the most economically advantageous tender (MEAT).
    2. **Restricted** - this is a two-stage process. In the first stage, interested suppliers are asked to complete a pre-qualification questionnaire and a short-list is drawn up. In the second stage, the shortlisted suppliers are invited to respond to an invitation to tender (ITT). The tenders are then evaluated based on the most economically advantageous tender (MEAT) and the contract is awarded.
    3. **Negotiated** - the contracting authority enters into contract negotiations with one or more suppliers.
    4. **Competitive dialogue** - this procedure is used for more complex procurements. After a selection process, the contracting authority then negotiates with suppliers and invites companies to put in a bid. Suppliers put in their tenders and the contract is awarded.
    5. **Innovative partnership procedure** – a partnering type approach to allow for both the development and subsequent purchase of new and innovative products, services or works.

## 14.0 Advertising

14.01 The type of procurement procedure must be advertised in:

- i. the Official Journal of the European Union (OJEU) both at tender invitation (the contract notice) and contract award stage (the contract award notice).
- ii. The E-tendering portal (Pro-Contract – this will place an advert on the South East Business Portal (SEBP).
- iii. Contracts Finder
- iv. And may be advertised in other trade publications depending on the specialised nature of the contract.

## 15.0 Tender Documents

15.01 Once the advertisement has been placed on OJEU all the procurement documents must be available free of charge electronically. For all parties who have submitted an expression of interest under a restricted procedure, the officer may submit a pre-qualification questionnaire to shortlist candidates. The officer shall prepare and publish the following tender documents:

- i. the invitation to tender (ITT) detailing the specification of the goods, services or works required, the Council's project requirements and objectives, how to and when to submit the tender bid and how it will be evaluated. A template ITT is available on the Staff Hub but this should be adapted for each project.
- ii. the form of contract.
- iii. any other legal documents which are ancillary to the contract such as parent company guarantees, bonds, deeds of novation etc.

## 16.0 Delivery, Receipt and Opening of Tenders

16.01 Refer to the relevant part of [Section \(C\)](#) for further details governing delivery and receipt of tenders and the tender opening ceremony. The same rules apply to above threshold procurement processes.

## 17.0 Requests for Information (pre and post tender clarifications)

17.01 If a tenderer requests further information to enable it to prepare its tender submission or at interview stage, then the question raised, and the Council's response must be submitted through the E-Tendering Portal and shared with all tenderers to ensure a fair process.

## 18.0 Selection of Successful Tender/Evaluation

18.01 The Chair or Vice-Chair of Cabinet, the appropriate Local Area Committee or other committee authorised by the Council for the specific project shall be authorised to accept the most economically advantageous tender, (provided the tender does not exceed the approved budget or fall below the estimate in the case of a payment to the Council).

i. For tenders valued above EU Thresholds:

Two of the following-

- Corporate Directors, or
  - Executive Heads
- And

The Chair or Vice Chair of:

- Cabinet, or
- The appropriate Local Area Committee, or
- Other Committee authorised by the Council for the specific project

## 19.0 Late Tender Returns

19.01 Refer to the relevant part of Section (C) for further details governing late tender submissions and the Council's discretion to accept them. The same rules apply to above threshold procurement processes.

## 20.0 Contract Award

20.01 Once the evaluation panel select the successful tenderer, the officer shall notify the decision to the successful and unsuccessful tenderers by email. The Contract Decision Notice has a prescribed form and is available on the Council's intranet.

20.02 There is a mandatory 10 calendar day (standstill) period from the date the Contract Decision Notice is sent to tenderers until the contract can be signed and dated. The standstill period must conclude on a working day.

20.03 A Contract Award Notice must be published in the OJEU no later than 30 days after the date the Contract Decision Notice is sent to tenderers (Regulation 50 PCR 2015).

20.04 In relation to public works contracts, the officer shall prepare and keep a record of the tender procedure followed as required by Regulation 84 PCR 2015.

20.05 Under Regulation 84 PCR 2015 the officer shall prepare and send to the Procurement Officer a statistical report at the contract award stage giving the following details:

- i. the value of the contract.
- ii. which of the official procurement procedures was used (i.e: the open, restricted, negotiated, competitive dialogue or innovative partnership procedures)
- iii. if the negotiated or competitive dialogue procedure was used, justification and reasoning to select the successful tenderer must be documented in accordance with the requirements of PCR 2015.
- iv. the nature of the goods, services or works.
- v. the nationality of the person to whom the contract was awarded.

## 21.0 Alteration to Tender Sum

21.01 No alteration to the tender sum shall be permitted except where there are obvious errors in calculations. Any errors shall be drawn to the attention of the tenderer, who shall be given the opportunity of confirming their offer or amending

it to correct genuine errors.

21.02 In cases of abnormally low tenders, the provisions of Regulation 69 PCR 2015 should be followed.

## 22.0 Variation of Contracts following Contract Completion

22.01 If a contract is signed and completed and subsequently the Council and the supplier wish to vary the terms of the contract, the variation may constitute a new award, requiring a fresh procurement procedure. The officer should have regard to Regulation 72 PCR 2015 which sets out how contracts can be modified without requiring a new procurement procedure and whether the variations are 'materially different in character' from the original contract (Presstext case 2008). A Modification Request Form must be completed in these instances (copy available on the Staff Hub) and officers must refer to Legal Services for further guidance.

22.02 Requests for Modifications to existing contracts will be approved by the Procurement Officer and Legal Services Manager and retrospectively reported to the Procurement Executive Group for information.

## E. Framework Agreements

23.01 A Framework Agreement is defined in the PCR 2015 as 'an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.'

23.02 In simple terms this is an 'umbrella agreement' that sets out the terms (particularly relating to price, quality and quantity) under which individual contracts (call-offs) can be made throughout the period of the agreement (normally a maximum of four years).

23.03 The officer should consider whether a relevant and current framework agreement is available for the goods, services or works required.

23.04 If a public sector organisation knows they are likely to need particular goods or services but are unsure about exactly what they will need or when, they may decide to set up a group of approved suppliers that they can use when necessary. This is called a 'framework agreement'.

23.05 The organisation will invite through public advertisement suppliers to put themselves forward for the framework and choose the ones most able to do the work based on the most economically advantageous tender (MEAT). Once the framework is set up, individual contracts are made throughout the period of the agreement. If there is more than one possible supplier on the framework, a 'mini-competition' may be held to decide who gets the contract. Framework agreements usually last for a maximum of 4 years.

23.06 A framework agreement may have been set up by either a Central Purchasing Body (as prescribed in Regulation 37 PCR 2015) or another public authority such as Hampshire County Council. A framework agreement can only be used if the Council is either a named party to the contract or is legally entitled to enter into the contract. For the avoidance of doubt, the advice of the Procurement Officer should be sought.

23.07 Advertising is not required if a framework agreement is being used.

## 24.0 Waivers

24.01 All procurement processes and contract awards must comply with these CSOs. There are only limited circumstances (detailed below) where not complying may be authorised.

A waiver to these CSOs must be approved in writing (using a waiver form) by one of the following, depending on contract value:

- i. £0 up to £74,999:  
Corporate Director (or their delegated representative)
- ii. £75,000 up to EU thresholds:  
the Councillors appointed to the Procurement Executive Group (PEG) or the Chief Financial Officer. In all instances a majority decision of Councillors should apply however if there is no majority then the Chief Financial Officer (CFO) is able to make the final decision.
- iii. Over EU thresholds:  
use of waivers are prohibited.

24.02 Waivers may be requested in the following circumstances but are still subject to authorisation as listed above:

- i. for the purchase of proprietary items exclusively owned by a private individual or corporation under a trademark or patent and their subsequent repair or maintenance (e.g: computer software).
- ii. where the price is wholly controlled by trade organisations or by Government order.
- iii. having followed a procurement process, it is identified there is a lack of suitable suppliers prepared to submit quotes or tenders due to the specialised nature of the purchase item.
- iv. a contract needs to be entered into as an emergency due to unforeseen circumstances. A waiver must be completed retrospectively in this instance. This excludes circumstances where the officer has failed to take appropriate action before contract expiry dates.
- v. a purchase is made at a public sale by auction.
- vi. the supplier has a unique position/exclusivity (for example are already in contract and there are cost implications).

## F. **Special Contracts**

### 25.0 Agency Work

25.01 This CSO shall apply where the Council is acting as agent for another public authority ('the principal authority') and the principal authority maintains an approved list of contractors or framework agreement for the goods, services or works to be procured.

25.02 Tender documents shall be sent to contractors on the approved list or framework agreement of the principal authority. Where a contractor is selected for agency work from the approved list or framework agreement, the contract standing orders and financial regulations of that principal authority shall apply.

## 26.0 Construction Work

26.01 In respect of contracts for construction works the officer should consider the following:

- i. payment of liquidated and ascertained damages to the Council in the event of contractor's default.
- ii. a contract sum retention at an appropriate rate and not less than the rate of a standard form construction contract.
- iii. whether a parent company guarantee or bond is appropriate in the circumstances. The Council's standard forms are available on the Council's intranet.
- iv. In a two stage tender process for a design and build construction project, if the original advertisement was for two separate contracts (i.e. a pre- construction agreement and the main building contract), in which the terms of the first contract set out the grounds on which the contracting authority would enter into the second contract and in which the scope and value of that second contract was clearly set out, then a single Contract Award Notice would be required at the point when the contracting authority awarded the first contract. If, however, the second phase was not clearly scoped nor the criteria on which it would be awarded, it is likely that a separate advertisement would be required and therefore a separate Contract Award Notice as well.

## 27.0 Software Maintenance and Enhancements

27.01 Any extension or additional modules to software may be procured without a tendering process if:

- i. the original system was procured through a full tendering exercise.
- ii. the initial contract for the purchase of the system and any support and maintenance contracts are still in force.
- iii. the cost of the additional modules does not exceed 25% of the original purchase price.
- iv. the total cumulative price does not exceed current EU thresholds.
- v. the proposed purchase satisfies the following three tests:
  - a. technical assurance sign-off by the Head of IT
  - b. financial appraisal and value for money assessment sign off by the Chief Financial Officer.
  - c. defined user requirements signed off by the Senior User.
- vi. Support and maintenance contracts can be negotiated directly with the relevant software supplier provided:
  - a. The Head of IT is satisfied that the agreement offers value for money; and
  - b. any annual increase is clearly linked to a national inflationary index or on a basis approved by the Chief Financial Officer.

## G. General Principles Applying to All Contracts

### 28.0 Power to Enter into Contracts

28.01 Officers shall consult with the Legal Services Manager to prepare contracts above £50,000 where they are not based on the Council's standard terms and conditions or based on a standard form contract.

28.02 No councillor shall enter into any contract on the Council's behalf either orally or in writing.

28.03 No officer shall enter into any contract with a councillor or any company, partnership, firm or other organisation which a councillor has an interest in, unless approval has been sought by the Monitoring Officer.

## 29.0 Letters of Intent (LOI)

29.01 The Council may require goods, services or works to be supplied or performed before completion of a contract. For contracts above £50,000, the use of a letter of intent and the limit on the Council's financial commitment must be agreed by the Monitoring Officer.

## 30.0 PCR Requirements for Contracts

30.01 Contracts shall make reference to the following:

- i. prompt payment terms - Regulation 113(2) PCR 2015 requires all public contracts to contain provisions which require the Council to pay all valid and undisputed invoices within a 30 calendar day period and to ensure that invoices are considered and verified by the Council in a timely fashion. The Council must procure that any further subcontracts awarded by the supplier or its subcontractor contain the same requirements, so that the 30 day payment term is passed down the supply chain. These terms will be implied into the contract if not expressly contained. The requirements are without prejudice to any contractual or statutory provision requiring payment to be made in a shorter period than 30 days. Authorities are required to publish annual statistics declaring the extent of their compliance with the prompt payment requirements as part of the transparency agenda;
- ii. ability for the Council to terminate the contract before expiry for grounds under Regulation 73(1) PCR 2015:
  - a. there is material contract amendment which ought to have been subject to a new procurement.
  - b. the contractor ought to have been excluded from the process on a mandatory exclusion ground in Regulation 57(1); or
  - c. there is a serious infringement of treaty/directive obligations declared by the Court of Justice of the European Union under infringement proceedings.

## 31.0 Technical Standards

31.01 For contracts above EU thresholds, the procurement documents must comply with Regulation 42 PCR 2015. If technical specifications or standards apply to the industry sector for the goods, services or works required, then the contract shall require compliance with them.

31.02 Without prejudice to mandatory national technical rules, to the extent that they are compatible with EU law, the technical specifications shall be formulated in one of the following ways:

- i. in terms of performance or functional requirements.
- ii. by reference to technical specifications and, in order of preference, to:
  - a. national standards transposing European standards
  - b. European Technical Assessments
  - c. Common technical specifications
  - d. international standards

- e. other technical reference systems established by the European standardisation bodies, or
- f. when none of the above exist; national standards, national technical approvals or national technical specifications relating to the design, calculation and execution of the works and use of the supplies but each reference shall be accompanied by the words 'or equivalent'.

## 32.0 Anti-Bribery and Corruption

- 32.01 Contracts shall contain a clause allowing the Council to terminate the contract and recover any losses from the supplier in the event that an offence is committed contrary to anti-bribery and corruption legislation (currently the Bribery Act 2010 and Section 117 of the Local Government Act 1972 – disclosure by officers of pecuniary interests in a public contract).
- 32.02 It is a criminal offence to offer, promise, give, request, or accept a bribe. Individuals found guilty can be punished by up to ten years' imprisonment and/or a fine. As an employer, if the Council fails to prevent bribery, the Council can face an unlimited fine, exclusion from tendering for public contracts and damage to its reputation.
- 32.03 Bribery is offering, promising, giving or accepting any financial or other advantage, to induce the recipient or any other person to act improperly in the performance of their functions, or to reward them for acting improperly, or where the recipient would act improperly by accepting the advantage.
- 32.04 An advantage includes money, gifts, loans, fees, hospitality, services, discounts, the award of a contract or anything else of value.
- 32.05 A person acts improperly where they act illegally, unethically, or contrary to an expectation of good faith or impartiality, or where they abuse a position of trust. The improper acts may be in relation to any business or professional activities, public functions, acts in the course of employment, or other activities by or on behalf of any organisation of any kind.
- 32.06 Corruption is the abuse of entrusted power or position for private gain.

## 33.0 Insurance Requirements

- 33.01 The contract may require the supplier to produce satisfactory insurance policies in respect of:
- i. Employer's liability – where the supplier employs staff, they are under a statutory obligation to maintain employer's liability insurance of not less than £5 million pounds.
  - ii. Public liability (also known as third party liability) – the supplier is to maintain cover for death or personal injury to third parties (i.e. those persons not employed by the supplier) and damage to third party property. The amount of cover must be commensurate with the likely level of a potential claim. As a guide, the Council usually seeks public liability insurance of not less than £10 million pounds but this amount will either increase or decrease depending on the level of risk and contract sum.
  - iii. Professional indemnity – applicable where the supplier is providing services. Again, the amount of cover must be commensurate with the likely level of a potential claim. As a guide, the Council usually seeks professional indemnity insurance of not less than £2 million pounds, but this amount will either increase or decrease depending on the level of risk and contract sum.

- iv. Product Liability – applicable where the supplier is providing goods. As a guide, the Council usually seeks product liability insurance of not less than £2m per occurrence or series of occurrences arising out of the same event.
- v. Any other appropriate insurances based on the nature of the goods, works or services supplied.
- vi. The insurances policies must be in force and maintained by the supplier during the length of the contract and for a period of either six or 12 years after the contract has expired (depending on whether the contract is signed ‘under hand’ with a six year limitation period or ‘as a deed’ which has a 12 year enforcement period.

## 34.0 Equality

34.01 Before entering into a contract, the Council shall comply in all respects with the provisions of the Equality Act 2010, the Human Rights Act 1998 or any other relevant legislation with due regard to the need to:

- i. eliminate unlawful discrimination; and
- ii. promote equality of opportunity and good relations.

## 35.0 Management Devolution

35.01 Where under any Council approved scheme of management devolution (whether a pilot project or a permanent scheme), powers of management have been devolved from a Corporate Director to the next senior or other officer, then references throughout these contract standing orders to the relevant Corporate Director shall be deemed to refer to the relevant next senior or other officer with such devolved powers. A formal record of the devolved powers must be retained for transparency purposes.

# APPENDIX L

## Part 4 (Rules of Procedure)

### Petition Scheme

#### **Introduction**

This Scheme sets out the details of how Eastleigh Borough Council will deal with and respond to petitions.

The Council recognises the importance of petitions as a means of engaging more meaningfully with local communities, enabling the public to let us know about their concerns and as a mechanism for generating service improvements.

#### **What is a petition?**

- 1.0 Any communication which is signed by, or sent to the Council on behalf of, a number of people who live, work or study within the Eastleigh Borough Council Area.
- 2.0 We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

#### **A petition must contain the following information:**

- A clear and concise statement covering the subject of the petition, the area to which the petition relates and what action the petitioners want the Council to take.
  - The contact details, including an address, for the petition organiser (lead petitioner) so that the Council knows who to contact.
  - The name, address, postcode and signature of any person supporting a paper petition.
  - The name, postcode and email address for anyone creating an email or electronic petition (e-petition).
  - The name, postcode and email address for those persons who sign up to an electronic or e-petition
  - Date the petition was submitted.
  - Signatures for the petition should have been collected no more than six months before the submission of the petition to ensure that the issues raised are considered within an appropriate time frame.
- 3.0 Where a petition calls for action against the policy of the Council, the authority reserves the right to decline the request, but in doing so must clearly explain to the lead petitioner the reasons why the requested action cannot be carried out.

#### **Exclusions**

- 4.0 The following matters are specifically excluded under this Petition Scheme and will not be considered:-
  - a. Any matter relating to a planning decision, including a development plan document or the community infrastructure levy.

- b. Any matter relating to a licensing decision, including licensing applications under the Licensing Act 2003 and the Gambling Act 2005
- c. Any matter for regarding breaches of the Councillors Code of Conduct.
- d. Any matter relating to an individual or entity in respect of which that individual has a right of recourse to a review of right of appeal conferred by or under any enactment.
- e. Any matter which is substantially the same as a petition submitted in the previous 12 months.
- f. Any matter which is determined by the Council's Monitoring Officer to be vexatious, discriminatory, inappropriate or not reasonable.

If the issue contained within the petition is an excluded matter, the lead petitioner will be informed accordingly, explaining the reasons why the petition cannot be accepted under this scheme and advising them as to how their views can be expressed via alternative means.

## Submission of Petitions

5.0 Petitions can be submitted to the Council in the following ways:

Paper petitions Traditional paper petitions accompanied by a dated covering letter, identifying the key information outlined above (purpose of petition, what action is called for, contact details for the lead petitioner etc.) can be sent or delivered to: Democratic Services at the Council Offices at Eastleigh House Upper Market Street Eastleigh SO50 9YN

Email petitions: The relevant documentation can be sent by email to [democratic.services@eastleigh.gov.uk](mailto:democratic.services@eastleigh.gov.uk)

E-petitions: There are several external websites that enable you to create an e-petition, which can then be submitted to the Council (see further information in [section 27](#) below)

## Acknowledgement of Petitions

6.0 The Council's Democratic Services Officer will acknowledge receipt within 10 days. The acknowledgement will advise what the Council plans to do with the petition and when further information will be received

## Further Action

- 7.0 The Council will generally accept any petition on face value but reserves the right to verify the signatures or investigate further if deemed necessary.
- 8.0 If the Council can and is willing to do what the petition asks for, the acknowledgement may confirm that the Council will take the action requested and the petition will be closed.
- 9.0 If the petition has enough signatures to trigger a debate and the Council's Monitoring Officer is satisfied that that the matter is not excluded and is over something of relevance to the Council then the acknowledgment will confirm this and will advise when and where the meeting will take place and where the Lead Petitioner will be able to formally advise Councillors why the Petition is being presented
- 10.0 If the petition needs further investigation, Eastleigh Borough Council will advise the steps they plan to take.
- 11.0 If the petition is appropriate to be put before Council or a Committee. The lead petitioner will be supplied with the

relevant details and be given the opportunity to attend and address the meeting and, if appropriate, answer any questions posed at the meeting.

- 12.0 If the petition applies to a planning or licensing application, or is a statutory petition (for example requesting a referendum on having an elected mayor), or is about a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, then we will notify you of the other existing procedures which apply.
- 13.0 If the petition is about something for which the Council has no direct control, for example, the local railway service or the National Health Service, the Council if appropriate will make representations on behalf of the community to the relevant body and, where possible, will work with these partners to respond to the petition.
- 14.0 If the petition is about something that a different Council or a Government Agency is responsible for, the Council will give consideration as to what the best method is for responding to it. This may simply involve forwarding the petition to the other Council or Government Agency but could involve other steps. In any event, the Council will inform the lead petitioner of what action has been taken.
- 15.0 In the period leading up to an election or referendum the Council may need to deal with the petition differently – if this is the case the Council will explain the reasons and discuss the revised timescale which will apply.
- 16.0 Petitions will not be considered at Extraordinary Council meetings.
- 17.0 Should two petitions be received on the same issue (one in support and one opposing a course of action) then both lead petitioners would normally be invited to address the Council or Committee meeting on the same day.

## **E Petitions**

- 18.0 E-Petitions follow the same guidelines as traditional petitions and should only be submitted by people who live, work or study in the Eastleigh Borough Council area.
- 19.0 There are a number of websites that can help the lead petitioner to create an e-petition. Petitioners will need to ensure that they are aware of any terms and conditions on external websites regarding the use of their data. The Council cannot be held responsible for how personal information may be used by other websites. Once the Lead petitioner has set up the e-petition they can then notify the Council by email to [democratic.services@eastleigh.gov.uk](mailto:democratic.services@eastleigh.gov.uk) and the petition will be posted on the Council's website. You will need to notify the Council as to how long you wish the e-petition to run for. A petition can run for six months, but you can choose a shorter time frame, when an e-petition is submitted to the Council, it may take five working days before it is published online. This is because the Council has to check that the content of the petition is suitable before it is made available for signature.
- 20.0 If the Council feels it cannot publish the petition for some reason the lead petitioner will be contacted within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published on the Council's website.

## **Part 5**

# Codes and Protocols

# Councillors' Code of Conduct

## Joint Statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local members of the public, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

## General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority staff; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty.
- I act lawfully.
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

# Code of Conduct for Councillors

## 1.0 Application

This Code of Conduct applies to you whenever you are acting in your capacity as a Councillor or are giving the impression of acting in your capacity as a Councillor of Eastleigh Borough Council, including –

- 1.01 at formal meetings of the Council, its committees, sub-committees, its Cabinet and Cabinet committees
- 1.02 when acting as a representative of the authority
- 1.03 in taking any decision as councillor
- 1.04 in discharging your functions as a ward councillor
- 1.05 at site visits

## 2.0 General Conduct

You must –

- 2.01 provide leadership to the authority and communities within its area, by personal example
- 2.02 treat other councillors and members of the public with respect
- 2.03 not bully or harass any person
- 2.04 promote equalities and not discriminate unlawfully against any person
- 2.05 recognise that staff (other than political assistants) are employed by and serve the whole authority and not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the Authority
- 2.06 respect the confidentiality of information which you receive as a Councillor –
  - 2.06.01 not disclosing confidential information to third parties unless required by law to do so or where there is a clear and over-riding public interest in doing so; and
  - 2.06.02 not obstructing third parties' legal rights of access to information
- 2.07 not conduct yourself in a manner which is likely to bring the Authority into disrepute
- 2.08 use your position as a Councillor in the public interest and not for personal advantage
- 2.09 accord with the authority's reasonable rules on the use of public resources for private and political purposes
- 2.10 exercise your own independent judgement, taking decisions for good and substantial reasons –
  - 2.10.01 attaching appropriate weight to all relevant considerations including, where appropriate, public opinion and the views of political groups
  - 2.10.02 paying due regard to the advice of staff, and in particular to the advice of the statutory officers, namely the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer and
  - 2.10.03 stating the reasons for your decisions where those reasons are not otherwise apparent
- 2.11 account for your actions, particularly by supporting the authority's scrutiny function
- 2.12 ensure that the authority acts within the law.

### 3.0 Disclosable Pecuniary Interests

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of Councillors of the authority.

You need to register your interests so that the public, authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. You are personally responsible for deciding whether or not you should disclose an interest in a meeting.

A failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

You must –

- 3.01 comply with the statutory requirements to register your disclosable pecuniary interests and you must disclose, leave the room and not participate in respect of any matter in which you have a disclosable pecuniary interest
- 3.02 before the end of 28 days beginning with the day on which you become a councillor or co-opted councillor of the authority, notify the Monitoring Officer, in writing, of any disclosable pecuniary interests
- 3.03 ensure that your register of interests is kept up to date and notify the Monitoring Officer in writing within 28 days of becoming aware of any changes in respect of your disclosable pecuniary interests
- 3.04 make verbal declaration of the existence of any disclosable pecuniary interest at any meeting at which you are present at which an item of business which affects or relates to the subject matter of that interest is under consideration, at or before the consideration of the item of business or as soon as the interest becomes apparent
- 3.05 “Meeting” means any meeting organised by or on behalf of the authority, including –
  - 3.05.01 any meeting of the Council, or a committee or sub-committee of Council
  - 3.05.02 in taking a decision as a ward councillor or as a member of any body of the Council; and
  - 3.05.03 at any site visit to do with business of the authority

### 4.0 Other Interests

- 4.01 In addition to the requirements of Paragraph 3, if you attend a meeting at which any item of business is to be considered and you are aware that you have a non-disclosable pecuniary interest or non-pecuniary interest in that item, you must make verbal declaration of the existence of that interest at or before the consideration of the item of business or as soon as the interest becomes apparent.
- 4.02 You have a non-disclosable pecuniary interest or non-pecuniary interest in an item of business of your authority where –
  - 4.02.01 a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of you or of a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the Council Tax payers, ratepayers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority’s administrative area, or
  - 4.02.02 it relates to or is likely to affect any interests listed in the Table in the Appendix A to this Code, but in respect of a member of your family (other than a “relevant person”) or a person with whom you have a close association and that interest is not a disclosable pecuniary interest.

## 5.0 Gifts and Hospitality

- 5.01 You must not accept gifts or hospitality, irrespective of estimated value, which could give rise to a real or substantive personal gain or a reasonable suspicion of influence to show favour from persons seeking to acquire, develop or do business with the authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.
- 5.02 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 £50 which you have accepted as a member from any person or body other than the authority.
- 5.03 You must, within 28 days of receipt of an offer, notify the Monitoring Officer any significant gift or hospitality that has been offered and acceptance refused.
- 5.04 The Monitoring Officer will place your notification on a public register of gifts and hospitality.
- 5.05 This duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the authority for this purpose.

# APPENDIX M

## Part 5 – (Codes and Protocols)

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in Table 1 (Disclosable Pecuniary Interests) which are as described in “The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012”.

You should also register details of your other personal interests which fall within the categories set out in Other Registerable Interests.

“Disclosable Pecuniary Interest” means an interest of yourself, or of your partner if you are aware of your partner’s interest, within the descriptions set out in Table 1 below.

“Partner” means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

- 1.0 You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
- 2.0 A ‘sensitive interest’ is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
- 3.0 Where you have a ‘sensitive interest’ you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.
- 4.0 Non-participation in case of disclosable pecuniary interest
  - 4.01 Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in Table 1, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
  - 4.02 Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.
- 5.0 Disclosure of Other Registerable Interests
  - 5.01 Where a matter arises at a meeting which directly relates to one of your Other Registerable Interests, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest.
- 6.0 Disclosure of Non-Registerable Interests
  - 6.01 Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate,

you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

6.02 Where a matter arises at a meeting which affects –

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a relative, close associate; or
- c. a body included in those you need to disclose under Other Registrable Interests, you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

6.03 Where a matter affects your financial interest or well-being: a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and; b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest you may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

6.04 Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

## Table 1

### Disclosable Pecuniary Interests

The duties to register, disclose and not to participate in respect of any matter in which a member has a Disclosable Pecuniary Interest are set out in Chapter 7 of the Localism Act 2011.

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

<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.

<b>Subject</b>	<b>Prescribed description</b>
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

For this purpose;

"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.

## Other Registrable Interests

You have a personal interest in any business of your authority where it relates or is likely to affect:

- a. anybody of which you are in general control or management and which you are nominated or appointed by your authority
- b. any body
  - i. exercising functions of a public nature
  - ii. anybody directed to charitable purposes or

- iii. one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union).

## Staff Code of Conduct

This is contained on the Council's intranet and includes sections on:

- Standards and Code of Ethics
- Disclosure of Information and Confidentiality
- Political Neutrality
  - Relationships (with family or close personal contacts, with Councillors, the Local Community and Service Users and Contractors)
- Declaration of Interests
  - Outside Commitments and activities
- Outside Hobbies and Interests, Course/Exhibition Attendance
- Customer care/Standard of Dress and Appearance/Conduct to other
  - Equality/Diversity
  - Bringing the Council into Disrepute
  - Purchasing and Use of Financial Resources
  - Convictions during the course of Employment
  - Hospitality, Gifts and Sponsorships
  - Intellectual Property
  - Information Technology and Data Security
- Contact with the Media

- Trade Union Representatives
- Social Networking

# APPENDIX N

## Part 5 – (Codes and Protocols)

### Protocol on Councillor/Staff Relations

<b>The Distinctive Roles of Councillors and Staff</b>	
<p>Put simply, Councillors are responsible for determining policy, staff are responsible and accountable for implementing policy and managing the organisation</p> <p><b>Staff Role</b> Given these roles, staff are expected to work within and pursue Council policies. Equally, Councillors should not interfere with Executive matters that are properly the responsibility of staff</p>	<p>Councillors have a complex role and are required to act simultaneously in four capacities: -</p> <ul style="list-style-type: none"> <li>• as <b>Politicians</b> - in this capacity Councillors will normally belong to a political grouping represented on the Council and will express political values and support the policies of the group to which they belong</li> <li>• .as <b>Representatives</b> - in this capacity Councillors interpret and express the wishes of the electorate and seek to account for service priorities, allocation of resources and ultimate performance_</li> <li>• as <b>Community Leaders</b> - Councillors have a role in shaping and carrying forward new initiatives and proposals to enhance the quality of life in the Borough</li> <li>• as <b>Council/Committee Members</b> - in this capacity Councillors have personal, individual, and collective responsibility for the Council organisation and its activities. They are responsible for ensuring that adequate management arrangements are in place; to develop and take decisions on the use of the Council’s physical, financial and human resources, and to concern themselves with the performance, development, continuity and overall well-being of the organisation.</li> </ul> <p>Staff of the Council have, in broad terms, the following main roles: -</p> <ul style="list-style-type: none"> <li>• They are the <b>Managers</b> or employees of the services for which the Council has appointed them. They are accountable for the efficiency and effectiveness of those services and for proper professional practice in discharging their responsibilities.</li> <li>• They are the professional advisors to the Council, its Committees and Councillors in respect of their areas of responsibility.</li> <li>• They may initiate policy proposals as well as being implementers of agreed policy.</li> <li>• They ensure that the Council always acts in a lawful manner.</li> </ul>

## The Distinctive Roles of Councillors and Staff - Political Neutrality of Staff

Any request for staff to attend group meetings should be made through the Chief Executive. If staff attend and make information available to the majority party group, the same opportunity would be given to the minority party groups.

Discussions between Staff and Councillors on policy issues are quite proper. In particular Corporate Leadership Meetings are held periodically at which Management Team meets senior administration Councillors to discuss substantive matters. Those meetings have no Executive decision powers beyond those matters specifically delegated to the staff concerned.

Staff will often wish to seek political guidance in framing policy proposals. But when Staff write committee reports for Councillor decision, they have a duty to give the advice dictated by their professional expertise. Councillors should not, therefore, seek to influence unduly the content of reports to committee, and party political group meetings have no right to rewrite staff reports or instruct on their content.

Staff must be able to report as they see fit, although Councillors are equally entitled to reject proposals and recommendations which are put to them.

Nothing in the above proposals removes the right for Councillors to request individual briefings.

## Relationship with Staff - Contacts with Staff

Councillors are elected to represent the interests of their constituents, but they should not seek special treatment for any individual. When dealing with council staff, they must declare any special relationships with constituents.

Councillors should not put pressure on a staff member on matters which have been delegated for staff decision. This might lead staff to make decisions that:

- are not objective and cannot be accounted for;
- favour unfairly one member of the public over another;

Councillors should avoid bringing undue influence to bear on a staff member to take any action which is:

- against procedure or policy;
- a breach of the disciplinary code for employees;
- in conflict with standing orders or financial regulations.

Staff have a duty to report to the Chief Executive any attempt to exert improper influence. The Chief Executive, or nominated deputy, will investigate any such report.

### **Chairs of Committees**

Management Team, Local Area Managers and Service Heads are expected to work closely with committee chairs (and, of course, vice-chairs) and to meet regularly with them. However, Council decisions are not made by the chair alone but by the committee.

The Chair should not seek to influence staff to reduce the options or withhold information which they should properly report to a committee.

### **Minutes of Meetings**

Minutes of meetings are an impartial record of the decisions made and Councillors should not attempt to influence the contents therein except as regards to accuracy.

### **Involvement of Ward Councillors**

Whenever a public meeting is organised by the Council to consider a local issue, all the councillors representing the Ward or Wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward councillors should be notified before the exercise.

### **Ceremonial Events**

The Mayor, or in their absence the Deputy Mayor will be the appropriate person to lead Council ceremonial events which are not specifically associated with a particular committee and to represent the Council by invitation at ceremonial events of other organisations which are not specifically associated with a particular committee.

Cabinet Members, Chairs of Committees or where they are not available Vice-Chairs are the appropriate candidates for ceremonial events within the scope of their portfolio/committees. Where neither the Chair nor Vice-Chair of a Committee are available then any other member may be nominated by the Chair or Vice-Chair.

	<p>Local Councillors should always be informed of, and where possible, invited to ceremonial events taking place within their own Wards.</p> <p>Any councillor taking part in a ceremonial event must not seek disproportionate personal publicity or use the occasions for party political advantage bearing in mind that the councillor is representing the Council as a whole.</p> <p><b>Public Relations and Press Releases</b></p> <p>The Council's Public Relations Unit services the Council as a whole and must operate within the limits of the Local Government Act 1986 which prohibits the Council from publishing material which appears to be designed to affect public support for a political party. Council press releases are drafted by staff and will often contain quotations (within the limits of the Local Government Act 1986) from appropriate Councillors and from the Mayor and Deputy Mayor of the Council about ceremonial events. Such press releases are issued on behalf of the Council and it would not, therefore, be appropriate when repeating quotations from Councillors to indicate their party political affiliation.</p>
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### Relationships with Staff - Councillors' Enquiries

	<p>Each Executive Head and the Local Area Manager is responsible for ensuring that member enquiries are dealt with promptly and accurately in their Unit.</p> <p>A list of the contacts or the other arrangements that apply in each Unit is given in <a href="#">Appendix B</a>, Appointment of proper and designated officers. Where a member of staff with specific responsibility for Councillors' enquiries is listed this is usually the person they should contact first although they are always entitled to contact a more senior staff member if they so wish.</p> <p>Councillors' enquiries will normally be responded to within five working days. If enquiries require a longer period for response, then the Councillor will be informed when a response can be made.</p> <p>In addition, if an enquiry is very time consuming, the staff member may discuss the enquiry's impact on other work with a member of Corporate Leadership Board.</p>
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### Relationships with Staff - Personal Relationships

<p>The national code of conduct states:</p> <p>Mutual respect between Councillors and staff is essential to good local government. Close personal familiarity between individual Councillors and staff members can damage this relationship and prove embarrassing to other Councillors and staff members.</p> <p>It is not enough to avoid actual impropriety. Individuals should at all times avoid any occasion for suspicion and any appearance of improper conduct.</p>	<p>Councillors must declare to the Monitoring Officer any relationship with a staff member which might be seen as influencing their work as a Councillor. This includes any family, business or domestic relationships. Staff, too, have a duty to declare any such relationship to their manager.</p> <p>Councillors must not sit on the Council committee responsible for the Unit for which an employee does significant work to whom they are:</p> <ul style="list-style-type: none"> <li>• married;</li> <li>• the partner;</li> <li>• otherwise closely related such as sisters, brothers, parents and grand parents.</li> </ul> <p>or where a Councillor's relationship with the staff member would jeopardise the work of the Council.</p>
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## Access to Information - Members of Committee or Sub-Committee

As a Council member, a Councillor has all of the rights available to members of the public to inspect reports, minutes and background papers appearing on the public part of any Council committee or sub-committee agenda.

However, detailed background papers not usually available to the public would only be available to a Council member who sits on the relevant committee which considered the reports and providing it is not deemed to be confidential.

Councillors also have additional rights as a Councillor. They are legally entitled to information that they need in order to carry out their work as a Councillor. But they are not entitled to confidential information which is not directly relevant to their role as Councillor or information which relates to a particular person or a commercially sensitive matter.

Councillors should not request confidential information in order to use it for a purpose not legitimate for their role as a member, because they are in a position of trust. The motive for requesting confidential information is, therefore relevant, and Councillors should be prepared to disclose the reason for their request.

If, for example, Councillors are pursuing an issue on behalf of a constituent, this would be a legitimate reason and should be made known to the staff from whom the information is sought. Councillors must not abuse this trust by disclosing information that is confidential or exempt from disclosure to the public. If this occurs and the Council suffers a loss, there may be a personal penalty.

This is particularly relevant to information which is commercially sensitive, related to a tendering process or personal information relating to staff or members of the public.

In addition to Committee reports and background papers, Councillors are entitled to see any papers the Council has which properly relate to the work of a committee or sub-committee that they are on.

However, because an issue has been considered by a committee, this does not mean that the Councillor may see all the papers that relate to it.

If the papers contain exempt or confidential information the Councillor will need to demonstrate "a need to know" and give reasons why they need to see the papers in order to perform properly their duties as a Councillor and this need must not be outweighed by any public interest requiring nondisclosure. Councillors must not ask for information on a matter on which they would have to declare an interest.

If a Councillor is refused access to documents which they feel they have the right to see, the dispute will be determined by the Chief Executive.

## Access to Information - Councillor not a Member of a Committee or Sub-Committee

A Councillor will have the right to see some information on committee agendas which is exempt from disclosure to the public, on a "need to know" basis.

Councillors are entitled to see exempt information about:

- the financial or business affairs of a particular person who is the subject of a committee report (provided it is relevant to that particular report);
- proposed costs of acquiring property (or good or services);
- the identity of a person (or group) tendering for a contract with the Council.

However, Councillors have no automatic right of access to information about:

- any particular employee of the Council;
- applicants for employment with the Council;
- recipients of financial assistance from the Council;
- applicants for such assistance;
- recipients of any Council service;
- applicants for any such service;
- items proposed during negotiations over a contract for property, goods or services;
- negotiations or consultations with the Council's trades unions;
- legal proceedings taken or defended by the authority where the Council interest could be compromised;
- any action to be taken to prevent, investigate or prosecute a crime;
- the identity of a protected informant.

However, if the Councillor can establish that in order to carry out their duties as a Councillor, they need information to which they would not normally have access, then the Chief Executive may agree to provide access.

If a Councillor attends a committee meeting on which they do not serve as a member, they should leave at any time when matters are discussed which relate to an individual person or a commercially sensitive matter. But, if they establish their "need to know" about this matter, they would be entitled to remain at the discretion of the meeting.

### **Political Party Workers:**

Councillors may at times be assisted by political party workers. There is no objection to this, but no non-elected party worker has any entitlement to:

- information to which members have access in their role as Councillors;
- use Council facilities provided for the use of Councillors.

The principles which apply to use of facilities provided for Councillors (and the staff employed to assist them) apply equally to all Council property and facilities; and all Council employees.

## Use of Council Facilities

Councillors must use any Council facilities provided for them in their role as Councillor strictly for that purpose and no other. For example, Councillors must not use rooms in the Civic Offices or any of the Council's paper, computers, photocopiers, or printers for any personal, business-related or party-political matter, nor on behalf of any community groups of which they are a member, unless arrangement or payment has been agreed for the service with the Monitoring Officer.

### **Advice from Council Staff**

Staff can only be asked to provide advice to Councillors on matters which clearly relate to those matters which arise from being an elected Councillor.

Date: 11 November 2021 (Revision 3)

# APPENDIX O

## Part 5 – (Codes and Protocols)

### **Local Code of Conduct for Councillors and Staff Dealing with Planning Matters**

#### Introduction

This code has been adopted to ensure that all planning matters are handled with the highest integrity, openness and consistency by all concerned. It applies to everybody involved in operating the planning system at Eastleigh Borough Council.

It is essential that the Borough Council always acts in a way which is clearly seen to be fair and impartial. This relies upon a shared understanding of the respective roles of Councillors and staff, and upon trust between them. The following quotation from the Local Government Association helps to illustrate the point: -

“The role of an elected councillor on a planning committee involves a balance between representing the needs and interests of individual constituents and the community, with the need to maintain an ethic of impartial decision-making on what can be highly controversial proposals. It is this dual role which, as the Nolan Committee in its report acknowledges, can give rise to great tensions.”

(Source: Probity in Planning 2019 - Annex A).

It is also quite proper for Councillors to provide a voice for what might be a silent or inarticulate minority.

Councillors and staff who have any dealings with planning matters are required to read this Code thoroughly and to put it into practice. The Code will be reviewed annually, and comments are invited on any alterations which would raise the standards of the Code. If there are any such points or any part of the Code which is unclear please contact either the Executive Head of Planning and Economy or the Legal Services Manager as soon as possible. They will be pleased to help you.

#### 1.0 General Role and Conduct of Councillors and Staff

- 1.01 Legislation emphasises the overriding requirement that the public are entitled to expect the highest standards of conduct and probity by all persons holding public office. There are a number of statutory provisions and codes setting standards which must be followed if the public perception of the integrity of public service, particularly town and country planning, is to be maintained and improved. Councillors are reminded that they are required to comply with the statutory provisions on the disclosure of pecuniary interests, the National Code of Local Government Conduct, this Council's Standing Orders and Scheme of Management and Delegation.
- 1.02 Whilst this Local Code deals primarily with planning applications, its principles apply with equal vigour to consideration of Local Plans, Development Briefs, Planning enforcement cases and all other planning matters. An overriding principle is that when local authorities are dealing with planning matters, they should only take into account material planning considerations.
- 1.03 Section 54A of the Town and Country Planning Act 1990 established a plan-led system whereby all planning applications are determined by primary reference to the Development Plan. Thus, if the Development Plan is material to the application, then the statutory requirement is that the application should be determined in accordance with the Development Plan unless material considerations indicate otherwise. This means the totality of the Plan rather than selective application.

- 1.04 Staff involved in the assessment and determination of Planning matters must also act in accordance with the Council's Standing Orders and Scheme of Management and Delegation and with the relevant sections of the Royal Town Planning Institute's Code of Professional Conduct. Particular attention is drawn to Clause 3 "... (Staff) shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions ...".
- 1.05 This Local Code is supplemental to the provisions referred to above and provides further specific advice and guidance for Councillors and staff involved in planning matters. A key principle is that Councillors should represent their constituents as a body and vote in the interests of the Borough as a whole. Locally based considerations should never prejudice the interests of the wider community as a whole. Councillors should take account of all views expressed; they should not be biased towards any person, company, group or locality, nor put themselves in a position where they appear to be so.
- 1.06 A further key principle is that local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is based upon valid planning reasons which can be substantiated. (Source: NPPF1 - Annex 1).
- 1.07 Councillors and staff should not accept gifts, nor should they accept hospitality. However, if a degree of hospitality is truly unavoidable, it should be kept to the minimum and its receipt declared as soon as possible. Councillors should send written notice to the Monitoring Officer. Staff should notify their Executive Head/Service Manager. In all cases the Council's Code of Conduct on hospitality should be followed and details must be entered in the appropriate record book.
- 1.08 Staff must always act impartially and seek permission from the appropriate senior staff for any private work or interest which they wish to take up. The Council will review regularly the outside activities declared by its staff and the restrictions placed upon such activities by the Council.
- 1.09 Any allegations of illegal activity in relation to the planning process (including corruption or fraud), should be reported urgently to the Chief Executive.
- 1.10 The Chief Executive, in consultation with the Chief Internal Auditor (on behalf of the Chief Financial Officer) and the Monitoring Officer, will decide on the appropriate form of investigation, whether by the Chief Internal Auditor or otherwise and including reference to the police.

## 2.0 Declaration and Registration of Interests

- 2.01 Councillors should observe strictly the guidance on declaring pecuniary and non-pecuniary interests as set out in: -
- a. the statutory provision on the Disclosure of Pecuniary Interests,
  - b. the National Code of Local Government Conduct,
  - c. the Guidance for Good Practice on Members' Interests, published by the Commission for Local Administration.
- 2.02 The register of Councillors' Interests maintained under the Local Government and Housing Act 1989 will be updated annually. Where any changes occur to Councillors' interests, whether by way of addition or deletion, they should be notified by the member concerned to the Monitoring Officer as soon as they occur.
- 2.03 All Councillors participate in development control decision-making through the five local area committees. However, initial decision-making during preparation of the Local Plan and other major planning policies is limited to those Councillors who

sit on the Policy and Review Committee. It is this Committee which allocates significant areas for development and other uses. Thus, Councillors who have substantial property interests, or other interests which would prevent them from voting on a regular basis, should avoid serving on this Committee. Any Councillors, who are in this category, should also avoid membership of the relevant Working Groups. Although not decision-making forums, these Working Groups are particularly influential in land-use policy formulation.

- 2.04 Guidance on non-pecuniary interests is contained in the National Code of Local Government Conduct and in the Ombudsman's guidance. The guiding rule is that a Councillor should not use their position to further a private or personal interest, rather than the general public interest; or give grounds for such suspicion. The test for deciding whether a non-pecuniary interest should be declared is -whether a member of the public, knowing all the facts would reasonably think that the Councillor might be influenced by it. If so, the interest must be declared. Subject to the limited exceptions set out in the Code, the Councillor should take no further part in the relevant proceedings. The responsibility for declaring an interest lies with the individual Councillor who should seek advice from the Monitoring Officer if necessary.
- 2.05 Training is held after Council elections to give guidance to new Councillors on the declaration of interests and any other issues in the National Code. All Councillors will also receive annual refresher training in relation to the practical operation of this Local Code.
- 2.06 The Council has arranged an annual programme of training on town and country planning for all Councillors to keep up-to-date in their knowledge of legislation, policies, procedures and decision-making. Councillors are expected to attend this training.
- 3.0 Development Proposals Submitted by Councillors, Staff and the Council
- 3.01 If Councillors or staff submit their own development proposal or development in which they have an interest to the Council, or act as an agent for such a proposal, they should take no part in its assessment and the decision-making. The Council's Monitoring Officer should be informed by the Councillors or staff of all such proposals as soon as they are submitted. Members of staff who have not been involved in the processing of a planning matter, or in the formulation of the recommendation, have the same rights to participate in the decision-making process as members of the public.
- 3.02 Proposals submitted by Councillors and staff should be reported to the Area Committees or Joint Area Committee as written agenda items and not dealt with by staff under delegated powers.
- 3.03 Proposals for the Council's own development (or development involving the Council and another party) should be treated in the same way as those by private developers and in accordance with guidance given in Planning Practice Guidance. This requirement also applies to private applications in respect of Council-owned land (such as a private application prior to a Council land sale being agreed or negotiated). The planning decisions must be made strictly on planning merits and without any financial or other gain that may accrue to the Council if the development is permitted. It is important that the Council is seen to be treating all such applications on an equal footing with all other applications, as well as actually doing so.
- 4.0 Lobbying of and by Councillors and Attendance at Public Meetings by Staff and Councillors
- 4.01 When Councillors undertake their constituency roles, it seems inevitable that they will be subject to lobbying by interested parties and the public on planning matters and specific planning applications. When Councillors are

lobbied, they need to exercise great care to maintain the Council's and indeed the Councillor's own, integrity and the public perception of the town and country planning process.

- 4.02 Councillors who find themselves being lobbied should take active steps to explain that, whilst they can listen to what is said, it would prejudice their impartiality if they expressed a conclusive point of view or any fixed intention to vote one way or another.
- 4.03 Councillors involved in the determination of planning matters should listen to all points of view about planning proposals and refer persons who require planning or procedural advice to planning staff. Councillors should not indicate (or give the impression of) conclusive support or opposition to a proposal or declare their voting intention before the meeting at which a decision is to be taken. To do so without all relevant information and views, would be unfair, prejudicial and may amount to maladministration.
- 4.04 Taking account of the need to take decisions impartially, Councillors must weigh up all the material considerations reported at each Committee meeting. They should not be biased (or appear to be biased) towards any person, company, group or locality. Councillors who commit themselves firmly to a particular view on a planning issue, prior to its consideration at a Committee, must decide whether the public (or other interested body) would believe that they have prejudiced their position and were incapable of weighing up all the material considerations. If the Councillor feels that the public would believe they had come to a conclusive view on the planning matter or application before the Committee meeting, then they should consider not taking part in the debate and not voting on the issue (refer to paragraph 7.04).
- 4.05 If planning applications are considered by a succession of Committees or meetings of different organisations attended by Councillors, each consideration will require the Councillor to weigh up, afresh, all the reported material factors before reaching a decision at that particular meeting.
- 4.06 Where the Monitoring Officer believes that a Councillor has prejudiced their position by expressing a conclusive view on a planning matter or application before its determination by the Committee, the Monitoring Officer will advise them that it would be inappropriate for that Councillor to take part in the debate, or vote on the application.
- 4.07 Whilst Councillors involved in making decisions on planning matters and applications will begin to form a view as more information and options become available, a decision can only be taken by the relevant Committees when all available information is to hand and has been considered. Individual members should reach their own conclusions on an application or other planning matter rather than follow the lead of another member. In this regard, any political group meetings prior to Committee meetings should not be used to decide how Councillors should vote. Decisions can only be taken after full consideration of the Committee report and information and discussion at the Committee meeting.
- 4.08 Councillors should exercise great care when expressing their firm support for, or opposition to, a proposal in their ward before it has been fully considered by the relevant Committee. Such actions can easily be misunderstood by parties to the application and by the general public. In this regard, Councillors should not lobby other Councillors to act for them, or act as an agent for other Councillors, or put pressure on staff for a particular recommendation.
- 4.09 Staff who are wholly or partly involved in the assessment or determination of planning matters should not attend public meetings in connection with pre-application development proposals or submitted planning applications unless their attendance has been agreed by their Service Manager. To do so could lead to allegations of prejudice or bias to a particular point of view. If accidentally put in such a position, staff should only provide information and give no view on the merits or otherwise of the proposal.

- 4.10 When attending public meetings Councillors should take great care to maintain their impartial role, listen to all the points of view expressed by the speakers and public and not state a conclusive decision on any pre-application proposals and submitted planning applications.
- 4.11 If Councillors consider that they have been exposed to undue or excessive lobbying or approaches, these should be reported to the Monitoring Officer, who will in turn advise the appropriate staff (usually the Chief Executive and the Executive Head of Housing and Development).
- 5.0 Pre-Application Discussions - Presentations
- 5.01 Planning staff should always be in attendance at pre-application discussions (and pre-decision discussions) with applicants and agents on important planning issues. It should always be made clear by planning staff at the outset of discussions that they will not bind the Council to make a particular decision, and that any views expressed are their provisional professional opinions.
- 5.02 Advice given by staff advising on planning matters will be consistent and based upon the Development Plan (Minerals and Waste and Local Plan) and other material considerations. Every effort should be made to ensure that there are no significant differences of interpretation of planning policies or the range or weight of other material considerations between planning staff.
- 5.03 Staff advising on planning matters will ensure that their advice is not partial, nor seen to be. This is because a consequent report could be seen as advocacy for a particular point of view. A written note should be made of significant pre-application discussions and important telephone conversations. Where contentious issues have been discussed a follow-up letter should be sent, particularly when material has been left with the Council by the applicant or agent.
- 5.04 Some Borough Councillors also serve on Parish or County Councils or voluntary organisations. When acting in their capacity as Borough Councillors they should always act in the best interests of the Borough as a whole. If they choose to speak in advocacy of the interests of some other body they should declare that to be the case.
- 6.0 Reports Written to Committees
- 6.01 Reports to Committee on planning matters should be accurate and cover all relevant points. Where a planning application is subject to a written report, this will refer to the provisions of the Development Plan and all other relevant material planning considerations including a full description of the site and any related planning history.
- 6.02 All reports requiring a decision will have a written recommendation. Oral reports will be used primarily to describe the planning application with the aid of PowerPoint Presentation, and to update Councillors on the accompanying written report. All reports will contain a technical appraisal which clearly justifies the stated recommendation. All reasons for refusal and conditions to be attached to permissions must be clear and unambiguous.
- 7.0 The Decision-Making Process and Decisions Contrary to Staff Recommendations and/or The Development Plan

- 7.01 In discussing, and determining a planning application or other planning matter, Councillors should confine themselves to the planning merits of the case. The reasons for making a final decision should be clear, convincing and supported by material considerations and the planning merits. If Councillors wish to refuse or approve an application against staff advice, impose additional conditions to a permission, or refer the matter to another committee, staff should explain the implications of such action. The Councillor's reasons for refusal or the additional conditions to be applied, whether for approval or for referral to another committee, must be clearly stated at the time the propositions are made and votes taken at the meeting.
- 7.02 If a resolution is passed which is contrary to a recommendation of the Executive Head of Planning and Economy (whether or approval or refusal) a detailed minute of the Committee's reasons will be made, and a copy placed on the application file.
- 7.03 If the report of the Executive Head of Planning and Economy recommends approval of a departure from the Development Plan, the full justification for this recommended departure should be included in the report. The views of the Strategic Planning Manager should be included in the report.
- 7.04 Councillors with a pecuniary interest or significant non-pecuniary interest in a planning matter or application, should not participate in the decision-making process unless they are covered by one of the exemptions contained in the National Code of Local Government Conduct. Those Councillors who have indicated before the meeting that they had formed 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 amount to maladministration as well as giving rise to legal challenges.

## 8.0 Site Visits by Councillors

- 8.01 The purpose of a site visit is for Councillors to gain knowledge of the development proposal, the application site and its relationship to adjacent sites. A decision by the Area Committee to carry out a site inspection should only take place where objective decisions cannot be taken without viewing the site and adjoining properties. Examples of when site visits might be appropriate include:-
- The proposal represents a significant departure from the Development Plan;
  - The proposal raises wider policy issues;
  - There is considerable local concern about a proposal and there are sufficient planning reasons for carrying out a visit.

- 8.02 All site visits by Councillors should be conducted in compliance with the separate procedure note dealing with such visits.

## 9.0 Quality Audit

- 9.01 Arrangements will be made for Councillors to visit a sample of implemented planning permissions annually, so that a regular review of the quality of planning decisions can be undertaken.
- 9.02 The outcome of this review will be considered by the Joint Area Committee and may lead to identification of possible amendments to existing policies or practice.

## 10.0 Complaints and Record Keeping

- 10.01 In order that planning procedures are undertaken properly and that any complaints can be fully investigated, record keeping will be complete and accurate. Every planning application file should contain an accurate account of events throughout its life, particularly the outcomes of meetings, significant telephone conversations and any declarations of interest by Councillors.
- 10.02 The same principles of good record keeping will be observed in relation to all enforcement and Development plan matters. Monitoring of record keeping will be undertaken regularly by the appropriate managers in Executive Head of Planning and Economy.
- 10.03 The Council has already adopted a complaints procedure and complaints of non-compliance with this Code could be subject to that procedure and, in the case of Councillors could involve consideration by the Administration Committee.

## **Part 6**

# Councillors' Allowances Scheme

# Councillors' Allowances Scheme

Eastleigh Borough Council in exercise of the powers conferred by the Local Authorities (Members Allowance) (England) Regulations 2003 and the Local Government Act 2000: New Constitutions - Allowances for Councillors of Local Authorities, has made a scheme for the payment of Councillors' Allowances.

The Council is aware that the Local Government Act 2000 and the Local Authorities (Members Allowances) (England) Regulations 2003 require local authorities to review their Councillor's Allowances Scheme and to appoint Independent Review Panels to consider and make recommendations on new/revised schemes.

For a copy of the current scheme please contact the Head of Finance.

## 1.01 Basic Allowance

- a. The Basic Allowance, which is payable to all Councillors, recognises the time devoted to their constituency, Area Committee and Scrutiny Panel work. The allowance also covers representing the Council on outside bodies. The Independent Panel designed this allowance to take account of the Public Service ethos which motivates Councillors and the allowance therefore includes a public service discount of one third.
- b. The annual Basic Allowance for each Councillor is agreed by Full Council and adjusted as necessary. For the current figure please contact the Head of Finance.
- c. The Basic Allowance takes into account Councillors using their own IT equipment at home (where they decide not to use equipment offered by the Council), the cost of telephone calls, and other incidental costs of carrying out their duties as a Councillor.

## 2.0 Special Responsibility Allowances

- a. Certain roles in the political management of the Council require work over and beyond that which could reasonably be considered covered by the Basic Allowance. These roles attract what is termed a Special Responsibility Allowance. The Council will pay the Annual Special Responsibility Allowances for the following roles:

Leader of the Council\*

Deputy Leader\*

Cabinet Members

Minority Group Leaders

Local Area Committee Chair

Local Area Committee Vice Chair

Audit and Resources Chair

Audit and Resources Vice Chair

Scrutiny Panel Chair

Scrutiny Panel Vice Chair

Administration Committee Chair

Co-opted Members

\*Payments to the Leader and Deputy Leader include the Cabinet Member's Allowance.

For amounts available for each of these roles please contact the Head of Finance.

No Special Responsibility Allowance is payable to the Chair or Vice-Chair of the Licensing Committee, or the Vice-Chair of the Administration Committee.

### 3.0 Second Responsibility Allowances

A Councillor holding more than one position of special responsibility will receive the relevant number of Special Responsibility Allowances for which they are entitled.

### 4.0 Discretionary Responsibility Allowances

In the event of short-term work increases/exceptional circumstances in the future, a discretionary day-session rate (as per the guidance offered by the Local Government Association, LG alert, 50/06) or ex-gratia payment can be made to those directly involved or affected, and be awarded as follows:

**Chair** – paid at the Administration Committee Chair rate, pro-rata for work done

**Other Member** – paid at the Scrutiny Panel Vice-Chair rate, pro-rata for work done

The total sum for this to be limited to a maximum of £5,000 in a year.

### 5.0 Councillor Training and Development

The 2017 Independent Review Panel considered that certain training courses (specifically those on development control; finance; and standards/code of conduct/ethical framework) should be mandatory for all Councillors. The Council agrees that training in these areas is important and all Councillors are encouraged to attend such training.

### 6.0 Travel and Subsistence

a. The scheme also provides payments to Councillors for travelling and subsistence while on Council business. The key elements of the Councillor Travel and Subsistence scheme are:

- the scheme allows for the claiming of travel and subsistence allowances in relation to approved duties as reviewed by the Council from time to time.
- Councillors should not be penalised merely because of their place of residence in the Borough.
- travel is paid for attending Council meetings and outside bodies, or in fulfilling Council duties flowing from Special Responsibility work.
- claims for travel can be made from where travel begins, but any costs that would have been incurred in getting to their place of residence must be deducted.
- future increases to be linked to those of essential user staff rates.

b. The current rates of travel and subsistence can be obtained from the Head of Finance.

### 7.0 Dependent Carers' Allowance

A Dependent Carers' Allowance is payable to Councillors with caring responsibilities, where expenditure is incurred whilst they undertake their role as a Councillor and attending relevant meetings. Payments are made based on actual reasonable cost of care.

## 8.0 IT Equipment

The Council seeks to conduct its business efficiently and with minimal wastage. As such, it will provide a Councillor, upon election, with: an electronic device and will provide related sundries on request. When they cease to be a Councillor (e.g. does not stand for re-election or is not re-elected), the equipment must be returned to the Council in good working order within 14 days of them ceasing to be a Councillor. Councillors who do not wish to avail themselves of this provision are reminded of the proviso in 2(c) above (Internet Email and Social Media Acceptable Usage Policy)

## **Part 7**

# Executive Structure

# Structure chart

