



TEST VALLEY BOROUGH COUNCIL

CONSTITUTION

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Part 1

Summary and Explanation

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The Council's Constitution

The Borough Council of Test Valley ("the 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 legislation, while others are a matter for the Council to choose.

What's in the Constitution?

Part 2 of the Constitution contains 15 Articles which set out the basic rules governing the Council's business. Article 1 commits the Council to exercise its powers and duties in accordance with the law and the Constitution, as well as providing community leadership, the involvement of its citizens, transparent and accountable decision making, and the efficient delivery of its services to the community.

Articles 2 – 15 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Full Council (Article 4)
- Chairing the Council (Article 5)
- The Cabinet (Article 6)
- Overview and Scrutiny Committee (Article 7)
- Regulatory and other Committees (Article 8)
- Area Committees and Forums (Article 9)
- Joint Arrangements (Article 10)
- Officers (Article 11)
- Decision Making (Article 12)
- Finance, Contracts and Legal Matters (Article 13)
- Review and revision of the Constitution (Article 14)
- Suspension, interpretation and publication of the Constitution (Article 15)

Part 3 outlines which meetings or officers are responsible for the Council's functions.

Parts 4 and 5 provide more detailed procedures and codes of practice.

Part 6 details the Members' Allowances Scheme.

Within this Constitution, references to the masculine includes the feminine and vice versa.

How the Council operates

The Council operates a Leader and Executive model, which forms its Executive Arrangements. The Council is comprised of 43 Councillors, also referred to as Members, elected every four years. Councillors are democratically accountable to the residents of their wards. 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. The General Purposes Committee oversees training and advises them on the Code of Conduct, as required by the Localism Act 2011.

All Councillors meet together as the full Council. Members of the public are normally welcome to attend meetings of the Council. Here Councillors decide the Council's overall policies and set the budget each year.

The Council will elect

- a Mayor and Deputy Mayor annually;
- the Leader of the Council (herein referred to as the Leader) at the beginning of each term;

and will appoint, usually at its Annual Meeting,

- the Overview and Scrutiny Committee;
- the Development Control Committees;
- the Licensing Committee;
- the General Purposes Committee; and
- such other Committees and adhoc panels as considered necessary.

The following parts of this Constitution constitute the Executive Arrangements:

1. Article 6 (The Cabinet) and the Cabinet Procedure Rules, Part 4;
2. Article 7 (Overview and Scrutiny Committee) and the Overview and Scrutiny Procedure Rules, Part 4;
3. Article 9 (Area Committees and Forums)
4. Article 10 (Joint arrangements)
5. Article 12 (Decision making) and the Access to Information Procedure Rules, Part 4;
6. Part 3 (Responsibility for Functions).

How decisions are made

The Cabinet is the part of the Council which is responsible for most day-to-day decisions. The Cabinet is made up of the Leader, together with between 2 and 9 other Councillors, who are all appointed by the Leader. When major decisions are to be discussed or made, these are published in the Cabinet's Work Programme in so far as they can be anticipated.

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 full Council to decide. Meetings of the Council's Committees and the Cabinet are open to the public except where exempt or confidential matters are being discussed.

Overview and Scrutiny

The Overview and Scrutiny Committee supports the work of the Cabinet and the Council as a whole. It allows citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget, and service delivery.

The Overview and Scrutiny Committee also monitors the decisions of the Cabinet. In addition, subject to the call-in procedure, Councillors can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables the Overview and Scrutiny Committee to consider whether the decision is appropriate. It may recommend that the Cabinet reconsiders the decision. It may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

The Council's Staff

The Council has people working for it (called officers) to give advice, implement decisions, and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and Members of the Council.

Citizens' Rights

Citizens 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.

Citizens have the right to:

- (a) vote at local elections if they are registered;
- (b) contact their local Councillor about any matters of concern to them;
- (c) obtain a copy of the Constitution;
- (d) attend meetings of the Council, its Committees and the Cabinet except where exempt or confidential matters are being discussed, and to participate at such meetings so far as allowed by the Council's Public Participation Scheme in Part 4;
- (e) petition to request a referendum on a mayoral form of Cabinet;
- (f) find out what decisions are to be considered by the Cabinet, and when; and
- (g) complain to the Council about any matter relating to the Council's activities where they feel aggrieved.

The Council welcomes participation by its citizens in its work.

Part 2

Articles of the Constitution

[Article 1 The Constitution](#)

[Article 2 Members of the Council](#)

[Article 3 Citizens and the Council](#)

[Article 4 The Full Council](#)

[Article 5 Chairing the Council](#)

[Article 6 The Cabinet](#)

[Article 7 Overview and Scrutiny Committee](#)

[Article 8 Regulatory and other Committees](#)

[Article 9 Area Committees and Forums](#)

[Article 10 Joint Arrangements](#)

[Article 11 Officers](#)

[Article 12 Decision Making](#)

[Article 13 Finance, Contracts and Legal Matters](#)

[Article 14 Review and Revision of the Constitution](#)

[Article 15 Suspension, Interpretation and Publication of the Constitution](#)

Article 1 – The Constitution

1.1 Powers of the Council

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

1.2 The Constitution

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

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- (b) support the active involvement of citizens 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.

1.4 Interpretation and Review of the Constitution

The Council will monitor and evaluate the operation of the Constitution in accordance with Article 14.

Article 2 – Members of the Council

2.1 Composition and eligibility

- (a) **Composition.** The Council will comprise 43 Councillors, otherwise called Members. One or more Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State.
- (b) **Eligibility.** Subject to the rules on disqualification and having attained the age of 18, registered voters of the Borough will be eligible to hold the office of Councillor, provided that he/she has lived or had their principal place of work in the borough for 12 months before standing; or have been an owner or tenant of any land or premises in the Borough for at least 12 months before standing.

2.2 Election and terms of Councillors

The regular election of Councillors will be held on the first Thursday in May every four years beginning in 2003. A Councillor's term of office will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.3 Roles and functions of all Councillors

(a) **Key roles.** All Councillors will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision-making;
- (iii) effectively represent the interests of their ward and of individual constituents;
- (iv) respond to constituents' enquiries and representations, fairly and impartially;
- (v) participate in the governance and management of the Council; and
- (vi) maintain the highest standards of conduct and ethics.

(b) **Rights and duties**

- (i) Councillors will have 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 which is exempt, other than with the consent of the Council; nor
 - divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4.

2.4 Conduct

Councillors will at all times observe the Members' Code of Conduct and the Protocol for Member and Officer Relations set out in Part 5.

2.5 Allowances

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

Article 3 – Citizens and the Council

3.1 Citizens' rights

Citizens have the following rights.

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote, and to sign petitions in accordance with the Council's Petition Scheme, as set out in Part 4.
- (b) **Information.** Citizens' rights to information are explained in more detail in the Access to Information Rules in Part 4. Citizens have the right to:
 - (i) attend meetings of the Council, its Committees and the Cabinet except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) find out from the Work Programme 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 and the Cabinet; and
 - (iv) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate at meetings of the Council, Committees and the Cabinet so far as the Council's Public Participation Scheme in Part 4 allows.
- (d) **Complaints.** Citizens have the right to complain to:
 - (i) the Council itself under its Complaints Procedure Rules (see Part 4);
 - (ii) the Local Government Ombudsman after using the Council's own Complaints Procedure; and
 - (iii) the Monitoring Officer about a breach of the Member's Code of Conduct (this includes complaints about parish and town councillors).

3.2 Citizens' responsibilities

Citizens have many responsibilities when interacting with the Council. These include, but are not limited to, behaving according to the law; not being violent, abusing or threatening to Councillors or officers; and not wilfully harming property of the Council, its Councillors or officers.

Article 4 – The Full Council

4.1 Meanings

(a) Policy Framework

The policy framework means the following plans and strategies, as required by law to be adopted by the Council:

- (i) those required by Schedule 3 of the Local Authorities (Functions and Responsibilities) England Regulations 2000 (as amended), namely:
 - Community Safety Partnership Strategic Assessment;
 - Plans and strategies which together comprise the Local Development Plan;
 - Licensing Authority Policy Statements under the Licensing Act 2003 and Gambling Act 2005.
- (ii) Treasury Management Policy Statement;
- (iii) Capital Programme and Capital Strategy;
- (iv) Housing Strategy; and
- (v) Any regulations proposed under section 32 of the Local Government Act 2000 to be adopted by the Council.

Furthermore, the Council has chosen to adopt the following as part of the Policy Framework:

- (i) Medium Term Financial Strategy; and
- (ii) Corporate Plan.
- (b) **Budget**

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

(c) **Housing Land Transfer**

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Secretary of State for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985.

(d) **Resolving Disputes between the Council and the Cabinet**

The mechanism for resolving disputes between the Council and Cabinet shall be as stated in the Budget and Policy Framework Procedure Rules in Part 4 and shall comply with the requirements of Schedule 2 Part II of the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).

4.2 **Functions of the Council**

Subject to the provisions of this Constitution, only the Council will exercise the following functions:

- (a) electing the Mayor and Deputy Mayor;
- (b) adopting and changing the Constitution;
- (c) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;

- (d) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4, making decisions about any matter where the decision maker is proposing to take a decision which would be contrary to the Policy Framework or contrary to, or not wholly in accordance with, the budget;
- (e) appointing or removing the Leader;
- (f) agreeing and/or amending the powers and duties for Committees, deciding on their composition and making appointments to them;
- (g) entering into joint arrangements in respect of joint Committees or agency arrangements with other authorities involved in Council functions in so far as these have not been delegated;
- (h) to take all decisions in respect of delegating Council functions to another local authority;
- (i) appointing representatives to outside bodies unless the appointment is an executive function or it has been delegated by the Council;
- (j) adopting a scheme for Members' allowances;
- (k) changing the name of the area, conferring the title of Honorary Alderman or Freeman or granting the Freedom of the Borough;
- (l) designating the Monitoring Officer and Chief Finance Officer, and the designation of "proper officers"
- (m) making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal bills;
- (n) all local choice functions set out in Part 3 which the Council decides should be undertaken by itself rather than the Cabinet; and
- (o) all other matters which, by law, must be reserved to Council.

4.3 Meetings of the Council

Meetings of the Council will be conducted in accordance with the Council Procedure Rules set out in Part 4 and these meetings fall into the following categories:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

4.4 Responsibility for Local Choice Functions

The Council will maintain the table in Part 3 setting out the responsibilities for the Council's Local Choice functions.

Article 5 – Chairing the Council

5.1 Role and function of the Mayor

As the First Citizen of the Borough of Test Valley, the Mayor, or in his/her absence the Deputy Mayor, has the following roles and responsibilities:

- (a) to uphold the Constitution, and to take advice on the interpretation of the Constitution when necessary;

- (b) to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Members and the interests of the community;
- (c) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Cabinet are able to hold the Cabinet and other Committees to account;
- (d) to encourage public involvement in the Council's activities; and
- (e) to attend such civic and ceremonial functions as the Council or he/she determines appropriate.

Article 6 – The Cabinet

6.1 Role

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

6.2 Form and composition

The Cabinet will consist of the Leader, together with between 2 and 9 Councillors appointed to the Cabinet by the Leader.

6.3 Leader

The Leader will be a Councillor elected to the position by the Council. The Leader will hold office until his/her successor is appointed unless:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a Councillor; or
- (d) the expiry date of his/her fixed term of office as Leader, which is the date of the post-election annual meeting which follows his/her election as Leader (e.g. for a Leader elected at the Annual Council in May 2019, the period of election will continue to the Annual Meeting in May 2023); or
- (e) he/she is removed from office by resolution of the Council following a motion of no confidence. Such a motion will not be considered unless supported in writing by at least one quarter of the Members of the Council. (Note: Such a motion may arise in the event of a change in political control of the Council.)

In the event of the Leader being removed from office by resolution of the Council, the new Leader may be appointed at the same or a subsequent meeting for the remainder of the term of the Council.

6.4 Other Cabinet members

The Leader will appoint the other members of the Cabinet, including the appointment of a Deputy Leader.

The members of the Cabinet including the Deputy Leader will hold office until the end of the Leader's term of office, unless:

- (a) he/she resigns from office; or
- (b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a Councillor; or
- (d) he/she is removed from office by the Leader.

The Leader must appoint another Deputy Leader, where a vacancy occurs.

If for any reason the Leader is unable to act, or the office of Leader becomes vacant and pending the election of a new Leader, the Deputy Leader shall discharge all roles and functions of the Leader.

If, for any reason, both the Leader and Deputy Leader are unable to act or both offices become vacant, the Cabinet shall act in the Leader's place or arrange for another member of the Cabinet to act in his/her place.

6.5 Meetings of the Cabinet

Meetings of the Cabinet will take place in accordance with the Cabinet Procedure Rules set out in Part 4.

6.6 Responsibility for functions

The Cabinet collectively will be responsible for the carrying out of its functions.

Notwithstanding this, the Leader may take decisions him/herself or may appoint members of the Cabinet as "Portfolio Holders" to lead on certain subjects as set out in Part 3.

The Proper Officer, on behalf of the Leader, will maintain a list in Part 3 (Functions retained by the Leader and Delegations to the Deputy Leader and Portfolio Holders) setting out the allocation of responsibility for the exercise of particular executive functions to individual members of the Cabinet, Committees of the Cabinet, officers or joint arrangements (in accordance with Section 15(2) of the Local Government Act 2000).

6.7 Scrap Metal Dealers Hearing Sub-Committee

The Cabinet has established a Scrap Metal Dealers Hearing Sub-Committee which will consist of three members drawn by the Head of Legal and Democratic Services from the membership of the Cabinet.

Article 7 – Overview and Scrutiny Committee

7.1 Role

Within their terms of reference, the Overview and Scrutiny Committee will:

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to the Council and/or the Cabinet and/or any policy, joint or area Committee in connection with the discharge of any functions;

- (c) consider any matter affecting the area or its inhabitants; and
- (d) consider "called-in" decisions made but not yet implemented, subject to the call-in process as set out in the Overview and Scrutiny Procedure Rules in Part 4.

7.2 Form and composition

The Council will appoint an Overview and Scrutiny Committee to discharge the functions conferred by Section 21 of the Local Government Act 2000 or regulations under Section 32 of the Local Government Act 2000. The size and composition of the Committee will be determined by Council from time to time as it sees fit.

7.3 Meetings of Overview and Scrutiny Committee

Meetings of the Overview and Scrutiny Committee will take place in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4.

7.4 Specific functions

- (a) **Policy development and review.** The Overview and Scrutiny Committee may:
 - (i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
 - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
 - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - (iv) question members of the Cabinet or Committees, the Chief Executive, Deputy Chief Executive and/or Heads of Service about their views on issues and proposals affecting the area; and
 - (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (b) **Scrutiny.** The Overview and Scrutiny Committee may:
 - (i) review and scrutinise the decisions made by and performance of the Council, Cabinet, Committees and/or officers both in relation to individual decisions and over time;
 - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - (iii) question members of the Cabinet or Committees, the Chief Executive, Deputy Chief Executive and/or Heads of Service about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
 - (iv) make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;

- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).
- (c) **Finance.** The Overview and Scrutiny Committee may exercise overall responsibility for the finances made available to them.
- (d) **Annual report.** The Overview and Scrutiny Committee must report annually to the Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

Article 8 – Regulatory and other Committees

8.1 Regulatory and other Committees

The Council will appoint the following Committees and Sub-Committees to discharge the functions as set out in Responsibility for Council Functions in Part 3.

8.2 Northern and Southern Area Planning Committees

The Council will appoint two Development Control Committees which will be responsible for dealing with planning applications and other functions.

8.3 Licensing Committee and Licensing Sub-Committee

The Council will appoint a Licensing Committee which will be responsible for the Council's licensing function.

8.4 General Purposes Committee and its Sub-Committees

The Council will appoint a General Purposes Committee which will be responsible for promoting and maintaining high standards of conduct by Members, as well as considering Human Resources issues including changes to terms and conditions of employment.

8.5 Other Committees and Sub-Committees

- a) The Council will appoint such other Committees as it considers appropriate to exercise any of its functions.
- b) Any Committee appointed by the Council may at any time appoint additional Sub-Committees and panels throughout the year.

Article 9 – Area Committees and Forums

9.1 Area Committees

The Council may appoint area committees and forums as it sees fit, if it is satisfied that to do so will ensure improved service delivery and more efficient, transparent and accountable decision making.

The Council will consult with relevant parish and town councils and the chairmen of relevant parish meetings when considering whether and how to establish area committees or forums.

Article 10 – Joint Arrangements

10.1 Arrangements to promote well being

The Council, 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.

10.2 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or 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 executive 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 members 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) If, 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) If, the joint Committee is between a County Council and the 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 can be found in Responsibility for Council Functions in Part 3 of this Constitution.

10.3 Access to information

- (a) If all the members of a joint Committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.

- (b) If the joint Committee contains members who are not on the Cabinet/Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.
- (c) The Council's Access to Information Rules in Part 4 apply to any joint Committee.

10.4 Delegation to and from other local authorities

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

10.5 Contracting out

The Council (for functions which are not executive functions) and the Cabinet (for executive functions) may contract out to another body or organisation functions which may be exercised by an officer and which:

- (a) are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994; or
- (b) 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 11 – Officers

11.1 Management structure

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Executive, Deputy Chief Executive and Heads of Service.** The Council will engage persons for the following posts.

POST	FUNCTIONS & AREAS OF RESPONSIBILITIES
Chief Executive	<p>The Chief Executive is the Head of Paid Service, head of the Council's management team, principal advisor and general manager for the local authority whose principal accountabilities include:</p> <ul style="list-style-type: none"> 1) Overall responsibility for the development, co-ordination and implementation of the Council's corporate strategies, policies and programmes and for the management of its resources 2) Leadership and direction of the officers of the Council

	<ol style="list-style-type: none"> 3) Overall responsibility for managing the officer/Member interface 4) Support and advice to all Members of the Council in their executive, scrutiny and democratic functions 5) Officer leadership in the modernisation of Test Valley Borough Council and the process of corporate and community planning 6) Officer leadership in implementing the Council's Performance Management Framework, in accordance with the Council's "duty of best value" 7) Overall responsibility for the provision of cost effective, high quality and competitive services 8) Overall responsibility for the Council's Human Resources function including pay, benefits and conditions of service 9) Ambassador for the Council; responsible for developing and fostering external relations as part of the Council's role in community leadership; and taking the lead in ensuring good civic, public and media relations 10) Officer leadership in the creation and maintenance of partnerships in the community 11) Electoral Registration Officer and Returning Officer
Deputy Chief Executive	<p>Works with the Chief Executive to deliver the following key objectives:</p> <ol style="list-style-type: none"> 1) Develop strategy for Council consideration 2) Turn strategy into performance plans 3) Integrate diverse services 4) Lead through vision 5) Oversee delivery of all services and business plans within budget 6) Interface with other Chief Executive and Heads of Service to ensure Council-wide best value and consistency
Head of Community and Leisure Services	<ol style="list-style-type: none"> 1) Strategic public open space management 2) Nature reserves 3) Leisure centres and swimming pools 4) Arts 5) Leisure marketing and promotions 6) Wildlife conservation

	<ul style="list-style-type: none"> 7) Community Engagement and Member Support 8) Wellbeing and Social Inclusion 9) Community Safety, CCTV and Safeguarding 10) Partners in ensuring the delivery of the national Supporting Troubled Families Programme at local level and holders of the Partnership funding relating to this programme 11) Grants Administration and Authorisation
Head of Environmental Services	<ul style="list-style-type: none"> 1) Waste and Recycling Collection 2) Street Cleaning 3) Grounds Maintenance 4) Vehicle and Plant Maintenance 5) Vehicle and Plant Procurement 6) Environmental Enforcement 7) Playground Inspections 8) Burials and Cemetery Maintenance
Head of Finance and Revenues	<ul style="list-style-type: none"> 1) Accounting service and systems 2) Financial advice and budgetary control 3) Internal audit 4) Corporate Governance 5) Risk Management 6) Insurance 7) Banking and Treasury Management 8) VAT 9) Mortgages 10) Payment of Invoices 11) Receipt of Income 12) Procurement

<p>Head of Housing and Environmental Health</p>	<ol style="list-style-type: none"> 1) Investigating new housing initiatives to meet identified needs 2) Ensuring new affordable homes are provided in partnership with Housing Associations 3) Administering the Test Valley Joint Housing Register 4) Dealing with Homelessness 5) Housing Advice and information 6) Home Renovation Grants 7) Disabled Facilities Grants 8) Private housing conditions 9) Home Energy Efficiency 10) Dog Control and Animal Welfare 11) Licenses and registrations, e.g. pet shops, animal boarding, breeding and riding establishments 12) Contaminated land control 13) Control of atmospheric pollution 14) Abatement of noise and nuisance 15) Control of food hygiene and safety and purity of water supplies 16) Investigation of infectious diseases and food borne disease 17) Pest Control 18) Health, Safety and Welfare of people at work 19) Control of caravan and camping sites 20) Street Trading
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<p>Head of Information Technology</p>	<ol style="list-style-type: none"> 1) Data processing/data storage 2) Network Infrastructure maintenance and support 3) Voice/telephony services 4) IT Service Desk (help desk) 5) IT advice and training 6) Line Of Business (LOB) systems IT support 7) Corporate application development and support 8) GIS (Graphical Interface Systems) and Address Management 9) Information Management 10) IT security and architecture 11) IT system and services procurement and management 12) IT shared service delivery
<p>Head of Legal and Democratic Services</p>	<ol style="list-style-type: none"> 1) Servicing meetings of the Council and its Committees 2) Member Support and Development 3) Assisting the Mayor 4) Registration of Local Land Charges 5) Freedom of Information 6) Data Protection 7) Publicise the Constitution as required by Article 15.3 8) Licensing Act 2003 (Alcohol, Entertainment and Late Night Refreshment Licensing) 9) Gambling Act 2005 (Premises, Gaming Machines and Lotteries Licensing) 10) Charity Street and House to House Collections 11) Sex Establishments 12) Tables and Chairs on the Highway

	<ul style="list-style-type: none"> 13) Scrap Metal Dealers 14) Hackney Carriage and Private Hire Drivers, Vehicles and Operators 15) Electoral Registration and Elections 16) Emergency Planning (under the direction of the Chief Executive) 17) Advice to the Council on all legal matters affecting the Council 18) Litigation, criminal and civil 19) Contracts 20) Conveyancing including commercial work
Head of Planning and Building Services	<ul style="list-style-type: none"> 1) Processing planning applications 2) Enforcement of planning control 3) Defending appeals against planning decisions 4) Building Regulations 5) Dangerous Structures 6) Tree Preservation Orders 7) Building Preservation Orders 8) Land Drainage Act 9) Providing specialist advice on historic buildings; landscaping and trees 10) Input into conservation area statements
Head of Planning Policy and Economic Development Service	<ul style="list-style-type: none"> 1) Preparation and review of the land use plan for the Borough 2) Input into village plans and town schemes 3) Preparation of development briefs for sites within the Borough 4) Local Agenda 21 5) Economic Development and the Promotion of Test Valley

Head of Property and Asset Management Service	<ol style="list-style-type: none"> 1) Landlord and Tenant work 2) Valuations 3) Development 4) Andover Market 5) Tourism 6) Public conveniences 7) Maintenance of Council Buildings 8) Venue management 9) Facilities management 10) The management of Joint ventures partnership with Kier Property 11) Design of roads and sewers on housing estates 12) Engineering design work 13) Car Parking 14) Street naming and numbering
Head of Revenues and Finance	<ol style="list-style-type: none"> 1) Housing and Council Tax Benefits administration 2) Billing and Collection of Local Taxation, i.e. Council Tax, and Non-Domestic Rates 3) Customer Service Unit 4) Corporate printing 5) Corporate post opening and distribution 6) Council Tax Support administration 7) Award Discretionary Housing Payments 8) Project Enterprise

- (c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer.**
The Council will designate the following statutory posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Head of Legal & Democratic Services	Monitoring Officer
Head of Finance and Revenues	Chief Finance Officer (S151 Officer)

Such posts will have the functions described in Article 11.2–11.4 below.

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

11.2 Functions of the Head of Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **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.

11.3 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution, in accordance with Article 15.
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council, or to the Cabinet in relation to an executive function, if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the General Purposes Employment Appeals & Ethics Sub-Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the General Purposes Employment Appeals & Ethics Sub-Committee.
- (d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- (e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters of complaint and, as directed by the General Purposes Employment Appeals & Ethics Sub-Committee, make reports or recommendations in respect of them to the Sub-Committee.
- (f) **Advising whether executive 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 to all Members.
- (h) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

- (i) **Members' Interests.** The Monitoring Officer will establish, maintain and publicise a Register of Interests of the Members and co-opted Members of the authority as required by Section 29 of the Localism Act 2011. To this end Members will be reminded annually of their duty to update the Registers of Interests.

11.4 Functions of the Chief Finance Officer

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

11.5 Functions of the Head of Legal and Democratic Services

The Head of Legal and Democratic Services, as the Proper Officer, will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.

11.6 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

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

11.7 Conduct

Officers will comply with the Officers' Code of Conduct, the Protocol for Member and Officer Relations, the Member and Officer Interests Protocol, and the Local Code for Members and Officers dealing with Planning Matters as set out in Part 5.

11.8 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 4.

Article 12 – Decision Making

12.1 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3.

12.2 Principles of decision making

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

- (a) due consultation and having regard to professional advice from officers;
- (b) respect for human rights;
- (c) a presumption in favour of openness; and
- (d) clarity of aims and desired outcomes.

And in the case of Cabinet decisions:

- (e) the need to record the reasons for a decision and what other options were considered as required by Regulation 3 of the *Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012*.

12.3 Types of decision

- (a) Decisions reserved to Council. Decisions relating to the functions listed in Article 4.2 will be made by the Council and not delegated.
- (b) Key decisions.
 - (i) A key decision, in accordance with Regulation 8 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, is defined by the Council as being an executive decision which is likely:
 - (a) *to result in the Authority incurring expenditure, or making savings, outside of the Council's budget, or included in the annual budget with reservations, in excess of £75,000 per item; or*
 - (b) *to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority."*
 - (ii) The decision maker will have regard to any advice which may be issued by the Secretary of State under Section 38 of the Local Government Act 2000.
 - (iii) A decision maker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4.

12.4 Decision making by the Council, its Committees and Sub-Committees

Subject to Article 12.7, meetings of the Council, its Committees and Sub-Committees will follow the Council Procedure Rules set out in Part 4 when considering any matter.

12.5 Decision making by the Cabinet and its Sub-Committees

Subject to Article 12.7, the Cabinet will follow the Cabinet Procedure Rules set out in Part 4 when considering any matter.

12.6 Decision making by the Overview and Scrutiny Committee

The Overview and Scrutiny Committee will follow the Overview and Scrutiny Procedure Rules set out in Part 4 when considering any matter.

12.7 Decision making by Council bodies acting as tribunals

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

Article 13 – Finance, Contracts and Legal Matters

13.1 Financial management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 4.

13.2 Contracts

Every contract made by the Council will comply with the Contract Standing Orders set out in Part 4.

13.3 Legal proceedings

The Head of Legal and Democratic Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where he/she considers that such action is necessary to protect the Council's interests.

13.4 Authentication of documents

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

13.5 Common Seal of the Council

The common seal of the Council will be kept in a safe place in the custody of the Head of Legal and Democratic Services, and shall be affixed to a document only on the authority of:

- (a) a resolution of the Council or Cabinet;
- (b) a resolution of a Committee or Sub-Committee which the Council has empowered to authorise the use of the seal; or
- (c) a decision by the Council, or by a Committee, Sub-Committee or officer exercising delegated functions, to do anything where a document under the common seal is necessary or desirable as part of the action.

The affixing of the seal shall be attested by the signature of either the Chief Executive, the Deputy Chief Executive, the Head of Legal and Democratic Services, the Legal Services Manager (Corporate) or the Legal Services Manager (Planning), and such signature shall be a full and sufficient certificate that the document has been duly and validly sealed in compliance with all Standing Orders of the Council in that behalf.

An entry of the sealing of every document to which the seal has been affixed shall be made and consecutively numbered in a book provided for that purpose by the Head of Legal and Democratic Services, and shall be signed by the person who attested the seal.

Article 14 – Review and Revision of the Constitution

14.1 Duty to monitor and review the constitution

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

14.2 Changes to the Constitution

- (a) **Approval.** Changes to the Constitution will be approved by the Full Council.
- (b) **Changes from Leader and Cabinet form of Executive.** If there are proposals to change the executive arrangements, the Council will take reasonable steps to consult local electors and other interested persons when drawing up proposals.

14.3 Exception of the requirement

The following changes to the Constitution may be effected by the Monitoring Officer, subject to reporting the change to full Council (after reporting the change to the next appropriate meeting of a Committee where the changes relate to that Committee's powers and duties):

- (a) Changes to the delegated functions to Chief Officers (as defined in the Officer Employment Procedure Rules in Part 4);
- (b) Changes required giving effect to any change in the law or directives issued under legal powers by Government;
- (c)
 - (i) Typographical or similar changes; or
 - (ii) In consultation with the Democracy and Governance Portfolio Holder, minor changes, as may be identified from time to time, such as changes to the names of Committees, Portfolios, or job titles etc.

Article 15 – Suspension, Interpretation and Publication of the Constitution

15.1 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 the Council, Cabinet or a Committee to the extent permitted within those Rules and the law.
- (b) **Procedure to suspend.** A motion to suspend any rule will not be moved without notice unless at least one half of the membership is present, and shall not be carried unless supported by two-thirds of the Members present at the meeting.
- (c) **Rules capable of suspension.** The following Rules may be suspended in accordance with Article 15.1:
 - (i) Council Procedure Rules
 - (ii) Cabinet Procedure Rules
 - (iii) Committee Procedure Rules

15.2 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.

15.3 Publication

- (a) The Head of Legal and Democratic Services will make available a copy of this Constitution to each member of the authority upon receipt of that individual's Declaration of Acceptance of Office on the member first being elected to the Council.
- (b) The Head of Legal and Democratic Services will ensure that copies are available for inspection at Council offices and other appropriate locations, and hard copies can be purchased on payment of a reasonable fee to be determined by the Council.

Part 3

Responsibility for Functions

[Responsibility for Local Choice Functions](#)

Responsibility for Local Choice Functions

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) give effect to Section 13 of the Local Government Act 2000 by specifying which functions:

- are not to be the responsibility of the Cabinet (Schedule 1)
- may (but need not) be the responsibility of the Cabinet (the 'local choice functions') (Schedule 2); and
- are to some extent the responsibility of the Cabinet (Schedule 3).

All other functions not so specified are to be the responsibility of the Cabinet. The Cabinet arrangements contained in the Constitution make clear how these distinctions are given effect.

The table below covers local choice functions. Powers and Duties of the Council's Committees and Sub-Committees and the Cabinet and its Sub-Committees are set out under Responsibility for Council Functions in this Part.

Function	Decision making body
<i>1. Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1 or dealt with by the Council or its Committees.</i>	Cabinet
<i>2. The determination of an appeal against any decision made by or on behalf of the authority.</i>	Council
<i>3. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.</i>	Cabinet
<i>4. Any function relating to contaminated land.</i>	Cabinet
<i>5. The discharge of any function relating to the control of pollution or the management of the air quality.</i>	Cabinet
<i>6. The service of an abatement notice in respect of a statutory nuisance..</i>	Cabinet
<i>7. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.</i>	Cabinet
<i>8. The inspection of the authority's area to detect any statutory nuisance.</i>	Cabinet
<i>9. The investigation of any complaint as to the existence of a statutory nuisance.</i>	Cabinet
<i>10. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.</i>	Council

11. <i>The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976..</i>	Council
12. <i>The making of agreements for the execution of highways works.</i>	Cabinet
13. <i>The appointment of an individual</i> <i>(a) to any office other than an office in which he/she is employed by the authority;</i> <i>(b) to any body other than - (i) the authority; (ii) a joint Committee of two or more authorities; or</i> <i>(c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment</i>	Council
14. <i>Functions under sections 106, 110, 111 and 113 of the Local Government and Public Involvement in Health Act 2007 relating to local area agreements.</i>	Cabinet

Part 3

Responsibility for Council Functions

[Responsibility for Council Functions](#)

[The Cabinet](#)

[Cabinet Scrap Metal Dealers Hearing Sub-Committee](#)

[Overview and Scrutiny Committee](#)

[General Purposes](#)

[General Purposes Employment Appeals and Ethics Sub-Committee](#)

[General Purposes Redundancy Appeals Sub-Committee](#)

[Audit Committee](#)

[Development Control Committees](#)

[Licensing Committee](#)

[Licensing Sub-Committee](#)

[Executive Joint Committees](#)

Responsibility for Council Functions

Unless otherwise specified, for Committee membership and Portfolio responsibilities see the Council's website.

THE CABINET

Members of the Cabinet hold the following Portfolios:

Strategic Regeneration and Partnerships (North)

Finance and Resources

Strategic Regeneration and Partnerships (South)

Housing and Environmental Health

Climate Emergency and Countryside

Planning

Community, Leisure and Tourism (including Diversity and Inclusion)

Recycling and Environmental Services

Democracy and Governance

Leader's Portfolio

Note: These Portfolios are subject to review in the light of experience and any changes will be made by the Leader in accordance with the Cabinet Procedure Rules.

Powers and Duties

Subject to the Council's Constitution and to established Council policy and to the "call-in" procedure (detailed in the Overview and Scrutiny Procedure Rules in Part 4), to exercise **ALL POWERS AND DUTIES** of the Council, **EXCEPT** those powers and duties delegated to specific Committees and those listed below:

1. All functions listed in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).
2. The Council's functions with respect to levying, or issuing a precept for, a rate only as prescribed by Section 101(6) of the Local Government Act 1972.
3. Powers and duties that are by law required to be dealt with by Council and whereby no express provision is made for those powers and duties to be delegated.
4. The Policy Framework (See Article 4.1)
5. Expenditure in excess of the Council's Capital Programme.
6. The approval of the Annual Revenue Estimates and Capital Programmes including priority to be allocated to the development of the Council's various services and the timing of new services having regard to the Council's financial and manpower resources.
7. Supplementary estimates as provided within financial regulations.
8. The establishment and maintenance of a consistent and equitable grading structure.

9. Variation of national and local conditions of employment.
10. Consideration of a report by the Head of Finance and Revenues in terms of the Financial Regulations upon the occurrence of any of the circumstances laid down in Section 114 of the Local Government Finance Act 1988.
11. The setting, before the beginning of each financial year, of borrowing limits.
12. The approval of byelaws, regulations or other rules that have the same judicial power as regulations in terms of powers of any Act or other legislation.
13. The appointment of Portfolio holders (which shall be appointed by the Leader) and the allocation of portfolios to those holders.
14. The appointment of Committees and determining their powers and duties, except for Committees of the Cabinet.
15. The appointment of Policy Panels, their role and their membership. (For the avoidance of doubt, the Overview and Scrutiny Committee and Cabinet may appoint ad hoc panels.)
16. Appointments as to the membership of the Committees of the Council.
17. Appointment of representatives of the Council on other bodies, unless the appointment is an executive function or has been delegated by the Council.
18. The Standing Orders and Financial Regulations of the Council.
19. Electoral registration, elections, warding and electoral divisions.
20. Matters which imply the probability of significant compensation becoming payable by the Borough Council.
21. Applications for credit approval.
22. Formulation of Housing Capital Programme.
23. Levels of Members' allowances.

CABINET SCRAP METAL DEALERS HEARING SUB-COMMITTEE

Membership will consist of three members drawn by the Head of Legal and Democratic Services from the membership of the Cabinet.

Powers and Duties:

Subject to the Council's Constitution to exercise the powers and duties of the Council in respect of the following matters:

1. To hear representations from the applicant for or holder of a Scrap Metal Dealers licence, where the Head of Legal and Democratic Services is minded to refuse an application for a new licence, revoke an existing licence or vary an existing licence to add one or both of the mandatory conditions.

OVERVIEW AND SCRUTINY COMMITTEE

Powers and Duties:

Subject to the Council's Constitution to exercise the powers and duties of the Council in respect of the following matters:

1. To review those decisions of the Cabinet that are the subject of the "call-in" procedure and to take such action as may be allowed by that procedure.
2. To review the policies of the Council and the Cabinet and to make appropriate recommendations; that is to say, whether new policies are required, whether existing policies should be amended or discontinued, or what action should be taken to make the policies more effective.
3. To review the discharge by the Cabinet of any of its functions against current standards and to make appropriate recommendations to ensure that the discharge of those functions meets or exceeds those standards.
4. To review any decisions or proposed decisions of the Council and, notwithstanding (1) above, of the Cabinet, and to make appropriate recommendations, including reconsideration, alternative action, or steps to ensure any recommendation is effectively and properly implemented.
5. To consider any matter referred to it by the Council or the Cabinet and to make any appropriate recommendations.
6. To consider and make appropriate recommendations in respect of the following matters:-
 - (a) Ombudsman reports;
 - (b) reports of statutory inspections;
 - (c) draft policies, plans and strategies which are recommended by the Cabinet or any other Committee for adoption by the Council; and
 - (d) the draft Budget recommended to the Council by the Cabinet;
7. To prepare an Annual Work Programme.
8. To appoint an Ad Hoc Panel to examine, with the aid of the officers, a subject matter for the purpose of enabling the officers to report thereon to the Overview and Scrutiny Committee.

GENERAL PURPOSES COMMITTEE

Powers and Duties:

Subject to the Council's Constitution to exercise the powers and duties of the Council in respect of the following matters:

1. To establish an Appointments Sub-Committee to deal with the appointment of a Chief Officer (as defined in the Officer Employment Procedure Rules in Part 4), save that full Council is required to approve the appointment of the Chief Executive. This Appointments Sub-Committee is to include a member of the Cabinet.
2. To establish a Sub-Committee to deal with the potential dismissal of a Chief Officer as defined in the Local Authorities (Standing Orders) (England) Regulations 2001 (except for the potential dismissal of the Chief Executive, Deputy Chief Executive, Chief Finance Officer or Monitoring Officer). The Sub-Committee is to include a member of the Cabinet.
3. In cases of concern relating to the potential dismissal of a Chief Executive, Deputy Chief Executive, Monitoring Officer or Chief Financial Officer, to appoint an Independent Panel in accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (or any amendment thereto), including no less than two Independent Persons (within the meaning of Section 28 (7) of the Localism Act 2011 (or any amendment there to)) and a member of the Cabinet, for the purposes of providing any views, advice or recommendations to full Council with whom the final decision lies.
4. Safety, health and welfare of all employees.
5. The approval of local negotiations relating to salaries and wages.
6. All matters of Personnel policy relating to the terms and conditions of employees.
7. To promote and maintain high standards of conduct by the Members and co-opted Members of the Council.
8. To advise the Council on the adoption or revision of a Code of Conduct, and monitoring its operation.
9. To assist Members and co-opted Members of the Council to observe the Members' Code of Conduct, including advising, training or arranging training.
10. To grant dispensation to Members from requirements relating to interests set out in the Members' Code of Conduct which are disclosable pecuniary interests.
11. To declare vacancies of office in accordance with section 87 of the Local Government Act 1972.

GENERAL PURPOSES EMPLOYMENT APPEALS & ETHICS SUB-COMMITTEE

Composition

- (a) The General Purposes Employment Appeals and Ethics Sub-Committee will be comprised of five members of the General Purposes Committee.
- (b) An Independent Person will attend meetings at the request of a Member who is its subject of a complaint or otherwise at the instruction of the Monitoring Officer. The Independent Person will not be entitled to vote at the meeting.
- (c) The Test Valley Association of Parish and Town Councils will appoint Parish Council representatives. Parish Council representation may be consulted by the Monitoring Officer or the Sub-Committee. When Parish representatives are consulted they may attend the meeting.
- (d) The meeting will be chaired by a Councillor who shall be elected by the members of the Sub-Committee.

Powers and Duties:

Subject to the Council's Constitution to exercise the powers and duties of the Council in respect of the following matters:

- 1. To assess and review complaints referred to it that Borough or Parish Councillors have failed to follow their respective Code of Conduct and to determine the appropriate course of action regarding the complaints.
- 2. To determine complaints following local investigation in respect of Borough or Parish Councillors.
- 3. To grant dispensation to Borough Councillors from requirements relating to interests set out in the Members' Code of Conduct pursuant to Section 33(2)(c) and (e) of the Localism Act 2011.
- 4. To assess, review and determine appeals relating to dismissals (save for redundancy or failure to renew fixed term contract) of all staff (except the Chief Executive, Deputy Chief Executive, Chief Finance Officer and Monitoring Officer) with a minimum of two years' service.
- 5. To assess, review and determine appeals relating to early payment of pension as a consequence of ill-health for current and former employees.

GENERAL PURPOSES REDUNDANCY APPEALS SUB-COMMITTEE

Powers and Duties:

Subject to the Council's Constitution to exercise the powers and duties of the Council in respect of the following matters:

- 1. To assess, review and determine appeals by staff against service of notice of dismissal on grounds of redundancy.

AUDIT COMMITTEE

Powers and Duties:

Subject to the Council's Constitution to exercise the powers and duties of the Council in respect of the following matters:

Audit Activity

1. To appoint the Council's external Auditors
2. To set the Council's Internal Audit Plan for each financial year, taking due consideration of understood risks and resources available.
3. To consider the Internal Audit Manager's annual report and opinion, summary of internal audit activity undertaken and the level of assurance it can give over the council's corporate governance arrangements.
4. To consider summaries of specific internal audit reports as requested.
5. To consider reports dealing with the management and performance of the providers of internal audit services.
6. To consider reports from internal audit on agreed recommendations not implemented within a reasonable timescale.
7. To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
8. To consider specific reports as agreed with the external auditor.
9. To comment on the scope and depth of external audit work and to ensure it gives value for money.
10. To commission work from internal and external audit.

Regulatory Framework

11. To review any issue referred to it by the Chief Executive, Deputy Chief Executive or any council body.
12. To monitor the effective development and operation of risk management and corporate governance in the council.
13. To monitor council policies on whistleblowing and the anti-fraud and anti-corruption strategy and the council's complaints process.
14. To oversee the production of the authority's Annual Governance Statement and to recommend its adoption.

Accounts

15. To review the annual statement of accounts, including consideration of whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the council.
16. To consider the external auditor's report on issues arising from the audit of the accounts.

DEVELOPMENT CONTROL COMMITTEES

(Northern Area and Southern Area Planning Committee)

Powers and Duties:

Subject to the Council's Constitution to exercise the powers and duties of the Council relating to the following matters:

1. Determination within policy, or very exceptionally outwith policy where the recommendation of the Head of Planning and Building Services is for permission, of all applications within their respective areas and all matters connected therewith.
2. Applications by or on behalf of Test Valley Borough Council, or any company in which the Council holds an interest.
3. For the avoidance of doubt, applications falling within more than one Committee area shall be determined by the Committee in whose area the application has the greatest impact, subject to any appropriate consultation with the other Committee.
4. The forming of views on applications submitted by Hampshire County Council or on Notices of Proposed Development submitted by any Government Department.
5. The forming of views on applications which have been submitted to the Secretary of State for Energy, including overhead electricity lines.
6. Tree Preservation Orders and all matters connected therewith.
7. Tree Felling Licences.
8. Diversions and stopping up of footpaths under the Planning Acts wholly within their respective areas of the Borough.
9. Enforcement actions.
10. Challenge and prosecution in respect of unauthorised advertisement displays.
11. The forming of views on applications for the extraction of minerals where the Head of Planning and Building Services agrees with the stated view of the County planning officer.
12. Building Preservation Notices.

13. All matters pursuant to the Anti-Social Behaviour Act 2003 Part 8 and any subordinate legislation made thereunder and any amendments thereto.
14. To authorise officers identified in the Council's Scheme of Delegation, to enter land or premises and to carry out any act included in the legislation pertaining to the above Powers and Duties.

LICENSING COMMITTEE

Powers and Duties:

Subject to the Council's Constitution, to discharge the Council's functions as set out in 1 and 2 below, and to exercise the powers and duties of the Council in respect of 3 to 9 below:

1. Licensing functions set out in the Licensing Act 2003 and any amendments thereto.
2. Licensing functions set out in the Gambling Act 2005 and any amendments thereto.
3. Licensing of Hackney Carriage Vehicles and Drivers and Private Hire Vehicles, Drivers and Operators.
4. Licensing of sex shops, sex cinemas, sexual entertainment venues and performances of hypnotism.
5. Health & Safety at Work Enforcement.
6. House-to-house and street collections licensing.
7. To hear representations from:
 - (a) applicants, in cases where the application for a Street Trading Consent has been refused by the Head of Housing and Environmental Health; or
 - (b) the holder of a Street Trading Consent which has been revoked by the Head of Housing and Environmental Health.
8. To hear representations from:
 - (a) applicants, in cases where the application for a Licence to place tables and chairs on the highway has been refused by the Head of Legal and Democratic Services or has been issued with conditions; or
 - (b) the holder of a licence to place tables and chairs on the highway which has been suspended by the Head of Legal and Democratic Services.
9. To authorise officers identified in the Council's Scheme of Delegation to Officers in Part 3 to enter land or premises and to carry out any act included in the legislation pertaining to the above Powers and Duties.

LICENSING SUB-COMMITTEE

The Licensing Sub-Committee will comprise of 3 members drawn from the Licensing Committee. Those members will be selected in strict alphabetical order, save when it transpires that a member has an interest as defined in the Members' Code of Conduct or the member is a member for or lives within the ward within which an application premises is situated. In the event of a member selected becoming unavailable to attend a hearing, then the Head of Legal and Democratic Services will select a replacement in accordance with the above arrangements. Where possible, those members will be selected on a basis of one Liberal Democrat and two other Members.

Powers and Duties

Subject to the Council's Constitution, the discharge of its functions as set out below:

1. To hold hearings pursuant to the Licensing Act 2003 and any subordinate legislation and any amendments thereto.
2. To hold hearings pursuant to the Gambling Act 2005 and any subordinate legislation and any amendments thereto.

EXECUTIVE JOINT COMMITTEES

Partnership for South Hampshire (PfSH) Joint Committee

Powers and duties

Subject to the provisions of the agreement relating to the Partnership for South Hampshire (PfSH), to exercise the Partnership's powers and duties in relation to the following matters:

1. To develop a strategic policy framework within which the Parties can each discharge their transportation, planning and economic development functions and incidental or linked functions so as to achieve the Key Objectives.
2. To recommend the Annual Business Plan and budget to each Party and to implement the Approved Annual Business Plan in accordance with the approved budget.
3. Subject to paragraph 2 above, to discharge, on behalf of the Parties their functions (as set out in the joint agreement*) where such arrangements:
 - (a) Affect two or more of the Parties, and
 - (b) Have been authorised by the Parties affected by being specifically referred to in the Approved Annual Business Plan.
4. To influence, advise and lobby government and other agencies, both nationally and internationally, where to do so is consistent with the Key Objectives.
5. To commission research into matters relevant to the Key Objectives.

6. To develop proposals for the future development of PfSH for consideration in the Draft Annual Business Plan.
7. To develop proposals on how the Parties can discharge their functions to promote or improve the economic, social and environmental wellbeing in the PfSH area to achieve the Key Objectives.
8. To carry out any such other activities calculated to facilitate, or which are conducive or incidental to the discharge of the PfSH's functions in implementing the Annual Approved Business Plan.

*The relevant functions to be carried out by the joint Committee shall be in accordance with the table set out in the PfSH joint agreement available on the PfSH website <https://www.push.gov.uk/partnership/working-arrangements/governance/>

Part 3

Delegations to Officers

[Delegations to Chief Executive, Deputy Chief Executive and Heads of Services](#)

[Delegation to Authorised Signatories, Contracting Officers and Contract Managers](#)

[Delegations to Monitoring Officer](#)

[Delegations to Chief Executive](#)

[Delegations to S151 Local Government Act 1972 Proper Officer](#)

[Delegations to Head of Community and Leisure Services](#)

[Delegations to Head of Environmental Services](#)

[Delegation to Head of Finance and Revenues](#)

[Delegations to Head of Housing and Environmental Health Services](#)

[Delegation to Head of Legal and Democratic Services](#)

[Delegation to Head of Planning and Building](#)

[Delegations to Head of Planning Policy and Economic Development](#)

[Delegations to Head of Property and Asset Management Service](#)

Delegations to Chief Executive, Deputy Chief Executive and Heads of Services

- (1) To deal with matters relating to recruitment, selection and termination of employment, pay, employment benefits, training and development and other provisions relating to employees of the Council contained from time to time in the Council's Staffing Policies and Procedures documentation.
- (2) To enter into and sign contracts with public utilities, authorities or other bodies where such contracts are regarded as routine commercial matters authenticated by the signature of an officer of the utility, authority or body provided that the contract is within the sum allowed in the Council's estimates and/or Financial Regulations.
- (3) To authorise staff to attend meetings, seminars and conferences, including those arranged by the relevant professional associations.
- (4) To authorise officers to appear in the Courts.
- (5) To terminate employment in case of ill health/capability, in consultation with the Human Resources Manager.
- (6) To dismiss staff in accordance with the Council's disciplinary procedure.
- (7) In the absence of the Chief Executive, The Deputy Chief Executive, be authorised to exercise the powers and duties of the Chief Executive.
- (8) That the appropriate Heads of Service be delegated the authority to amend charges to reflect changes in VAT rates.
- (9) That the appropriate Head of Service be delegated authority to agree the introduction of a charge for a new Council activity, in consultation with the Head of Finance and Revenues.
- (10) That in the absence of any Head of Service, those matters delegated to that Head of Service be delegated to the Chief Executive or Deputy Chief Executive.
- (11) That Heads of Service may make arrangements for any functions delegated to them to be carried out by other officers in their name.
- (12) That the Chief Executive, Deputy Chief Executive and Heads of Service be authorised, in consultation with the Head of Finance and Revenues, the Monitoring Officer and the Leader, to settle complaints against the Council up to the amount of £1000 per complaint.

- (13) In consultation with the Human Resources Manager and the Head of Finance and Revenues, to make minor changes to the establishment within the approved budget. In the event that either the Human Resources Manager or the Head of Finance and Revenues is proposing the changes within his/her Service, consultation shall be with the Chief Executive and the Human Resources Manager or the Head of Finance and Revenues, whichever is not proposing the change.
- (14) That the holders of the following posts be authorised to act as the nominated consultee and to give consent on behalf of the Council to the Police under Part 3 and Chapter 3 of the Anti-Social Behaviour, Crime and Policing Act 2014:

50359085	Chief Executive
50360579	Deputy Chief Executive
50360846	Head of Housing and Environmental Health

- (15) To respond to routine operational consultations.
- (16) In consultation with the relevant Portfolio Holder, to respond to Government consultations.
- (17) To respond to partner consultations where service provision within the Borough may be affected.
- (18) To take decisions and determine requests for review pursuant to nominations in respect of Assets of Community Value under the Localism Act 2011.

Delegation to Authorised Signatories, Contracting Officers and Contract Managers

- (1) Where it is a part of the duties of an officer to exercise the function of an Authorised Signatory, a Contracting Officer or a Contract Manager then that officer be authorised to sign contracts.

Such signatures shall be countersigned by the Head of Service or an officer to whom the functions of a Head of Service are delegated under delegation (11) of Delegations to Chief Executive, Deputy Chief Executive, and Heads of Services; and

The names of such officers authorised under the provisions of this delegation shall be notified by the Head of Service to the Head of Finance and Revenues, acting as the Council's Chief Financial Officer, together with details of the maximum value up to which individual officers are authorised to sign and a description of the type of contracts so authorised.

Delegations to Monitoring Officer

- (1) To make amendments and consequential amendments to the Council's Constitution to give effect to any Council resolution and or any statutory requirement.
- (2) To make amendments to the Constitution in accordance with the provisions of Article 14.
- (3) In the absence of the Monitoring Officer, the Legal Services Manager (Corporate) or the Legal Services Manager (Planning) be authorised to exercise the powers and duties of the Monitoring Officer as Deputy Monitoring Officer.

Delegations to Chief Executive

- (1) To inform the Council's Bank of the identity of the Council's S151 Local Government Act 1972 Proper Officer.
- (2) To do anything, in consultation with the Leader, which is calculated to facilitate, or is conducive or incidental to, the discharge of the Council's functions subject to:
 - (i) the matter being regarded as an emergency or urgent situation; and
 - (ii) a report back to the Council, Cabinet or Committee concerned.
- (3) In the event of a major incident, being an event or situation with a range of serious consequences which requires special arrangements to be implemented, to take such action as he considers appropriate to deal with the incident. In the event that the Chief Executive cannot be contacted, the Deputy Chief Executive, be authorised to take such action as they consider appropriate to deal with the incident. In the event that the Deputy Chief Executive cannot be contacted, any Head of Service be authorised to take such action as he/she considers appropriate to deal with the incident.
- (4) To implement decisions regarding pay for staff.

Delegations to S151 Local Government Act 1972 Proper Officer

- (1) To issue instructions as to who may withdraw or deal with any of the Council's property or securities.
- (2) To issue instructions and sign any agreement with regard to the purchase or sale of foreign exchange and/or securities.
- (3) To sign the mandate to the Council's Bank for the signing of cheques by authorised facsimile signatories.

- (4) To sign the mandate to the Council's Bank for the use of codes by authorised officers in providing instructions to the Bank.
- (5) To make arrangements for the carrying out in his/her name of all or any of his/her powers referred to herein by such person or persons as he/she considers appropriate.

Delegations to Head of Community and Leisure Services

- (1) Day-to-day control and management of Council leisure facilities and associated activities and events provided by the Council.
- (2) In consultation with the Community, Leisure and Tourism Portfolio Holder, to allow the free use of the Council's outdoor leisure facilities for charitable and community use in accordance with the Council's policy.
- (3) In consultation with the Community, Leisure and Tourism Portfolio Holder, to allow concessionary use of the Council's leisure facilities in accordance with the Council's policy for support to elite athletes.
- (4) To appoint consultants to undertake professional services on schemes included in approved capital or revenue estimates.
- (5) To select contractors for invitation or tender on approved schemes.
- (6) To permit or organise special events on Council land in accordance with the Council's policy.
- (7) To set fees and charges for hiring sports fields and public open space in the ownership or control of the Council.
- (8) To enter into and approve terms of partnership statements in connection with community grants.
- (9) To take all necessary steps to implement projects approved by the Cabinet or Council.
- (10) In consultation with the Community, Leisure and Tourism Portfolio Holder, to allow fees and charges for events and commercial bookings to be agreed and/or waived (as the market will bear), including Artisan markets, and community events in the High Street and Council venues.
- (11) To make arrangements for the funeral of the deceased under Section 46 of the Public Health (Control of Disease) Act 1984.
- (12) As Registrar of Burials for the Andover, Charlton, Romsey and Woodley Cemeteries, to grant applications for exhumations subject to the payment of the appropriate fee and the applicant obtaining approval from the Secretary of State for Justice or their successor.

- (13) As Registrar of Burials for the Andover, Charlton, Romsey and Woodley Cemeteries, to grant applications for the Exclusive Right of Burial to grave spaces, subject to compliance with the Council's regulations.
- (14) Day to day control and management of all cemeteries in control of Council in accordance with the Council's Regulations.
- (15) That the holders of the following posts, and any other person employed or otherwise engaged by the Service and duly authorised in writing by the Head of Community and Leisure Services from time to time, be authorised to enter land or premises and to carry out any act included in the legislation and subordinate legislation made thereunder and any amendments thereto set out in the:

Environmental Protection Act 1990

Clean Neighbourhoods and Environment Act 2005 (insofar as they relate to fixed penalty notices and associated matters, pertaining to litter and dog fouling)

50361554	Head of Community and Leisure Services
50361012	Parks and Countryside Manager
50361015	Senior Countryside Officer
50361016	Countryside Officer
50361014	Green Space Officer
50360954	Sports Recreation Officer

- (16) That the Community Manager (post holder 50462608) be authorised to issue authorisations pursuant to the Regulation of Investigatory Powers Act 2000.
- (17) That the holders of the following posts, and any other person employed or otherwise engaged by the Service and duly authorised in writing by the Head of Community and Leisure Services from time to time, be authorised to enter land or premises and to carry out any act included in the legislation and subordinate legislation made thereunder and any amendments thereto set out in the:

Environmental Protection Act 1990

Refuse Disposal (Amenity) Act 1978 (Sections 2, 2B, 2C, 21A)

Anti-Social Behaviour Act 2003 (Section 43)

Clean Neighbourhoods and Environmental Act 2005 (insofar as they relate to fixed penalty notices and associated matters, pertaining to litter, dog fouling, fly posting and graffiti, and abandoned vehicles)

Anti-Social Behaviour, Crime and Policing Act 2014

50360905	Community Engagement Manager
50360906	Community Engagement Officer (Community Safety)
50360907	Community Engagement Officer (Community Safety)
50360910	Community Engagement Officer (Community Safety)

- (18) In consultation with the Community, Leisure and Tourism Portfolio Holder, to give the Council's representations to the Police to enable them to make a Dispersal Order or a Closure Order under the Anti-Social Behaviour, Crime and Policing Act 2014.
- (19) To determine all community grant applications in accordance with the approved criteria.
- (20) In consultation with the Community, Leisure and Tourism Portfolio Holder, to evaluate and approve grant applications from the Community Asset Fund, in accordance with the approved criteria.
- (21) To request reviews of licences and to make representations to review hearings, pursuant to the Gambling Act 2005 and any subordinate legislation made thereunder and any amendments hereto.

Delegations to Head of Environmental Services

- (1) To tender for individual contracts with other public bodies (being a body within the Local Government (Goods and Services) Act 1970) as follows:
 - Up to £50,000 in consultation with the Head of Finance and Revenues;
 - Between £50,000 and £250,000 in consultation with the Chairman and Vice-Chairman of the Cabinet and the Head of Finance and Revenues; or
 - Above £250,000 and up to the maximum of £650,000 to be approved by the Cabinet.

Subject in each case to reporting back to Cabinet on successful tenders.

No contract shall have a term exceeding 5 years.

- (2) To serve notices in relation to contraventions of the legislation set out below and any regulations made thereunder and any amendments thereto:

Anti-Social Behaviour Act 2003 Part 6 as amended by Clean Neighbourhoods and Environment Act 2005

Anti-Social Behaviour, Crime and Policing Act 2014

Clean Neighbourhoods and Environment Act 2005

Control of Pollution Act 1974 and Control of Pollution (Amendment) Act 1989
Environment Act 1995

Parts II, III & IV and related schedules Environmental Protection Act 1990

Environmental Protection Act 1990

Licensing Act 2003

Refuse Disposal (Amenity) Act 1978

Regulation of Investigatory Powers Act 2000

RIDDOR 2000

Waste (England and Wales) Regulations 2011

- (3) To prepare reports for legal proceedings in the event of contravention of the legislation and any regulations made thereunder and any amendments thereto set out in (2) above and to issue instructions to the Council's Head of Legal and Democratic Services to take legal proceedings.
- (4) That the holders of the following posts, and any other person employed or otherwise engaged by the Service and duly authorised in writing by the Head of Environmental Services from time to time, be authorised to enter land or premises and to carry out any act included in the legislation and subordinate legislation made thereunder and any amendments thereto.

50360721	Environmental Services Manager – Operations - North
50360756	Environmental Services Manager – Operations - South
50360627	Environmental Services Manager - Technical

Limited powers Anti-Social Behaviour Act 2003 Part 6
Anti-Social Behaviour, Crime and Policing Act 2014
Clean Neighbourhoods and Environment Act 2005 (insofar as they relate to fixed penalty notices and associated matters pertaining to graffiti, fly posting, litter, dog fouling and fly tipping)
Control of Pollution Act 1974 and Control of Pollution (Amendment) Act 1989
Environment Act 1995
Environmental Protection Act 1990 - All powers in relation to Part II, powers relating to Statutory Nuisance in Part III, and all powers in relation Part IV
Licensing Act 2003
All powers under the Refuse Disposal (Amenity) Act 1978
Regulation of Investigatory Powers Act 2000
RIDDOR 2000
Waste (England and Wales) Regulations 2011

50360708	Senior Environmental Services Officer
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Limited powers Anti-Social Behaviour Act 2003 Part 6
Anti-Social Behaviour, Crime and Policing Act 2014
Clean Neighbourhoods and Environment Act 2005 (insofar as they relate to fixed penalty notices and associated matters pertaining to graffiti, fly posting, litter, dog fouling and fly tipping)
Limited powers Control of Pollution (Amendment) Act 1989
Environment Act 1995
Environmental Protection Act 1990 - All powers in relation to Part II, powers relating to Statutory Nuisance in Part III, and all powers in relation Part IV
Licensing Act 2003
All powers under the Refuse Disposal (Amenity) Act 1978
Regulation of Investigatory Powers Act 2000
Waste (England and Wales) Regulations 2011

50360629	Recycling Development Officer
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Limited powers Anti-Social Behaviour Act 2003 Part 6
Clean Neighbourhoods and Environment Act 2005 (insofar as they relate to fixed penalty notices and associated matters pertaining to graffiti, fly posting, litter, dog fouling and fly tipping)
Limited powers Control of Pollution (Amendment) Act 1989
Environment Act 1995
Environmental Protection Act 1990 - All powers in relation to Part II, powers relating to Statutory Nuisance in Part III, and all powers in relation Part IV
All powers relating to abandoned vehicles under the Refuse Disposal (Amenity) Act 1978

50360630 Waste and Recycling Officer

Limited powers Anti-Social Behaviour Act 2003 Part 6

Clean Neighbourhoods and Environment Act 2005 (insofar as they relate to fixed penalty notices and associated matters pertaining to graffiti, fly posting, litter, dog fouling and fly tipping)
Environment Act 1995

Environmental Protection Act 1990 - All powers in relation to Part II, powers relating to Statutory Nuisance in Part III, and all powers in relation Part IV

All powers relating to abandoned vehicles under the Refuse Disposal (Amenity) Act 1978

50360718 Environmental Services Officer

50360719 Environmental Services Officer

Limited powers Anti-Social Behaviour Act 2003 Part 6
Anti-Social Behaviour, Crime and Policing Act 2014
Clean Neighbourhoods and Environment Act 2005 (insofar as they relate to fixed penalty notices and associated matters pertaining to graffiti, fly posting, litter, dog fouling and fly tipping)
Limited powers Control of Pollution (Amendment) Act 1989
Environment Act 1995
Environmental Protection Act 1990 - All powers in relation to Part II, powers relating to Statutory Nuisance in Part III, and all powers in relation Part IV
All powers under the Refuse Disposal (Amenity) Act 1978
Regulation of Investigatory Powers Act 2000
Waste (England and Wales) Regulations 2011

- (5) To issue filled sand bags free of charge to households and commercial properties if in the Council's view they are at significant risk of flooding.

Delegation to Head of Finance and Revenues

- (1) To determine changes to the rate of interest on mortgage loans etc under Section 438 and Schedule 16 of the Housing Act 1985 and in accordance with those provisions.

- (2) To countersign payments and sign instructions to the Council's Bank.
- (3) To agree and sign any contract agreement or other document with the (1) Council's Bank for the provision of banking services involving the giving of instructions by the Council to the Bank by electronic or similar means (whether any such instruction and/or information relate to the making or authorisation of any payment or other order).
- (4) That the Accountancy Manager (post holder 50360822) be authorised to countersign payments and sign instructions to the Council's Bank.
- (5) To exercise borrowing powers contained in the Local Government Finance Act 2003 (as amended) in accordance with the prudential framework for local authority capital investment.
- (6) To enter into leasing arrangements on behalf of the Council for items with an approved budget.
- (7) To take all actions he/she considers appropriate for recovery of Council debts.
- (8) To take all necessary administrative action involving the Council on pension matters.
- (9) To make all payments within the Council's Financial Regulations and/or legally payable.
- (10) To grant loans for all salary-sacrifice schemes to persons coming within the Council's approved schemes.
- (11) To vary the Council's employee lease scheme to ensure compliance with HMRC rules.
- (12) To incur expenditure outside the provision of estimates in accordance with Financial Regulations.
- (13) To arrange all insurance policies (including maintaining a self-insurance reserve) and make payments in the settlement of any claim against the Council.
- (14) To deal with all matters connected with the administration of Council Tax, Business Rates, Housing and Council Tax Benefits, and Council Tax Support excepting such matters as are expressly reserved by legislation for the Council to determine.
- (15) In consultation with the Finance and Resources Portfolio Holder, to approve Discretionary Rate Relief.
- (16) To take all actions he/she considers appropriate for recovery of Council debts, Business Rates, BID and Housing Benefit Overpayment.
- (17) To impose a civil penalty.

- (18) To reject an individual's appeal against liability and to pass the appeal to the Valuation Tribunal.
- (19) To back date an application for Housing Benefit or Council Tax Support.
- (20) To grant discretionary housing payments to customers in receipt of Housing Benefit or Universal Credit.
- (21) To grant hardship relief.
- (22) To authorise an Administrative Penalty in cases of an apparent fraudulent claim for Housing and/or Council Tax Benefit.
- (23) To insert advertising materials with Council Tax demands at his/her discretion.
- (24) To set the Council Tax Base for the Test Valley area.
- (25) That the Head of Finance and Revenues be authorised to issue authorisations pursuant to the Regulation of Investigatory Powers Act 2000.
- (26) That the following officers be authorised under Section 223 Local Government Act 1972 to appear on behalf of the Authority before a Magistrates Court in connection with Rating and Council Tax matters:

50361481	Revenues & Welfare Manager
50361484	Revenues & Welfare Compliance Officer
50361485	Revenues & Welfare Compliance Officer
50361550	Revenues & Welfare Compliance Officer
50361536	Revenues & Welfare Team Leader
50361482	Revenues & Welfare Team Leader
50361268	Senior Revenues & Welfare Officer (Business Rates)

- (27) In consultation with the Finance and Resources Portfolio Holder, to approve the annual National Non Domestic Rates returns to Central Government.
- (28) In consultation with the Finance and Resources Portfolio Holder, to make routine amendments to the Local Council Tax Support Scheme where necessary in light of legislative change to Council Tax Support, welfare benefits and other related legislation.
- (29) In consultation with the Finance and Resources Portfolio Holder, to add new discretionary Rate Reliefs into the Discretionary Rate Relief Policy where (a) such new relief is fully funded by government (including any cost of implementation) and (b) there is clear guidance as to which businesses are eligible for the relief.

Delegations to Head of Housing and Environmental Health Services

- (1) In cases of emergency, the Head of Housing and Environmental Health Services be authorised to carry out the Council's function under Section 33 of the Local Government (Miscellaneous Provisions) Act 1976.
- (2) Discretionary decisions concerning the nomination of special cases from the Housing Register be delegated to the Head of Housing and Environmental Health Services, subject to informing the Housing and Environmental Health (including Diversity and Inclusion) Portfolio Holder prior to notifying the applicant.
- (3) To grant Street Trading Consents in respect of street trading activities where those activities are taking place on land under their management.
- (4) To sign notices to quit in respect of temporary accommodation occupied by the homeless.
- (5) To review homeless decisions under Section 202 of the Housing Act 1996 (as amended), and in view of likely media interest, to inform the Housing and Environmental Health (including Diversity and Inclusion) Portfolio Holder of the decisions that have been taken.
- (6) To determine homeless applications under Part VII of the Housing Act 1996 (as amended).
- (7) To conduct, jointly or severally with the Housing Manager, reviews of adverse decisions relating to registration on the Housing Register.
- (8) To determine any matter relating to:
 - (a) transfer of accommodation;
 - (b) nominations to Registered Providers of Social Housing;
 - (c) allocation of temporary accommodation for homeless applicants;
 - (d) payment of removal expenses in appropriate cases; or
 - (e) emergency arrangements.
- (9) To deal with applications under the Rent (Agriculture) Act 1976.
- (10) To enter into leases of individual properties with private owners in order to secure temporary accommodation for homeless households.
- (11) To consult with tenants under the Housing Act 1985.
- (12) To agree transfers of tenants on management grounds as proposed by Registered Providers of Social Housing.

- (13) To approve home loss payments, removal and relocation allowances in accordance with any scheme approved by the Council.
- (14) To investigate allegations of harassment and threats by any illegal evictions.
- (15) To review and determine appeals lodged by Housing Register applicants under Section 164 of the Housing Act 1996.
- (16) In consultation with the Head of Legal and Democratic Services, to enter into short term leases as they consider appropriate on terms to be agreed by them and to administer the short term letting scheme to accommodate homeless persons.
- (17) To transfer funding between schemes and programmes within the approved Housing Investment Programme, subject to reporting such changes to the next appropriate meeting of the Cabinet.
- (18) That the Environmental Health Manager (post holder 50360920) be authorised to issue authorisations pursuant to the Regulation of Investigatory Powers Act 2000.
- (19) That the Housing Manager (post holder 50360864) be authorised to conduct homelessness reviews under Section 202 of the Housing Act 1996 (as amended).
- (20) That the Housing Development and Standards Manager (post holder 50360894) be authorised to agree the payment of discretionary grants and loans above the limits set out in the Private Sector Housing Renewal Policy in appropriate circumstances, in consultation with the Housing and Environmental Health (including Diversity and Inclusion) Portfolio Holder.
- (21) To approve grant funding in accordance with the Affordable Housing Grants Policy.
- (22) That the Environmental Health Manager (post holder 50360920) shall be authorised to advise upon compliance with the legislation set out in (k) below, and regulations and other subordinate legislation made thereunder and any amendments thereto, to formally notify contraventions of the legislation etc. as necessary, and to exercise all powers provided under such legislation, including issuing and serving Notices relating to contraventions of the legislation etc. or Notices seeking information relating to such contraventions and to carry out the activities in (a) to (k) below.
 - (a) To make charges, agree contracts, make expenditure, authorise work in default, and allocate grant aid as permitted within approved budgets and environmental health legislation.
 - (b) To respond to consultations relating to technical and legal matters which are delegated.
 - (c) To promote and publicise compliance with legislation, good health and good environmental practice.

- (d) To provide services relating to Environmental Health matters, as permitted under the relevant legislation set out in (k) below.
- (e) To grant, with or without conditions, or to refuse applications for and to revoke street trading licences or consents. To make charges for such grants up to the limit stipulated in the Council's budget.
- (f) To carry out investigations and to obtain, issue, give or publish notices or orders for the control of infectious disease as permitted under the relevant legislation.
- (g) To make, refuse, or vary such registrations as are applied for, or requested, under the legislation set out in (k) below and to maintain appropriate registers.
- (h) To grant, refuse, or vary permits and licences as are applied for under the legislation set out in (k) below.
- (i) In consultation with the Housing and Environmental Health (including Diversity and Inclusion) Portfolio Holder, to agree the payment of discretionary grants and loans above the limits set out in the Private Sector Housing Renewal Policy in appropriate circumstances.
- (j) To prepare reports for legal proceedings in the event of contravention of legislation set out in (k) below and in the event of contraventions of the Health & Safety at Work etc. Act 1974, subordinate legislation made thereunder or any amendments thereto, to issue instructions to the Council's Solicitors to take legal proceedings.
- (k) That the holders of the posts below be authorised to enter land or premises, to exercise all available powers of investigation and inspection, to carry out any act included in, to advise upon compliance with, and to formally notify contraventions of the legislation and subordinate legislation made there under and any amendments thereto, as set out below.

50360919	Principal Environmental Health Officer (Health Protection)
50360918	Principal Environmental Health Officer (Environmental Protection)
50360922	(Senior) Environmental Health Officer (Environmental Protection)
50360923	(Senior) Environmental Health Officer or (Senior) Environmental Protection Officer
50360927	(Senior) Environmental Health Officer (Health Protection)
50360930	(Senior) Environmental Health Officer (Health Protection)
50360931	(Senior) Environmental Health Officer (Health Protection)

50360928 (Senior) Environmental Health Officer or (Senior) Health Protection Officer

Animal Boarding Establishments Act 1963
Animal By-Products (Enforcement) (England) Regulations 2013
Animal Health Act 1981
Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
Animal Welfare Act 2006
Anti-Social Behaviour Act 2003 Part 6 as amended by the Clean Neighbourhoods and Environment Act 2005
Anti-Social Behaviour, Crime and Policing Act 2014
Building Act 1984
Caravan Sites and Control of Development Act 1960
Clean Air Act 1993
Clean Neighbourhoods and Environment Act 2005
Contaminants in Food (England) Regulations 2013
Control of Asbestos Regulations 2012
Control of Pollution Act 1974
Crime and Disorder Act 1998
Criminal Justice and Public Order Act 1994
Dangerous Dogs Act 1991
Dangerous Wild Animals Act 1976
Environment Act 1995
Environmental Protection Act 1990
Environmental Permitting (England and Wales) Regulations 2016 (as amended)
European Union (Withdrawal) Act 2018 (as amended by The European Union (Withdrawal Agreement) Act 2020) Factories Act 1961
Food and Environment Protection Act 1985
Food Information Regulations 2014
Food Safety Act 1990 (as amended) and any Orders or Regulations or other statutory instruments made thereunder, or relating thereto, or having effect by virtue of the European Union (Withdrawal) Act 2018 (as amended by The European Union (Withdrawal Agreement) Act 2020) and relating to food safety, and any modification or re-enactment of such provisions, including:
Regulation (EC) 852/2004, 853/2004, 1169/2011 and 178/2002
Food Safety and Hygiene (England) Regulations 2013 (as amended).
General Food Regulations 2004
Hampshire Act 1983
Health Act 2006 Part 1 Chapter 1
Health and Safety (Enforcing Authority) Regulations 1998
Health Protection (Local Authority Powers) Regulations 2010
Health Protection (Part 2A Orders) Regulations 2010
Home Energy Conservation Act 1995
Housing Acts 1957 to 2004
Housing Grants, Construction and Regeneration Act 1996 as amended by the Local Democracy, Economic Development and Construction Act 2009

Imported Food Regulations 1997
Licensing Act 2003
Litter Act 1993
Local Government and Housing Act 1989
Local Government (Miscellaneous Provisions) Acts 1976 and 1982
Meat (Enhanced Enforcement Powers) (England) Regulations 2000
National Assistance Act 1948
Natural Mineral Water, Spring Water & Bottled Drinking Water
Regulations 2007 (as amended)
Noise Act 1996
Noise and Statutory Nuisance Act 1993
Offices, Shops and Railway Premises Act 1963
Official Feed and Food Controls (England) Regulations 2009 (as
amended).
Open Spaces Act 1906
Pet Animals Act 1951
Police and Criminal Evidence Act 1984
Pollution Prevention and Control Act 1999
Prevention of Damage by Pests Act 1949
Private Water Supplies (England) Regulations 2016 (as amended)
Public Health Acts 1875, 1936 to 1961
Public Health (Control of Disease) Act 1984
Quick-frozen Foodstuffs (England) Regulations 2007 Redress
Schemes for Letting Agency Work and Property Management work
(Requirements to Belong to a Scheme etc.) (England) Order 2014
Refuse Disposal (Amenity) Act 1978
Regulation of Investigatory Powers Act 2000
Riding Establishments Act 1964 and 1970
Shops Act 1950
Smoke and Carbon Monoxide Alarm (England) Regulations 2015
Sunbeds (Regulation) Act 2010
Sunday Trading Act 1994
Trade in Animals and Related Products Regulations 2011
Transmissible Spongiform Encephalopathies (England) Regulations
2018
Water Industry Act 1991
Zoo Licensing Act 1981

50360894 Housing Development and Standards Manager
50360868 Principal Environmental Health Officer (Housing)
50360932 (Senior) Environmental Health Officer (Housing)

Anti-social Behaviour Act 2003 Part 6 as amended by the Clean
Neighbourhoods and Environment Act 2005
Building Act 1984
Caravan Sites and Control of Development Act 1960
Clean Air Act 1993
Clean Neighbourhoods and Environment Act 2005
Control of Pollution Act 1974
Crime and Disorder Act 1998

Criminal Justice and Public Order Act 1994
Energy Efficiency (Private Rented Sector) (England and Wales)
Regulations 2015 (as amended)
Environment Act 1995
Environmental Protection Act 1990
European Union (Withdrawal) Act 2018 (as amended by The European
Union (Withdrawal Agreement) Act 2020) Hampshire Act 1983
Health Act 2006 Part 1 Chapter 1
Home Energy Conservation Act 1995
Housing Acts 1957 to 2004
Housing and Planning Act 2016
Housing Grants, Construction and Regeneration Act 1996
Litter Act 1993
Local Government and Housing Act 1989
Local Government (Miscellaneous Provisions) Acts 1976 and 1982
Mobile Homes Act 2013
National Assistance Act 1948
Noise Act 1996
Noise and Statutory Nuisance Act 1993
Open Spaces Act 1906
Police and Criminal Evidence Act 1984
Prevention of Damage by Pests Act 1949
Protection from Eviction Act 1977
Public Health Acts 1875, 1936 to 1961
Public Health (Control of Disease) Act 1984
Redress Schemes for Letting Agency Work and Property Management
work (Requirements to Belong to a Scheme etc.) (England) Order 2014
Refuse Disposal (Amenity) Act 1978
Regulation of Investigatory Powers Act 2000
Smoke and Carbon Monoxide Alarm (England) Regulations 2015
Water Industry Act 1991

50360869 Senior Private Sector Housing Officer
50360870 Senior Private Sector Housing Officer
50360871 Senior Private Sector Housing Officer

Building Act 1984
Caravan Sites and Control of Development Act 1960
Clean Neighbourhoods and Environment Act 2005
Energy Efficiency (Private Rented Sector) (England and Wales)
Regulations 2015 (as amended)
Environmental Protection Act 1990 - all powers under Section 79 (1) a
and h Housing Acts 1957 to 2004
Housing and Planning Act 2016
Housing Grants, Construction and Regeneration Act 1996
Licensing Act 2003
Local Government and Housing Act 1989
Local Government (Miscellaneous Provisions) Acts 1976 and 1982
Mobile Homes Act 2013
Protection from Eviction Act 1977

Redress Schemes for Letting Agency Work and Property Management work (Requirements to Belong to a Scheme etc.) (England) Order 2014
RIDDOR 2000

Smoke and Carbon Monoxide Alarm (England) Regulations 2015

50360925 Environmental Protection Officer

50360924 Scientific Officer

Anti-social Behaviour Act 2003 Part 6 as amended by the Clean Neighbourhoods and Environment Act 2005

Anti-Social Behaviour, Crime and Policing Act 2014

Building Act 1984

Clean Air Act 1993

Clean Neighbourhoods and Environment Act 2005

Control of Pollution Act 1974

Crime and Disorder Act 1998

Environment Act 1995

Environmental Protection Act 1990

Environmental Permitting (England and Wales) Regulations 2016 (as amended)

Health Act 2006 Part 1 Chapter 1

Licensing Act 2003

Local Government (Misc. provisions) Acts 1976-1982

National Assistance Act 1943

Noise Act 1996

Noise and Statutory Nuisance Act 1993

Pollution Prevention and Control Act 1999

Prevention of Damage by Pests Act 1949

Private Water Supplies (England) Regulations 2016 (as amended)

Public Health Acts 1875, 1936 to 1961

Water Industry Act 1991

50360921 Animal Welfare Officer

Animal Boarding Establishments Act 1963Animal Health Act 1981

Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

Animal Welfare Act 2006

Anti-Social Behaviour, Crime and Policing Act 2014

Clean Neighbourhoods and Environment Act 2005

Dangerous Dogs Act 1991

Dangerous Wild Animals Act 1976

Environmental Protection Act 1990

Local Government (Misc. Provisions) Acts 1976 and 1982

Microchipping of Dogs (England) Regulations 2015

Noise and Statutory Nuisance Act 1993

Pet Animals Act 1951

Riding Establishments Act 1964 and 1970

Zoo Licensing Act 1981

- (l) That the holders of the posts below be authorised to enter land or premises and to carry out any act included in the Prevention of Damage by Pests Act 1949:

50360854 Area Pest Control Officer

50360855 Area Pest Control Officer

- (m) That the holders of the posts below may issue and serve Notices in respect of the legislation set out below.

50360919 Principal Environmental Health Officer (Health Protection)

50360918 Principal Environmental Health Officer (Environmental Protection)

Animal Boarding Establishments Act 1963
Animal By-Products (Enforcement) (England) Regulations 2013
Animal Health Act 1981
Animal Welfare Act 2006
Anti-Social Behaviour Act 2003 Part 6 as amended by the Clean Neighbourhoods and Environment Act 2005
Anti-Social Behaviour, Crime and Policing Act 2014
Building Act 1984
Caravan Sites and Control of Development Act 1960
Clean Air Act 1993
Clean Neighbourhoods and Environment Act 2005
Contaminants in Food (England) Regulations 2013
Control of Asbestos Regulations 2012
Control of Pollution Act 1974
Crime and Disorder Act 1998
Criminal Justice and Public Order Act 1994
Dangerous Dogs Act 1991
Dangerous Wild Animals Act 1976
Environment Act 1995
Environmental Protection Act 1990
Environmental Permitting (England and Wales) Regulations 2016 (as amended)
European Union (Withdrawal) Act 2018 (as amended by The European Union (Withdrawal Agreement) Act 2020) Factories Act 1961
Food and Environment Protection Act 1985
Food Information Regulations 2014
Regulation (EC) 852/2004, 853/2004, 178/2002 – Food Hygiene (England) Regulations 2006
Food Safety Act 1990 (as amended) and any Orders or Regulations or other statutory instruments made thereunder, or relating thereto, or having effect by virtue of the European Union (Withdrawal) Act 2018 (as amended by The European Union (Withdrawal Agreement) Act 2020) and relating to food safety, and any modification or re-enactment of such provisions, including:
Regulation (EC) 852/2004, 853/2004, 1169/2011 and 178/2002
Food Safety and Hygiene (England) Regulations 2013 (as amended).

General Food Regulations 2004
Hampshire Act 1983
Health Act 2006 Part 1 Chapter 1
Health and Safety Enforcement (Enforcing Authority) Regulations 1998
Health Protection (Local Authority Powers) Regulations 2010
Health Protection (Part 2A Orders) Regulations 2010
Home Energy Conservation Act 1995
Housing Acts 1957 to 2004
Housing Grants, Construction and Regeneration Act 1996 as amended
by the Local Democracy, Economic Development and Construction Act
2009
Imported Food Regulations 1997
Licensing Act 2003
Litter Act 1993
Local Government and Housing Act 1989
Local Government (Miscellaneous Provisions) Acts 1976 and 1982
Meat (Enhanced Enforcement Powers) (England) Regulations 2000
National Assistance Act 1948
Natural Mineral Water, Spring Water & Bottled Drinking Water
Regulations 2007 (as amended)
Noise Act 1996
Noise and Statutory Nuisance Act 1993
Offices, Shops and Railway Premises Act 1963
Official Feed and Food Controls (England) Regulations 2009 (as
amended).
Open Spaces Act 1906
Pet Animals Act 1951
Police and Criminal Evidence Act 1984
Pollution Prevention and Control Act 1999
Prevention of Damage by Pests Act 1949
Private Water Supplies (England) Regulations 2016 (as amended)
Public Health Acts 1875, 1936 to 1961
Public Health (Control of Disease) Act 1984
Quick-frozen Foodstuffs (England) Regulations 2007 Redress
Schemes for Letting Agency Work and Property Management work
(Requirements to Belong to a Scheme etc.) (England) Order 2014
Refuse Disposal (Amenity) Act 1978
Regulation of Investigatory Powers Act 2000
Riding Establishments Act 1964 and 1970
Smoke and Carbon Monoxide Alarm (England) Regulations 2015
Sunbeds (Regulation) Act 2010
Sunday Trading Act 1994
Trade in Animals and Related Products Regulations 2011
Transmissible Spongiform Encephalopathies (England) Regulations
2018
Water Industry Act 1991
Zoo Licensing Act 1981

50360894 Housing Development and Standards Manager
50360868 Principal Environmental Health Officer (Housing)

Anti-social Behaviour Act 2003 Part 6 as amended by the Clean
 Neighbourhoods and Environment Act 2005
 Building Act 1984
 Caravan Sites and Control of Development Act 1960
 Clean Air Act 1993
 Clean Neighbourhoods and Environment Act 2005
 Control of Pollution Act 1974
 Crime and Disorder Act 1998
 Criminal Justice and Public Order Act 1994
 Energy Efficiency (Private Rented Sector) (England and Wales)
 Regulations 2015 (as amended)
 Environment Act 1995
 Environmental Protection Act 1990
 Hampshire Act 1983
 Health Act 2006 Part 1 Chapter 1
 Home Energy Conservation Act 1995
 Housing Acts 1957 to 2004
 Housing and Planning Act 2016
 Housing Grants, Construction and Regeneration Act 1996
 Litter Act 1993
 Local Government and Housing Act 1989
 Local Government (Miscellaneous Provisions) Acts 1976 and 1982
 Mobile Homes Act 2013
 National Assistance Act 1948
 Noise Act 1996
 Noise and Statutory Nuisance Act 1993
 Open Spaces Act 1906
 Police and Criminal Evidence Act 1984
 Prevention of Damage by Pests Act 1949
 Protection from Eviction Act 1977
 Public Health Acts 1875, 1936 to 1961
 Public Health (Control of Disease) Act 1984
 Redress Schemes for Letting Agency Work and Property Management
 work (Requirements to Belong to a Scheme etc.) (England) Order 2014
 Refuse Disposal (Amenity) Act 1978
 Regulation of Investigatory Powers Act 2000
 Smoke and Carbon Monoxide Alarm (England) Regulations 2015
 Water Industry Act 1991

50360922	(Senior) Environmental Health Officer (Environmental Protection)
50360923	(Senior) Environmental Health Officer or (Senior) Environmental Protection Officer
50360927	(Senior) Environmental Health Officer (Health Protection)
50360930	(Senior) Environmental Health Officer (Health Protection)
50360931	(Senior) Environmental Health Officer (Health Protection)

50360928 (Senior) Environmental Health Officer or (Senior) Health Protection Officer

Animal By-Products (Enforcement)(England) Regulations 2013
 Contaminants in Food (England) Regulations 2013
 Food Safety Act 1990 (as amended) and any Orders or Regulations or other statutory instruments made thereunder, or relating thereto, or having effect by virtue of the European Union (Withdrawal) Act 2018 (as amended by The European Union (Withdrawal Agreement) Act 2020) and relating to food safety, and any modification or re-enactment of such provisions, including:
 Regulation (EC) 852/2004, 853/2004, 1169/2011 and 178/2002
 Food Information Regulations 2014
 Food Safety and Hygiene (England) Regulations 2013 (as amended).
 General Food Regulations 2004
 Meat (Enhanced Enforcement Powers) (England) Regulations 2000
 Natural Mineral Water, Spring Water & Bottled Drinking Water Regulations 2007 (as amended)
 Official Feed and Food Controls (England) Regulations 2009
 Quick-frozen Foodstuffs (England) Regulations 2007 Trade in Animals and Related Products Regulations 2011
 Transmissible Spongiform Encephalopathies (England) Regulations 2018

- 50360922 (Senior) Environmental Health Officer (Environmental Protection)**
- 50360923 (Senior) Environmental Health Officer or (Senior) Environmental Protection Officer**
- 50360927 (Senior) Environmental Health Officer (Health Protection)**
- 50360930 (Senior) Environmental Health Officer (Health Protection)**
- 50360931 (Senior) Environmental Health Officer (Health Protection)**
- 50360925 Environmental Protection Officer**
- 50360924 Scientific Officer**
- 50360932 (Senior) Environmental Health Officer (Housing)**
- 50360928 (Senior) Environmental Health Officer or (Senior) Health Protection Officer**

Control of Pollution Act 1974 - Section 60 only
 Environmental Protection Act 1990 – Part 3 only
 Clean Neighbourhoods and Environment Act 2005 – Sections 77- 79 only
 Public Health Act 1936 - Section 50 only

- (23) That the following post holders, who are qualified in accordance with the legislation, be appointed as Health and Safety Inspectors under Section 19 of the Health and Safety at Work etc Act 1974 and any other relevant statutory provisions.

50360920	Environmental Health Manager
50360918	Principal Environmental Health Officer (Environmental Protection)
50360919	Principal Environmental Health Officer (Health Protection)
50360927	(Senior) Environmental Health Officer (Health Protection)
50360930	(Senior) Environmental Health Officer (Health Protection)
50360931	(Senior) Environmental Health Officer (Health Protection)
50360922	(Senior) Environmental Health Officer (Environmental Protection)
50360923	(Senior) Environmental Health Officer or (Senior) Environmental Protection Officer
50360928	(Senior) Environmental Health Officer or (Senior) Health Protection Officer (Health Protection)

And that they be authorised to advise upon compliance with the legislation set out in the Health and Safety at Work etc. Act 1974 and subordinate legislation made there under and any amendments thereto, to formally notify contraventions of the legislation etc. as necessary, and to issue and serve Notices relating to contraventions of the legislation etc. or Notices seeking information relating to such contraventions, to bring proceedings [or lay information] in accordance with Section 38 of the Health and Safety at Work etc. Act 1974 and to exercise all available powers, including those listed in (a) to (e) below.

- (a) To carry out inspections, investigations and interviews as permitted under the relevant legislation.
 - (b) To exercise the rights of entry permitted under the relevant legislation.
 - (c) To undertake sampling, detection and seizure of goods and materials as permitted under the relevant legislation.
 - (d) To inspect and obtain records as appropriate under the relevant legislation.
 - (e) To make such records, sketches, and to take such photographs as are permitted under the legislation.
 - (f) To issue certificates of registration under provisions of Part VIII of the Local Government (Miscellaneous Provisions) Act 1982 for acupuncture, tattooing, ear-piercing and electrolysis, and certificates of registration for hairdressers and barbers under provisions of Section 4 of the Hampshire Act 1983.
- (24) That the holders of the following posts who are qualified in accordance with the legislation be appointed as inspectors under the Animal Welfare Act 2006 and any other relevant statutory provisions.

50360920	Environmental Health Manager
50360918	Principal Environmental Health Officer (Environmental Protection)
50360919	Principal Environmental Health Officer (Health Protection)
50360921	Animal Welfare Officer
50360922	(Senior) Environmental Health Officer (Environmental protection)
50360923	(Senior) Environmental Health Officer or (Senior) Environmental Protection Officer
50360927	(Senior) Environmental Health Officer (Health Protection)
50360928	(Senior) Environmental Health Officer or (Senior) Health Protection Officer
50360930	(Senior) Environmental Health Officer (Health Protection)
50360931	(Senior) Environmental Health Officer (Health Protection)

- (25) That the Environmental Health Manager (post holder 50360920) be authorised to request reviews of licences and certificates and to make representations to review hearings, pursuant to the Licensing Act 2003 and any subordinate legislation made thereunder and any amendments thereto.
- (26) That the Principal Environmental Health Officer (Health Protection) (post holder 50360919) be appointed as lead officer under and in accordance with the Food Law Code of Practice (England) 2021 and any amendment thereto.
- (27) That the Housing Development and Standards Manager (post holder 50360894), the Environmental Health Manager (post holder 50360920) and the Principal Environmental Health Officer (Housing), post holder 50360868, be authorised to grant, vary, refuse and revoke licences under the Caravan Sites and Control of Development Act 1960 and the Housing Act 2004, including appropriate licence conditions, and to authorise the necessary enforcement action under the Mobile Homes Act 2013.
- (28) That the holders of the following posts be nominated as appointed officers in respect of the statutory provisions set out below.

50360920	Environmental Health Manager
50360918	Principal Environmental Health Officer (Environmental Protection)
50360921	Animal Welfare Officer
50360928	(Senior) Environmental Health Officer or (Senior) Health Protection Officer

Section 149(1) of the Environmental Protection Act 1990

Regulation 11(2) of the Microchipping of Dogs (England) Regulations 2015.

- (29) That the Head of Housing and Environmental Health (where required, in consultation with the Portfolio Holder for Housing and Environmental Health (including Diversity and Inclusion)) be authorised to approve requests for Designated Protection Area waivers in the circumstances set out in the table below:

Delegation Framework for formal support for DPA Waiver			
Type of Scheme	Decision	Reason	Delegated to
HARAH and Rural Exception Sites	Refuse	COM8 seeks affordable homes in perpetuity.	Head of Housing and Environmental Health
COM 9 sites (Community Led Development)	Refuse save in exceptional circumstances where it can be agreed SUBJECT TO inclusion of rural buy back clause upon stair-casing to 100% to the Council or its nominated provider.	COM9 seeks affordable homes in perpetuity but consideration to be given to availability of mortgage funding and viability of scheme	Head of Housing and Environmental Health in consultation with Portfolio Holder and Parish Council
MDA sites and Planned Urban Extension (e.g. Picket Twenty, Smannell) [previously designated as rural and included in DPA but now classed as urban where these restrictions would not apply]	Agreed	Planned urban extension – proposed development indicates shared ownership could be re-provided.	Head of Housing and Environmental Health
Permitted development sites in Rural Villages	Review on a site by site basis	COM7 – no requirement for perpetuity but consideration to be given to availability of further affordable homes, availability of mortgage funding and viability of scheme.	Head of Housing and Environmental Health in consultation with the Portfolio Holder and Parish Council
Resale of existing restricted shared ownership home	Review on case by case basis	Ability of shared owners to sell the property at the restricted percentage and availability of mortgage funding	Head of Housing and Environmental Health in consultation with the Portfolio Holder and Parish Council
Any other requests for exemptions other than above	Review on a site by site basis	Consideration to be given for the reason for the request, availability of future affordable homes, mortgage funding and viability of scheme	Head of Housing and Environmental Health in consultation with the Portfolio Holder and Parish Council

- (30) That the Principal Environmental Health Officer (Housing), post holder 50360868, the Housing Development and Standards Manager (post holder 50360894) and the Environmental Health Manager (post holder 50360920) be authorised to grant, vary, refuse and revoke licences in respect of Houses in Multiple Occupation under the Housing Act 2004 and also grant, vary and transfer licences in respect of the Caravan Sites and Control of Development Act 1960.
- (31) That the Head of Housing & Environmental Health, in consultation with the Portfolio Holder for Housing & Environmental Health and the Head of Finance & Revenues, be given delegated authority to draw from ear-marked grant reserves for homelessness to support the delivery of effective TVBC housing services.
- (32) That the Head of Housing & Environmental Health, in consultation with the Portfolio Holder for Housing & Environmental Health, the Portfolio Holder for Finance & Resources, and the Head of Finance & Revenues, be given delegated authority to draw monies received from central government that are ring fenced for homelessness that may, from time to time, be provided to meet identifiable homelessness pressures, for purposes that meet the terms of those grants.

Delegation to Head of Legal and Democratic Services

Legal and Other Proceedings

- (1) The institution, prosecution, amendment or termination of any proceedings, which the Council is empowered to undertake, in or before any court, tribunal or inquiry.
- (2) The defence or settlement of any proceedings brought against the Council.
- (3) The taking of any action incidental or conducive to or which would facilitate any action under (1) or (2) above.
- (4) The obtaining of Counsel's opinion on any matter.

Notices

- (1) The issue of Notices on behalf of the Council under Section 112 of the Road Traffic Regulation Act 1984, requiring information to be given as to the identity of a driver alleged to be guilty of an offence.
- (2) The issue of Notices under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 and Section 330 of the Town and Country Planning Act 1990 where he/she deems it necessary to secure information about land to enable the Council to exercise its functions.

Miscellaneous

- (1) In all cases where a mortgagor is three months in arrears with payments under the mortgage, to obtain possession of the property and arrange for its sale and the recovery of all monies owed to the Council.
- (2) To give approval to the carrying out of all works to properties which are the subject of small dwellings mortgages or housing act advances provided the security of the Council is not thereby adversely affected.
- (3) To sign releases of mortgages granted by the Council provided such repayment has been made.
- (4) To make applications under Section 47 of the National Assistance Act 1948 and Section 1 of the National Assistance (Amendment) Act 1951 upon receiving representations from the Proper Officer.
- (5) To recover the cost of works in default under Section 193 and Schedule 10 of the Housing Act 1985 relating to repairs to privately rented dwellings.
- (6) To sign a waiver relating to House Renovation Grants limiting repayment to the nominal sum of 5p in the event of the lender having to exercise its power of sale subject to the payment to the Council of any proceeds of sale held by the lender after full repayment of outstanding mortgage debt and proper costs to a maximum of the grant repayment.
- (7) To transfer open space, landscaping and recreational facilities on private residential developments by way of adoption subject to the developer paying a capital sum for maintenance calculated by the Head of Community and Leisure Services and to the landscaping, open space or recreational facilities being completed to the satisfaction of the Head of Community and Leisure Services.
- (8) To enter into agreements in respect of applications to retain and maintain trees, shrubs, plants or grass in part of a highway verge.
- (9) To sign notices, orders or other documents made or issued by the Council.
- (10) To close streets for public processions, rejoicings or illuminations under Section 21 of the Town Police Clauses Act 1847.
- (11) After consultation with the Chairman of the appropriate Development Control Committee, to lodge an objection or representation as to the imposition of conditions on an application for an Operator's Licence in those cases where the operating centre would be unsuitable for use as such on environmental grounds in accordance with the provisions of the Goods Vehicles (Licensing of Operators) Act 1995.
- (12) To authorise the postponement of the Council's discount charge relating to former Council houses.

- (13) To complete legal agreements or legal charges pursuant to the Private Sector Housing Renewal Policy and to register such documents as appropriate at HM Land Registry.
- (14) To authorise the postponement of a legal charge created pursuant to the Private Sector Housing Renewal Policy.
- (15) To amend the listings of the Council's Publication Scheme produced in accordance with the Freedom of Information Act 2000, within the existing Information Classes.
- (16) To update the Data Protection Policy (DPP) as and when required.
- (17) To make minor amendments to the Corporate Surveillance Policy where they relate to changes in the legislation, directions or recommendations from an inspector appointed by the Office of the Surveillance Commissioner, or guidance from the Home Office.
- (18) To authorise Authorising Officers pursuant to the Corporate Surveillance Policy.
- (19) To establish an Independent Review Panel for a period of four years to review Members' Allowances and to pay consultancy fees to the Chairman of the Panel.
- (20) To authorise reimbursement of the cost of accommodation booked directly by Members in excess of the approved allowance in exceptional circumstances pursuant to the Members' Allowance Scheme.
- (21) To approve payments to co-opted Members pursuant to the Members' Allowance Scheme.
- (22) In consultation with the Chairman of General Purposes Committee, to grant dispensations to Members of Test Valley Borough Council in respect of Personal Interests in accordance with General Purposes Committee 6 January 2014 Minute 221 and to report such dispensations to the next meeting of the General Purposes Committee.
- (23) The holders of the following posts be authorised to grant dispensations to Members of Test Valley Borough Council pursuant to section 33(2)(a), (b) and (d) of the Localism Act 2011.

50361323 Head of Legal and Democratic Services
50361465 Legal Services Manager (Corporate)
50361468 Legal Services Manager (Planning)
50361467 Principal Solicitor

- (24) To convene meetings of working parties, panels and other meetings in which members are involved.

- (25) To make alterations to the calendar of meetings in consultation with the Democratic and Governance Portfolio Holder to ensure the efficient process for the democratic process.
- (26) Following consultation with the Leader, to approve the attendance of Members at conferences and meetings including the payment of travelling and subsistence allowances.
- (27) In consultation with the Democracy and Governance Portfolio Holder, to appoint individuals to parish, town and community councils should circumstances mean that they are no longer quorate.
- (28) In consultation with the Portfolio Holder for Democracy and Governance, to take all necessary steps to amend polling places where there are no suitable premises available in the designated polling place to serve as a polling station.
- (29) To amend the Licensing Committee and Sub-Committee Procedure Rules to give effect to legislative changes.
- (30) To determine all applications and decide all other matters in relation to the licensing functions set out in the Licensing Act 2003 and any amending legislation, save for those applications and matters expressly excluded from delegation to officers by that legislation.
- (31) To determine applications made pursuant to the Licensing Act 2003 and any amending legislation where the holding of a hearing has been dispensed with in accordance with Regulations made thereunder.
- (32) To reject representations under the Licensing Act 2003 or Gambling Act 2005 which he/she considers to be vexatious, frivolous or repetitious.
- (33) To make recommendations under the Licensing Act 2003 as to the restriction of admission of children to non-classified films, or a particular classified film, save always to his/her discretion to refer a film to a Licensing Sub-Committee for determination of the appropriate recommendation.
- (34) To serve Closure Notices under Section 19 of the Criminal Justice and Police Act 2001 in respect of premises used for the unlicensed sale of alcohol and to take action for the enforcement, cancellation and termination of such notices pursuant to Sections 19-28 of that Act.
- (35) To determine all applications and decide all other matters in relation to the licensing functions set out in the Gambling Act 2005 and any amending legislation, save for those applications and matters expressly excluded from delegation to officers by that legislation.
- (36) To determine applications made pursuant to the Gambling Act 2005 and any amending legislation where the holding of a hearing has been dispensed with in accordance with Regulations made thereunder.

- (37) To determine applications for Licensed Premises Gaming Machine Permits; Club Gaming Permits, Club Machine Permits, Prize Gaming Permits, and Small Lottery Registrations.
- (38) To cancel or vary Licensed Premises Gaming Machine Permits.
- (39) To revoke a Small Lottery Registration.
- (40) To remove automatic entitlement to gaming and/or to two gaming machines on alcohol licensed premises.
- (41) To administer the Hypnotism Act 1952 including the institution of proceedings for breaches of the Act and Section 12 of the Local Government (Miscellaneous Provisions) Act 1982.
- (42) To issue licences under Section 2 of the House-to-House Collections Act 1939, as amended after suitable attempts at liaison and after making such enquiries as may be necessary.
- (43) To allocate street collections.
- (44) To determine applications for sex establishment licences save for where objections to the grant, transfer or renewal of a licence have been received.
- (45) To grant, with or without conditions, or refuse applications for a licence to place tables and chairs on the highway in accordance with the Highways Act 1980, including the suspension of such licences.
- (46) To amend the scheme for the Licensing of Tables and Chairs on the highway, save for any significant amendments which shall be referred to the Cabinet.
- (47) In consultation with the Democracy and Governance Portfolio Holder, to approve increases in Hackney Carriage fares.
- (48) To issue, suspend, revoke or refuse hackney carriage and private hire licences under the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976 and to issue notices exempting private hire vehicles from displaying the private hire vehicle plate under the provision of Section 75(3) of the Act.
- (49) To depart from Standard Private Hire Vehicle Licence Conditions regarding vehicle signage upon grant or renewal of a licence in any individual case where he/she considers it appropriate to do so.
- (50) To determine all applications and decide all other matters in relation to the licensing functions set out in the Scrap Metal Dealers Act 2013 and any amending legislation, save for the hearing of representations in cases involving the refusal, revocation or variation of a licence.
- (51) That the holders of the following posts be authorised to enter land or premises and to carry out any act included in the legislation and subordinate legislation made thereunder and any amendments thereto set out in the:

Gambling Act 2005
Health Act 2006 Part 1 Chapter 1 (insofar as they relate to fixed penalty notices and associated matters pertaining to the smoke free requirements)
House to House Collections Act 1939
Hypnotism Act 1952
Licensing Act 2003
Local Government (Miscellaneous Provisions) Acts 1976 and 1982
Police, Factories Etc. (Miscellaneous Provisions) Act 1916
Public Health Acts 1875 and 1936
Scrap Metal Dealers Act 2013
Town Police Clauses Acts 1847 and 1889

50361447 Licensing Manager
50361451 Senior Licensing and Local Land Charges Officer
50361449 Licensing and Local Land Charges Assistant
50361452 Licensing and Local Land Charges Assistant
50876924 Licensing and Local Land Charges Assistant

- (52) To update the use of IT and Social Media Policy as and when required.

Delegation to Head of Planning and Building Services

- (1) To make decisions on all applications, notifications, consultations, negotiations, serving of notices, and other activities carried out under Town and Country Planning legislation, which are delegated to Head of Planning and Building Services, except as follows:-
- (a) Applications which are contrary to the provisions of an approved or draft development plan or other statement of approved planning policy where adverse representations have been received and which is recommended for approval.
 - (b) Applications (excluding notifications and applications under s191 and s192, Town and Country Planning Act 1990) where a Member requests in writing, with reasons and within the Application Publicity Expiry Date, that they be submitted to Committee. A Member can withdraw this request at any time prior to the determination of the application to enable its determination under delegated powers.
 - (c) Applications submitted by or on behalf of the Council, or any company in which the Council holds an interest, for its own developments except for the approval of minor developments.

- (d) Applications where the Head of Planning and Building Services recommends refusal of an application solely on the basis of failure to achieve nutrient neutrality where a Ward Member requests in writing, with reasons, within 72 hours of notification of the recommendation for refusal that they be submitted to Committee for determination. A Member can withdraw this request at any time prior to the determination of the application to enable its determination under delegated powers.
- (2) To determine applications (excluding applications for advertisement consent, certificates of lawfulness, listed building consent, and applications resulting from the withdrawal by condition of domestic permitted development rights; Schedule 2, Part 1, Classes B, C, D, E, F, G, and H of the Town and Country Planning (General Permitted Development) (England) Order 2015 or as amended) on which a material planning objection(s) has been received within the Application Publicity Expiry Date and which cannot be resolved by negotiation or through the imposition of conditions and where the officer's recommendation is for approval, following consultation with the Ward Members, the latter having the right to request that the application be reported to Committee for decision.
- (3) To allocate and release Section 106 developer contributions for external projects up to a maximum of £25,000.00 per project, following consultation with the relevant Ward Members, Portfolio Holder and Head of Finance and Revenues.
- (4) That the holders of the following posts, and any other person employed or otherwise engaged by the Service and duly authorised in writing by the Head of Planning and Building from time to time, be authorised to enter land or premises and to carry out any act included in the legislation and subordinate legislation made thereunder and any amendments thereto, as set out in the:

Anti-Social Behaviour Act 2003, Part 8
 Environment Act 1995
 Forestry Act 1967
 Planning (Hazardous Substances) Act 1990
 Planning (Listed Building and Conservation Areas) Act 1990
 Town and Country Planning Act 1990

50361136	Head of Planning and Building Services
50361139	Development Manager
50361140	Development Manager
50361200	Principal Planning Officer
50361216	Principal Planning Officer
50361212	Senior Planning Officer
50361213	Senior Planning Officer
50361217	Senior Planning Officer
50361218	Senior Planning Officer
50649303	Senior Planning Officer
50649304	Senior Planning Officer
50361330	Senior Planning Officer

50361204	Planning Officer
50361219	Planning Officer
50361220	Planning Officer
50360949	Planning Officer
50361201	Planning Assistant
50361202	Planning Assistant
50361203	Planning Assistant
50361222	Planning Assistant
50361226	Planning Assistant
50361246	Planning Enforcement Manager
50381163	Enforcement Officer
50361248	Enforcement Officer
50361249	Enforcement Officer
50361250	Enforcement Officer
50361063	Team Leader (Trees)
50361064	Arboricultural Officer
50361065	Arboricultural Officer
50361020	Team Leader (Design and Conservation)
50361022	Conservation Officer
50361066	Senior Landscape Architect
50361067	Landscape Officer

- (5) To issue notices pursuant to Sections 171C (Planning Contravention Notices) and 330 (Power to require information as to interests in land) of the Town and Country Planning Act 1990 (as amended).
- (6) That the following postholders, and any other person employed or otherwise engaged by the Service and duly authorised in writing by the Head of Planning and Building from time to time, be authorised to issue authorisations pursuant to the Regulation of Investigatory Powers Act 2000.

50361139	Development Manager
50361140	Development Manager

- (7) To discharge any of the Council's functions pursuant to the Anti-Social Behaviour Act 2003 Part 6 as amended by the Clean Neighbourhoods and Environment Act 2005 insofar as it relates to graffiti and fly posting.
- (8) To discharge any of the Council's functions pursuant to the Clean Neighbourhoods and Environment Act 2005 Part 2 insofar as it relates to nuisance parking and Part 4 insofar as it relates to graffiti, fly posting and advertisements.
- (9) That the holders of the following posts, and any other person employed or otherwise engaged by the Service and duly authorised in writing by the Head of Planning and Building from time to time, be authorised:
 - (a) To give fixed penalty notices pursuant to the legislation set out below and any subordinate legislation made thereunder and any amendments thereto.

- (b) To enter land or premises and to carry out any act included in the legislation set out below and any subordinate legislation made thereunto and any amendments thereto.

Anti-social Behaviour Act 2003 Part 6 (insofar as it relates to graffiti and fly posting)

Clean Neighbourhoods and Environment Act 2005 Part 2 (insofar as it relates to nuisance parking) and Part 4 (insofar as it relates to graffiti and fly posting and advertisements).

50361246	Planning Enforcement Manager
50381163	Enforcement Officer
50361248	Enforcement Officer
50361249	Enforcement Officer
50361250	Enforcement Officer

- (10) To approve with or without conditions, or to reject, plans under Building Regulations.
- (11) To serve notices in respect of demolitions and dangerous structures.
- (12) To determine applications for relaxation of Building Regulations and, subject to being satisfied, to issue approval and report thereon to the next meeting of the relevant Development Control Committee.
- (13) To serve notices under Section 25 of the Land Drainage Act 1991.
- (14) To authorise proceedings under Sections 35 and 35A of the Building Act 1984.
- (15) To serve notices in connection with building works requiring either removal or alteration in accordance with Section 36 of the Building Act 1984.
- (16) To appoint consultants to undertake professional services on schemes included in approved capital or revenue estimates.
- (17) To be designated the "Appointing Officer" in accordance with Section 30 of the Party Wall etc. Act 1996.
- (18) In consultation with the Head of Finance and Revenues, to set the levels of charges for building regulation applications.
- (19) That the holders of the following posts, and any other person employed or otherwise engaged by the Service and duly authorised in writing by the Head of Planning and Building from time to time, who are qualified in accordance with the legislation are authorised to enter land or premises and to carry out any act included in the Building Act 1984 and the Land Drainage Act 1991 and subordinate legislation made thereunder and any amendments thereto:

50361232	Building Control Manager
50361234	Area Building Control Surveyor
50361235	Area Building Control Surveyor

50361236	Area Building Control Surveyor
50361233	Area Building Control Surveyor
50361237	Area Building Control Surveyor
50361238	Technical Assistant

- (20) That the holders of the following posts, and any other person employed or otherwise engaged by the Service and duly authorised in writing by the Head of Planning and Building from time to time, be authorised to enter land or premises and to carry out any act included in the legislation and subordinate legislation made thereunder and any amendments thereto:

Fire Safety and Safety of Places of Sport Act 1987
 Hypnotism Act 1952
 Licensing Act 2003
 Local Government (Miscellaneous Provisions) Acts 1976 and 1982
 Town Police Clauses Acts 1847 and 1889
 Public Health Acts 1875 and 1936

50361232	Building Control Manager
50361233	Area Building Control Surveyor
50361234	Area Building Control Surveyor
50361235	Area Building Control Surveyor
50361236	Area Building Control Surveyor
50361237	Area Building Control Surveyor
50361238	Technical Assistant

- (21) To adjust and change charges for pre-application advice should the need arise including taking account of any changes in fee regulations or other legislation and the need for charging not to exceed the cost of service provision.
- (22) To issue updates of the Local Information Requirements Descriptions document as and when appropriate.
- (23) To make decisions on:
- The making of provisional tree preservation orders; and to vary, modify or revoke such orders.
 - The confirmation (with or without modifications) of tree preservation orders where no objections have been received or all objections which may have been received have been withdrawn.
 - Decisions on action to be taken following service of notice on the Council under Section 211 of the Town and Country Planning Act 1990.
 - All related applications, notices and matters under the Town and Country Planning Act 1990 as amended and regulations made thereunder.
 - Matters and activities under relevant sections of the Environment Act 1995 and the Forestry Act 1967 and regulations made thereunder.
 - All notifications, consultations, negotiations, serving of Notices, and other activities under the Planning (Listed Buildings and Conservation Areas) Act 1990 and regulations made thereunder.

- (24) To determine what action should be taken, if any, in relation to notices received pursuant to Section 23 Local Government (Miscellaneous Provisions) Act 1976 (power of local authorities to deal with dangerous trees) and to instruct the Head of Legal and Democratic Services to take such steps as he/she (Head of Planning and Building Services) considers appropriate in cases where, in the opinion of the Head of Planning and Building Services, significant public benefit furthering the Council's corporate objectives and priorities would result from such steps.

- (25) That the holders of the following posts, and any other person employed or otherwise engaged by the Service and duly authorised in writing by the Head of Planning and Building from time to time, be authorised to enter land or premises and to carry out any act included in the legislation and subordinate legislation made thereunder and any amendments thereto as set out in the:

Local Government (Miscellaneous Provisions) Act 1976

50361063	Team Leader (Trees)
50361064	Arboricultural Officer
50361065	Arboricultural Officer

- (26) To deal with and determine all complaints and issue any notices in relation to high hedges pursuant to Part 8 of the Anti-Social Behaviour Act 2003.
- (27) To conclude agreements under s106 of the Town and Country Planning Act 1990 in relation to mitigation land within its administrative area required by other local planning authorities as listed below.
- (i) Basingstoke and Deane Borough Council;
 - (ii) BCP (Bournemouth Christchurch Poole) Council;
 - (iii) Dorset Council;
 - (iv) East Hampshire District Council;
 - (v) Eastleigh Borough Council;
 - (vi) New Forest District Council;
 - (vii) New Forest National Park Authority;
 - (viii) South Downs National Park Authority;
 - (ix) Southampton City Council;
 - (x) West Berkshire Council;
 - (xi) Wiltshire Council; and
 - (xii) Winchester City Council.
- (28) To conclude agreements under s106 of the Town and Country Planning Act 1990 in relation to nutrient mitigation land required by the Council outside its administrative area and to exercise monitoring and enforcement functions under s106 where such functions have been properly delegated to the Council by the relevant local authority.

- (29) To conclude agreements under s33 Local Government (Miscellaneous Provisions) Act 1982 and in particular to enter into such agreements in relation to nutrient mitigation land required by the Council outside its administrative area and to exercise monitoring and enforcement functions under s33 in relation to such land.

Delegations to Head of Planning Policy and Economic Development

- (1) That the holders of the following posts, and any other person employed or otherwise engaged by the Service and duly authorised in writing by the Chief Executive from time to time, be authorised to enter land or premises and to carry out any act included in the legislation and subordinate legislation made thereunder and any amendments thereto, as set out in the:

Planning (Listed Building and Conservation Areas) Act 1990
Town and Country Planning Act 1990

50361050	Head of Planning Policy and Economic Development
50361059	Principal Planning Officer (Strategy)
50361056	Principal Planning Officer (Delivery)
50361062	Senior Planning Officer
50361061	Planning Officer
50813751	Planning Officer (Delivery and Neighbourhood Planning)
50895958	Planning Officer (Delivery)

- (2) In consultation with the Finance and Resources Portfolio Holder and the Recycling, Environmental Services and Parking Portfolio Holder, to apply for other Community Transport Schemes to be encompassed within the Concessionary Travel Scheme including Dial-a-Ride Service.
- (3) In respect of Neighbourhood Plans (including proposals for such plans):-
- (a) To determine all matters relevant to the publication, designation and amendment of the Neighbourhood Area pursuant to Part 2 of the Neighbourhood Planning (General) Regulations 2012 ("the Regulations");
 - (b) In consultation with the Planning Portfolio Holder, to submit the Local Planning Authority's pre-submission consultation response;
 - (c) Upon receipt of the draft Neighbourhood Plan, to check the submitted Plan meets the legislative requirements, secure the publication of the Neighbourhood Plan proposal;
 - (d) In consultation with the Planning Portfolio Holder, to submit the Local Planning Authority's submission consultation response ;
 - (e) Appoint a person to carry out an examination of the Neighbourhood Plan and submit the Plan for examination pursuant to the Regulations;

- (f) In consultation with the Planning Portfolio Holder, to determine what action to take following receipt of the Examiners Report (including what modifications, if any, are to be made to the Plan and whether to allow the Plan to proceed to a referendum in accordance with the Regulations);
 - (g) To publish the Examiner's report and the Council's decision statement in accordance with the Regulations;
 - (h) Where appropriate, to arrange a referendum to consider the Neighbourhood Plan;
 - (i) If approved by the referendum, to make the Neighbourhood Plan, Issue the decision statement and publicise the Neighbourhood Plan in accordance with the Regulations.
- (4) To monitor and review the Council's commitments under the Climate Local Scheme.
 - (5) In consultation with the Finance and Resources Portfolio Holder and the Head of Finance and Revenues, to have authority to issue Business Incentive Grants of £500 to each qualifying persons.
 - (6) Day-to-day control and management of Council tourism facilities and associated activities and events provided by the Council.
 - (7) In consultation with the Finance and Resources Portfolio Holder, to award grants from the £500,000 Section 106 contribution obtained from the developer of Andover Business Park.

Delegations to Head of Property and Asset Management Service

- (1) To enter into licences for the assignment of leases and for sub-letting or under letting.*
- (2) To grant consent for the change of use of Council premises where such consent is necessary under the provisions of the lease and appropriate.*
- (3) In consultation with the Head of Finance and Revenues, to authorise the lettings of Council property where the rent does not exceed £150,000 per annum.*
- (4) To authorise rent reviews and renewals of leases.
- (5) To be responsible for all aspects of overall Estate Management in relation to Council-owned properties, including the authorisation of proceedings against Council tenants for rent arrears or any other breach of lease covenants including forfeiture.

- (6) To be responsible for conducting negotiations on the Council's behalf in relation to the sale or acquisition of any property.
- (7) To select tenants for the Walworth Enterprise Centre and to grant them licences to occupy and to terminate their occupations if they do not prove suitable and to manage the Centre including contract cleaning, repairs/maintenance/alteration up to a value laid down by the Council from time to time, and the collection of rent/rate and gas/electricity bills.
- (8) To grant consent for alterations and additions to premises to tenants of Council sites and buildings.*
- (9) To authorise variations to the terms of leases, licences, easements, wayleaves, covenants, acceptance of surrenders and any other legal arrangement where the consideration for the variation does not exceed £50,000.00 per annum or a premium payment of £150,000.00 and where the Council's economic or financial interest is not harmed or disadvantaged.*
- (10) To give approval to applications from firms on the industrial estates to sublet, for periods of 21 years or less, small parts of their sites to electricity suppliers for substation sites to serve the firm's premises.
- (11) To agree the siting of electricity substations and gas governors with the appropriate authorities subject to the usual rent terms and, if necessary, contributions payable either in respect of screening and/or fencing, and to grant the relevant leases.
- (12) To sell sites to electricity suppliers for use as electricity substation sites.
- (13) To grant wayleaves to statutory undertakers and other third parties over and under land owned by the Council.*
- (14) To invite and accept tenders and negotiate suitable terms for the temporary use of any suitable area of land for hay crops and arable land and grant suitable short term licences and Farm Business Tenancies.
- (15) To review mowing, grazing licences, agricultural tenancies and farm business tenancies for further temporary periods.
- (16) To grant easements in, over or through Council land on terms to be agreed by the officers subject to consultation with other departments where appropriate.*
- (17) To let market pitches (save those administered by the Head of Community and Leisure) in accordance with the Council's policy, and the administration of markets, including the application process, setting of fees and granting of concessions, and the termination and determination of the conditions to be attached to lettings.
- (18) To serve Notice to Quit on market stallholders if they are not conforming with the terms of their Agreement.

- (19) To be the Authorised Market Officer for the purposes of the Food and Environment Act 1985 and any statutory enactment and to be responsible for all aspects of administering markets in Andover.
- (20) In consultation with the Finance and Resources Portfolio Holder and the Head of Finance and Revenues, to dispose of land where the consideration is £75,000.00 or less.*
- (21) In consultation with the Finance and Resources Portfolio Holder and the Head of Finance and Revenues, to authorise the acquisition or taking the letting of land and/or premises subject to the purchase price or annual rent per annum not exceeding £75,000.00.
- (22) To grant licences for temporary/short-term works on Council-owned land.*
- (23) In consultation with the Head of Finance and Revenues, to approve appropriations between relevant function areas and statutory holding powers, except where public notice of the proposed appropriation is required and objections are received.

* In the case of delegations (1), (2), (3), (8), (9), (13), (16), (20), and (23) above, any transaction involving the possible installation of one or more telecommunications masts and/or associated ancillary equipment on Council-owned land or buildings shall be referred to the Council's Cabinet for consideration and approval.

- (24) To exercise the powers and duties of the Council under the Landlord and Tenant (Covenants) Act 1995.
- (25) In consultation with the Head of Legal and Democratic Services, to approve occupation of Council-owned premises by a third party in the absence of completed formal documentation in cases of emergency.
- (26) Subject to the Council's Financial Regulations and Contract Standing Orders, to be responsible for the appointment of external consultants to advise and/or act for the Council in negotiations and/or transactions relating to any of the above matters.
- (27) In consultation with the Head of Planning and Building Services, to give consent to advertise on Council-owned property on such terms as he/she considers appropriate provided there is no cost to the Council and that the Head of Planning and Building Services be consulted before any advertisement is displayed by the Council.
- (28) In consultation with the Head of Community and Leisure Services, to issue licences for temporary buildings.
- (29) To permit the display of banners on Council buildings.
- (30) To let the Crosfield Hall, Romsey; Rendezvous, Andover; Upper Guildhall, Andover; and meeting rooms at Beech Hurst, Andover in accordance with the Council's booking policy.

- (31) In conjunction with the Human Resources Manager, to employ Premises Management staff on appropriate contracts up to a maximum of 2600 hours per annum in the north and 3000 hours per annum in the south.
- (32) To approve monuments and statues on highway land, after appropriate consultations and subject to the approval of the Highway Authority.
- (33) To buy electric, gas and water from the most competitive provider for the sites we own and operate.
- (34) In consultation with a panel of Members (appointed by Council, consisting of 5 Members, with a quorum of 3 Members for each decision), to consider property investments and authorise expenditure from a pre-approved capital budget allocation.
- (35) That the holders of the following posts, and any other person employed or otherwise engaged by the Service and duly authorised in writing by the Head of Property and Asset Management Services from time to time, be authorised to enter land or premises and to carry out any act included in the legislation and subordinate legislation made thereunder and any amendments thereto, as set out in the:

Planning (Listed Building and Conservation Areas) Act 1990
Town and Country Planning Act 1990

50361073 Engineering and Transport Manager
50361127 Senior Transport Engineer
50361129 Transport Engineer
50361130 Transport Engineer

- (36) To implement transport capital programmes.
- (37) General day-to-day operation of the Transport Services.
- (38) To issue temporary parking permits for a duration of up to 6 months to third parties.
- (39) In consultation with the with the Finance and Resources and the Recycling, Environmental Services, and Car Parks and Strategic Regeneration (South) Portfolio Holders, to issue temporary parking permits for a duration longer than 6 months.
- (40) To install refuse or storage bins in streets under Section 185 of the Highways Act 1980.
- (41) To appoint consultants to undertake professional services on schemes included in approved capital or revenue estimates.
- (42) To select contractors for invitation to tender for approved schemes including those for principal authorities for which the Council acts as an agent in accordance with the Council's or the principal authority's procedures or Standing Orders as appropriate.

- (43) In consultation with the Head of Legal and Democratic Services, to enter into Agreements under Section 278 of the Highways Act 1980 with the Highway Authority to allow Test Valley Borough Council Capital Programme schemes on the Highway to be constructed.
- (44) To operate the Hampshire County Council/Test Valley Borough Council Agency Agreement for the enforcement of parking control.
- (45) To permit the use of car parks during charging hours for events of a charitable or non-profit making nature subject to consultation with the Finance and Resources and Recycling, Environmental Services and Parking Portfolio Holders.
- (46) To permit the use of the car parks outside the charging hours for events of a charitable or non-profit making nature.
- (47) To allow space within a car park to be used for the convenience of the public at large on such terms and conditions as he/she considers appropriate including the making of an appropriate charge and requiring suitable indemnity.
- (48) To negotiate agreements for advertising on car park tickets, ticket machine shelters and bus shelters on terms and conditions as he/she considers appropriate.
- (49) In consultation with the Head of Community and Leisure Services, to set an appropriate maximum duration of stay for non-permit holders using Leisure Centre Car Parks.
- (50) To authorise persons to act as Civil Enforcement Officers (Parking Attendants) under the Traffic Management Act 2004 and Section 63A of the Road Traffic Regulation Act 1984 and to undertake the functions of a Civil Enforcement Officer (Parking Attendant) under the provisions of those Acts together with the Road Traffic Act 1991 and any other enactment and any subordinate legislation made thereunder and amendments thereto.
- (51) To request information as to the identity of a driver of a vehicle where there is an alleged offence committed in relation to an Off Street Parking Places Order or Traffic Regulation Order pursuant to Section 112 of the Road Traffic Regulation Act 1984.
- (52) To instruct enforcement agents in connection with the recovery of unpaid parking debts.
- (53) To make changes to the Parking Enforcement Policy and Guidance in response to changes in legislation or operational procedures.
- (54) To determine Penalty Charge Notice appeals including appeal decisions, resetting of 14 day discount rates and/or removal of surcharges.
- (55) To determine if a penalty charge or parking permit debt is uncollectible and to write off such debts.

- (56) To discharge the functions given under the Traffic Management, Development Management and Capital Schemes Agency Agreement including the making and confirmation as appropriate of temporary and permanent Traffic Regulation Orders.
- (57) In consultation with the Recycling, Environmental Services and Parking Portfolio Holder, to make amendments to Off Street Parking Places orders by the making of a new order or the suspension of an old order in response to changes in legislation, guidance or operational reason other than changes to parking tariffs and maximum stay limits.
- (58) In consultation with the Recycling, Environmental Services and Parking Portfolio Holder, to consider objections to Traffic Regulation Orders and to decide whether the Order, as advertised or with amendments, be made/confirmed.
- (59) In consultation with the Head of Finance and Revenues, to set the levels of charges for Traffic Regulation Orders with the objective of recovering the costs of making the Order.
- (60) To consider and implement the renumbering of houses and the naming and renaming of streets in accordance with the Council's policy.

Part 3

Functions Retained by the Leader and Delegations to Deputy Leader and Portfolio Holders

[Functions Retained by the Leader and Delegations to Deputy Leader and Portfolio Holders](#)

Functions retained by the Leader and Delegations to the Deputy Leader and Portfolio Holders

- (1) That all executive functions save those retained by the Leader below, shall be delegated to the Cabinet as a whole, save that where specified such delegated powers may be exercised concurrently by the Portfolio Holders.
- (2) That subject to the Council's Constitution, the Leader retains the following functions:
 - (a) the appointment and removal of the Deputy Leader;
 - (b) the establishment of Portfolios, which includes the determination of their number, name and content;
 - (c) the appointment and removal of Portfolio Holders;
 - (d) the delegation of executive functions to Cabinet and Portfolio Holders or the removal of those previously delegated;
 - (e) the determination (within the Budget and Policy Framework set by full Council) of all matters relating to executive functions delegated to the Cabinet, to Portfolio Holders or to officers, where there is no convenient meeting of the Cabinet or individual available (or willing) to exercise their delegated power; and
 - (f) approval of Member attendance at conferences.
- (3) That subject to the Council's Constitution, the appropriate Portfolio Holders be delegated the ability to make decisions in the following minor matters:
 - (a) where the value of the decision does not exceed £25,000; and
 - (b) approving the negotiation of a contract with a single contractor where the case for doing so is properly made by a Head of Service.

Part 3

Proper Officer Appointments

[Proper Officer Appointments](#)

"Proper Officer" Appointments

Local Government Act 1972

Section	Responsibility	Proper Officer
83	To receive declarations of acceptance of office.	Head of Legal and Democratic
13(3)	To act as Parish Trustee with Chairman of Parish Meetings where no Parish Council exists.	Head of Legal and Democratic
100(B)(2)	To exclude from agenda papers made available to public, reports (or parts) likely to be taken in absence of public.	Head of Legal and Democratic
100(B)(7)(c)	To supply copies of other documents.	Head of Legal and Democratic
100(C)(2)	To make a written summary in lieu of confidential minutes.	Head of Legal and Democratic
100(F)(2)	To identify documents not available to Members under that section.	Head of Legal and Democratic
191	To receive notices of Ordnance Survey in relation to ascertaining or locating local authority boundaries.	Head of Legal and Democratic
210(6)&(7)	To exercise any charity functions by officers of the "old" local authority where there is no holding of a corresponding office in the "new" local authority.	Head of Legal and Democratic
212(1)&(2)	To act as local registrar for Land Charges Act, 1925.	Head of Legal and Democratic
225(1)	To receive and give receipt for any document required to be formally deposited with the Council.	Head of Legal and Democratic
229(5)	To certify a photographic copy of a document in the custody of the Council.	Head of Legal and Democratic
236(9)&(10)	To send copies of all bye laws made by the Council to the Council of every Parish or Community to which they apply and to the County Council.	Head of Legal and Democratic
238	To sign the certificate on any printed copy of the bye laws authenticating such prints as a true and correct copy.	Head of Legal and Democratic
248	To keep the Roll of Freemen.	Head of Legal and Democratic
Schedule 6 para.1	To be deputy to Electoral Registration Officer.	Head of Legal and Democratic
Schedule 14 para.25(7)	To certify copy resolutions.	Head of Legal and Democratic

Schedule 16 para.28	To receive on deposit lists of buildings of special architectural or historic interest.	Head of Legal and Democratic
115(2)	To whom all officers shall pay monies received by them and due to the local authority.	Head of Finance and Revenues
146	To keep declarations and issue certificates in connection with the holding or transfer of securities or the payment of dividend or interest.	Head of Finance and Revenues
151	To be responsible for the administration of the financial affairs of the Council.	Head of Finance and Revenues
100(D)(1)(a)	To compile a list of background papers to a report.	Head of Service originating the report
100(D)(5)(a)	To identify the background papers on which a report is based.	Chief Executive, Deputy Chief Executive or Head of Service originating the report
270	Appointment as Proper Officer in relation to all matters where no other officer is specifically designated.	Chief Executive
88	To convene a meeting of the Council to fill vacancy in office of Mayor (where such a casual vacancy exists).	Head of Legal and Democratic
81	To receive declarations of financial and other interests by Councillors and the keeping of the register of declarations of financial and other interests.	Head of Legal and Democratic
81	To receive declarations of gifts and hospitality by Councillors and the keeping of the register of gifts and hospitality.	Head of Legal and Democratic
234	Power to sign formal notices, orders or other documents made or issued by the Council.	Head of Legal and Democratic
Schedule 12	To issue and service of summons to meetings of Council and Committees thereof: receipt of formal notification from Councillors of address to which it is desired such summons to be sent.	Head of Legal and Democratic

**Local Government Act 1972, Section 270 (3) as amended
Public Health (Control of Disease) Act 1984, Section 74 as amended and
regulations made thereunder**

Section	Responsibility	Proper Officer
Part II A	To act for such of the functions relating to notification, investigations, prevention and control of notifiable diseases and food poisoning	CCDCs/Consultant in Health Protection at the South East Region of the UK Health Security Agency (UKHSA)
S48	To certify that retention of a dead body in any building would endanger public health.	- ditto -

Health Protection (Notification) Regulations 2010

Section	Responsibility	Proper Officer
2	To receive notifications about patients with suspected notifiable disease or infection	CCDCs/Consultant at the South East Region of the UK Health Security Agency (UKHSA)
3	To receive notifications about patients who have died with suspected notifiable disease or infection	- ditto -
6	Duty to disclose notification to others	- ditto -

Health Protection (Local Authority Powers) Regulations 2010

Section	Responsibility	Proper Officer
		CCDCs/Consultant in Health Protection at the South East Region of the UK Health Security Agency (UKHSA)

Public Health Act 1984

Section	Responsibility	Proper Officer
13	To control notifiable diseases and food poisoning.	Head of Housing and Environmental Health

Public Health Act 1936

Section	Responsibility	Proper Officer
ss84 & 85	Power to issue certificate to the Council regarding the cleansing or destruction of filthy or verminous articles.	Head of Housing and Environmental Health

Data Protection Act 1998

Section	Responsibility	Proper Officer
	To be the Data Protection Officer.	Head of Legal and Democratic Services

National Assistance Act 1948 as amended by the National Assistance (amendment) Act 1951

Section	Responsibility	Proper Officer
S47(2)	Where a person residing in the area of the local authority who is suffering from grave chronic disease or being aged and living in insanitary conditions or infirm and living in insanitary conditions or physically incapacitated and living in insanitary conditions and unable to devote to themselves, and are not receiving from others, proper care and attention: To provide a certificate to the local authority that he is satisfied that it is in the interests of any such person aforesaid, or for preventing injury to the health of or, serious nuisance to, other persons, it is necessary to remove any such person from the premises in which he is residing.	Communicable Disease Control Consultant & Senior Clinical Medical Officer in Health Protection at the South East Region of the UK Health Security Agency (UKHSA)

Local Government (Miscellaneous Provisions) Act 1976

Section	Responsibility	Proper Officer
	To sign licences for hackney carriage and private hire vehicles and drivers	Head of Legal and Democratic

Representation of the People Act 1983

Section	Responsibility	Proper Officer
36	To receive the report of the Returning Officer of District Council Elections.	Head of Legal and Democratic

Dairy Products (Hygiene) Regulations 1995

Section	Responsibility	Proper Officer
R19(1)	To give notice to the occupier of any registered dairy premises that he considers it necessary to make an examination of persons at the premises who come into contact with milk or milk receptacles.	

Local Government Finance Act 1988

Section	Responsibility	Proper Officer
116	Officer designated to notify auditor of date, time and place of meeting to consider S.114 report and decision of such meeting.	Head of Finance and Revenues

Local Government Housing Act 1989

Section	Responsibility	Proper Officer
	To retain a list of politically restricted posts.	Head of Legal and Democratic
15-17	Voting Rights and Political Balance. Officer designated for the purpose of these sections.	Head of Legal and Democratic

Local Authorities (Executive Arrangements) (Meetings and Access to information) (England) Regulations 2012

Section	Responsibility	Proper Officer
	To act as "Proper Officer"	Head of Legal and Democratic

Local Authority (Standing Orders) (England) Regulations 2002

Section	Responsibility	Proper Officer
	To notify the Executive of proposed appointments to and dismissals from senior posts for the purposes of Schedule 1 to the Local Authorities (Standing Orders) (England) Regulations 2001	Human Resources Manager

Highways Act 1980

Section	Responsibility	Proper Officer
Part VII A	Provision of amenities on certain highways.	Head of Property and Asset Management Service

Building Act 1984

Section	Responsibility	Proper Officer
78	To enforce Section 78 of the Building Act, 1984 in relation to Dangerous Buildings.	Head of Legal and Democratic

Part 4

Rules of Procedure

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Access to Information Procedure Rules

1. Scope

These rules apply to all meetings of the Council, its Committees and Sub-Committees, and meetings of the Cabinet, its Committees and Sub-Committees.

2. Additional right to information

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

3. Right to attend meetings

Members of the public may attend all meetings subject only to the exceptions in Section 10 of these Rules and may participate so far as the Council's Public Participation Scheme allows.

4. Notice of meetings

The Council will give at least five clear working days notice of any meeting by posting details of the meeting at Beech Hurst, Andover - the designated office.

In addition to the designated office, notices will be posted at the Guildhall, Andover and at the Council Offices, Former Magistrates' Court, Romsey.

5. Access to agenda and reports before the meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear working days before the meeting.

If an item is added to the agenda later (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. The revised agenda will be open to inspection from the time the item was added.

In addition, copies of these agendas and reports will also be available for public inspection at the Council Offices, Former Magistrates' Court, Romsey.

6. Supply of copies

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;**
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and**
- (c) if the Proper Officer thinks fit, copies of any other documents supplied to Councillors in connection with an item to any person on payment of**

a charge for postage and any other costs.

7. Access to documents after the meeting

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

- (a) the minutes of the meeting. For all meetings of the Cabinet this will include records of decisions taken together with reasons, 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. Background Papers

8.1 List of background papers

The Proper Officer will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and**
- (b) which have been relied on to a material extent in preparing the report.**

Background papers do not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and, in respect of Cabinet reports, the advice of a political advisor.

8.2 Public inspection of background papers

The Council will make available on its website, for four years after the date of the meeting, each of the documents listed on the reports as a background paper.

9. Summary of public's rights

A summary of the public's right to attend meetings, and to inspect and copy documents kept at and available to the public at the Council's main offices can be found in Rule 6 above and Article 3.

10. Exclusion of access by the public to meetings

10.1 Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely, in view of

the nature of the business to be transacted or the nature of the proceedings, that confidential information would be disclosed.

10.2 Exempt information – discretion to exclude public

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

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

10.3 Meaning of confidential information

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

10.4 Meaning of exempt information

Exempt information, as defined in Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, means information falling within the following categories (subject to any condition):

All Council Committees

Category	Condition
1. Information relating to any individual.	Information is not exempt information unless it relates to any individual i.e. it must relate to and be recognisable as referring to a particular individual.
2. Information which is likely to reveal the identity of an individual.	Information is not exempt information unless it is likely to reveal the identity of an individual, i.e. it must be such as to make it likely that the individual to whom it relates could be identified.
3. Information relating to the financial or business affairs of any particular person including the authority holding that information.	Information within paragraph 3 is not exempt if it must be registered under various statutes, such as the Companies Acts (as defined in section 2 of the Companies Act 2006), the Friendly Society Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965-1978, the

	Building Societies Act 1986 or the Charities Act 1993. To be exempt the information must relate to a particular third person who must be identifiable. The “financial affairs” or “business affairs” include past, present and contemplated activities.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer-holders under, the authority.	Information within paragraph 4 is only exempt if and for so long as its disclosure to the public would prejudice the authority in those or any other consultations or negotiations in connection with a labour relations matter “Labour relations matters” are as specified in paragraphs (a) to (g) of section 29(1) of the Trade Unions and Labour Relations (Consolidation) Act 1993, i.e. matters which may be the subject of a trade dispute.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6. Information which reveals that the authority proposes: (a) to give under any enactment a notice under which, or by virtue of, requirements are imposed on a person; or (b) to make an order or direction under any enactment.	Information within paragraph 6 is exempt only if and so long as disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice, order or direction is to be given or made.
7. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

Information falling within any of 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; and**

- 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.

General Purposes Employment Appeals & Ethics Sub-Committee

Information falling within paragraphs 7A to 7C, as shown below, is exempt information where a meeting of the General Purposes Employment Appeals & Ethics Sub-Committee is convened to consider a matter referred under the provisions of the Standards Committee (England) Regulations Act 2008.

7A. Information which is the subject of any obligation of confidentiality.
7B. Information which relates in any way to matters concerning national security.
7C. The deliberations of the Committee.

11. Exclusion of access by the public to reports

If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his/her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

12. Application of rules to the Cabinet

Henceforth, any reference to Cabinet also refers to its Committees and Sub-Committees.

Rules 13 – 27 apply to the Cabinet. If the Cabinet meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (General Exception) or Rule 16 (Special Urgency) apply.

If the Cabinet meet to discuss a key decision to be taken collectively, with an officer, other than a political assistant present, within 28 calendar days of the date according to the Work Programme by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members.

A key decision is as defined in Article 12.3 of this Constitution.

13. Procedure before taking decisions

Subject to Rule 15 (General Exception) and Rule 16 (Special Urgency) below, a key decision may not be taken unless:

- a notice (called herein a Work Programme) has been published in connection with the matter in question; and
- at least 28 clear calendar days have elapsed since the publication of the Work Programme; and

- (c) where the decision is to be taken at a meeting of the Cabinet, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

14. The Work Programme

14.1 Publication

The Work Programme is published a minimum of 28 clear calendar days prior to each meeting of the Cabinet. It will contain details of reports requiring consideration by the Cabinet, either at the next or any subsequent meeting.

The work programme will be made available for inspection by the public at the Council's offices and on the Council's website.

14.2 Contents

The Work Programme will state that a key decision is to be taken by the Cabinet, individual members of the Cabinet, officers, or under joint arrangements in the course of the discharge of an executive function, during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision maker is an individual, his/her name and title, and where the decision maker 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 taker for consideration in relation to the matter;
- (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; and
- (h) whether the consideration of the item will require the exclusion of the public on the grounds of the disclosure of exempt or confidential information.

15. General Exception

If a matter which is likely to be a key decision has not been included in the Work Programme, then subject to Rule 16, the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Work

Programme and until the start of the first month to which the next Work Programme relates;

- (b) the Proper Officer has informed the Chairman of the Overview and Scrutiny Committee, or if there is no such person, each member of that Committee in writing, by notice, of the matter to which the decision is to be made;**
- (c) the Proper Officer has made copies of that notice available to the public at the offices of the Council; and**
- (d) at least 5 clear working days have elapsed since the Proper Officer complied with (a) and (b).**

Where such a decision is taken collectively, it must be taken in public.

16. Special Urgency

16.1 If, by virtue of the date by which a decision must be taken, Rule 15 cannot be followed, then the decision can only be taken if a Head of Service, in consultation with the Chief Executive (or in his absence a the Deputy Chief Executive), considers that the decision is so urgent that it cannot await the next meeting of the Cabinet, he/she shall have authority after due consultation with the Leader (or in his/her absence the Deputy Leader or the Portfolio Holder) and the Chairman (or in his/her absence, the Vice-Chairman) of the Overview and Scrutiny Committee, to determine the matter on behalf of the Council provided that:

- (a) a record of the three consultations shall be kept and the decision shall be reported to the next meeting of the Cabinet; and**
- (b) if any one of the three consultees so requires, the question shall instead be referred for decision to a special meeting of the Cabinet.**

16.2 Quarterly reports to Council on special urgency decisions

The Cabinet will submit quarterly reports to the Council on decisions taken in the circumstances set out in Rule 16 (Special Urgency). The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

17. Report to Council

17.1 When an Overview and Scrutiny committee can require a report

If an Overview and Scrutiny committee thinks that a key decision has been taken which was not:

- (a) included in the Work Programme; or**
- (b) the subject of the General Exception procedure under Rule 15; or**

- (c) the subject of an agreement with the Overview and Scrutiny Committee Chairman, or the Leader, Deputy Leader or the Portfolio Holder under Rule 16 Special Urgency,**

the Committee may require the Cabinet to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, and may be raised by resolution passed at a meeting of the Committee. Alternatively the power is also delegated to the Proper Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman or any 5 members.

17.2 Cabinet's report to Council

The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the Committee, 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 Cabinet is of the opinion that it was not a key decision, the reasons for that opinion.

18. Record of Decisions

After any meeting of the Cabinet, its Committees or Sub-Committees, whether held in public or otherwise, the Proper Officer will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

19. Notice of meetings

This Rule applies to all meetings of the Council, its Committees and Sub-Committees, including meetings of the Cabinet, its Committees and Sub-Committees.

- 19.1 Members will receive five clear working days notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice.**

- 19.2 Members who are not the subject of a summons will be notified of the availability of the agenda and reports for the meeting concerned.**

20. Overview and Scrutiny Committees – Access to documents

20.1 Right to copies

Subject to Rule 21.2 below, the Overview and Scrutiny Committee (including its Sub-Committees) will be entitled to copies of any document which is in the possession or control of the Cabinet, its Committees or Sub-Committees, and which contains material relating to any business transacted at a meeting of the Cabinet, its Committees or Sub-Committees.

20.2 Limit on rights

An Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form; or**
- (b) the advice of a political adviser.**

21. Additional rights of access for members

21.1 Material relating to previous business

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

- (a) it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information (see Rule 10.4); or**
- (b) it contains the advice of a political adviser**

21.2 Material relating to key decisions

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

21.3 Nature of rights

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

Part 4

Council Procedure Rules

1. [Annual meeting of the Council](#)
2. [Ordinary meetings](#)
3. [Extraordinary meetings](#)
4. [Election of Chairman, Vice-Chairman or deputy Vice-Chairman of Committee](#)
5. [Time and place of meetings](#)
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27. [Quorum of Committees and Sub-Committees](#)

1. ANNUAL MEETING OF THE COUNCIL (* see Rule 24)

1.1 Timing and business

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May.

The annual meeting will:

- (a) elect a member to preside if the Mayor and Deputy Mayor is not present;
- (b) elect the Mayor;
- (c) elect the Deputy Mayor;
- (d) receive any announcements from the Mayor;
- (e) elect the Leader;
- (f) appoint:
 - (i) the Overview and Scrutiny Committee - Article 7;
 - (ii) such other Committees as the Council considers appropriate; and
 - (iii) the membership of each Committee in accordance with any requirements of the rules of political proportionality as required by the Local Government Act 2000;
- (g) appoint a Chairman and Vice-Chairman in respect of each Committee in accordance with Rule 4;
- (h) approve the Scheme of Officer Delegations in Part 3 of the Constitution;
- (i) approve a programme of ordinary meetings of the Council;
- (j) consider any business set out in the notice convening the meeting;
- (k) appoint Councillors or representatives to outside committees or bodies.

2. ORDINARY MEETINGS (* see Rule 24)

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (a) elect a member to preside if the Mayor and Deputy Mayor are not present;
- (b) approve the minutes of the last meeting;
- (c) receive any declarations of interest from Members;
- (d) receive any announcements from the Mayor;

- (e) receive questions or statements from, and provide answers to, the public in relation to matters which in the opinion of the Mayor are relevant to the business of the meeting and which accord with the Council's Public Participation Scheme;
- (f) deal with any business from the last Council meeting;
- (g) receive reports from the Cabinet and the Council's Committees and receive questions and answers on any of those reports;
- (h) receive and answer questions - Rule 11;
- (i) consider motions - Rule 12; and
- (j) consider any other business specified in the summons to the meeting.

3. EXTRAORDINARY MEETINGS (* see Rule 24)

3.1 Calling extraordinary meetings

An extraordinary meeting of the Council may be called at any time by the Mayor, the Monitoring Officer, or on the requisition of five members of the Council delivered in writing to the Head of Legal and Democratic Services.

3.2 Business

The business to be transacted at an extraordinary meeting shall normally be restricted to the purpose for which it was called.

3.3 Timing and logistics of Extraordinary Meetings

The Head of Legal and Democratic Services shall determine the time and day of any extraordinary meeting, in accordance with the Constitution and following consultations with the Mayor and leaders of the political parties, provided that any such extraordinary meeting shall take place as soon as reasonably practicable but no later than twenty clear working days from the date of receipt by the Head of Legal and Democratic Services of a valid request for an extraordinary meeting.

4. ELECTION OF CHAIRMAN, VICE-CHAIRMAN OR DEPUTY VICE CHAIRMAN OF COMMITTEE (* see Rule 24)

- (a) The Council shall at the Annual Meeting appoint a Chairman and Vice-Chairman and where applicable a deputy Vice-Chairman for the year in respect of Committees, except for the Vice-Chairman of an Overview and Scrutiny Committee who will be appointed at the Committee's first meeting following the Annual Meeting.
- (b) A Chairman, Vice-Chairman and where applicable a deputy Vice-Chairman for the year in each Sub-Committee shall be appointed by its parent Committee at the first meeting of the Committee following the Annual Meeting;
- (c) If the Chairman, Vice-Chairman and deputy Vice-Chairman are absent from any meeting, the meeting shall elect one of their number to preside for that meeting.

5. TIME AND PLACE OF MEETINGS

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

6. NOTICE OF AND SUMMONS TO MEETINGS

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

7. CHAIRMAN OF MEETING

The Mayor will normally preside at meetings of the Council and may exercise any power or duty of chairmanship. Where these rules apply to Committee and Sub-Committee meetings, references to the Chairman also include the Chairman of Committees and Sub-Committees.

8. QUORUM (* see Rule 24)

The quorum of a meeting will be one quarter of the whole number of Members. During any meeting, if the Mayor counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

9. DURATION OF MEETING

9.1 Interruption of the meeting

- (a) If the business of the meeting has not been concluded within four hours or by 10.00 p.m., whichever is the sooner, the Chairman must interrupt the meeting and if he/she is satisfied that the matter under discussion has been sufficiently debated call for the vote immediately, otherwise Rule 9.2 (b) will apply.
- (b) Any remaining business shall stand referred to the next ordinary meeting or until a special meeting on a date to be fixed.

9.2 Motions and recommendations not dealt with

- (a) Prior to 10.00 p.m. or the expiration of four hours, whichever is the sooner, a majority of members present may vote for the meeting to continue by one half-hour.
- (b) Debate on a motion that has been proposed and seconded before the time limit, as defined in 9.1(a) or 9.2(a), shall continue, beyond the time limit, until a vote on that motion is taken, unless the meeting is adjourned.

- (c) Any remaining business shall stand referred to the next ordinary meeting or until a special meeting on a date to be fixed.

9.3 Recorded vote (* see Rule 24)

If a recorded vote is called for during this process, it will be taken immediately.

9.4 Motions which may be moved

During the process set out in Rules 9.1–9.3 above, the only other motions which may be moved are that a matter be withdrawn or that a matter be delegated, deferred or referred to an appropriate body or individual for decision or report.

10. PUBLIC QUESTIONS

Members of the public may ask questions or make statements at meetings of the Council in accordance with the Council's Public Participation Scheme.

11. QUESTIONS BY MEMBERS (* see Rule 24)

(Note: Rule 11 is subject to Rule 14 - persons employed by the Council)

11.1 On reports of the Cabinet or Committees

A member of the Council may ask the Leader or the Chairman of a Committee any question without notice upon an item of the report of the Council, the Cabinet or a Committee when that item is in the Council agenda or any minutes annexed thereto.

11.2 Questions on notice at Council

Subject to Rule 11.3, a Member of the Council may ask:

- (a) the Mayor;
- (b) the Leader or appropriate Portfolio Holder; or
- (c) the Chairman of any Committee or Sub-Committee

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

11.3 Notice of questions

A Member may only ask a question under Rule 11.2 if either:

- (a) they have given at least 2 working days notice in writing of the question to the Head of Legal and Democratic Services; or
- (b) where the question relates to urgent matters, they have the consent of the Mayor and have given notice in writing of the question to the Head of Legal and Democratic Services prior to 10.00am on the day of the meeting.

11.4 **Response**

An answer may take the form of:

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

11.5 **Supplementary question**

A member asking a question under Rule 11.2 may ask one supplementary question without notice of the member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

12. **MOTIONS ON NOTICE** (* see Rule 24)

(Note: Rule 12 is subject to Rule 14 - persons employed by the Council)

12.1 **Notice**

Except for motions which can be moved without notice under Rule 13, written notice of every motion must be delivered to the Head of Legal and Democratic Services at Beech Hurst, Andover not later than ten clear working days before the date of the meeting. This written notice must be signed by at least two members, or in the case of a motion of no confidence, the written notice must be signed by at least one quarter of the Members of the Council.

Motions under this rule will be logged and available for public inspection.

12.2 **Motion set out in agenda**

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

12.3 **Scope**

Motions must be about matters for which the Council has a responsibility or which affect the Borough.

12.4

If the subject matter of any motion comes within the province of the Cabinet or any Committee, it shall, upon being moved and seconded, stand referred to the Cabinet or such Committee for consideration and report without discussion (save for the mover of the motion reading it out should he/she wish to do so). However should the Mayor consider it convenient and conducive to the despatch of business, the motion may be dealt with at the meeting.

- 12.5 A Member of the Council who has moved a motion which has been referred to the Cabinet or any Committee or Sub-Committee shall have notice of the meeting of the Cabinet, Committee or Sub-Committee at which it is proposed to consider the motion. He/she shall have the right to attend the meeting and, if attending, shall have an opportunity of explaining the motion.

13. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a Chairman of the meeting at which the motion is moved;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;
- (d) to refer a recommended item to the Cabinet or a Committee;
- (e) to appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) to receive reports or adopt recommendations of Committees or officers and any resolutions following from them;
- (g) to withdraw a motion;
- (h) to amend a motion;
- (i) to proceed to the next business;
- (j) that the question be now put;
- (k) to adjourn the debate;
- (l) to adjourn the meeting;
- (m) that the meeting continue beyond 4 hours in duration;
- (n) to suspend a particular Council Procedure Rule;
- (o) to exclude the public and press in accordance with the Access to Information Rules;
- (p) under Rule 21.4 a Member be not heard further or be excluded from the meeting; and
- (q) to give the consent of the Council where its consent is required by this Constitution.

14. MOTIONS AFFECTING PERSONS EMPLOYED BY THE COUNCIL

If any questions arise at a meeting of the Council as to the appointment, promotion, dismissal, salary, superannuation or conditions of service or as to the conduct of any person employed by the Council, such question shall not be the subject of discussion until the Council has decided whether or not the power of exclusion of the public under Section 100(A)(4) of the Local Government Act 1972 shall be exercised.

15. RULES OF DEBATE

15.1 No speeches until motion seconded

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

15.2 Right to require motion in writing

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

15.3 Seconders' speech

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

15.4 Content and length of speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech, except the annual budget speech, may exceed 5 minutes.

15.5 When a member may speak again

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

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

15.6 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and must:
 - (i) refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) leave out words;
 - (iii) leave out words and insert or add others; or

(iv) insert or add words.

but must not negate the motion.

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

15.7 Alteration of motion

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

15.8 Withdrawal of motion

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

15.9 Right of reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment shall have a right of reply for a period not exceeding two minutes to be exercised immediately before the reply of the mover of the original motion.

15.10 Motions which may be moved during debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) that the meeting continue beyond 4 hours in duration;
- (h) to exclude the public and press in accordance with the Access to Information Rules; and
- (i) to not hear further a member named under Rule 21.4 or to exclude them from the meeting under Rule 21.5.

15.11 Closure motions

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

15.12 Point of order

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

15.13 Personal explanation

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

16. PREVIOUS DECISIONS AND MOTIONS (* see Rule 24)

16.1 Motion to rescind a previous decision

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

16.2 Motion similar to one previously rejected

Unless recommended by the Cabinet or a Committee, a motion or amendment in similar terms to one that has been rejected at a meeting of Council within the past six months cannot be moved unless the notice of motion or amendment is signed by at least one third of Members.

17. VOTING

17.1 Majority

Any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

17.2 Chairman's casting vote

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

17.3 Show of hands

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

17.4 Recorded vote (* see Rule 24)

If 10 members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

17.5 Right to require individual vote to be recorded

In accordance with Schedule 2 of the Local Authorities (Standing Orders) Regulations 1993, where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

17.6 Voting on appointments

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

18. MINUTES

18.1 Signing the minutes

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record and any debate will be restricted to their accuracy.

18.2 No requirement to sign minutes of previous meeting at extraordinary meeting

(This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993. The language is constrained by that permitted in the regulations.)

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

19. RECORD OF ATTENDANCE

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

20. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 or Rule 22 (Disturbance by Public).

21. MEMBERS' CONDUCT

21.1 Members' standing for the Mayor

When the Mayor enters or leaves a meeting in his/her capacity as Mayor all Members present in the room and physically able to do so shall stand.

21.2 Standing to speak (* see Rule 24)

When a Member speaks at Council they must, if physically able to do so, stand and address the meeting through the Mayor. If more than one Member stands, the Mayor will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

21.3 Mayor standing

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

21.4 Member not to be heard further

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

21.5 Member to leave the meeting

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

21.6 General disturbance

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

22. DISTURBANCE BY PUBLIC

22.1 Removal of a member of the public

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

22.2 Clearance of part of meeting room

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

23. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

23.1 Suspension

All of these Council Procedure Rules, except Rule 17.6 and 18.2, may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council/Committee are present and shall not be carried unless supported by two-thirds of the Members present at the meeting. Suspension can only be for the duration of the meeting.

23.2 Amendment (* see Rule 24)

Any motion to add to, vary or revoke these Council Procedure Rules will, unless moved pursuant to and in accordance with a recommendation of the Cabinet, stand referred without discussion to the Cabinet for consideration and report immediately upon being formally moved and seconded.

24. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

All of the Council Procedure Rules apply to meetings of the Council.

These Rules, subject to the exceptions set out below, also apply to meetings of Committees and Sub-Committees, except the Licensing Committee and the Licensing Sub-Committee when hearing licensing applications and other matters to which the appropriate Licensing Procedure Rules in Part 4 apply.

Rules 1, 2, 3, 4, 8, 9.3, 11, 12, 16, 17.4, 21.2, and 23.2 which are denoted by an asterisk * do not apply to Committees and Sub-Committees.

In addition Rules 9, 15 and 27 do not apply to, the General Purposes Employment Appeals and Ethics Sub-Committee, and the General Purposes Redundancy Appeals Sub-Committee when hearing appeals relating to dismissals, discipline, grievance and redundancy. For the purposes of these appeals the procedure relevant to the appeal set out in the relevant Policy will apply.

Rules 9, 15 and 27 do not apply to the General Purposes Employment Appeals & Ethics Sub-Committee when assessing and/or reviewing allegations of failure to comply with the Members' Code of Conduct or when hearing local determinations.

Any reference in these rules to the Mayor shall be construed as referring to the Chairman of the Committee or Sub-Committee.

25. AUDIO RECORDING, FILMING, PHOTOGRAPHY ETC

The taking of photographs, films, video or sound recording at any meeting shall be permitted, providing it does not disturb the conduct of the meeting. Where equipment is to be used or special arrangements are required, those wishing to record the proceedings of a Council meeting are asked to contact the Democratic Services Manager in advance to make any necessary arrangements. Further details are set out in the Audio and Video Recording, Filming, Photography and Use of Social Media Protocol and Guidance, available upon request from Democratic Services.

26. URGENT MATTERS

Where a Head of Service considers, in consultation with the Chief Executive (or in his/her absence the Deputy Chief Executive), that a question is so urgent that a decision cannot await the next meeting of the Committee or Sub-Committee, he/she shall have authority, after due consultation with the Chairman (or in the Chairman's absence, the Vice-Chairman) of the appropriate Committee or Sub-Committee and the Chairman (or in the Chairman's absence, the Vice-Chairman) of the Overview and Scrutiny Committee, to determine the matter on behalf of the Council provided that:

- (a) a record of the three consultations shall be kept and the decision shall be reported to the next meeting of the Committee or Sub-Committee; and
- (b) if any one of the three consultees so requires the question shall instead be referred for decision to a special meeting of the appropriate Committee or Sub-Committee.

27. QUORUM OF COMMITTEES AND SUB-COMMITTEES

In the absence of any decision of the Council to the contrary, no business shall be transacted at a meeting of any Committee or Sub-Committee unless at least one third of the Members of the Committee or Sub-Committee are present.

Part 4

Cabinet Procedure Rules

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Cabinet Procedure Rules

1. How the Cabinet Operates

1.1 Who makes executive decisions?

Article 6 of the Constitution provides for the discharge of executive functions in accordance with these Cabinet Procedure Rules.

The arrangements for the discharge of executive functions may be set out in the executive arrangements adopted by the Council. If they are not set out there, then the Leader may decide how they are to be exercised. In either case, the arrangements or the Leader may provide for executive functions to be discharged by:

- (a) the Cabinet as a whole;
- (b) a Committee or Sub-Committee of the Cabinet;
- (c) an individual member of the Cabinet;
- (d) an officer;
- (e) an area committee;
- (f) joint arrangements; or
- (g) another local authority.

1.2 Delegation by the Leader

As soon as practicable after being elected, the Leader must consider and resolve a scheme of delegation of the executive functions made by him/her. The scheme of delegation presented by the Leader will contain the following information about executive functions:

- (a) the names of the Councillors appointed to the Cabinet by the Leader and their individual portfolios;
- (b) the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- (c) the terms of reference and constitution of such Cabinet Committees as the Leader appoints and the names of Cabinet Members appointed to them;
- (d) the nature and extent of any delegation of executive functions to any area Committee with details of any limitation on that delegation;
- (e) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements and the names of those Cabinet Members appointed to any Joint Committee for the coming year; and
- (f) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

1.3 Sub-delegation of executive functions

- (a) Where the Cabinet, or a Committee or Sub-Committee of the Cabinet, is responsible for an executive function, they may delegate further to an area committee, or an officer, or make joint arrangements.
- (b) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a Committee or Sub-Committee of the Cabinet or to an officer.
- (c) Unless the Leader directs otherwise, a Committee or Sub-Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.
- (d) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 The Council's Scheme of Delegation and executive functions

- (a) Subject to (b) below, the Council's Scheme of Delegation will be subject to adoption by the Council and may only be amended by the Council.
- (b) With regard to executive functions, the Leader shall determine the Scheme of Delegation and any amendments that may be made thereto.

1.5 Conflicts of Interest

- (a) Any conflict of interest by any member of the Cabinet shall be dealt with as set out in the Council's Members' Code of Conduct in Part 5.
- (b) If every member of the Cabinet has a conflict of interest this shall be dealt with as set out in the Council's Members' Code of Conduct in Part 5.
- (c) If the exercise of an executive function has been delegated to an individual Member or an officer, and a conflict of interest arises, then the function will be exercised in the first instance by the person or body by whom the delegation was made.

1.6 When and where the Cabinet meets

The Cabinet will meet in accordance with a programme approved annually by a meeting of the Council and on such other occasions as may be agreed by the Leader. Notice of all meetings of the Cabinet will be given in accordance with the Access to Information Procedure Rules in Part 4.

1.7 Whether the meetings are public or private

All meetings of the Cabinet, its Committees and Sub-Committees will be open for the public to attend except where exempt or confidential matters are discussed, as defined in the Access to Information Procedure Rules in Part 4.

1.8 Quorum

The quorum for a meeting of the Cabinet, its Committees or Sub-Committees shall be one third of the members of the Cabinet, including the Leader or the Member appointed by the Cabinet to preside in his/her absence, or its Committee but not less than three.

1.9 How the Cabinet takes decisions

Cabinet decisions will be taken at meetings of the Cabinet, Committee or Sub-Committee of the Cabinet acting under delegated powers, convened in accordance with the Access to Information Procedure Rules in Part 4.

1.10 How the Leader and Portfolio Holders take decisions

Decisions by the Leader or individual Portfolio Holders must be taken in accordance with the Council's Access to Information Procedure Rules in this Part. Such decisions are also subject to the call-in procedure set out in the Overview & Scrutiny Procedure Rules in Part 4.

2. How Cabinet meetings are conducted

2.1 Who chairs Cabinet meetings

If the Leader is present he/she will preside. In his/her absence the Deputy Leader, if present, will preside.

If both the Leader and Deputy Leader are absent, then a member appointed by those members present shall preside.

2.2 The business conducted at Cabinet meetings

At each meeting of the Cabinet the following business will be conducted:

- (a) to approve, as a correct record, the minutes of the last meeting;
- (b) declarations of interest, if any;
- (c) matters referred to the Cabinet (whether by the Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Procedure Framework Procedure Rules set out in Part 4;
- (d) consideration of reports from the Overview and Scrutiny Committee; and
- (e) matters set out in the agenda for the meeting, in accordance with the Access to Information Procedure Rules set out in Part 4.

2.3 Conduct of meetings of the Cabinet, its Committees and Sub-Committees

- (a) Meetings of the Cabinet, its Committees and Sub-Committees shall be conducted in accordance with the principles set out in the Council Procedure Rules which shall apply so far as they apply to meetings of the Council's

Committees and Sub-Committees (see Rule 24 of the Council Procedure Rules).

- (b) The Cabinet shall be under a general duty to ensure a legal and financial probity in the exercise of all their functions and responsibilities and to act at all times within:
 - (i) the terms of the Constitution approved by the Council, and
 - (ii) any legislation which has the effect of governing the actions of the Council, the Cabinet, and any Committee of the Council, including Regulatory or Scrutiny Committees.
- (c) In exercising their responsibilities, the Cabinet will be advised on matters of powers and legal and financial probity by the Monitoring Officer and/or the Chief Financial Officer.

2.4 Consultation

All reports to the Cabinet on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Committee, 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.

2.5 Who can put items on the Cabinet Agenda?

- (a) The following may request for an item to be placed on the next available meeting of the Cabinet for consideration:
 - (i) the Leader;
 - (ii) a Portfolio Holder in respect of his/her portfolio;
 - (iii) a report by the Monitoring Officer and/or Chief Financial Officer; or
 - (iv) a report by the Head of the Paid Service.
- (b) On receipt of such a request the Democratic Services Manager shall place the item on the agenda for the next available meeting.

Part 4

Overview and Scrutiny Procedure Rules

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Overview and Scrutiny Procedure Rules

1. The arrangements for Overview and Scrutiny Committee

The Council will appoint an Overview and Scrutiny Committee to discharge the functions conferred by Section 21 of the Local Government Act 2000 and regulations under Section 32 of the Act. The size and composition of the Committee will be determined by Council.

The terms of reference of the Overview and Scrutiny Committee will be:

- (a) the performance of the Overview and Scrutiny functions on behalf of the Council;
- (b) the appointment of such Sub-Committees as it considers appropriate to fulfil those Overview and Scrutiny functions; (these Procedure Rules apply to any such appointed Sub-Committees);
- (c) to approve an annual Overview and Scrutiny work programme, including the programme of any Sub-Committees it appoints, so as to ensure that the Committee's and Sub-Committees' time is effectively and efficiently utilised; and
- (d) to consider any items called in by Members and to make recommendations to the Cabinet on these.

2. Members of the Overview and Scrutiny Committee

All Members, except members of the Cabinet, may be members of the Overview and Scrutiny Committee and Sub-Committees. However, no Member may be involved in scrutinising a decision which he/she has been directly involved in.

3. Co-optees

The Overview and Scrutiny Committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

4. Meetings of the Overview and Scrutiny Committee

At least 6 ordinary meetings of the Overview and Scrutiny Committee shall be programmed for each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. The Overview and Scrutiny Committee meeting may be called by the Chairman of the Committee, by any 6 members of the Committee in writing to the Democratic Services Manager, or by the Democratic Services Manager if he/she considers it necessary or appropriate.

5. Quorum

The quorum for the Overview and Scrutiny Committee shall be as set out for Committees in Rule 27 of the Council Procedure Rules in Part 4.

6. Who chairs meetings of the Overview and Scrutiny Committee

- (a) Meetings of the Overview and Scrutiny Committee will be chaired by the Chairman or in his/her absence the Vice-Chairman.
- (b) The Chairman will be appointed by Council at its Annual Meeting.
- (c) The Vice-Chairman will be appointed at its first meeting following Annual Council.

7. Work programme

The Overview and Scrutiny Committee will be responsible for setting its own work programme.

8. Agenda items

- (a) Any member of the Overview and Scrutiny Committee shall be entitled to give notice that he/she wishes an item relevant to the functions of the Committee to be included on the agenda by returning the request form to the Democratic Services Manager. On receipt of the request, the Democratic Services Manager will ensure that the item is discussed at the next Overview and Scrutiny pre-meeting and put forward for agreement at the next Committee meeting.
- (b) Any Members of the Council who are not members of the Overview and Scrutiny Committee may give written notice to the Democratic Services Manager that they wish an item to be included on the agenda of a relevant Overview and Scrutiny Committee. If the Democratic Services Manager receives such a notification, then he/she will include the item on the next available agenda of the Overview and Scrutiny Committee for consideration by the Committee.
- (c) The Overview and Scrutiny Committee shall also respond, as soon as their work programme permits, to requests from the Council and the Cabinet to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council.
- (d) The Overview and Scrutiny Committee will have access to the Cabinet's work programme and timetable for decisions and intentions for consultation.
- (e) Suggestion from members of the public will be handled in accordance with the procedure set out in Section 19.

9. Policy review and development

- (a) The role of the Overview and Scrutiny Committee 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 in Part 4.

- (b) In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, the Overview and Scrutiny Committee may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) The Overview and Scrutiny Committee 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.

10. Reports from the Overview and Scrutiny Committee

Recommendations from the Overview and Scrutiny Committee will be reported to the next available meeting of the Cabinet, or to the Council in the case of a matter referred to it directly by Council.

11. Rights of Overview and Scrutiny Committee members to documents

- (a) In addition to their rights as Members, members of Overview and Scrutiny Committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Committee as appropriate, depending on the particular matter under consideration.

12. Procedure at Meetings of the Overview and Scrutiny Committee

- (a) Meetings of the Overview and Scrutiny Committee shall consider the following business:
 - (i) minutes of the last meeting;
 - (ii) declarations of interest (including whipping declarations);
 - (iii) consideration of any matter referred to the Committee for a decision in relation to call-in of a decision; and
 - (iv) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
 - (i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) that those assisting the Committee 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.

13. **Members and Officers giving account**

- (a) The Overview and Scrutiny Committee 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, other Member, the Head of Paid Service and/or a Head of Service 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 Member or officer is required to attend Overview and Scrutiny Committee under this provision, the Chairman will inform the Democratic Services Manager, who shall then inform the Member or officer in writing giving at least 5 working days notice of the meeting at which he/she is required to attend and may incur reasonable expenditure in so doing.

The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, the Democratic Services Manager shall arrange an alternative date for attendance in consultation with the Chairman of the Overview and Scrutiny Committee and the Member or officer .
- (d) Where someone requested to attend is genuinely unable to attend, he/she may nominate another Member or officer who is able to speak on the topic to attend.
- (e) Speakers shall be entitled to a copy of any draft minute or other record taken of their contribution for comment. Should they feel that such record is not accurate, they shall be given the opportunity to make a written representation asking for the correction to be submitted to the next meeting of the Overview and Scrutiny Committee.
- (f) Overview and Scrutiny Committee meetings shall be open to the press and public, except where they are considering matters which would give rise to the disclosure of confidential or exempt information as defined in Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006.

14. Attendance by others

The Overview and Scrutiny Committee 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 Members and officers in other parts of the public sector and may invite such people to attend and may incur reasonable expenditure in so doing.

15. Call-in

(a) 'Call-in' by whom

At least 3 Members acting together may call-in a decision not specifically ward-related or an individual Member may call-in a decision if it directly concerns his/her ward, provided the call-in request meets the criteria under (c) below.

(b) 'Call-in' to whom

A request for a Cabinet decision to be "called-in" will be made in the first instance to the Democratic Services Manager who will notify the Monitoring Officer who will decide whether a request falls within the criteria. No judgement on the merits, or otherwise, of the request will be made.

Where a call-in request is to be rejected, the Chairman of Overview and Scrutiny Committee shall be consulted before a final decision is reached.

(c) 'Call-in' Criteria

A Cabinet decision will be called-in if the Monitoring Officer is satisfied that one or more of the following conditions apply:

- (i) the decision has been made without compliance to Standing Orders;
- (ii) the decision is outside the terms of reference of the Cabinet or the delegated authority of the decision maker;
- (iii) the decision is in conflict with existing policy or the Corporate Plan;
- (iv) there is no budget, or insufficient budget provision, to implement the decision;
- (v) that information contained within the report leading to the decision was incomplete or inaccurate or that the process leading to the decision did not comply with the relevant legal requirements.

In all cases the Member(s) must provide reasons to support the belief which has given rise to the call-in request, or, if the belief is that the information was inaccurate or incomplete, must provide details of the alleged inaccuracies or missing information.

It will not be possible normally to call-in a decision simply because a Member or Members do not agree with it. However, a decision may be called-in for this reason, or any other reason, if the request for call-in is made by one half of all Members of the Council collectively. Decisions called in on this basis will be referred to full Council and not to the Overview and Scrutiny Committee.

(d) **'Call-in' Procedure**

All Members will have access to the reports to be considered by the Cabinet at least 5 clear days before the appropriate meeting.

A list of the Cabinet decisions will then be distributed to all Members by the second working day after each meeting.

Members who wish to 'call-in' a decision must do so, in writing, to the Democratic Services Manager by noon on the 6th working day after the meeting of the Cabinet. A standard form is available for this purpose.

The Democratic Services Manager will receive the request and notify the Monitoring Officer who will either:

- (i) accept the request as being in accordance with the criteria; or
- (ii) following consultation with the Chairman of the Overview and Scrutiny Committee, reject the request on the grounds that it is not in accordance with the criteria.

Notes:

- (i) In both cases the Member(s) who made the request, the Chairman of the Cabinet, the Chairman of the Overview and Scrutiny Committee, Management Team, the author of the report and the appropriate Committee Officer will be advised accordingly.
- (ii) To assist Members, the list of decisions will contain the date for call-in.

(e) **Effect of Call-in**

Cabinet decisions will not become effective until the call-in period, set out in sub paragraph (d) above, has expired (unless the urgency procedure applies). Further, in the event that a matter is properly called-in, the decision will not become effective until considered by the Overview and Scrutiny Committee or dealt with under the call-back arrangements.

(f) **'Call-Back'**

At the discretion of the Chairman of the Cabinet it will be possible for the Cabinet to "call-back" a decision without it first going to the Overview and Scrutiny Committee. This may occur:

- (i) at the request of the Cabinet because further information has come to light; or

- (ii) when the Chairman of the Cabinet, having heard the reason for the call-in request, considers that it would be appropriate to look again at its decision.

(g) **Other Procedural Matters**

- (i) In the event of a "called-in" matter remaining unresolved between the Cabinet and the Overview and Scrutiny Committee, the matter shall be the subject of a report to full Council, and Council will determine the issue.
- (ii) Members who have "called-in" a matter shall have the right to attend and address the Overview and Scrutiny Committee but not to vote.

16. Call-In and Urgency

The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would, for example, seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in.

The Chairman of the Overview and Scrutiny Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of full Council, together with the reasons for urgency.

- 16.1 The operation of the provisions relating to call-in and urgency shall be monitored by the General Purposes Employment Appeals and Ethics Sub-Committee, and a report submitted to Council with proposals for review if necessary.

17. The Party Whip

When considering any matter in respect of which a member of the Overview and Scrutiny Committee is subject to a Party Whip, the member must declare the existence of the Whip, and the nature of it, before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the Whipping arrangements, shall be recorded in the minutes of the meeting.

18. Matters within the remit of the Overview and Scrutiny Committee and its Sub-Committees

Where an Overview and Scrutiny Committee conducts a review or scrutinises a matter which also falls in part within the remit of an Overview and Scrutiny Sub-Committee, the Chairman of the Sub-Committee (or his/her nominee) will be invited to attend its meetings when the matter is being reviewed.

19. Procedure for Handling Overview and Scrutiny Suggestions from the Public

- (a) Suggestion is submitted by either e-mail or by completion of the leaflet from a member of the public.
- (b) Democratic Services will acknowledge the suggestion and advise that it will be considered and a further notification regarding whether or not it will be taken up by the Committee will be sent. There is no guarantee that the suggestion will be taken forward, it is up to the Members.
- (c) The suggestion is logged on a spreadsheet by Democratic Services. In this way the number of suggestions taken up can be monitored and reported to Committee on an annual basis.
- (d) The suggestion is then sent to the Chairman and Vice-Chairman of the Overview and Scrutiny Committee for information.
- (e) A meeting to discuss all suggestions received will be held monthly, if required. The panel will consist of the Chairman, Vice-Chairman and Democratic Services.
- (f) The panel will decide which of the suggestions is referred to the Committee and how it will be taken forward under the work programme report.
- (g) If the suggestion is not taken forward by the Committee, there may still be an expectation by the originator that the Council will take action. The suggestion could be referred to the ward Member under the Councillor Call for Action procedure or to a Head of Service, if appropriate.
- (h) If the suggestion is successful, the originator will be invited by Democratic Services to address the panel or Committee to which it has been referred.
- (i) A letter or e-mail to advise them of the outcome or report to Committee will be sent to the originator.

Part 4

Licensing Procedure Rules

[Licensing Committee](#)

[Street Trading Representations](#)

[Licensing of Tables and Chairs on the Highway Representations](#)

[Licensing Sub-Committee](#)

Licensing Procedure Rules - Licensing Committee

Application

These Procedure Rules shall apply when the Licensing Committee sits to hear Licensing applications other than those made pursuant to the Licensing Act 2003 and the Gambling Act 2005.

Terms of Reference of the Licensing Committee:

Ward Members will have no involvement in the decision making process either by voting on the matter or otherwise participating in the Committee's deliberations, except that any Ward Member (whether a member of the Committee or not) may make a statement setting out his views or the views of those he/she represents. Such statement may be made immediately after any objector has made his/her case and been questioned thereon.

Procedure for hearing licensing applications:

Following receipt of an application, the Licensing Officer will carry out reasonable consultation with any interested parties, including Ward Members. In the case of Sex Establishment applications this will include a notice to be advertised on the premises and a notice in the local press. Should any objection be received which cannot be resolved, the licensing application will then be referred to the Licensing Committee for consideration and determination. All objectors will be invited to the meeting; the Council's Scheme of Public Participation will not apply.

1. Written objections, representations, petitions, etc will be circulated with the agenda and will be taken into account by members of the Committee. It will not be possible to circulate any such communications received after the agenda has been circulated, as both parties must have the opportunity of studying them prior to the meeting. The agenda and papers for consideration will be circulated at least 5 clear days before the meeting.
2. At the start of the meeting the Chairman will outline the procedure to all those present.
3. The Licensing Manager of the Council will present the facts to the Committee and will explain the Recommendation.
4. The members of the Committee may ask questions of the Licensing Manager.
5. The Applicant or their representative may ask questions of the Licensing Manager.
6. Any Objector or their representative may ask questions of the Licensing Manager.
7. Relevant Council officers, representatives of the Police or Fire Service (if present) may be questioned by:
 - (a) Members of the Committee;
 - (b) The Applicant or their representative; or
 - (c) Any Objector or their representative.

8. The Applicant (or their representative) may present their case, including calling any witnesses. The Licensing Manager and/or members of the Committee may ask questions of the Applicant or any witness.
9. Any Objector may ask questions of the Applicant or any witness.
10. The Objector (or their representative) may present their case including calling any witness. The Licensing Manager and/or Members of the Committee may ask questions of the Objector.
11. The Applicant may ask questions of the Objector.
12. The Applicant may sum up their case.
13. The Objector may sum up their case.
14. The Committee will deliberate in private with only its legal adviser and Committee Officer in attendance. The decision on the matter, and the reasons for it, will be communicated to all those present in open session before the meeting is closed.

Licensing Procedure Rules - Licensing Committee

Street Trading Representations

Terms of Reference of the Licensing Committee:

Ward Members will have no involvement in the decision making process either by voting on the matter or otherwise participating in the Committee's deliberations, except that any Ward Member (whether a member of the Committee or not) may make a statement setting out their views or the views of those they represent. Such a statement may be made immediately after any applicant and/or the Head of Service (or their representative) has made their case and been questioned thereon.

Procedure for hearing representations:

The Head of Service (or their representative), acting on delegated powers, can approve, attach specific conditions to, refuse or revoke a Street Trading Consent application. The decision is made upon consideration of the following criteria, and any consultee objections received based on them.

1. **Public Safety:** The location of the proposed street trading activity should not present a substantial risk to the public in terms of road safety, obstruction or fire hazard. The term "public" refers to both customers requesting the street trading activity, and other members of the public using the street. In particular reference will be made to the guidelines set out in section 6 of the Licensing Scheme on site assessment criteria.
2. **Public Order:** The street trading activity should not present a risk to good public order in the locality in which it is situated. Observations from the Hampshire Constabulary will be taken into consideration.

3. **Avoidance of Nuisance:** The street trading activity should not present a substantial risk of nuisance from noise, rubbish, potential for the harbourage of vermin, smells or fumes to households and businesses in the vicinity of the proposed street trading site. Observations from Council officers shall be taken into consideration.
4. **Needs of the Area:** The sufficiency of other trading outlets will be taken into consideration in relation to:
 - (a) The presence of like outlets already existing in the immediate locality of the proposed street trading site.
 - (b) The general needs of a locality, should no comparable outlets exist.Applicants will have to demonstrate to the Council the need for the proposed street trading activity in relation to either points 1 or 2 above, whichever applies.
5. **Compliance with legal requirements:** The proposed street trading activity should be carried out from a trading unit that complies with the relevant legislation.
6. **Consultees Observations:** In relation to points a) – d) above, consideration will also be given to written observations from consultees. Any objections made to the proposed street trading activity will be considered in terms of relevancy and appropriateness to the application that has been made.
7. **Permitted Trading Hours:** The Council generally will only permit street trading between 6.00 am and Midnight, in Andover town centre, 22.00hrs in Romsey town centre and until 2.00am elsewhere, on any one day. Any trading outside these hours will have to be approved by the Council. Street Trading outside the guideline hours will be assessed in terms of the criteria detailed above. The Council however retains the right to specify permitted hours of trading that are less than those specified above if local circumstances dictate.
8. **Market days:** Those Consent Street licensees who have consent to trade in the town centres will not be able to do so on Market days.

Where, acting under delegated powers, the Head of Service is minded to refuse a consent, or to grant a consent subject to conditions, they will notify the applicant accordingly. If the applicant would be aggrieved by a decision in the terms indicated by the Head of Service, then they may within twenty eight days of such notification being received, make a written request that their application be considered by the Licensing Committee, and the Licensing Committee will then determine the application in accordance with the procedure set out below. If no such request is made within the twenty eight day period, then the Head of Service will forthwith proceed to issue a decision in the terms indicated in the notification referred to above.

1. Written objections, representations, petitions, etc will be circulated with the agenda and will be taken into account by members of the Committee. It will not be possible to circulate any such communications received after the agenda has been circulated, as both parties must have the opportunity of studying them prior to the meeting. The agenda and papers for consideration will be circulated 5 days before the meeting.

2. At the start of the meeting the Chairman will outline the procedure to all those present.
3. The Head of Service (or their representative) will present the facts to the Committee and explain the Recommendation.
4. The Members of the Committee may ask questions of the Head of Service (or their representative).
5. The Applicant may ask questions of the Head of Service (or their representative).
6. Relevant Council officers and other Consultees may be questioned by:
 - (a) Members of the Committee;
 - (b) The Applicant.
7. The Applicant may present their case, including calling any witnesses. The Head of Service (or their representative), any relevant Council officers, other Consultees and/or members of the Committee may ask questions of the Applicant or any witness.
8. The Applicant may sum up their case.
9. The Committee will deliberate in private with only its legal adviser and Committee Officer in attendance. The decision on the matter, and the reasons for it, will be communicated to all those present in open session before the meeting is closed.

Licensing Procedure Rules - Licensing Committee

Licensing of Tables and Chairs on the Highway

Representations

Terms of Reference of the Licensing Committee

Ward Members will have no involvement in the decision making process either by voting on the matter or otherwise participating in the Committee's deliberations, except that any Ward Member (whether a member of the Committee or not) may make a statement setting out their views or the views of those they represent. Such a statement may be made immediately after any applicant and/or the Head of Service (or their representative) has made their case and been questioned thereon.

Procedure for hearing representations:

The Head of Service, acting on delegated powers (or their representative) can approve, attach specific conditions to, or refuse a Licence application. The decision is made upon consideration of the following criteria, and any consultee objections received based on them.

1. **Public Safety:** The location of the proposed licensed site should not present a substantial risk to the public in terms of road safety, obstruction or fire hazard. The term “public” refers to both customers using the licensed area, and other members of the public using the street. In particular reference will be made to the guidelines set out in Section 5 of the Licensing Scheme on site assessment criteria.
2. **Public Order:** The licensed area should not present a risk to good public order in the locality in which it is situated. Observations from Hampshire constabulary will be taken into consideration in assessing this particular criterion.
3. **Avoidance of Nuisance:** The licensed area should not present a substantial risk of nuisance from noise, rubbish, potential for the harbourage of vermin, smells or fumes to households and businesses in the vicinity of the proposed licensed area. Observations from Council officers shall be taken into consideration in assessing this particular criterion.
4. **Compliance with legal requirements:** The proposed trading activity should comply with the relevant legislation.
5. **Consultees Observations:** In relation to the points above, consideration will also be given to written observations from consultees. Any objections made to the granting of a licence will be considered in terms of relevancy and appropriateness to the application that has been made. Frivolous, vexatious or repetitious observations shall be disregarded by the Council.
6. **Permitted Trading Hours:** The Council generally will only allow tables and chairs to be placed upon the highway between 0800 hours and 2200 hours on any one day. Any application requesting hours outside of the above will have to be approved by the Council and will be assessed in terms of the criteria detailed above. The Council, however, retains the right to specify permitted hours of trading that are less than those specified above if local circumstances dictate.
7. **Market Days:** Those licensees who have consent to trade in the town centres may not be able to do so if the licensed area includes an area upon which a Market is held.

Where, acting under delegated powers, the Head of Service is minded to refuse a consent, or to grant a consent subject to conditions, they will notify the applicant accordingly. If the applicant would be aggrieved by a decision in the terms indicated by the Head of Service, then they may, within twenty eight days of such notification being received, make a written request that their application be considered by the Licensing Committee, and the Licensing Committee will then determine the application in accordance with the procedure set out below. If no such request is made within the twenty eight day period, then the Head of Service will forthwith proceed to issue a decision in the terms indicated in the notification referred to above.

1. Written objections, representations, petitions, etc will be circulated with the agenda and will be taken into account by members of the committee. It will not be possible to circulate any such communications received after the agenda has been circulated, as both parties must have the opportunity of studying them prior to the meeting. The agenda and papers for consideration will be circulated 5 days before the meeting.
2. At the start of the meeting the Chairman will outline the procedure to all those present.
3. The Head of Service (or their representative) will present the facts to the Committee and explain the Recommendation.
4. The members of the Committee may ask questions of the Head of Service (or their representative).
5. The Applicant may ask questions of the Head of Service (or their representative).
6. Relevant Council officers and other Consultees may be questioned by:
 - (a) Members of the Committee
 - (b) The Applicant
7. The Applicant may present their case, including calling any witness. The Head of Service (or their representative), any relevant Council officers, other Consultees and/or members of the Committee may ask questions of the Applicant or any witness.
8. The Applicant may sum up their case.
9. The Committee will deliberate in private with only its legal adviser and Committee Officer in attendance. The decision on the matter, and the reasons for it, will be communicated to all those present in open session before the meeting is closed.

Licensing Procedure Rules - Licensing Sub-Committee

Application

These Procedure Rules shall apply to all hearings of applications and other matters pursuant to the Licensing Act 2003 and subordinate legislation and any amendments thereto, and to the Gambling Act 2005 and subordinate legislation and any amendments thereto.

Terms of Reference of the Licensing Sub-Committee:

Ward Members will have no involvement in the decision making process.

Procedure for hearing licensing applications:

1. The Council's Scheme of Public Participation will not apply.

2. At the start of the hearing the Chairman will explain the procedure to all those present.
3. The Hearing shall take place in public. The Sub-Committee may exclude the public from all or part of the hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.
4. A party to whom notice has been given may attend the hearing and may be assisted or represented by a person whether or not that person is legally qualified.
5. The hearing shall take the form of a discussion led by the Sub-Committee.
6. Cross-examination will not be permitted unless the Sub-Committee considers it is required for it to consider the representations, application or notice as the case may require.
7. The Sub-Committee may impose a maximum period of time for each party to address the Sub-Committee.
8. To facilitate the discussion the following procedure will be followed in all cases except for reviews when 8(b) shall apply and interim steps hearings for expedited summary reviews when 8(c) shall apply:
 - (a)
 - (i) The Licensing Manager of the Council or their representative will present the facts of the application and action taken, to the Sub-Committee.
 - (ii) The Applicant or their representative may address the Sub-Committee.
 - (iii) Other parties may address the Sub-Committee in the following order:
 - Responsible authorities
 - Other parties
 - (b)
 - (i) The Licensing Manager of the Council or their representative will present the facts of the review, and action taken, to the Sub-Committee.
 - (ii) The person requesting the review may address the Sub-Committee.
 - (iii) The licence holder may address the Sub-Committee.
 - (iv) Other parties may address the Sub-Committee in the following order:
 - Responsible authorities
 - Other parties
 - (c)
 - (i) The Licensing Manager of the Council or his representative will present the facts giving rise to the review, and will outline any action taken, to the Sub-Committee.

- (ii) The Police officer requesting the review or his representative may address the Sub-Committee.
 - (iii) The licence holder or their representative may address the Sub-Committee.
- 9. The Sub-Committee may permit the applicant or any party to question any other party.
- 10. The members of the Sub-Committee may ask any questions of the Licensing Manager or their representative, or of any party or other person appearing at the hearing.
- 11. Documentary or other evidence may be produced at the hearing with the consent of all the parties.
- 12. Where a party fails to attend or be represented and the Sub-Committee considers it necessary in the public interest it may adjourn the hearing to a specified date or hold the hearing in a party's absence.
- 13. The Sub-Committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and refuse to permit that person to return or permit them to return only on such conditions as the Sub-Committee may specify. Any such person may submit to the Sub-Committee in writing before the end of the hearing any information which they would have been entitled to give orally had they not been required to leave.
- 14. The Sub-Committee may ask questions of its legal adviser.
- 15. The Sub-Committee will deliberate in private.
- 16. The Sub-Committee may request advice in private of its legal adviser regarding the drafting of reasons.
- 17. In the case of a hearing under the sections and circumstances set out in Regulation 26(1) of the Licensing Act 2003 (Hearings) Regulations 2005 (or any amending legislation), the Sub-Committee will make its determination at the conclusion of the hearing.

In any other case, the Sub-Committee will make its determination either at the conclusion of the hearing or within the period of five working days beginning with the day or the last day on which the hearing was held.
- 18. A record of the hearing will be taken in a permanent and intelligible form.

Part 4

Public Participation Scheme

[Introduction](#)

[Rules for Speaking](#)

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Public Participation Scheme

INTRODUCTION

1. The Council wishes to give those who are interested the opportunity to make a statement on any item on the agenda for any meeting of the Council, Cabinet, or any of the following Committees:
 - Overview & Scrutiny;
 - Northern Area Planning;
 - Southern Area Planning;
 - Licensing Committee (except when hearing licence applications to which the relevant Licensing Procedure Rules apply); or
 - General Purposes Employment Appeals & Ethics Sub-Committee (subject to the restrictions set out in paragraph 4 under Provisions for Specific Meetings).
2. The Public Participation Scheme is in addition to any other practice or procedure which the Council is required to follow.
3. The Scheme also applies to Members who have a personal interest to which paragraph 5.6 of the Members' Code of Conduct applies (which expression includes those Members who have prejudged a planning application or a licensing application to the hearing of which the Licensing Procedure Rules do not apply) in an item on the agenda.
4. The Scheme also applies to relevant Ward Members who are not Area Planning Committee Members who wish to make a statement to an Area Planning Committee on an item on the agenda.
5. Details of the Scheme and explanatory leaflets are available from the Council offices at Andover and Romsey.

GENERAL PROVISIONS

1. Rules for Speaking

- (a) Statements - These can only be made in respect of items on the agenda for a meeting. Copies of the agendas will be available for inspection 5 clear working days before the relevant meeting at the Council offices at Andover and Romsey.

- (b) Content of address – Speakers (public, Members with a personal interest and relevant Ward Members who are not Area planning Committee Members) must keep their address to the material issues involved. There will be no opportunity to present background or supporting material. There are restrictions in relation to some Committees and these are set out in the Provisions for Specific Meetings below.
- (c) Questions of Speakers – After they have made their statements, speakers (public and Members with a personal interest) may be asked questions on the content of their statements by the Members.
- (d) Notice of intention to speak (the public): in order to make a statement, oral or written notice must be given to Committee Services at the Council Offices, Beech Hurst, Weyhill Road, Andover by 12 noon on the previous working day. Notice to speak will not be accepted until an agenda has been published or, exceptionally, no more than a month in advance of a meeting, and only then if it is known that the subject matter is going to appear.
- (e) Representation by Members: in addition, or as an alternative to speaking directly to the meeting, members of the public may wish to consult with a local or any Member before the meeting to request them to represent their views to the meeting. It should however be noted that Members are not required to do so.
- (f) Planning Committees: it should be understood that, in relation to Planning Committees, Members are prevented by their Local Planning Code of Conduct from taking a view for or against any particular item until they have heard all the views that may be expressed at the relevant Committee meeting, otherwise they may not be able to take part in the meeting.
- (g) Licensing Committee: has its own procedure rules and Ward Members have a representational role but do not take part in decisions in their Ward. Speakers may be asked to clarify matters of fact by Members; there will be no debate between speakers (the public or Members) and the meeting.

2. Procedure at Meetings

- (a) Public speakers should arrive at least 10 minutes before the start of the meeting and register with the Committee Officer.
- (b) The Chairman will invite the speakers (public, Members with a personal interest and relevant Ward Members who are not Area Planning Committee Members) when the agenda item is called.
- (c) Public speakers may remain for the debate but may not speak during the debate.
- (d) After making their statement, Members with a personal interest must leave the room for the duration of the item in which they have the interest.
- (e) The Chairman has discretion to decide the order of agenda items.

PROVISIONS FOR SPECIFIC MEETINGS

1. Northern and Southern Area Planning Committees

- (a) The Council will allow the following seven groups to make presentations:
- Members with a personal interest who object to the application
 - Members with a personal interest who support the application
 - The relevant Parish Council
 - Objectors
 - Supporters
 - Applicant (including agent)
 - Relevant Ward Members who are not Committee Members
- (b) The onus is on Parish Councils, applicants, objectors and supporters to enquire as to the progress of the matter in question. The dates of forthcoming meetings can be obtained from the Council offices and officers will be able to advise on the progress of applications.
- (c) The relevant Parish Council is that Parish Council in whose area the application falls. In exceptional circumstances the Chairman (whose decision on the matter will be final) may allow additional Parish Councils to speak, in which case those additional Parishes shall be given a maximum of three minutes to speak which they must share.
- (d) The order of speaking is as follows:
- Announcement of item by Chairman giving basic details;
 - Introduction by an officer, drawing attention to significant issues and giving updated information;
 - Representations from Members with a personal interest;
 - Parish Council representations;
 - Objectors' representations;
 - Supporters' representations;
 - Applicants' representations;
 - Relevant Ward Members who are not Committee Members;
 - Further comments by officer;
 - Debate and decision.

2. Licensing Committee

The Licensing Procedure Rules will apply when the Licensing Committee sits to hear licensing applications.

3. General Purposes Employment Appeals & Ethics Sub-Committee

Statements cannot be made on items on the agenda that relate to the conduct of individual Members of Test Valley Borough Council, Independent Persons of the General Purposes Employment Appeals & Ethics Sub-Committee, or Members of Parish Councils within the Test Valley Borough area.

LENGTH OF STATEMENT

1. Council, Cabinet, Committees other than Planning Committees and sub-Committees

- (a) A total of 15 minutes will be set aside for each item for each of the two categories of public and Members with a personal interest.
- (b) The Mayor or Chairman may use his/her discretion to extend the total time in exceptional circumstances. The Mayor's or Chairman's decision as to what constitutes exceptional circumstances and the length of such extension shall be final. The total time for Members with a personal interest shall only be extended if there is an equivalent extension for the total time for the public.
- (c) Individual statements will be limited to a maximum of three minutes for members of the public.
- (d) The Mayor or Chairman may limit the length of statements to less than three minutes if a large number of people wish to speak on a particular item.
- (e) A device of green, amber and red lights to indicate times will be provided.

2. Northern and Southern Area Planning Committees

- (a) Each group will have a maximum of three minutes, with the exception of Relevant Ward Members who are not Committee Members who will have a maximum of five minutes. Where there is more than one Relevant Ward Member who is not a Committee Member who wishes to speak they will have a maximum of three minutes each.
- (b) The Chairman may limit the length of statements to less than three minutes if a large number of people wish to speak on a particular item.
- (c) The Chairman may use their discretion to extend the total time for public speaking in exceptional circumstances. The Chairman's decision as to what constitutes exceptional circumstances and the length of such extension shall be final. The total time for Members with a personal interest shall only be extended if there is an equivalent extension for the total time for the public.
- (d) A device of green, amber and red lights to indicate times will be provided.

Part 4

Council Petition Scheme

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[What should a petition contain](#)

[Who should you send a petition to](#)

[How will a petition be considered](#)

[What happens when a petition is received](#)

[Consideration of a petition at a meeting](#)

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[Petitions which will not be accepted](#)

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Council Petition Scheme

We welcome petitions as one way in which you can let us know your concerns. We set out below how the authority will respond to petitions which you send us.

This scheme does not cover the process for dealing with petitions received in response to Planning or Licensing applications as they are dealt with under separate procedures.

Further information can be obtained from the relevant department.

1. What is a petition?

We treat any communication which is signed by or sent to us on behalf of at least 10 signatories as a petition. It is not a requirement that you live, work or study in the Borough and we would take equally seriously a petition from, for example, 10 visitors on the subject of one of our visitor attractions. People under 18 can submit and sign petitions.

2. What should a petition contain?

- a) A clear statement of your concerns and what you would like the authority to do. This must relate to something which is the responsibility of the authority, or over which the authority has some influence.
Where a petition relates to a matter over which the authority has no responsibility or influence, we will return the petition to the petition organiser with an explanation for that decision.

- b) The name and contact details of the “petition-organiser” or someone to whom you would like any correspondence about the petition to be sent.

- c) The names, addresses and signatures of at least 10 petitioners (which can include the petition organiser).

Where the petition is in paper form, this must include an actual signature from each petitioner. Where the petition is to be reported to full Council, it will need to contain the required minimum number of signatures (see below).

- d) The minimum number of signatories for the appropriate decision-making body.

3. Who should you send a petition to?

The Democratic Services Manager is responsible for receiving, managing and reporting petitions to which this scheme applies.

You may submit a petition via our website (www.testvalley.gov.uk) or in paper/electronic form. Please address paper/electronic petitions to the Democratic Services Manager at:

Test Valley Borough Council, Beech Hurst, Andover, SP10 3AJ or

admin@testvalley.gov.uk

The Democratic Services Manager will acknowledge receipt of the petition and enter the petition details on the authority's petitions website. The website is regularly updated with information on the progress of petitions.

4. How will a petition be considered?

The Democratic Services Manager will arrange for each valid Petition to be reported to the Council body responsible for taking decisions on the subject matter of the petition.

This may be:-

- an Officer;
- a Portfolio Holder;
- Cabinet
- Full Council - at least 1,500 signatures required; or
- a Committee.

Please contact the Democratic Services Manager if you would like to discuss who your petition is likely to be reported to.

Where a Petition is to be considered at a meeting, we will endeavour to accommodate the petition at the next available meeting. This may not always be possible in which case it will be considered at the next convenient meeting.

Petitions will not be considered at the Annual Meeting of Council or at Extraordinary Meetings of Council which are not convened to consider the subject matter of the petition.

5. What happens when a petition is received?

- Within 5 working days the Democratic Services Manager will acknowledge receipt to the petition organiser and will notify the Chief Executive, leaders of political groups, the relevant Portfolio Holder and Ward Councillor/s
- If it is considered that the petition cannot be dealt with by the Council, the Democratic Services manager will notify the petition organiser giving reasons.
- In some cases, the Democratic Services Manager may be able to resolve the petitioner's request directly, by the relevant Portfolio Holder or Officer taking appropriate action. Where this is done, the Democratic Services Manager will ask the petition organiser whether they consider the matter resolved.
- If not resolved, within 10 working days a new public file will be opened on the Council's website recording the subject matter of the petition, its date of receipt and the number of signatories. The petition organiser's name and contact details will only be included on the website if he or she so requests.

- The Democratic Services Manager will inform the petition organiser of the Officer or meeting to which the petition will be reported for consideration and when and where that will take place. This information will also be entered on the Council's website. If the petition is to be considered at a meeting of Council, Cabinet or a Committee, the petition organiser will be invited to attend that meeting and to address the meeting for up to 3 minutes on the issue covered by the petition. The invitation to the petition organiser to address the meeting is in addition to any other public speaking rights at that meeting.
- Where the petition relates to a matter which is within the delegated power of an Officer, that Officer will not exercise that power without consulting the relevant Portfolio Holder on the decision.
- At each stage of consideration of the petition, the Democratic Services Manager will update the Council's website and will notify the petitioner.
- Once the petition has been considered, the authority's decision will be notified to the petition organiser and entered on the website within 5 working days.

Petitions are presented on the Council's website in the order in which they are received. All petitions are kept on the website for 2 years from the date of receipt.

Whilst we are committed to dealing with petitions promptly, a petition will normally need to be received at least 15 working days before a relevant meeting if it is to be reported to that meeting.

6. Consideration of a petition at a meeting

Petitions which do not relate to an ordinary item of business will be considered before the normal business of the meeting and will be considered in the order in which they were received, unless the Chairman at the meeting determines otherwise. A maximum of 30 minutes will be allowed at each meeting for considering petitions and any petitions on which a decision is not reached in the time allowed will be referred to the relevant Portfolio Holder for consideration or deferred until the next meeting.

Any petitions relevant to particular items of business will usually be taken together with that item of business, in the normal order of business.

The Chairman of the meeting may invite a relevant officer to set out the background to the issue before inviting the petition organiser to address the meeting for up to 3 minutes. The Portfolio Holder, Chairman and Councillors may then ask questions of the petition organiser, and the Chairman may then invite the relevant Ward Councillor(s) to speak on the matter for up to 3 minutes (each) after which the matter will be open for debate among Councillors of the decision-making body.

Within 5 working days of the consideration of the petition, the Democratic Services Manager will notify the petition organiser of the outcome and advise them that if they are not satisfied with that decision, they may require the matter to be reported to the next convenient meeting of the appropriate Overview and Scrutiny Committee for review.

7. Review by Overview and Scrutiny Committee.

If the petition organiser is not satisfied with the decision in relation to their petition, they may ask the Overview and Scrutiny Committee to review the outcome by notifying the Democratic Services Manager of their request for review within 15 working days of being notified of the authority's decision.

Within 10 working days of receipt of a request for review, the Democratic Services Manager will notify the petition organiser of the time, date and place of the next convenient meeting of the Overview and Scrutiny Committee. At that meeting, the Overview and Scrutiny Committee will invite the petition organiser and Ward Councillor(s) to address the Committee for up to 3 minutes each to explain why it is felt the decision was insufficient. The Overview and Scrutiny Committee may not override the decision, but the decision-maker must consider any recommendations made by the Overview and Scrutiny Committee.

8. Petitions which will not be accepted

(a) Duplicate Petitions

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

(b) Repeat Petitions

A petition will not normally be considered where it is received within 6 months of another petition being considered by the authority on the same matter.

(c) Petitions which the Council's Monitoring Officer acting in consultation with the Chief Executive considers to be vexatious, abusive, discriminatory or otherwise inappropriate or unreasonable

(d) Petitions, the subject matter of which relates to ongoing legal proceedings.

(e) Petitions which raise issues of potential Councillor misconduct will not be dealt with under this scheme but will be referred to the Monitoring Officer for consideration.

(f) Consultation petitions – where a petition is clearly a group response to a public consultation organised by the Council, it will be dealt with as a consultation response.

- (g) Statutory petitions. Where legislation requires the Council to consider certain types of petitions, the Council will consider them as prescribed by legislation.
- (h) Petitions which target individual members of the community or relate to party political matters.
- (i) Petitions relating to matters where a legal right to seek a review or appeal exists.

Petitions received in the six weeks before an election or referendum may need to be dealt with differently. The petition organiser will be notified of the reasons for the change and informed of any changes that will apply.

9. Further information

The Democratic Services Manager can provide advice about how to petition the authority or the progress of your petition, at either of the above addresses or by telephone at 01264 368000.

Part 4

Budget Policy Framework Procedure Rules

[Interpretation](#)

[Procedure for dealing with recommendations from the Cabinet](#)

Budget and Policy Framework Procedure Rules

1. Interpretation

- 1.1 In this Chapter, “plan or strategy” means a plan or strategy which is part of the policy framework set out in Article 4.
- 1.2 Where notification is required to be submitted to any Member or officer of the Council under the procedure in these rules, the notification may be transmitted electronically.

2. Procedure for dealing with recommendations from the Cabinet

- 2.1 The Cabinet is responsible for formulating or preparing plans or strategies, or alterations to plans or strategies, for submission to full Council.
- 2.2 Full Council is responsible for approving plans and strategies. In doing so, it shall in all cases consider a written recommendation from the Cabinet.
- 2.3 These rules lay down the action that must be taken where the Cabinet has submitted a draft plan or strategy, or amendments to an existing plan or strategy, to full Council for consideration, and, following consideration, the Council has any objections to the Cabinet’s proposals.
- 2.4 Before the Council adopts, approves, amends or modifies the plan or strategy, it must instruct the Head of Legal and Democratic Services to take the action in 2.5.
- 2.5 As soon as reasonably practicable, and in all cases within two working days after the meeting at which the Council objected as in 2.3 above, the Head of Legal and Democratic Services shall give written notification to the Leader in the following terms:

“[NAME OF PLAN OR STRATEGY]

At its meeting on [date] full Council objected to this plan or strategy as recommended to it by the Cabinet for [adoption] [approval] [amendment]. The objections agreed by Council were:

The Cabinet must reconsider the [name of plan or strategy] in the light of the Council’s objections and must either:

- (a) submit a revised [name of plan or strategy], with its reasons for any amendment, to the Council for its consideration; or
- (b) inform the Council of any disagreement it has with any of the Council’s objections, and its reasons for the disagreement.

The Cabinet must take this action by [date(1)*].

* The date at (1) must be not less than 5 working days from and including the day after the Leader receives this notification.

[It is proposed that this item is placed on the agenda for the Cabinet already arranged for [date and time].]

OR

[I will contact you separately to arrange a date and time for a special Cabinet Meeting.]

OR

[As discussed, a special Cabinet meeting to consider this matter is being arranged for [date and time].]

- 2.6 When the Cabinet has reconsidered the matter in the light of the Council's objections, the Head of Legal and Democratic Services shall arrange for the plan or strategy to be referred to the next Council meeting or, if necessary, an extraordinary Council meeting. The reference to the Council meeting shall include the following information that has been received from the Cabinet by the date at (1) in paragraph 2.5 above:
- (a) any amendments to the draft plan or strategy proposed by the Cabinet;
 - (b) the reasons for those amendments;
 - (c) any disagreement the Cabinet has with the Council's objections to the plan or strategy; and
 - (d) the reasons for that disagreement.
- 2.7 The Council shall take the information in 2.6 (a) to (d) into account when it adopts, approves, amends or modifies the plan or strategy. The Council's decision, whether it be to follow or to reject the views of the Cabinet, shall be implemented.
- 2.8 Where, before 8 February in any financial year, the Cabinet submits to full Council for consideration in relation to the following financial year the statutory components of the budget (defined below*), the procedure in paragraphs 2.3 to 2.7 above shall also apply before the Council makes a calculation, or issues a precept, under any of the legislation included in the definition. The Head of Legal and Democratic Services's notification to the Leader shall be in similar terms to that in 2.5 above.

* The "statutory components of the budget" means:

- (a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of Sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
- (b) estimates of other amounts to be used for the purposes of such a calculation;
- (c) estimates of such a calculation; or
- (d) amounts required to be stated in a precept under Chapter IV of Part 1 of the Local Government Finance Act 1992;

but not:

- (a) calculations or substitute calculations which an authority is required to make in accordance with Section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; or
- (b) amounts stated in a precept issues to give effect to calculations or substitute calculations made in accordance with Section 52J or 52U of that Act.

2.9 Notwithstanding the above, if the majority of the Cabinet, including the Leader, are present at a meeting of the Council when an amendment is proposed by the Council to the Budget or Policy Framework as recommended by the Cabinet, and the majority of those Cabinet members present agree, the Leader may put forward an amended proposal to the Council for approval at that meeting.

Part 4

Financial Procedure Rules

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Appendix 1 Schedule of Limits

Appendix 2 The Council's Thresholds of Expenditure used for Defining Key Decisions

A. GENERAL

A1. Applicability

Status of Financial Regulations

- A1.1 These regulations provide the framework for managing the Council's financial affairs and were approved by the Council as part of the Constitution; they replace all previous financial regulations and financial standing orders.
- A1.2 These regulations form the major part of the framework for controlling financial affairs within the Council. Other elements include Contract Standing Orders, Procurement Strategy, and the Member and Employee Codes of Conduct.
- A1.3 The Head of Finance and Revenues will keep these regulations under review and will periodically submit any additions or changes to Council for approval.
- A1.4 For the purposes of these regulations the term "*Chief Officer*" shall refer to Chief Executive; Deputy Chief Executive, Heads of Service, and those authorised to act in their name.

A2. Compliance

Who must comply with these Regulations

- A2.1 All officers and members are responsible for complying with Financial Regulations. They also apply, unless the Head of Finance and Revenues directs otherwise, to contractors providing Council functions using Council assets, and others acting on the Council's behalf.
- A2.2 It is the responsibility of Chief Officers to ensure that all employees with financial responsibilities are made aware of and have access to these regulations.
- A2.3 Where the responsibility for making financial decisions has been delegated by Members or Chief Officers to other members of staff, a written record of the details of these delegations shall be maintained.
- A2.4 Failure of any officer to comply with these regulations may constitute misconduct or gross misconduct, depending on the circumstances, and may result in disciplinary action being taken in accordance with the Council's Disciplinary Procedure.
- A2.5 Failure of contractors to comply with these regulations may constitute a breach of contract and result in the contract being terminated.

Duty to report Non-Compliance

- A2.6 When an officer is aware of a breach of these regulations they have a duty to report it to the Head of Finance and Revenues. Any such report will be treated in the strictest confidence.
- A2.7 Any serious breaches of Financial Regulations will be reported by the Head of Finance and Revenues to the Cabinet and/or Council.

A3. Responsibilities

- A3.1 The Head of Finance and Revenues has been delegated the responsibility for the proper administration of the Council's financial affairs as required by section 151 of the Local Government Act 1972. To promote best financial practice within the Authority, the Head of Finance and Revenues may issue financial instructions at any time which must be complied with as if they were part of these regulations.
- A3.2 All officers and Members 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.
- A3.3 These Regulations are primarily concerned with the management and stewardship of the Council's resources; all legal issues such as the legality and powers to act, and terms and conditions of contracts and other agreements to protect the Council's interests, should be referred to the Head of Legal and Democratic Services who is the Council's Monitoring Officer.

A4. Distinctions between Revenue & Capital Income & Expenditure

- A4.1 Local authorities are required to account for revenue and capital items in different ways. The Head of Finance & Revenues is responsible for ensuring that all items of income and expenditure are properly classified as either revenue or capital and that they are accounted for in accordance with appropriate Codes of Accounting Practice.
- A4.2 Revenue expenditure represents the day-to-day running costs of the Council and includes costs such as salaries, premises costs, travel and supplies & services.
- A4.3 Capital expenditure is classified as being over £10,000 and spent on items that will have an estimated useful economic life of more than one year and be carried on the Council's Balance Sheet.

B. Financial Management

B1. Roles and Responsibilities - Members

Key roles and responsibilities are as follows:

B1.1 Full Council

- (i) To adopt the Council's Constitution, including codes of conduct, rules and regulations (such as these regulations) and the policy framework within which the Cabinet operates.
- (ii) To approve the Council's revenue budget, capital programme and the level of council tax for the succeeding financial year.
- (iii) To approve and monitor compliance with the Authority's overall framework of accountability and control.
- (iv) To monitor compliance with agreed policy and related Cabinet decisions.

B1.2 Cabinet

- (i) To propose the policy framework, budget and level of council tax for the succeeding financial year to the full Council and discharging executive functions in accordance with the policy framework and budget.
- (ii) To canvass the views of local stakeholders, as appropriate, prior to considering the budget for the succeeding financial year.
- (iii) To approve the fees and charges to be levied by the Authority for the services it provides.
- (iv) To establish protocols to ensure individual Cabinet members consult with relevant officers before taking a decision with his/her delegated authority. In doing so, the Member must take account of legal and financial liabilities and risk management issues that may arise from the decision.

B1.3 Overview & Scrutiny Committee

- (i) To be responsible for scrutinising Cabinet decisions and holding the Cabinet to account, including examining the budget proposals and budget strategy proposed by the Cabinet to full Council.
- (ii) To review general policy and service delivery and make recommendations for future policy.

B1.4 General Purposes Committee

- (i) To be responsible for the appointment, discipline and dismissal of Chief Officers (as defined in the Officer Employment Procedure Rules in Part 4), and appeals from other officers with a minimum of two years' service.
- (ii) To approve policies and procedures relating to staff including their conduct and terms and conditions.
- (iii) To approve local negotiations on salaries, wages and other employee-related matters.
- (iv) To be responsible for promoting and maintaining high standards of conduct amongst Councillors and investigating complaints about their conduct.

B1.5 Audit Committee

- (i) To set the Council's Internal Audit Plan each year, taking due consideration of the risks and resources available.
- (ii) To consider the Internal Audit Manager's annual report and opinion, summary of Internal Audit activity undertaken and the level of assurance it can give over the Council's corporate governance arrangements.
- (iii) To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.

- (iv) To monitor the effective development and operation of risk management and corporate governance in the Council.
- (v) To monitor policies on whistleblowing and anti-fraud / anti-corruption strategies as well as the Council's complaints' process.
- (vi) To approve the annual Statement of Accounts and consider the auditor's report on issues arising from the audit of the accounts.

B2. Roles and Responsibilities - Officers

Key roles and responsibilities are as follows:

B2.1 Chief Executive (Head of Paid Service)

- (i) Corporate and strategic management of the Authority.
- (ii) Monitoring the performance of the organisation.
- (iii) Overall responsibility for providing information to the Council and its Committees and recording decisions made by them.

B2.2 Head of Legal and Democratic Services (Monitoring Officer)

- (i) Maintaining an up to date constitution.
- (ii) Reporting actual or potential breaches of the law or maladministration to the Council after consultation with the Chief Executive and Head of Finance and Revenues.
- (iii) Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- (iv) Together with the Head of Finance and Revenues responsible for advising the Cabinet or full Council about whether a decision is likely to be considered contrary or not wholly in accordance with the budget.
- (v) Promoting and encouraging high standards of behaviour in Council business.

B2.3 Head of Finance and Revenues (Chief Financial Officer)

The Head of Finance and Revenues has statutory duties which arise from:

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- The Local Government and Housing Act 1989
- The Accounts and Audit Regulations 2015 including subsequent amendments

The Head of Finance and Revenues is the Council's financial and economic advisor and is responsible for:

- (i) the proper administration of the Authority's financial affairs.
- (ii) setting and monitoring compliance with financial management standards.
- (iii) ensuring proper professional practices are adhered to and to act as head of profession in relation to the standards, performance and development of all finance staff.
- (iv) keeping the Council, Cabinet and other Committees (as required) informed with respect to the Council's finances and financial performance.
- (v) advising on the key financial controls necessary to secure sound financial management.
- (vi) providing accurate and timely financial information.
- (vii) preparing the revenue budget and capital programme for each financial year.
- (viii) treasury management.

Section 114 of the Local Government Finance Act 1988 requires the Head of Finance and Revenues to report to the full Council, Cabinet and external auditor if the Authority or one of its officers:

- has made, or is about to make, a decision which involves incurring unlawful expenditure.
- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Authority.
- is about to make an unlawful entry in the Authority's accounts.

Section 114 of the 1988 Act also requires:

- the Head of Finance and Revenues to nominate a properly qualified member of staff to deputise should he be unable to perform the duties under section 114 personally; and
- the Authority to provide the Head of Finance and Revenues with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

B2.4 Chief Officers

Chief Officers are responsible for:

- (i) ensuring that Cabinet members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Head of Finance and Revenues.
- (ii) consulting with the Head of Finance and Revenues and seeking approval on any matter liable to affect the Authority's finances materially, before any commitments are incurred.

- (iii) promoting the financial management standards set by the Head of Finance and Revenues in their services and monitoring adherence to those standards and practices, liaising as necessary with the Head of Finance and Revenues.
- (iv) promoting sound financial practices in relation to the standards, performance and development of staff within their services.

B3. Policy Framework

The full Council is responsible for approving the policy framework and budget. The policy framework includes the following statutory plans and strategies:

- corporate plan;
- capital programme;
- capital strategy; and
- treasury management policy statement.

In terms of financial planning, the key elements are:

- the corporate plan;
- the budget;
- the Medium Term Financial Strategy; and
- the capital programme.

The full Council is also responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the policy framework. Decisions should be referred to the full Council by the Monitoring Officer.

The full Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget policy framework within the financial limits set by the Council.

Preparation of the Corporate Plan

The Chief Executive is responsible for proposing the corporate plan to the Cabinet for consideration before its submission to the full Council for approval.

B4. Budgeting

B4.1 Format

The format of the budget determines the level of detail to which financial control and management will be exercised and must comply with legal requirements and CIPFA recommended best practice, and reflect the accountabilities of service delivery.

The Head of Finance and Revenues has the responsibility to advise the Cabinet on the format of the budget that is approved by the full Council.

Chief Officers are responsible for complying with accounting guidance provided by the Head of Finance and Revenues.

B4.2 Revenue budget preparation, monitoring and control

General

Budget management ensures that once the budget has been approved by the full Council, resources allocated are used for their intended purposes and are properly accounted for. For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre, broken down into a level of detail agreed by the Head of Finance and Revenues.

Expenditure within the provision of the estimates may be incurred without further reference to the Council by:

- (a) the Cabinet acting under delegated powers; or
- (b) a Chief Officer acting under delegated powers.

The inclusion of items in approved revenue estimates or the approved years of the capital programme shall constitute authority to incur such expenditure save to the extent to which the Cabinet, acting for the Council, shall have placed a reservation on any such item or items. Expenditure on any such reserved items may be incurred only when and to the extent that such reservation has been removed.

The Head of Environmental Services has delegated authority to incur appropriate expenditure outside of their budget where they have successfully tendered for work from other public bodies subject to fulfilling the requirements of that delegated authority.

Urgent or Emergency Action

Expenditure outside the provision of revenue estimates may be incurred without further reference to the Cabinet by a Chief Officer, in consultation with the Head of Finance and Revenues, on any necessary or emergency actions.

The Chief Executive, in consultation with the Leader, also has powers under the Council's constitution to take action in emergency and urgent situations and has alone the authority to act in the event of a civil emergency.

Responsibilities

- (a) Cabinet
 - (i) To monitor and regulate the Council's financial performance during the currency of each estimate period.
 - (ii) To consider and approve any proposal to add, delete or make a material modification to a project in the Capital Programme up to the amount shown in Appendix 1.
 - (iii) To approve expenditure outside the provision of revenue estimates where no equivalent savings are possible up to the limit shown in Appendix 1.

- (iv) To approve any expenditure incurred which is essential to meet any immediate needs created by a sudden emergency or which is referable to the Civil Contingencies Act 2004 as amended.
 - (v) To receive and consider reports annually from the Head of Finance and Revenues comparing actual and estimated revenue income and expenditure for the previous financial year including an explanation of significant variances between the two and details of capital expenditure in the previous financial year and resources utilised to meet that expenditure.
- (b) Head of Finance and Revenues
- (i) To establish an appropriate framework of budgetary management and control that ensures that:
 - i. budget management is exercised within annual cash limits unless the full Council agrees otherwise.
 - ii. each Chief Officer has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities.
 - iii. expenditure is committed only against an approved budget head.
 - iv. all officers responsible for committing expenditure comply with relevant guidance, and these Financial Regulations.
 - v. each cost centre has a single named manager, determined by the relevant Chief Officer. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure.
 - vi. significant variances from approved budgets are investigated and reported by budget managers regularly.
 - vii. regular reports are prepared and submitted to the Cabinet on each service's projected expenditure compared with its budget, in consultation with the relevant Chief Officer.
 - (ii) To administer the Authority's scheme of virement.
 - (iii) To submit reports to the Cabinet and to the full Council, in consultation with the relevant Chief Officer, where a Chief Officer is unable to balance expenditure and resources within existing approved budgets under his/her control.
 - (iv) To prepare and submit reports on the Authority's projected income and expenditure compared with the budget on a regular basis.
 - (v) To approve urgent and unforeseen items of expenditure up to a limit of the amount shown in Appendix 1 and will ensure that such actions shall be reported to a subsequent meeting of the Cabinet.

- (vi) To provide a statement to the Cabinet as soon as practicable after 31st March each year setting out a comparison of the Council's actual and estimated income and expenditure and explanations of variances between the two for the preceding financial year.

(c) Chief Officers

- (i) To maintain budgetary control within their services, in adherence to the principles outlined above.
- (ii) Where it appears that the amount of approved expenditure estimate may be materially exceeded or the amount of approved income estimate may not be reached, to consult with the Head of Finance and Revenues and as required by the Head of Finance and Revenues, to inform the Cabinet.
- (iii) To ensure that an accountable budget manager is identified for each item of income and expenditure under the control of the Chief Officer (grouped together in a series of cost centres). As a general principle, budget responsibility should be aligned as closely as possible to the decision-making that commits expenditure.
- (iv) To ensure that spending remains within the service's overall cash limit and that individual budgets are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- (v) To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and is operating effectively.
- (vi) To ensure prior approval by the full Council or Cabinet (as appropriate) for new proposals of whatever amount that:
- create financial commitments in future years;
 - change existing policies, initiate new policies or cease existing policies;
 - materially extend or reduce the Authority's services.

The report on these proposals must fully explain the financial implications following consultation with the Head of Finance and Revenues. Unless the full Council or Cabinet agrees otherwise, Chief Officers must plan to contain the financial implications of such proposals within their cash limit.

- (vii) To ensure compliance with the scheme of virement.
- (viii) To agree with the relevant Chief Officer where it appears that a budget proposal, including a virement proposal, may impact materially on another service area or Chief Officer's level of service activity.

B4.3 Budgets and medium-term planning

The budget is the financial expression of the Authority's plans and policies. The revenue budget must ensure that the resource allocation properly reflects the Council's Corporate Plan, Corporate Action Plan projects and service plans. Budgets (spending plans) are needed so that the Authority can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for the Authority to budget for a deficit.

To enable the Authority to prepare for events in advance, a rolling three-year medium term forecast is produced based on known and anticipated changes in the Authority's finances over that period.

Responsibilities

(a) Head of Finance and Revenues

- (i) To prepare and submit reports on budget prospects for the Cabinet, including resource constraints set by the Government. Reports should take account of medium-term prospects where appropriate.
- (ii) To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by full Council and after consultation with the Cabinet and Chief Officers.
- (iii) To prepare and submit reports to the Cabinet on the aggregate spending plans of services and on the resources available to fund them, identifying where appropriate, the implications for the level of council tax to be levied.
- (iv) To advise on the medium-term implications of spending decisions.
- (v) To encourage the best use of resources and value for money by working with Chief Officers to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.
- (vi) To advise the full Council on Cabinet proposals in accordance with his/her responsibilities under section 151 of the Local Government Act 1972.

(b) Chief Officers

- (i) To prepare estimates of income and expenditure, in consultation with the Head of Finance and Revenues, to be submitted to the Cabinet in accordance with timescales determined by the Head of Finance and Revenues.
- (ii) To prepare budgets that are consistent with any relevant cash limits, with the Authority's annual budget cycle as prescribed by the Head of Finance and Revenues.

- (iii) To integrate financial and budget plans into service planning, so that budget plans can be supported by financial and non-financial performance measures.
- (iv) In consultation with the Head of Finance and Revenues and in accordance with the laid-down guidance and timetable, to prepare detailed draft revenue and capital budgets for consideration by the Cabinet.
- (v) When drawing up draft budget requirements, to have regard to:
 - available resources;
 - medium-term planning prospects;
 - legal requirements;
 - spending patterns and pressures revealed through the budget monitoring process;
 - policy requirements as defined by the full Council in the approved policy framework;
 - initiatives already under way.

B4.4 Resource Allocation

It is necessary to carefully prioritise needs and ensure that resources are fairly allocated, in order to fulfil all legal responsibilities. Resources may include staff, money, equipment, goods and materials.

Responsibilities

(a) Head of Finance and Revenues

- (i) To advise on methods available for the funding of resources, such as grants from central government and borrowing requirements.
- (ii) To assist in the allocation of resources to budget managers.

(b) Chief Officers

- (i) To work within budget limits and to utilise resources allocated, and further allocate resources in the most efficient, effective and economic way.
- (ii) To identify opportunities to minimise or eliminate resource requirements or consumption without having a detrimental effect on service delivery.

B4.5 Capital programmes

Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Authority, such as land, buildings and major items of plant, equipment or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.

Responsibilities

(a) Head of Finance and Revenues

- (i) To prepare estimates jointly with Chief Officers and report them to the Cabinet for approval. The Cabinet will make recommendations on the capital estimates and on any associated financing requirements to the full Council.
- (ii) To prepare and submit reports to the Cabinet on the projected income, expenditure and resources compared with the approved estimates.
- (iii) To provide a statement to the Cabinet as soon as practicable after the 31st March each year detailing actual capital expenditure for the preceding financial year and resources utilised to meet that expenditure.
- (iv) To issue guidance concerning capital schemes and controls, for example, on project appraisal techniques. The definition of “capital” will be determined by the Head of Finance and Revenues, having regard to government regulations.
- (v) To obtain authorisation from the Cabinet for individual schemes where the estimated expenditure exceeds the capital programme provision by more than the amount specified in Appendix 1.

(b) Chief Officers

- (i) To comply with guidance concerning capital schemes and controls issued by the Head of Finance and Revenues.
- (ii) To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Head of Finance and Revenues.
- (iii) To review regular reports prepared by the Head of Finance & Revenues on the progress of capital programme provisions for their services. They should also prepare summaries of estimated final costs of schemes in the approved capital programme as required by the Head of Finance & Revenues.
- (iv) To ensure that adequate records are maintained for all capital contracts.
- (v) To proceed with projects only where there is adequate provision in the capital programme.

- (vi) To prepare and submit reports, jointly with the Head of Finance and Revenues, to the Cabinet, where the expenditure for an individual scheme is estimated to exceed the capital programme provision, or on completion of the scheme the final expenditure actually exceeds the approved provision, by more than the limit shown in Appendix 1.
- (vii) To ensure that credit arrangements, such as leasing arrangements, are arranged through the Head of Finance and Revenues or are not entered into without the prior approval of the Head of Finance and Revenues and, if applicable, approval of the scheme through the capital programme.

B4.6 Maintenance of Reserves

Reserves are maintained as a matter of prudence and the Council must decide the level of general reserves it wishes to maintain before it can decide the level of council tax.

Reserves are held for three purposes:

- To provide for unexpected events and thereby protect it from overspending, should such events occur.
- For specific purposes, such as the purchase or renewal of capital items or to enable carry forward of external funding / government grants between financial years.
- To build capacity for known future obligations / aspirations where there is expected to be a funding shortfall

Reserves are maintained in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom and agreed accounting policies.

For each reserve established, the purpose, usage and basis of transactions should be clearly identified.

The Head of Finance and Revenues will advise the full Council on prudent levels of reserves for the Authority ahead of setting the budget for each financial year, and take account of the advice of the external auditor in this matter.

Chief Officers are responsible for ensuring that reserves are used only for the purposes for which they were intended.

C. Managing Expenditure

C1 Scheme of Virement

C1.1 What is a virement?

The scheme of virement is intended to enable the Cabinet, Chief Officers and their staff to manage their budgets with a degree of flexibility within the overall policy framework determined by the full Council, and therefore to optimise the use of resources.

Virement is defined as the switching of resources between approved estimates or heads of expenditure. In practice this means a transfer of budgets between services and/or within a service between cost centres and/or between different types of expenditure at CIPFA Group Code level (i.e. salary related expenditure, supplies and services, etc.).

C1.2 How does the scheme work?

The scheme is administered by the Head of Finance and Revenues within guidelines set by full Council. Any variation from the scheme requires the approval of full Council.

The overall budget is recommended by the Cabinet to full Council for approval. Chief Officers and budget holders are authorised to incur expenditure in accordance with the estimates that make up the budget, subject to individual levels of authority relevant to their role.

Virement does not create additional overall budget liability. Chief Officers are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they must avoid supporting recurring expenditure from one-off sources of savings or additional income, or creating future commitments, including full-year effects of decisions made part way through a year, for which they have not identified future resources. Chief Officers must plan to fund such commitments from within their own budgets.

C1.3 Thresholds

The authority required for approving virements depends on the amount of virement as shown in Appendix 1. In each case the Head of Finance and Revenues should be informed as to the amount of the virement using the appropriate form and that form should be certified by the Chief Officer concerned and, where necessary, the Head of Finance and Revenues. Where any virement proposed requires Cabinet or the Finance and Resources Portfolio Holder approval a joint report will be prepared by the Chief Officer concerned and the Head of Finance and Revenues seeking that approval. The report shall specify the proposed expenditure and source of funding and explain the implications in the current and future financial year.

Where a virement is proposed between budgets managed by different Chief Officers and the value of that virement requires the approval of the Cabinet or the Finance and Resources Portfolio Holder a report will be prepared jointly by the Chief Officers concerned and the Head of Finance and Revenues seeking approval.

C1.4 General

Virement that is likely to impact on the level of service activity of another Chief Officer should be implemented only after agreement with the relevant Chief Officer.

All budget virement journals must be appropriately authorised and contain a narrative that explains the reason for the virement.

No virement relating to a specific financial year should be made after 31 March in that year.

Where an approved budget is a lump-sum budget or contingency intended for allocation during the year, its allocation will not be treated as a virement. The Head of Finance and Revenues has authority to re-allocate such sums to the full amount that was budgeted.

C2 Treatment of Year-End Balances

These rules cover the arrangements for the transfer of resources between accounting years, i.e. carry-forwards. For the purposes of this scheme, a budget heading refers to a group code level within a cost centre.

The Head of Finance and Revenues will administer year-end balances in accordance with guidelines approved by full Council and will report all over and under-spendings on service estimates carried forward to the Cabinet and to the full Council.

Net underspendings on service estimates under the control of the Chief Officer may be carried forward subject to reporting to the Cabinet the source of underspending or additional income and the proposed application of those resources.

C3 Accounting Policies

The Head of Finance and Revenues is responsible for the preparation of the Authority's Statement of Accounts, in accordance with proper practice as set out in the format required by the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC) for each financial year ending 31 March.

The Head of Finance and Revenues is responsible for selecting suitable accounting policies and ensuring that these are applied consistently. The accounting policies are set out in the Statement of Accounts, which is prepared at 31 March each year.

All Chief Officers are required to adhere to the accounting policies and guidelines approved by the Head of Finance and Revenues.

C4 Accounting Records and Returns

Maintaining proper accounting records is one of the ways in which the Authority discharges its responsibility for stewardship of public resources. The Authority has a statutory responsibility to prepare its annual accounts to give a true and fair view of its operations during the year. These are subject to external audit. The audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed, and that quality arrangements have been made for securing economy, efficiency and effectiveness in the use of the Authority's resources.

Responsibilities

(a) Head of Finance and Revenues

- (i) To determine the accounting procedures and records for the Authority. Where these are maintained outside the Finance and Revenues Service, the Head of Finance and Revenues should consult the Chief Officer concerned.
- (ii) To arrange for the compilation of all accounts and accounting records under his/her direction.

- (iii) To comply with the following principles when allocating accounting duties:
 - (a) separating the duties of providing information about sums due to or from the Authority and calculating, checking and recording these sums from the duty of collecting or disbursing them; and
 - (b) employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.
 - (iv) To make proper arrangements for the audit of the Authority's accounts in accordance with the Accounts and Audit Regulations 2015 and any subsequent amendments to these.
 - (v) To ensure that all claims for funds including grants are made by the due date.
 - (vi) To prepare and publish the audited accounts of the Authority for each financial year, in accordance with the statutory timetable and with the requirement for the Audit Committee to approve the Statement of Accounts.
 - (vii) To administer the Authority's arrangements for under and overspendings to be carried forward to the following financial year.
 - (viii) To ensure the proper retention of financial documents in accordance with the requirements set out in the Authority's document retention policy.
- (b) Chief Officers
- (i) To consult the Head of Finance and Revenues before making any changes to accounting records and procedures.
 - (ii) To comply with the principles of separation of duties outlined above (paragraph C4 (a) (iii)).
 - (iii) To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.
 - (iv) To supply information required to enable the statement of accounts to be completed in accordance with guidelines issued by the Head of Finance and Revenues.

C5 The Statement of Accounts

The Authority has a statutory responsibility to prepare its own accounts to give a true and fair view of its operations during the year. The full Council, or any Committee nominated by the Council, is responsible for approving the statutory annual Statement of Accounts.

Responsibilities

(a) Head of Finance and Revenues

- (i) To select suitable accounting policies and apply them consistently.
- (ii) To make judgements and estimates that are reasonable and prudent.
- (iii) To comply with the Code of Practice on Local Authority Accounting in the United Kingdom.
- (iv) To sign and date the Statement of Accounts, stating that it presents a true and fair view of the financial position of the Authority at the accounting date and its income and expenditure for the year ended 31 March.
- (v) To draw up the timetable for the final accounts preparation and to advise staff and external auditors accordingly. This timetable should ensure that the accounts are prepared in time for approval within the statutory deadline.

(b) Chief Officers

Chief Officers are responsible for ensuring that they comply with accounting guidance provided by the Head of Finance and Revenues and that they supply the Head of Finance and Revenues with information when required.

D. Risk Management and Control of Resources

D.1 Risk Management

D1.1 Definition

Risk is defined as the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then establishing and implementing the action which needs to be taken to control these risks effectively.

D1.2 Responsibilities

(a) Audit Committee

- (i) To recommend to Council the Authority's risk management strategy and to promote a culture of risk management awareness throughout the Authority.
- (ii) To monitor the effective development and operation of risk management and corporate governance in the Council.

(b) Head of Finance and Revenues

- (i) To prepare and promote the Authority's risk management strategy.

- (ii) To develop risk management controls in conjunction with other Chief Officers.
 - (iii) To include all appropriate employees of the Authority in a suitable fidelity guarantee insurance.
 - (iv) To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims in consultation with other officers, where necessary.
- (c) Chief Officers
- (i) To notify the Head of Finance and Revenues immediately of any loss, potential liability or damage that may lead to a claim against the Authority, together with any information or explanation required by the Head of Finance and Revenues or the Authority's insurers.
 - (ii) To take responsibility for risk management in their Service, including maintaining an up-to-date Service risk register, having regard to advice from the Head of Finance and Revenues and other specialist officers e.g. health and safety and comply with the Risk Management Strategy.
 - (iii) To ensure business continuity plans and arrangements are in place in the event of disaster resulting in serious loss or damage to resources.
 - (iv) To ensure that there are regular reviews of risks within their services and action taken to reduce those risks and/or manage any retained risk.
 - (v) To notify the Head of Finance and Revenues promptly of all new risks, properties or vehicles that require insurance, and of any alterations affecting existing insurances.
 - (vi) To consult the Head of Finance and Revenues and Head of Legal and Democratic Services on the terms of any indemnity that the Authority is requested to give.
 - (vii) To ensure that employees, or anyone covered by the Authority's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

D2 Internal Controls

The Authority is a large and complex organisation and therefore requires internal controls to manage and monitor progress towards its strategic objectives and to identify, meet and monitor compliance with its statutory obligations.

Internal controls are necessary to manage the wide range of financial, administrative and commercial risks facing the Authority.

D2.1 Responsibilities

(a) Head of Finance and Revenues

- (i) To assist the Authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.
- (ii) To prepare an annual statement on the effectiveness of internal controls within the Authority's Annual Governance Statement.

(b) Chief Officers

- (i) To manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.
- (ii) To review existing controls in the light of changes affecting the Authority or as working patterns inherent in the operation of controls (such as a move to home-working) and to establish and implement new ones in line with guidance from the Head of Finance and Revenues. Chief Officers should also be responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.
- (iii) To ensure that staff have a clear understanding of the consequences of lack of control.

D3 **Audit Requirements**

INTERNAL AUDIT

D3.1 Legal Requirement

The Local Government Act 1972 section 151 requires that authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations 2015 section 6 more specifically require that a “relevant body must undertake an adequate and effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance”.

D3.2 Role of Internal Audit

Internal Audit is an independent and objective assurance and consulting function established by the Authority for reviewing the system of internal control and designed to add value and improve the Council's operations. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources.

To ensure that Internal Audit can meet its objectives it is essential that:

- it is independent in its planning and operation.

- the Audit staff have direct access to the Chief Executive, all levels of management and directly to elected Members.
- the internal auditors comply with the “UK Public Sector Internal Audit Standards”, as these are considered “proper internal audit practices”.

D3.3 Powers of Internal Audit

Internal Audit reports directly to the Head of Finance and Revenues and has the authority to:

- (a) access the premises and land of the Authority at all times.
- (b) access all assets, records, documents, correspondence and control systems in whatever form they are held.
- (c) receive any information and explanation considered necessary concerning any matter under consideration within a timescale set by the Head of Finance and Revenues.
- (d) require any employee of the Authority to produce and account for cash, stores or any other asset of the Authority under his or her control.
- (e) remove and provide safe custody for books, records, vouchers, equipment or any other materials required as part of an audit investigation.
- (f) access records belonging to third parties, such as contractors, when required.
- (g) directly access the Chief Executive, Monitoring Officer, the Cabinet and the Audit Committee.

D3.4 Responsibilities

(a) Audit Committee

Audit Plans, progress and significant areas of concern will be reported to the Council’s Audit Committee for consideration and that Committee will be responsible for monitoring the performance of the internal audit function.

The Committee has the authority to:

- (i) investigate any activity within its terms of reference.
- (ii) seek any information that it requires from the Head of Finance & Revenues, including obtaining legal or professional advice, subject to there being sufficient budget for the proposed advice.

(b) Head of Finance and Revenues (as line manager for Internal Audit)

- (i) To recommend the strategic and annual audit plans prepared by the Audit staff, which are based on an objective assessment of the risk of the activities of the Authority, to the Audit Committee for approval.
- (ii) To ensure that there are effective procedures in place to investigate promptly any alleged fraud or irregularity.

- (iii) Following an investigation, to report to Chief Officers any loss which may have occurred as a result of waste, extravagance or maladministration within their service.
- (iv) Where, following an investigation, there are reasonable grounds for suspecting that a loss may have occurred as a result of misappropriation, irregular expenditure or fraud, to determine with the Chief Executive and/or the Head of Legal and Democratic Services whether the matter should be referred to the Police as per the Council's Anti-Fraud and Corruption Policy. The Head of Finance and Revenues will also keep the appropriate Council Members informed as required by that Policy.

(c) Chief Officers

- (i) To ensure that internal auditors are given access at all reasonable times to premises, personnel, electronic systems, documents and assets that the auditors consider necessary for the purposes of their work.
- (ii) To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- (iii) To ensure that they consider and respond promptly to action points raised in audit reports and implement agreed actions within agreed timescales.
- (iv) To ensure that they notify the Head of Finance and Revenues or Internal Audit immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Authority's property or resources. Pending investigation and reporting, the Chief Officer should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- (v) In all cases of suspected irregularities, to ensure that, in consultation with the Head of Finance and Revenues or the Internal Audit Manager, shall report the matter to the Chief Executive, Human Resources Manager and the Deputy Chief Executive so that any possible breach of internal discipline may be dealt with by the Chief Officer in accordance with the agreed procedure.
- (vi) To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed with the Internal Audit Manager prior to implementation.
- (vi) Promote whistle-blowing policies to staff

(d) All Employees

Where any member of staff suspects any fraud or irregularities affecting income, expenditure, cash, stores or any other resources of the Council, or suspects any irregularity in the exercise of the functions of the Authority, they have a duty to immediately notify the Head of Finance and Revenues or the Internal Audit Manager, either directly or through their immediate supervisor, manager, or by reporting the matter to Internal Audit staff, in order that an independent investigation may be undertaken.

EXTERNAL AUDIT

D3.5 Legal Requirement

The Local Audit and Accountability Act 2014 requires the Council to have external auditors. The external auditors have right of access to all documents and information necessary for audit purposes.

The external auditors follow a code of practice prepared by the Comptroller and Auditor General and their statutory responsibilities are set out in National Audit Codes of Practice. The primary focus of the auditors is:

- (a) to be satisfied that the accounts comply with the requirements of the enactments that apply to them;
- (b) to be satisfied that proper practices have been observed in the preparation of the statement of accounts and that the statement presents a true and fair view and
- (c) to be satisfied that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.
- (d) that the use of the Going Concern basis of accounting is appropriate

From time to time the Authority may be subject to audit, inspection or investigation by other external bodies who have statutory rights of access, such as HM Revenue and Customs.

D3.6 Responsibilities

(a) Head of Finance and Revenues

- (i) To ensure that external auditors and inspectors are given access at all reasonable times to premises, personnel, electronic systems, documents and assets that they consider necessary for the purposes of their work.
- (ii) To ensure that there is effective liaison between external and internal audit.
- (ii) To work with the external auditor and advise the full Council, Audit Committee and Chief Officers on their responsibilities in relation to external audit.

(b) Chief Officers

- (i) To ensure that external auditors are given access at all reasonable times to premises, personnel, electronic systems, documents and assets which the external auditors consider necessary for the purposes of their work.
- (ii) To ensure that all records and systems are up to date and available for inspection.

D4 Preventing Fraud and Corruption

D4.1 Anti-Fraud Culture

The Authority will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the authority.

The Authority's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices (see Anti-Fraud and Corruption Policy for more information on the responsibilities of Members and officers for fraud prevention and detection).

The Authority also expects that individuals and organisations (e.g. suppliers, contractors, service providers) with whom it comes into contact will act towards the authority with integrity and without thought or actions involving fraud and corruption.

D4.2 Responsibilities

(a) Head of Finance and Revenues

- (i) To develop and maintain an Anti-Fraud and Corruption Policy.
- (ii) To maintain adequate and effective internal control arrangements.
- (iii) To ensure that all suspected irregularities are reported to the Internal Audit Manager, Chief Executive and appropriate Council Members (as required by the Anti-Fraud and Corruption Policy).

(b) Chief Officers

- (i) To ensure that all suspected irregularities are reported to the Head of Finance and Revenues or the Internal Audit Manager.
- (ii) To instigate the Authority's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- (iii) To ensure that where the potential for or probability of financial impropriety is discovered, the Head of Finance and Revenues is informed. Where sufficient evidence exists to believe that a criminal offence may have been committed, the Police should be involved to determine with the Crown Prosecution Service whether any prosecutions will take place (refer to the Anti-Fraud and Corruption Policy as to the procedure for informing the Police).

- (iv) To maintain a service register of interests and a register for gifts and hospitality for officers within their service.

D5 Assets

SECURITY

D5.1 Introduction

The Authority holds assets in the form of property, vehicles, equipment, furniture and other items worth a considerable sum of money. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up to date asset register is a pre-requisite for proper fixed asset accounting and sound asset management.

D5.2 Responsibilities

(a) Head of Finance and Revenues

- (i) To ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of the amount shown in Appendix 1.
- (ii) To receive the information required for accounting, costing and financial records from each Chief Officer.
- (iii) To ensure that assets are valued in accordance with the latest "Code of Practice on Local Authority Accounting in the United Kingdom".

(b) Head of Legal and Democratic Services

- (i) To notify the Head of Finance and Revenues of any financial rights or liabilities arising from the completion of any deed or agreement.
- (ii) To maintain custody of all title deeds under secure arrangements.

(c) Chief Officers

- (i) To maintain a property database in a form approved by the Head of Finance and Revenues for all properties, plant and machinery and moveable assets currently owned or used by the Authority. Any use of property by a service other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use.
- (ii) To ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Head of Property and Asset Management in consultation with, or as otherwise approved by the Head of Legal and Democratic Services, has been established as appropriate.
- (iii) To ensure the proper security of all buildings and other assets under their control.

- (iv) Where land or buildings are surplus to requirements, a recommendation for sale should be the subject of a joint report by the Chief Officer and the Head of Finance and Revenues.
- (v) To pass title deeds to the appropriate Chief Officer (currently Head of Legal and Democratic Services) who is responsible for the custody of all title deeds.
- (vi) To ensure that no Authority asset is subject to personal use by an employee without proper authority.
- (vii) To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Authority.
- (viii) To ensure that the service maintains a register of moveable assets (inventory) in accordance with arrangements defined by the Head of Finance and Revenues.
- (ix) To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- (x) To consult the Head of Finance and Revenues in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- (xi) To ensure cash holdings on premises are kept to a minimum and maximum limits are agreed with the Head of Finance and Revenues and those holdings are kept in a safe or similar secure receptacle as agreed with the Head of Finance and Revenues.
- (xii) To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times; loss of any such keys must be reported to the Head of Finance and Revenues as soon as possible.
- (xiii) To record all disposal or part exchange of assets that should normally be by competitive tender or public auction, unless the Head of Finance and Revenues agrees otherwise.
- (xiv) To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Head of Finance and Revenues.
- (xv) To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Authority in some way.

Inventories

- (xvi) To maintain inventories and recording an adequate description of furniture, fittings, equipment, plant and machinery in accordance with instructions from the Head of Finance and Revenues.

- (xvii) To carry out an annual check of all items on the inventory in order to verify location, review condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras etc. owned by the Authority (not leased) should be identified with security markings as belonging to the Authority.
- (xviii) To make sure that the property is only used in the course of the Authority's business, unless the Chief Officer concerned has given permission otherwise and suitable arrangements have been made for private use e.g. booking out system, insurance cover.
- (xix) Items which are no longer required shall be either:
 - offered to other services (if usable); or,
 - disposed of in accordance with the Head of Finance and Revenues' instructions. Under normal circumstances this will be by competitive tender or for vehicles part-exchange, although in exceptional circumstances other methods may be agreed. In any event, the inventory should be endorsed accordingly and any resulting payment received paid into the Council's account; or
 - offered to a charity or voluntary organisation, or scrapped if this is a cost effective method of disposal. In the latter case any environmental issues should be taken into account when items are to be scrapped.

IT equipment should be disposed of in accordance with the Council's relevant IT policies.

Stocks and Stores

- (xx) To make arrangements for the care and custody of stocks and stores in the service.
- (xxi) To ensure stocks are maintained at reasonable levels and are subject to a regular (at least annual) independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- (xxii) To investigate and remove from the Authority's records (i.e. write off) discrepancies as necessary. Where these exceed the amount shown in Appendix 1, approval from the Head of Finance and Revenues must be given.
- (xxiii) To authorise or write off disposal of redundant stocks and equipment. Procedures for the disposal of such stocks and equipment should be by competitive quotations or auction, unless the Head of Finance and Revenues decides otherwise in a particular case.
- (xxiv) To seek Head of Finance and Revenues approval to the write-off of redundant stocks and equipment where the value exceeds the amount shown in Appendix 1.

D5.3 Intellectual Property

Intellectual property is a generic term which includes inventions and writing. If these are created by the employee during the course of employment, then, as a general rule, they belong to the employer, not the employee (see Officers' Code of Conduct).

Certain activities undertaken within the authority may give rise to items that may be patentable, for example, software development. These items are collectively known as intellectual property.

In the event that the Council decides to become involved in the commercial exploitation of inventions, proper procedures should be followed which are developed by the Head of Finance and Revenues and Head of Legal and Democratic Services.

Chief Officers should ensure that controls are in place to ensure that staff do not carry out private work in Council time and that staff are aware of an employer's rights with regard to intellectual property.

D5.4 Asset Disposal

It would be uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations of the authority.

Assets for disposal are identified and should be disposed of at the most appropriate time, and only when it is in the best interests of the Authority, and best price obtained, bearing in mind other factors, such as environmental issues. For items of significant value, disposal should be by competitive tender or public auction. Following procedures protects staff involved in the disposal from accusations of personal gain.

Responsibilities

(b) Head of Finance and Revenues

- (i) To issue guidelines representing best practice for disposal of assets.
- (ii) To ensure appropriate accounting entries are made to remove the value of disposed assets from the Authority's records and to include the sale proceeds if appropriate.

(c) Chief Officers

- (i) To obtain the best price from the disposal of surplus or obsolete materials, stores or equipment, unless otherwise agreed by the Head of Finance and Revenues.
- (ii) To ensure that income received for the disposal of an asset is properly banked and coded.

D6 Treasury Management

D6.1 Introduction

The aim of treasury management is to provide assurances that the Authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Authority's capital sum.

The Council will ensure its practices are in line with all Codes of Practice issued periodically by CIPFA

D6.2 Responsibilities – Treasury Management and Banking

(a) Cabinet

To implement and regularly monitor the treasury management policies and practices.

(b) The Overview and Scrutiny Committee

To ensure effective scrutiny of the treasury management and policies.

(c) Head of Finance and Revenues

(i) To create and maintain:

- a treasury management policy statement, stating the policies, objectives and approach to risk management of the Council's treasury management activities;
- suitable treasury management practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control these activities.

The content of the policy statement and TMPs will follow the recommendations contained in relevant sections of the Code, subject only to amendment where necessary to reflect the particular circumstances of the Council. Such amendments will not result in the Council materially deviating from the Code's key principles.

(ii) To report on the Council's treasury management policies, practices and activities as required by the Prudential Code.

(iii) To act in accordance with the Council's policy statement, TMPs and CIPFA's Standard of Professional Practice on Treasury Management in the execution and administration of treasury management decision.

(iv) To report to the Cabinet where limits approved within the TMP have been or are likely to be breached.

(v) To be responsible for controlling all money in the hands of the Authority.

- (vi) To operate bank accounts as are considered necessary – opening or closing any bank account shall require the approval of the Head of Finance and Revenues.
 - (vii) To order cheques and make proper arrangements for their safe custody, completion and despatch.
 - (viii) To ensure that cheques drawn on the Council's main bank accounts shall bear the facsimile signature of the Head of Finance and Revenues and, in the case of cheques exceeding the amounts shown in Appendix 1, together with letters or other documents of authority, shall be signed by signatories approved from time to time by the Head of Finance & Revenues
 - (ix) To ensure that the officer countersigning the cheque in the circumstances referred to in (viii) above shall not be the same officer who certified the payment voucher to which the cheque relates.
 - (ix) To ensure that where payments are to be made by other instruments such as BACS the requirements for countersigning large payments as outlined in (viii) and (ix) above will also apply.
- (d) Chief Officers
- (i) To follow the instructions on banking issued by the Head of Finance and Revenues.

D6.3 Responsibilities – Investments and Borrowing

- (a) Head of Finance and Revenues
- (i) To ensure that all investments of money are made in the name of the Authority or in the name of nominees approved by the full Council.
 - (ii) To ensure that all securities that are the property of the Authority or its nominees and the title deeds of all property in the Authority's ownership are held in the custody of the Head of Legal & Democratic Services.
 - (iii) To effect all borrowings in the name of the Authority.
 - (iv) To act as the Authority's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Authority.
- (b) Chief Officers
- (i) To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the full Council, following consultation with the Head of Finance and Revenues.

D6.4 Responsibilities – Leasing

- (a) Head of Finance and Revenues
 - (i) To enter into leasing arrangements on behalf of the Authority for items with budget approval.
- (b) Chief Officers
 - (i) To provide the Head of Finance and Revenues with details of all items for which leasing arrangements are recommended according to the timescale laid down by the Head of Finance and Revenues.

D6.5 Responsibilities – Trust Funds and Funds held for Third Parties

- (a) Chief Officers
 - (i) To arrange for all trust funds to be held, wherever possible, in the name of the Authority. All officers acting as trustees by virtue of their official position shall deposit securities etc. relating to the trust with the Head of Finance and Revenues, unless the deed otherwise provides.
 - (ii) To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Head of Finance and Revenues, and to maintain written records of all transactions.
 - (iii) To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

D6.6 Responsibilities – Imprest (Petty Cash) Accounts

- (a) Head of Finance and Revenues
 - (i) To provide employees of the Authority with cash or bank imprest accounts as he/she thinks appropriate to meet minor items of expenditure on behalf of the Authority and to prescribe rules for operating these accounts. Minor items should not exceed the amount shown in Appendix 1 unless the Head of Finance and Revenues specifically approves a payment in excess of this limit.
 - (ii) To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically to review the arrangements for the safe custody and control of these advances.
 - (iii) To reimburse imprest holders as often as necessary to restore the imprests.
 - (iv) To provide cash floats of an appropriate level for specific purposes or events held by the Authority and to ensure those floats are promptly repaid intact at the appropriate time.

(c) Chief Officers

Chief Officers have the responsibility to ensure that the employees operating an imprest account:

- (i) comply with the rules for operating imprest accounts issued by the Head of Finance and Revenues.
- (ii) obtain and retain vouchers (meeting VAT requirements where appropriate) to support each payment from the imprest account. Where appropriate, an official receipted voucher must be obtained.
- (iii) make adequate arrangements for the safe custody of the account.
- (iv) produce upon demand by the Head of Finance and Revenues cash and all vouchers to the total value of the imprest amount.
- (v) record transactions promptly.
- (vi) reconcile and balance the account at least monthly; claims for reimbursement to be in a form approved by Head of Finance and Revenues.
- (vii) ensure that where a bank account is opened for use by an imprest holder, the holder shall not cause that account to become overdrawn. It shall be a standing instruction to the Council's bankers that the amount of any overdrawn balance on an imprest holder's bank account shall immediately be reported to the Head of Finance and Revenues.
- (viii) provide the Head of Finance and Revenues with a certificate of the value of the account held at 31 March each year.
- (ix) ensure that the float is never used to cash personal cheques or make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made; no other income shall be paid into the account.
- (x) ensure that on leaving the Authority's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Head of Finance and Revenues for the amount advanced to him or her.
- (xi) ensure cash floats issued for specific purposes or events are repaid promptly and intact following the conclusion of the purpose or event.

D7 Staffing

D7.1 Introduction

In order to provide the highest level of service, it is crucial that the Authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level.

D7.2 Responsibilities

(a) Head of Finance and Revenues

- (i) To ensure that budget provision exists for all existing and new employees and that the budget is reconciled to the Establishment at the time the budget is set.
- (ii) To ensure that reconciliations of actual employee-related expenditure with those budgeted are carried out for each service no less than once every three months.

(b) Human Resources Manager

- (i) To act as an advisor to Chief Officers on areas such as National Insurance and pension contributions, as appropriate.
- (ii) To carry out a quarterly review of the establishment to ensure the accuracy of staffing records.

(c) Chief Officers

- (i) To ensure that the staffing budget prepared by the Head of Finance and Revenues is an accurate forecast of staffing levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).
- (ii) To monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.
- (iii) To ensure that the staffing budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.
- (iv) To ensure that the Head of Finance and Revenues is immediately informed if the staffing budget is likely to be materially over or under spent.

E. Financial Systems and Procedures

E1. General

E1.1 General

Services have many systems and procedures relating to the control of the Authority's assets, including purchasing, costing and management systems. The information must be accurate and the systems and procedures sound and well administered. They should include controls to ensure that transactions are properly processed, errors detected promptly and to assist the prevention and detection of fraud. Internal Audit must be consulted in the development of internal controls for any new system.

The Head of Finance and Revenues has a professional responsibility to ensure that the Authority's financial systems are sound and should therefore be notified of any new developments or changes.

E1.2 Responsibilities

(a) Head of Finance and Revenues

The Head of Finance and Revenues has the responsibility to make arrangements for the proper administration of the Authority's financial affairs, including to:

- (i) issue advice, guidance and procedures for officers and others acting on the Authority's behalf.
- (ii) determine the accounting systems, form of accounts and supporting financial records.
- (iii) establish arrangements for the audit of the Authority's financial affairs.
- (iv) approve any new financial systems to be introduced.
- (v) approve any changes to financial systems.

(b) Chief Officers

- (i) To ensure that accounting records are properly maintained and held securely.
- (ii) To ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Head of Finance and Revenues and the Service Document Retention Schedule.
- (iii) To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained.
- (iv) To incorporate appropriate controls to ensure that, where relevant:
 - all input is genuine, complete, accurate, timely and not previously processed;
 - all processing is carried out in an accurate, complete and timely manner;
 - output from the system is complete, accurate and timely.
- (v) To ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice.
- (vi) To ensure there is a documented and tested business continuity plan to allow information system processing to resume quickly in the event of an interruption.
- (vii) To ensure that systems are documented and staff trained in operations.
- (viii) To consult with the Head of Finance and Revenues before changing any existing systems or introducing new systems.

- (ix) To identify and approve authorised officers to act upon the Chief Officer's behalf in respect of payments, income collection, placing orders and staffing costs such as overtime claims or travel expenses, and showing the limits of their authority.
- (x) To supply lists of authorised officers, with specimen signatures and delegated limits, to the Head of Finance and Revenues, together with any subsequent variations.
- (xi) To ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation.
- (xii) To ensure that computer equipment and software are protected from loss and damage through theft, vandalism, digital / cyber attack etc. and that all officers comply with relevant policies on use of Council IT equipment.
- (xiii) To comply with the copyright, designs and patents legislation and, in particular, to ensure that:
 - only software legally acquired, properly licensed and installed by the Authority is used on its computers;
 - staff are aware of legislative provisions;
 - in developing systems, due regard is given to the issue of intellectual property rights.

E2. Income

E2.1 Introduction

Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Authority's cashflow and avoids the time and cost of administering debts.

E2.2 Responsibilities

(a) Head of Finance and Revenues

- (i) To agree arrangements for the collection of all income due to the Authority and to approve the procedures, systems and documentation for its collection, banking and reconciliation. The responsibility for cash collection should be separated from that:
 - for identifying the amount due; and
 - for reconciling the amount due to the amount received.
- (ii) To prepare and issue cash handling instructions to ensure that such income is managed according to best practice.

- (iii) To order and supply to services all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangement for their control.
- (iv) In consultation with the appropriate Chief Officer, to agree the write-off of bad debts or other sums due to the Authority up to the limit shown in Appendix 1 in each case, and to refer sums in excess of this amount to the Cabinet or the Finance and Resources Portfolio Holder as appropriate.
- (v) In appropriate circumstances the Head of Finance and Revenues may delegate responsibility for the write-off of specific debts to another Chief Officer provided that he/she is satisfied with the arrangements made for controlling such write-offs and provided that the debt does not exceed the limit of the Head of Finance and Revenues' authority to write-off debts as detailed in these regulations.
- (vi) To keep a record of all sums written off up to the approved limit and to adhere to the requirements of the Accounts and Audit Regulations 2015.
- (vii) To ensure that appropriate accounting adjustments are made following write-off action.
- (x) To write-off the amount of any salary that has been prepaid in the event of the death of an officer.

(b) Chief Officers

- (i) To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and to review it regularly, in line with corporate policies.
- (ii) To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- (iii) To establish and initiate appropriate recovery procedures, in consultation with the Head of Finance and Revenues, including legal action where necessary, for debts which are not paid promptly.
- (iv) To issue official receipts or to maintain other documentation for income collection. The format of those receipts or documentation to be agreed by the Head of Finance and Revenues and, where the Head of Finance and Revenues determines, those receipts or documentation to be purchased, stored and issued by the Finance & Revenues Service.
- (v) To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- (vi) To hold securely receipts, tickets and other records of income for the appropriate period, as specified by the Head of Finance and Revenues and the corporate Document Retention Schedule.

- (vii) To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.
- (viii) To comply with all cash handling instructions issued by the Head of Finance and Revenues.
- (ix) To ensure that income is paid fully and promptly into the appropriate bank account in the form in which it is received. No deductions shall be made unless specifically authorised by the Head of Finance and Revenues. Appropriate details should be entered on to paying-in slips to provide an audit trail from the payment to the debt or other purpose for which the payment is being made.
- (x) To ensure that any discrepancies in banking are recorded and reported immediately to the Head of Finance and Revenues.
- (xi) To ensure that insurance limits for cash stored on premises and in transit are not exceeded.
- (xii) To ensure income is not used to cash personal cheques or other payments.
- (xiii) To supply the Head of Finance and Revenues with details relating to work done, goods supplied, services rendered or other amounts due, to enable the Head of Finance and Revenues to record correctly the sums due to the Authority and to ensure accounts are sent out promptly. Chief Officers have a responsibility to assist the Head of Finance and Revenues in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Authority's behalf.
- (xiv) To keep a record of every transfer of money between employees of the Authority. The receiving officer must sign for the transfer and the transferor must retain that record or a copy thereof.
- (xv) To recommend to the Head of Finance and Revenues all debts to be written off and to keep a record of all sums written off up to the limit in Appendix 1. Once raised, no bona fide debt may be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- (xvi) To obtain the approval of the Head of Finance and Revenues, the Finance and Resources Portfolio Holder or Cabinet when writing off debts according to the thresholds in Appendix 1.
- (xvii) To notify the Head of Finance and Revenues of outstanding income relating to the previous financial year as soon as possible after 31 March, in line with the timetable determined by the Head of Finance and Revenues.

E3. Ordering and Paying for Work, Goods and Services

Public money should be spent with demonstrable probity and in accordance with the Council's policies. Authorities have a statutory duty to achieve best value in part through economy and efficiency. The Authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the Authority's Contract Standing Orders and Procurement Strategy.

E3.1 General

- (a) Every officer and Member of the Authority has a responsibility to declare any links or personal interest they may have with purchases, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Authority, in accordance with their respective codes of conduct in the Council's Constitution.
- (b) Official orders must be in a form approved by the Head of Finance and Revenues and will normally be placed through the Council's Purchase Order system. Official orders must be issued for all work, goods and services to be supplied to the Authority, except for supplies of utilities, periodic payments such as rent or rates, petty cash purchases or other exceptions specified by the Head of Finance and Revenues.
- (c) Each order must conform to the Council's Procurement Strategy and any corporate arrangements, agreements or contracts for the purchase or supply of goods, materials, services and works. Standard terms and conditions must not be varied without the prior approval of the Head of Finance and Revenues and Head of Legal and Democratic Services.
- (d) Apart from petty cash and other payments from advance accounts, the normal method of payment shall be by BACS. A cheque drawn on the Authority's bank account by the Head of Finance and Revenues may be used as an alternative method. The use of direct debit shall require the prior agreement of the Head of Finance and Revenues.
- (e) Corporate credit cards and purchase cards may be provided for officers who, in the opinion of the Head of Finance and Revenues, have a business case for having them. These cards must only be used in accordance with the conditions specified by the Head of Finance and Revenues. Personal payments by officers may only be made for Council purchases with prior approval from the Head of Finance and Revenues.
- (f) Official orders must not be raised for any private or personal purchases, nor must personal or private use be made of Authority contracts.
- (g) Cheques must be despatched independently of the officer authorising the payments to which they relate, unless the Head of Finance and Revenues agrees otherwise.

E3.2 Responsibilities

(a) Head of Finance and Revenues

- (i) To ensure that all the Authority's financial systems and procedures are sound and properly administered.
- (ii) To approve any changes to existing financial systems and to approve any new systems before they are introduced.
- (iii) To approve the form of official orders and associated terms and conditions in consultation with the Head of Legal and Democratic Services.
- (iv) To make payments from the Authority's funds on the Chief Officer's authorisation that the expenditure has been duly incurred in accordance with Financial Regulations and to ensure correct entries are made in all accounting records
- (v) To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- (vi) To make payments to contractors on the certificate of the appropriate Chief Officer, which must include details of the value of the work, retention money, amounts previously certified and amounts now certified.
- (vii) To provide advice and encouragement on making payments by the most economical means.
- (viii) To ensure that processes are in place to maintain the security and integrity of data for transacting business electronically.
- (ix) To ensure that controls are in place for ensuring requested changes to supplier contact and payment details are independently checked with known contact details to reduce the risk of fraud or misappropriation of public funds.
- (x) To ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports.
- (xi) To obtain credit cards and purchasing cards, agree credit limits and regulate their use where satisfied there is a business case for having them.
- (xii) To ensure that arrangements are in place for the independent reconciliation and retention of supporting invoices for all transactions placed using credit cards or purchasing cards.
- (xiii) To ensure that controls are in place to prevent the duplicate payment of invoices.

(b) Chief Officers

- (i) To ensure that official orders, as approved by the Head of Finance and Revenues, are used for all goods, services and works, other than the exceptions specified in section E3.1(b) or other specific exceptions agreed by the Head of Finance and Revenues.
- (ii) To ensure that orders are only used for goods, services and works provided to the service ordering them. Individuals must not use official orders to obtain goods and services for their private use.
- (iii) To ensure that only those staff authorised by him or her to approve orders and to maintain an up to date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods, services and works ordered are appropriate and needed, that there is adequate budgetary provision and that quotations and tenders have been obtained as appropriate (see Contract Standing Orders). Best value principles should underpin the Authority's approach to procurement. Value for money should always be achieved. N.B. When using the Authority's electronic purchase ordering system, the order must be made on the appropriate cost centre and account code relevant to the purchase being made.
- (iv) To ensure that goods, services and works are checked on receipt/completion to verify that they are in accordance with the order (including quantity and quality standards). This check should, where possible, be carried out by a different officer from the person who authorised the order. Appropriate entries should then be made in inventories or stores records.
- (v) To ensure that payment of a purchase invoice is not made unless a proper VAT invoice has been received, checked, coded and certified for payment, confirming:
 - (a) receipt of goods or services;
 - (b) that the invoice has not been previously paid;
 - (c) that expenditure has been properly incurred and is within budget provision;
 - (d) that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices;
 - (e) correct treatment of tax, seeking advice from the Head of Finance and Revenues as necessary;
 - (f) that the invoice is coded correctly;
 - (g) that discounts have been taken where available;

- (vi) To ensure that all invoices received within services should be passed to the Head of Finance and Revenues as soon as possible for payment and he/she may make such enquiries as he/she considers necessary. Where orders are placed through the Council's electronic purchasing system invoices will normally be sent by the supplier direct to the Head of Finance and Revenues, and necessary receipting and authorisation will be carried out within that system according to procedures laid down by the Head of Finance and Revenues and consistent with the requirements in (v) above.
- (vii) To ensure that, where payments are made where there is no invoice to support the payment, the same checks as identified in (v) above should be carried out as far as possible and the Council's liability for the payment confirmed. Information supporting the payment should be attached to the payment voucher to the extent that the Head of Finance and Revenues requires.
- (viii) To ensure that two authorised members of staff are involved in the ordering, receiving and payment process to maintain internal control.
- (ix) To ensure that their service maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Head of Finance and Revenues.
- (x) Invoices shall only be received in hard-copy or from a verifiable email address confirmed with the supplier. To ensure that controls are in place to prevent duplicate invoices being passed for payment
- (xi) To ensure that invoices received for payment are correct; if this is not the case a replacement invoice should be requested and the original invoice cancelled or a credit note provided.
- (xii) To ensure that their service obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the Council's Procurement Strategy and Contract Standing Orders.
- (xiii) To ensure that corporate purchasing contracts and agreements the Council has in place are utilised where these meet the requisite specification and quality of goods and services required.
- (xiv) To ensure that they comply with the requirements of Contract Standing Orders to put purchases out to competitive tender or quotes and the process for so doing.
- (xv) To ensure that employees are aware of the Code of Conduct for employees and the Member & Officer Interests Protocol.
- (xvi) To ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Head of Finance and Revenues, who will make such arrangements on behalf of the Authority.

- (xvii) To ensure that the Head of Finance and Revenues is notified of outstanding expenditure relating to the previous financial year as soon as possible after 31 March, in line with the timetable determined by the Head of Finance and Revenues.
- (xviii) To ensure that, with regard to contracts for construction and alterations to buildings and for civil engineering works, they document and agree with the Head of Finance and Revenues the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status.
- (xix) To ensure that they provide the Head of Finance and Revenues with such documentation and explanations as he/she requires relating to contract payments.
- (xx) To ensure that they notify the Head of Finance and Revenues immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision.
- (xxi) To ensure that all appropriate payment records are retained and stored for the defined period, in accordance with the Service document retention schedule and any statutory and/or audit requirements.

E4. Payments to Employees and Members

E4.1 Introduction

Staff costs are the largest item of expenditure for most authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the Authority and that payments accord with individuals' conditions of employment. It is also important that all payments are accurately and completely recorded and accounted for and that Members' allowances are authorised in accordance with the scheme adopted by the full Council.

E4.2 Responsibilities

(a) Head of Finance and Revenues

- (i) To approve arrangements for the secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees.
- (ii) To control books of travel warrants and be responsible for their order and issue to Chief Officers. Used books of travel warrants should be returned to the Head of Finance and Revenues.
- (iii) To ensure there are frequent reconciliations of payroll expenditure against the approved budget and bank account.

(b) Human Resources Manager

- (i) To arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by the Head of Finance and Revenues, on the due date.
- (ii) To ensure there are proper authorisation procedures in place and that there is adherence to corporate timetables in relation to:
 - starters;
 - leavers;
 - variations;
 - enhancements;and, where appropriate, that payments are made on the basis of properly authorised timesheets or claims.
- (iii) To record and make arrangements for the accurate and timely payment of tax, superannuation and other deductions and ensure that all HM Revenue and Customs regulations are complied with in accordance with procedures prescribed by the Head of Finance and Revenues.
- (iv) To make arrangements for the payment of all travel and subsistence claims or other allowances in accordance with procedures prescribed by the Head of Finance and Revenues.
- (v) To make arrangements for paying Members' travel or other allowances, upon receiving the prescribed form, duly completed and authorised.
- (vi) To ensure that there are adequate arrangements for administering superannuation matters on a day-to-day basis.
- (vii) To require Heads of Service to check and confirm the employees being paid through the payroll for their service on at least a quarterly basis.
- (viii) To notify the Head of Finance and Revenues and the Authority's payroll provider of all terminations, changes in remuneration or any other variations which affect the pay or pension of an employee or former employee, in a form and timescale agreed with Hampshire County Council.
- (ix) (x) To check and verify that P11D forms are produced by the Authority's payroll provider, detailing cash equivalents of benefits and expenses provided to employees during the tax year, are accurate.

(c) Chief Officers

- (i) To ensure appointments are made in accordance with the regulations of the Authority and approved establishments, grades and scale of pay and that adequate budget provision is available.

- (ii) To notify the Human Resources Manager of all appointments, terminations or variations which may affect the pay or pension of an employee or former employee.
- (iii) To ensure that adequate and effective systems and procedures are operated, so that:
 - payments are only authorised to bona fide employees;
 - payments are only made where there is a valid entitlement;
 - conditions and contracts of employment are correctly applied;
 - employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- (iv) To ensure that all time records and other pay documents are in a form prescribed or approved by the Head of Finance and Revenues.
- (v) To ensure that payroll transactions are only processed through the payroll system, unless approved by the Head of Finance & Revenues. Chief Officers should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. HM Revenues and Customs applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Human Resources Manager.
- (vi) To certify travel and subsistence claims and other allowances in a form approved by the Head of Finance and Revenues. Certification is taken to mean that journeys were authorised and expenses properly and necessarily incurred, and that allowances are properly payable by the Authority, ensuring that cost-effective use of travel arrangements is achieved.
- (vii) To ensure all claims are submitted within 3 months of the end of the period to which the claim relates; claims submitted later than this may not be paid. All claims relating to a financial year must be submitted within one month of the end of that financial year.
- (viii) To ensure that where staff use their own cars for Council business, their car insurance covers business use, has a valid MoT certificate, if required and that the Council has no liability arising out of their staff's use of their own cars on Council business.
- (ix) To ensure that VAT receipts are retained to support claims to the extent that the Head of Finance and Revenues requires.
- (x) Where issued with books of travel warrants, to return used books to the Head of Finance and Revenues. On leaving the employment of the Council, or otherwise ceasing to be entitled to hold the travel warrants advanced to them, officers holding books of travel warrants shall return them to the Head of Finance and Revenues.

- (xi) To ensure that the Human Resources Manager is notified of the details of any employee benefits in kind, to enable accurate calculation of P11D or other income-based information for tax purposes.
- (xii) To ensure that all appropriate payroll documents are retained and stored for the defined period in accordance with the Service Document Retention Schedule.
- (d) All Employees
 - (i) To notify the Human Resources Manager as soon as possible of any changes in circumstances e.g. bank account details.
 - (ii) To submit properly completed claims for payment promptly within three months of the expenditure being incurred.
- (e) Members
 - (i) To submit claims for Members' travel and subsistence allowances on a monthly basis and, in any event, within one month of the year end.

E5. Taxation

E5.1 Introduction

The Authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

E5.2 Responsibilities

- (a) Head of Finance and Revenues
 - (i) To complete a monthly return of VAT inputs and outputs to HM Revenue and Customs and an annual partial exemption calculation.
 - (ii) To provide details to HM Revenue and Customs regarding the Construction Industry Tax deduction scheme.
 - (iii) To provide service managers with advice on taxation issues including ensuring that VAT is properly charged, the maintenance and retention of documentation and records for taxation purposes.
 - (v) To maintain up to date guidance for Authority employees on taxation issues.
- (b) Human Resources Manager
 - (i) To ensure that the correct amount of tax is deducted from payments to staff and to complete all HM Revenue and Customs returns regarding PAYE.

(c) Chief Officers

- (i) To ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenues and Customs regulations.
- (ii) To ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary Construction Industry Tax deduction requirements.
- (iii) To ensure that all persons employed by the Authority are added to the Authority's payroll, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.
- (iv) To follow any guidance on taxation issued by the Head of Finance and Revenues.

F. External Arrangements

F1. Partnerships

F1.1 Introduction and Definition

The Council works with numerous organisations in the public, private and community sectors to provide quality services and improve the quality of life of the residents of the borough. In many instances there may be formal partnership arrangements with these organisations.

A partner is defined as either:

- (a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project
- or
- (b) a body whose nature or status give it a right or obligation to support the project.

Partners participate in projects by:

- (a) acting as a deliverer or sponsor, solely or in concert with others;
- (b) acting as a project funder or part funder;
- (c) being the beneficiary group of the activity undertaken in a project.

Partners have common responsibilities:

- (a) To be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation.
- (b) To act in good faith at all times and in the best interests of the partnership's aims and objectives.
- (c) To be open about any conflict of interests that might arise.

- (d) To encourage joint working and promote the sharing of information, resources and skills between public, private and community sectors.
- (e) To hold confidentially any information received as a result of partnership activities or duties that is of a confidential or commercially sensitive nature.
- (f) To act as ambassadors for the project.

F1.2 Responsibilities

(a) Head of Finance and Revenues

- (i) To advise on effective controls that will ensure that resources are not wasted.
- (ii) To advise on the key elements of funding a project. They include:
 - a scheme appraisal for financial viability in both the current and future years;
 - risk appraisal and management;
 - resourcing, including taxation issues;
 - audit, security and control requirements;
 - carry-forward arrangements.
- (iii) To ensure that the accounting arrangements are satisfactory.
- (iv) To advise as to the applicability of the Council's Financial Regulations to the operations of the partnership.

(b) Chief Officers

- (i) To maintain a register of all partnerships entered into with external bodies in accordance with procedures specified by the Head of Finance and Revenues.
- (ii) To ensure that, before entering into agreements with external bodies, a risk management appraisal has been prepared for the Head of Finance and Revenues.
- (iii) To ensure that such agreements and arrangements do not impact adversely upon the services provided by the Authority.
- (iv) To ensure that all agreements and arrangements are properly documented, including roles and responsibilities within the partnership and the need for open-book accounting arrangements, unless the Head of Finance and Revenues agrees otherwise.
- (v) To communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

- (vi) To provide appropriate information to the Head of Finance and Revenues to enable a note to be entered into the Authority's Statement of Accounts concerning material items.
- (vii) To ensure that the Council's Contract Standing Orders and Financial Regulations are applied to the operations of the partnership where the Council provides the majority of the funding or where the Head of Legal and Democratic Services and Head of Finance and Revenues advise that they apply.

F2. External Funding

F2.1 Introduction

External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Authority. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers

Funds from external agencies provide additional resources to enable the Authority to deliver services to the local community. However, in some instances, although the scope for external funding has increased, such funding is linked to tight specifications and may not be flexible enough to link to the Authority's overall plan.

F2.2 Responsibilities

(a) Head of Finance and Revenues

- (i) To ensure that all funding notified by external bodies is received and properly recorded in the Authority's accounts.
- (ii) To ensure that the match-funding requirements are considered prior to entering into the agreements, and that future revenue budgets reflect these requirements.
- (iii) To ensure that audit requirements are met. This may include reconciliation and post-payment assurance to the external funding organisation.

(b) Chief Officers

- (i) To ensure that funds are acquired only to meet the priorities approved in the policy framework by the full Council.
- (ii) To ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood.
- (iii) To ensure that all claims for funds are made by the due date.
- (iv) To ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded.

F3. Work for Third Parties

F3.1 Introduction

Legislation enables the Authority to provide a range of services to other bodies. Arrangements should be in place to ensure that any risks associated with this work are minimised and that such work is intra vires.

F3.2 Responsibilities

(a) Head of Finance and Revenues

- (i) To ensure that proposals are properly costed before final approval is sought from the Cabinet or the holder of delegated powers.
- (ii) To ensure that contracts protect the financial interests of the Council.
- (iii) To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

(b) Chief Officers

- (i) To follow guidance issued by the Head of Finance and Revenues on any financial aspects of the establishment of such arrangements.
- (ii) To ensure that the advice of the Head of Legal and Democratic Services and the approval of the Cabinet, or the holder of delegated powers, is obtained before any negotiations are concluded to work for third parties.
- (iii) To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Head of Finance and Revenues.
- (iv) To ensure that appropriate insurance arrangements are made.
- (v) To ensure that the risk of any bad debts is minimised.
- (vi) To ensure that no contract is subsidised by the Authority unless approved by Cabinet / Council and ensuring no Subsidy Control rules are breached.
- (vii) To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- (viii) To ensure that the service has the expertise to undertake the contract.
- (ix) To ensure that such contracts do not impact adversely upon the services provided for the Authority.
- (x) To ensure that all contracts are properly documented.
- (xi) To provide appropriate information to the Head of Finance and Revenues to enable a note to be entered into the Statement of Accounts.

APPENDIX 1 SCHEDULE OF LIMITS

Ref.	Description	Authority/Duty	Threshold
C1.3	Approval of virements	Chief Officer(s)	Up to £5,000
	Approval of carry forward of unspent budget from one financial year to another	Head of Finance and Revenues	More than £5,000 and up to £25,000
	Approval to make transfers to / from earmarked revenue reserves	Head of Finance and Revenues in consultation with the Finance and Resources Portfolio Holder and the appropriate Portfolio Holder	More than £25,000 and up to £50,000
		Cabinet	More than £50,000
C1.3	Approval of expenditure in respect of s106 contributions received from developers for site-specific works	Head of Finance and Revenues	Up to £50,000
		Head of Finance and Revenues in consultation with the Finance and Resources Portfolio Holder and the appropriate Portfolio Holder	More than £50,000 and up to £100,000
		Cabinet	More than £100,000
B4.2 (a) (ii)	Modify project within the Capital Programme Add a project to the capital programme which is fully financed by external sources of funds or is otherwise cost-	Cabinet	Up to £100,000 per item, Annual Limit £500,000

Ref.	Description	Authority/Duty	Threshold
	neutral to the Council (e.g. grant or developer contributions)		
B4.5(a) (v) & B4.5(b) (vi)	Authorise individual schemes to exceed the provision in the Capital Programme by in excess of the sum shown	Cabinet	10% of the contract sum up to a maximum of £100,000
B4.2 (a) (iii)	Approve expenditure outside the provision of revenue estimates where there are no equivalent savings	Cabinet	Up to £100,000 per item, Annual Limit £500,000
B4.2 (b) (v)	Approve urgent and / or unforeseen items of expenditure	Head of Finance and Revenues	Up to £25,000
D5.2 (a) (i)	Assets valued at, or in excess of, the amount shown must be recorded in the Council's Fixed Asset Register	Head of Finance and Revenues	£10,000
D5.2 (c) (xxii)	Authority required to write off discrepancies in stores and stocks records	Chief Officer Head of Finance and Revenues Cabinet	Up to £1,000 More than £1,000 up to £25,000 More than £25,000
D5.2 (c) (xxiv)	Authority to write off redundant stocks and equipment (per item)	Chief Officer Head of Finance and Revenues Cabinet	Up to £1,000 More than £1,000 up to £25,000 More than £25,000
D6.2 (c) (viii)	Cheques and other payments requiring counter-signatory	Bank signatory	Benefits payments exceeding £1,000 Other payments exceeding £10,000

Ref.	Description	Authority/Duty	Threshold
D6.6 (a) (i)	Limit to value of an item of expenditure through petty cash	Heads of Service	£50
E2.2 (a) (iv), E2.2 (b) (xvi)	Authority to write-off bad debts	Head of Finance and Revenues Head of Finance and Revenues in consultation with the Finance Portfolio Holder Cabinet	Up to £5,000 More than £5,000 up to £25,000 Above £25,000

**APPENDIX 2 THE COUNCIL'S THRESHOLDS OF EXPENDITURE
USED FOR DEFINING KEY DECISIONS**

a.	Decisions on spending which are within the annual budgets approved by the Council	NO THRESHOLD	NOT KEY DECISIONS
b.	Decisions on cash flow, investments and borrowings.	NO THRESHOLD	NOT KEY DECISIONS
c.	Decisions for spending or savings outside the budget, or included in the annual budget with reservations.	SPENDING OR SAVINGS IN EXCESS OF £75,000 PER ITEM	KEY DECISIONS

Part 4

Contract Standing Orders

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Contract Standing Orders and Guidance

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PURPOSE

These Contract Standing Orders are designed and adopted by the Council to ensure that the Council demonstrates public accountability, obtains value for money and that there are formal and clear rules governing all contracts in connection with the procurement and supply of supplies, services and works.

Definitions & Explanations may change as new legislation and guidance is issued. The Head of Finance and Revenues shall update the Definitions & Explanations as required from time to time.

Throughout these Contract Standing Orders, textboxes in this font are inserted to offer guidance directly relevant to each Standing Order.

FLOWCHARTS, CHECKLISTS, GUIDANCE AND FORMS

Flowcharts and checklists, together with guidance, templates and e-forms are available on the Procurement section of the intranet.

DEFINITIONS & EXPLANATIONS

Contracting Officer	The Chief Executive, Deputy Chief Executive and Heads of Service or an officer designated by the Head of Service to deal with the contract in question.
Award Procedure	The procedure for awarding a contract as specified in Contract Standing Orders 23, 24 and 25.
Best Value	Best Value means Most Economically Advantageous Tender (M.E.A.T.) for the purposes of the Public Contracts Regulations 2015.
Bond	An “insurance policy”: if the contractor does not do what it has promised under a contract with the Council, the Council can claim from the surety (usually a bank) the sum of money specified in the Bond. A Bond is intended to protect the Council from additional costs arising from the contractor’s failure.
Competitive Dialogue	A procedure in which any economic operator may make a request to participate and whereby a contracting authority conducts a dialogue with the economic operators admitted to that procedure with the aim of developing one or more suitable alternative solutions capable of meeting its requirements and on the basis of which the economic operators chosen by the contracting authority are invited to tender.
Competitive Procedure with Negotiation	A procedure leading to the award of a contract whereby only economic operators shortlisted by the contracting authority following public advertisement for expressions of interest are invited to negotiate the terms of the contract before submitting tenders or quotations for the contract.

Contract agreement	A written document or deed incorporating the contract. In the case of procurement below £20,000, this is made by obtaining a written quotation followed by the placing of an official order.
Contracting Officer	Officers authorised to sign orders, contracts, invoices and payments relating to the letting of contracts within their service in accordance with these Contract Standing Orders.
Contracts Finder	The Government's website where procurement opportunities and contract awards are advertised in accordance with the Regulations and the Local Government Transparency Code.
Contracts Register	<p>A list of the Council's contracts that is available on the Council's website as required by the Transparency Code 2015. Where the eProcurement System is not used, an eForm must be completed when awarding a contract valued at £5,000 or more so that the contract can be added to the Contracts Register</p> <p>Where the eProcurement System is used, the Contracts Register will be automatically updated on the system. This will then be uploaded by a system administrator.</p> <p>The Contracts Register is on the Council's website:- https://www.testvalley.gov.uk/business/doingbusiness/tenders/contracts-register</p>
E-Procurement System	The Council's e-procurement system allowing uploading of notices and invitations to quote/tender, tender documents and contract award notices. The Council's eProcurement system is Complete Tender Management supplied by EU Supply PLC. This will allow the Council to comply with its requirement to communicate electronically with bidders. This must be used for all procurements above £20,000 unless the use of hard copy tenders has been approved by Head of Finance and Revenues and Head of Legal & Democratic Services.
Estimated Contract Value	<p>The estimated contract value shall be calculated as follows:</p> <ul style="list-style-type: none"> (a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period. This should include any extension period where appropriate; (b) where the contract is for an indeterminate duration by multiplying the monthly payment by 48; (c) for feasibility studies: the value of the scheme or contracts which may be awarded as a result; (d) for nominated suppliers and sub-contractors: the estimated contract value shall be the value of that part of the main contract to be fulfilled by the nominated supplier or sub-contractor;

	<p>(e) where the contract is one where no payment is made by the Council (e.g. a concession) a best estimate of the financial value to the contractor shall be ascertained, this value is the full value of the opportunity and not only the available profit;</p> <p>(f) where establishing a framework the value is the total value of all the contracts which could be entered into by the Council and other contracting authorities further to that framework agreement.</p> <p>(g) where the Council is procuring on behalf of a third party, the total value of the opportunity must also include the amount which relates to the third party in the event of a joint procurement.</p>
Evaluation Criteria	The criteria (including sub criteria and weightings where appropriate) by which the successful Quotation or Tender is to be selected (see further Contract Standing Order 22).
Find A Tender	The e-notification website operated by the Government for advertising procurement opportunities and contract awards where so required under the Regulations.
Framework Agreement	<p>A 'framework agreement' is an agreement between one or more contracting authorities and one or more contractors, 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. This also includes frameworks that have been set up by a third party, e.g. Government department, another local authority or consortiums, under which the Council can be supplied with goods and services during the period of the framework agreement.</p> <p>A framework agreement is not a contract between the Council and a supplier. The Council can call-off from a Framework to create a contract between the Council and the supplier.</p>
Full Procurement Procedure	The procedure required by the Public Contracts Regulations where the total estimated contract value exceeds the Threshold
Invitation to Tender	Formal document combining an invitation to tender and instructions regarding the process. Usually issued with a Specification/Bill of Quantity and draft Contract conditions.
One Stage Tender Procedure	A tendering procedure where the invitation to tender is publicly advertised and all tenders received are evaluated. This procedure may be used where the contract is valued above or below the Threshold. Where the contract value is over Threshold this is known as the Open Procedure.

Nominated Suppliers and Subcontractors	Those persons specified in a main contract for the discharge of any part of that contract.
Parent Company Guarantee	A separate contract between the parent of a subsidiary company and the Council. If the subsidiary company fails to do what it has promised under a contract the Council can require the parent company to complete the contract instead.
Procurement Strategy	The Council's Procurement Strategy current at the time of the procurement and which sets out the Council's procurement objectives and principles, including the need to reduce demand on natural resources and deliver services and functions in a more environmentally sustainable way, and taking into account social value.
Quotation	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Regulations	The Public Contracts Regulations 2015 (as amended or replaced)
Selection Questionnaire	A template document that is used to shortlist bidders when using the Two Stage Procedure, Competitive Procedure with Negotiation and Competitive Dialogue. The template is available on the procurement page of the intranet.
Short Listing	Where suppliers are selected: To quote or tender; or To proceed to final evaluation.
Standard Letter (Acceptance of Quotation/Tender)	A template document that is used to inform the successful bidder of our decision. The template is available on the procurement page of the intranet.
Standard Letter (Unsuccessful Quotation/Tender)	A template document that is used to inform unsuccessful bidders of their evaluation scores and the reasons why they were unsuccessful. The template is available on the procurement page of the intranet.
Supplier	This includes suppliers of goods, works or services provided to the Council whether by an individual supplier, company or consortium.
System Administrator	An officer in the Finance and Revenues Service authorised by the Head of Finance and Revenues to have access to the E-Procurement System to administer quotations and tenders.
Tender	A supplier's proposal submitted in response to an Invitation to Tender.

Tender Opening Sheet	The log recording details of Tenders received and opened. (see Contract Standing Order 20).
Threshold	The thresholds for contract values specified in Regulation 5 of the Regulations (as amended from time to time).
Two Stage Procedure	A procedure leading to the award of a contract whereby only economic operators shortlisted by the contracting authority following public advertisement for expressions of interest may submit tenders or quotations for the contract This procedure may only be used for contracts valued above the Threshold.

1. Compliance

- 1.1 Every Member of the Council and every officer and employee of the Council must comply with these Contract Standing Orders.
- 1.2 Any third party (e.g. a consultant) who is engaged in the letting, management or supervision of a contract on behalf of the Council must comply with these Contract Standing Orders as if he/she were an officer of the Council. A copy of these Contract Standing Orders must be given to the third party by the Contracting Officer.
- 1.3 These Contract Standing Orders apply to **all** procurement decisions save for those set out in 1.6, regardless of the source of funding, or the status of the contractor (i.e. they apply equally to selection of both main contractors and nominated subcontractors or suppliers and to procurements funded by third parties).
- 1.4 **Every contract must be let in compliance with all applicable legal requirements, the Council's Procurement Strategy and the Council's Financial Procedure Rules.**
- 1.5 Contracting Officers must comply with aggregation rules set out in the Regulations and the Thresholds when estimating the value of the contract particularly if the contract involves annual or recurring expenditure. The splitting of contracts so as to avoid the Regulations is prohibited.
- 1.6 The Contract Standing Orders shall not have effect or relate to:-
 - a) arrangements with another Service within this Council for the supply of goods or for the provision of services or works by that other Service;
 - b) contracts of employment;
 - c) contracts in connection with the acquisition or disposal of land and premises by the Council unless this involves the appointment of a developer where the transaction includes the provision of infrastructure back to the Council as part of the development (in which case seek advice from the Head of Legal & Democratic Services); or
 - d) non-contractual arrangements with Counsel.

- 1.7 Tenders will only be considered if received in response to a formal invitation to tender.

Guidance – Good Practice

Briefly, the following issues should be at the forefront of any procurement activity:

- *Follow the rules set out in Contract Standing Orders if you procure any goods, services or works;*
- *Take all necessary legal, financial and professional advice;*
- *Keep bids confidential;*
- *Keep records of dealings with suppliers;*
- *Assess each contract afterwards to see how well it met the procurement need and Best Value requirements;*
- *Provide all those tendering with the same information.*

2. Responsibilities

2.1 Heads of Service must:

- a) ensure that every officer within their Service is aware of these Contract Standing Orders and that they are observed; and
- b) ensure that all officers whom are authorised to act as Contracting Officers are properly trained and monitored.

2.2 Contracting Officers must:

- a) familiarise themselves with these Contract Standing Orders and observe them;
- b) determine whether there are any requirements of Legislation governing the proposed contract. If so those requirements shall be followed even if they conflict with these Contract Standing Orders;
- c) duly consider the provisions of the Council's Procurement Strategy;
- d) ensure that any contract includes a proper specification of the procurement ensuring where possible that generic rather than branded products are specified;
- e) ensure that any contract includes the mandatory conditions of contract;
- f) monitor the performance of the contract throughout its term; and
- g) ensure the retention of documentation to demonstrate compliance with these Contract Standing Orders.

2.3 The Finance & Revenues Service maintain a list of authorised signatories (Contracting officers) for all Service areas.

3. Pre Contract Checks

- 3.1 Prior to commencing a procurement of £20,000 and over the appropriate Contracting Officer must take any necessary advice and also consult with the Procurement Officer. A written record of relevant pre-procurement issues must be maintained, as outlined in the guidance below.

Guidance – Pre Procurement Checklist

Further guidance is available on the Procurement Section of intranet

When a Contracting Officer, as identified in 2.1, above starts a procurement process that is estimated to result in a contract valued at £20,000 and over, he/she should begin by completing a checklist of pre-procurement issues to be considered.

This is to demonstrate a planned approach to each piece of procurement activity, and enable background issues that may have an impact on the conduct of the procurement process to be taken account of from the outset.

- 3.2 Before entering into a contract with any supplier, the appropriate Head of Service must:

- (a) be satisfied that a specification or brief, which will form the basis of the contract/arrangement, has been prepared; and
- (b) have prepared and documented an estimate of the cost of the contract/arrangement, including where appropriate any maintenance costs.

- 3.3 Before entering into a contract with any supplier, the appropriate Head of Service must be satisfied that:

- (a) the budget is available;
- (b) the required approval for the project has been given;

Where the contract is a capital contract this must be approved by Cabinet or Council depending on the value.

- (c) the supplier is appointed using the quotation or tender procedure (as appropriate) set out in these Contract Standing Orders;
- (d) the proposed supplier's financial standing is sound;
- (e) Best Value is being obtained; and
- (f) the Council's Procurement Strategy is considered and its requirements taken into account.

- 3.4 Prior to the contract award, the financial capability of contractors must be assessed. The key objective of financial status checks in the procurement process is to analyse a potential contractor's financial position and to determine the level of risk that it would represent to the Authority, having regard to the contract requirement and value, criticality, and the nature of the market.

- 3.5 Financial Status checks are required on all purchases of goods, services or works. The financial status check set out in Contract Standing Order 3.4 is not required if:
- (a) the contracting body is either another public body (e.g. Police, Fire, NHS, Government Department, other Local Authorities); or
 - (b) it is for a single purchase of goods or services, not involving any further commitment for support or maintenance; or
 - (c) it is for a single purchase of goods where if they fail there is minimal financial loss to the Council should the goods need replacing; or
 - (d) there is no significant risk to the Council of financial loss, continuance of service issues or cost of replacement; or
 - (e) the Head of Finance & Revenues has instructed that a financial status check does not need to be carried out; or
 - (f) it is a call off from a framework agreement (save where the Head of Finance & Revenues requires checks to be undertaken).

Guidance – Financial status checks

Financial status checks are currently carried out by the Finance & Revenues Service (advice can be obtained from the Procurement Officer). It is recognised that the scope of a financial status check should be proportionate to the size and risk of the contract.

The financial status check needs to form part of a broader, holistic assessment of the bidder, which also looks at capacity (the ability to deliver), capability (to a required standard) and the degree of dependency on a single contract or customer.

To support this assessment the Council, through Finance & Revenues, will obtain a financial appraisal report. The report provides the Council with an overall Risk Score which will be used to assess the applicant's financial standing. If this information is not available from a credit reference check, a risk score will be calculated as per the model detailed in the Selection Questionnaire. A bidder's Risk Score will determine if they Pass, Fail or Pass (subject to provision of a guarantee) the financial status check.

Below the Threshold we are unable to use a Selection Questionnaire and so would usually only do financial status checks on the preferred bidder as part of pre-contract checks following tender evaluation.

- 3.6 In a contract where the technical expertise of the contractor is important to the successful delivery of the contract it is essential that the Head of Service letting the contract carries out appropriate technical checks. The nature of these checks will vary depending on the nature of the goods, services or works to be supplied.

Guidance – Technical Checks

It is up to the Head of Service letting the contract to determine whether and what technical expertise checks are necessary before the contract is let.

- 3.7 All prospective contractors must be required to confirm that neither the contractor nor any of its officers or employees have been convicted of an offence under the Bribery Act 2010
- 3.8 No officer or Member who has an interest requiring declaration under the Council's codes of conduct should evaluate any quotation or tender.

Guidance – Bribery Act 2010

These standing orders provide a means of safeguarding the reputation of the Council and its staff from any implication of dishonesty or corruption.

Officers and Members are required to declare any interest in a contract with the Council and shall ensure they have no part in award.

It is up to the Head of Service letting the contract to seek this confirmation from the contractor; the Selection Questionnaire includes a requirement to give this confirmation.

A form is available on the procurement section of the intranet to check the successful bidder's compliance with this requirement that may be used for tenders where a Selection Questionnaire is not used.

4. Framework Agreements

- 4.1 Before commencing the procurement process the Contracting Officer should first check if there is a Framework Agreement available for the subject of the procurement. The Council's Procurement Officer must approve its use.
- 4.2 Where the Contracting Officer wishes to use a Framework Agreement he/she must:
- check that the full requirements of the procurement are within the scope of the Framework Agreement, and that the Framework Agreement remains in force;
 - check and follow the rules that apply to the Agreement, e.g. whether a mini-competition has to be undertaken;
 - confirm that it is compliant with the Regulations including a check that the Council is either specifically named or is within the class of contracting authorities set out in the Contract Finder/Find A Tender notice and is therefore legally permitted to use this Framework;
 - check what technical advances have taken place since the Agreement was made; it may be that the Agreement is no longer the best option; and
 - consider the value for money the Agreement represents; if the Agreement is more than 50% through its term it may no longer offer the most economically advantageous option.

- 4.3 A mini-competition is not required when:
The Framework Agreement has one Supplier
or
The terms of the Framework Agreement can be applied to allow the Contracting Officer to determine the successful Supplier.
- 4.4 Where the framework requires a mini-competition the Contracting Officer must:
- invite all Suppliers from the Framework Agreement that are capable of supplying the Council's requirements; or
 - invite all Suppliers from the Framework Agreement if it is unclear which are capable of supplying the Council's requirements.
- 4.5 The timescales shall be such that all contractors invited have an equal opportunity to respond and must be a reasonable amount of time giving consideration to the nature and complexity of the information requested.
- 4.6 A date and time for the return of bids must be specified and receipt, opening and evaluation of bids must be conducted in accordance with these Contract Standing Orders.

Guidance – Framework Agreements

The Procurement Officer can provide a list of bodies that regularly award framework agreements that may be available for use by the Council

Before using a framework the Contracting Officer must:

- *make sure that his/her procurement requirements are fully covered by the framework otherwise it cannot be used;*
- *check it still offers the best technical solution and economically advantageous option;*
- *check the requirements, i.e. is a mini competition needed; and*
- *check that it is compliant with the Regulations and the Council is able to use it.*

You will be able to get advice on all this from the Procurement Officer or the Head of Legal & Democratic Services

5. Exemptions

- 5.1 An exemption from these Contract Standing Orders may only be made in relation to the need to seek quotations or tenders through public advert. Prior approval must be given by the Head of Service in consultation with the Head of Finance and Revenues and the Head of Legal & Democratic Services or Deputy Chief Executive. In order to seek this approval, a report must be produced by the Head of Service setting out:
- (a) the reasons for seeking the exemption; and

- (b) any consequences associated with the proposal in terms of risk, demonstrable value for money, propriety and compliance with legal requirements.

The Head of Finance and Revenues, Head of Legal & Democratic Services or Deputy Chief Executive may require the exemption to be approved by Cabinet or the relevant Portfolio Holder where the project is considered to be of a sensitive or strategic nature.

Guidance - Request for exemption

Any request for an exemption should be made using the eform on the procurement section of the intranet.

- 5.2 An exemption report **will not** be necessary for contracts let under the following circumstances:
 - (a) procurements obtained through any consortium, association or similar body of which the Council is a member or is entitled to use;
 - (b) emergency works which were not reasonably foreseeable and which must be addressed within 48 hours of the need arising; or
 - (c) purchase of goods or services under a Framework Agreement.
- 5.3 Exemptions granted pursuant to this Contract Standing Order shall be reported in the Members' Information Bulletin by the Head of Service who has made the decision.
- 5.4 An exemption must not be made if this would result in a breach of the Regulations save in an emergency as permitted by the Regulations or any other legislation.

6. Contract Value

- 6.1 The Contracting Officer must estimate and record in writing the Estimated Contract Value (net of VAT) prior to initiating any procurement activity.
- 6.2 The Estimated Contract Value must not be deliberately under-estimated, or contracts sub-divided, in order to avoid the application of any provision of these Contract Standing Orders or of the Regulations.

7. Contracts valued below £5,000

- 7.1 Where the estimated value of a proposed contract is below **£5,000** the Authorised Officer shall ensure that best value in terms of economy, efficiency and effectiveness is obtained.
- 7.2 Only one verbal quotation for contracts below £1,000 or one written quotation for contracts where the contract value is £1,000 or over but below £5,000 is required and this does not need to be obtained by placing a public advertisement.
- 7.3 An official order must be placed and it must refer back to the verbal or written quotation or confirmation, as appropriate.

8. Contracts valued at £5,000 or over but below £20,000

- 8.1 Where the estimated value of a proposed contract is below **£20,000** the Contracting Officer shall ensure that best value in terms of economy, efficiency and effectiveness is obtained.
- 8.2 Use of the E-Procurement System is recommended to obtain quotations as required under this Contract Standing Order (in which case Contract Standing Order 20 must be followed). Where the E-Procurement System is not used, the provisions of Contract Standing Order 19 must be followed.
- 8.3 At least two written quotations are required as a means of demonstrating best value. These do not need to be obtained by placing a public advertisement. A written record containing the following information must be made before placing an order:
- details of the contract;
 - the full name and address of the contractor and other supplier(s) contacted;
 - the person who supplied the quotation; and
 - the prices submitted by the contractor and other supplier(s) contacted.
- 8.4 Nothing in Contract Standing Orders precludes the use of tenders for contracts of lower values where tenders are considered more appropriate, for example, many building and civil engineering contracts, or other contracts whose subject matter may justify a more formal approach.
- 8.5 An official order must be placed and it must refer back to the written quotation or confirmation. Orders must be approved by an officer authorised in accordance with 2.3

9. Contracts valued at £20,000 or over but below £50,000

- 9.1 Where the estimated value of a proposed contract is £20,000 or more but below **£50,000** all procurements must be completed through the Council's eProcurement System. The Contracting Officer must consult with the Procurement Officer and shall ensure that Best Value in terms of economy, efficiency and effectiveness is obtained.
- 9.2 At least three written quotations are required as a means of demonstrating Best Value. These do not need to be obtained by placing a public advertisement but must be obtained through the Council's eProcurement System. A written record containing the following information must be made before placing an order:
- details of the contract;
 - the full name and address of the contractor and other supplier(s) contacted;
 - the person who supplied the quotation; and
 - the prices submitted by the contractor and other supplier(s) contacted.

- 9.3 Nothing in Contract Standing Orders precludes the use of tenders for contracts of lower values where tenders are considered more appropriate, for example, many building and civil engineering contracts, or other contracts whose subject matter may justify a more formal approach.
- 9.4 An official order must be placed and it must refer back to the written quotation or confirmation. Orders must be approved by a Contracting Officer authorised in accordance with 2.3.

10. Contracts Valued at £50,000 or over but below £100,000

- 10.1 Where the estimated value of the proposed contract is £50,000 or more but less than **£100,000** all procurements must be completed through the Council's eProcurement system. The Contracting Officer must consult with the Procurement Officer. At least three written quotations or tenders shall be invited or a contract should be called off from a framework in accordance with Contract Standing Order 4.
- 10.2 The written quotations or tenders must be invited as a result of public advertisement using one of the following methods:
- The One Stage Tender Procedure should be used; or
 - Through the use of Consortia as referred to in Contract Standing Order 6.3.
- 10.3 The criteria for evaluating the quotations or tenders must be determined in advance of invitation, stated in the Council's e_Procurement System advertisement in order of importance, and must be notified to the contractors when the quotations or tenders are requested. A record of the decision making process must be recorded in the file.
- 10.4 Contracting Officers must not deliberately disaggregate the contract requirements so as to enter into two or more contracts below the **£50,000** threshold.
- 10.5 The timescales shall be such that all contractors invited have an equal opportunity to respond and should be no less than 14 days save in the case of urgency where approved by the Head of Legal & Democratic Services and the Head of Finance and Revenues.

11. Contracts Valued at £100,000 or more

- 11.1 Where the estimated value of the proposed contract is £100,000 or more all procurements must be completed through the Council's eProcurement System. The Contracting Officer must consult with the Procurement Officer. At least six tenders shall be invited or a contract should be called off from a framework in accordance with Contract Standing Order 4.
- 11.2 The tenders must be invited as a result of public advertisement using one of the following methods:
- Where the estimated value is below the Threshold the One Stage Tender Procedure is to be used.

- Where the estimated value is above the Threshold the Two Stage Procedure, or the One Stage Procedure, is to be used unless, in exceptional circumstances, approval has been given to use the Competitive Procedure with Negotiation in accordance with Contract Standing Order 13 or Competitive Dialogue in accordance with Contract Standing Order 14; or
- Through the use of Consortia as referred to in Contract Standing Order 6.3.

- 11.3 The criteria for short listing and evaluating the quotations must be determined in advance of invitation, stated in the advertisement in order of importance, and must be notified to the contractors when the quotations are requested. A record of the decision making process must be recorded in the file.
- 11.4 Where the estimated value of the proposed contract exceeds the relevant threshold then tenders shall be invited in accordance with the Public Contracts Regulations 2015.
- 11.5 Contracting Officers must not deliberately disaggregate the contract requirements so as to enter into two or more contracts below the £100,000 threshold and avoid the need to enter into the formal tendering procedure.
- 11.6 The timescales shall be such that all contractors invited have an equal opportunity to respond and should be no less than 14 days save in the case of urgency where approved by the Head of Legal & Democratic Services and the Head of Finance and Revenues. If the estimated contract sum exceeds the Threshold timescales as prescribed in the Public Contract Regulations 2015 must be applied.

12 One Stage Procedure

- 12.1 This procedure is the Council's preferred method and should be used for all **advertised** contracts valued below the Threshold. Where the contract is valued above the thresholds this procedure is known as the Open Procedure.
- 12.2 An invitation to tender must be published on the Council's eProcurement System and advertised on Contracts Finder and, at the Head of Service's discretion, can also be published in one or more appropriate technical journals published nationally, or in the local press.
- 12.3 Where the value of the contract is above the Threshold, the Invitation to Tender must also be advertised on Find A Tender. Find A Tender adverts can only be placed by the Procurement Officer.
- 12.4 All invitations to tender must be in writing (but should be in electronic form for uploading onto the E-Procurement system and must include:
- the Council's Terms and Conditions of contract (approved by the Head of Legal and Democratic Services where required under Contract Standing Order 16);
 - tender documents (as appropriate dependent upon the contract threshold);
 - the contract specification;
 - the criteria for evaluating the tenders which must be in order of their relative importance and include any weightings;

- the last date and time for receipt of tenders and advice that no tenders received after this date and time will be considered; and
- instruction that the tenders must be returned to the appropriate Contracting Officer via the E-Procurement System.

12.5 Where contracts are above the Threshold there are specific time limits that must be applied and the Procurement Officer, or Legal & Democratic Services can advise regarding these.

13. Two Stage Procedure

13.1 This procedure may only be used above the Threshold and is also known as the Restricted procedure

13.2 Notices inviting expressions of interest from contractors to apply for inclusion on a shortlist for the contract must be published on the Council's eProcurement System and advertised on Contracts Finder, and on Find A Tender. Find A Tender adverts can only be placed by the Procurement Officer At the Head of Service's discretion the opportunity can also be advertised in one or more appropriate technical journals published nationally or in the local press.

13.3 Notices in the Council's eProcurement System must include:

- a copy of the Selection Questionnaire tailored to this requirement;
- a copy of the Council's Terms and Conditions of contract (approved in accordance with Contract Standing Order 16);
- All procurement documents including the specification, evaluation criteria and tender documents;
- where and from whom to obtain further information; and
- the last date for receipt of expressions of interest.

13.5 Expressions of interest must be requested by a given date that must be realistic and in accordance with the specific minimum time limits that must be applied for contracts above the Threshold. The procurement officer, or Legal & Democratic Services can advise regarding these.

13.6 Expressions of interest must be accompanied by a fully completed Selection Questionnaire and must be submitted by suppliers using the E-Procurement System. .

13.7 A full record of the decision making process for applying the short listing criteria to the expressions of interests must be maintained by the Contracting Officer. This record must be signed by the Contracting Officer and retained for Audit and Legal purposes to ensure the fair selection of persons or bodies invited to quote or tender.

13.8 Invitations to tender for the contract must be sent to a minimum of 6 bodies from those who applied for permission to tender and which the Contracting Officers considers to be suitably qualified

or

where fewer than 6 applied, and are considered suitably qualified, all bodies that responded to that invitation shall be invited. Invitations should not be sent to only one such body without the specific approval in writing of the Head of Finance and Revenues and Head of Legal & Democratic Services.

13.9 All invitations to tender must be in writing and must include:

- tender documents (as appropriate dependent upon the contract threshold);
- the contract specification;
- the criteria for evaluating the tenders which must be in order of their relative importance and include any weightings;
- the last date for receipt of tenders; and
- instruction that the tenders must be returned via the E-Procurement System.

Guidance – Two Stage Procedure (Restricted Procedure)

A template Selection Questionnaire is available on the procurement section of the intranet. A standard ITT template is available on the procurement section of the intranet.

14. Competitive Procedure with Negotiation

14.1 This procedure may only be used above the Threshold and is similar to the Restricted Procedure but includes an option to negotiate with bidders after receipt of Tenders. Further information is available from the Procurement Officer.

14.2 In all cases, the Head of Service must obtain written approval from the Head of Finance and Revenues and the Head of Legal & Democratic Services and record in writing the reason for proposing the adoption of this procedure.

15. Competitive Dialogue Procedure

15.1 This procedure may be used for the letting of a contract where the contract is “particularly complex” and it is not possible to objectively define the:

- technical specification in terms of performance or functional requirements with sufficient precision; and/or
- legal or financial makeup of a project.

15.2 Notices inviting expressions of interest from contractors to apply for inclusion on a shortlist for the contract must be published on the Council’s eProcurement System and advertised on Contracts Finder, and on Find A Tender if above the threshold. Find A Tender adverts can only be placed by the Councils Procurement Officer. At the Head of Service’s discretion it can also be published in one or more appropriate technical journals published nationally or, in the local press.

15.3 Notices on the Council's E-Procurement System must include:

- a copy of the Selection Questionnaire tailored to this requirement;
- All procurement documents including the specification, evaluation criteria and tender documents;
- a copy of the Council's Terms and Conditions of contract;
- where and from whom to obtain further information; and
- the last date for receipt of expressions of interest.

15.4 The advert must include:

- the project needs and requirements;
- an explanation that the competitive dialogue will take place in successive stages;
- a time limit for replies; and
- objective and non-discriminatory criteria that will be used to shortlist including any weightings to be applied.

15.5 In all cases, the Head of Service must obtain written approval from the Head of Finance and Revenues or the Head of Legal & Democratic Services and record in writing the reason for proposing the adoption of this procedure.

15.6 Interested parties may be excluded from taking part in the competitive dialogue if they fail to meet minimum standards on financial standing or technical or professional ability.

15.7 The minimum number invited to participate must not be less than the number specified in the contract advert which must not be less than 3.

15.8 Invitations to participate must be sent to each interested party accompanied by the contract documentation and the date for commencement of the competitive dialogue.

15.9 A dialogue should be commenced discussing all aspects of the contract with all participants and must ensure equality of treatment. Solutions proposed or confidential information communicated by a participant must not be revealed to the other participants without their **written** agreement. This dialogue should continue until one or more solutions have been identified.

15.10 Each participant must be informed that the dialogue has been concluded. Each participant must be requested to submit a final tender within a specified time limit based on the solution discussed during the dialogue.

15.11 Tenders shall be evaluated in accordance with Contract Standing Order 22 using the criteria specified in the advert.

15.12 The Participant providing the most economically advantageous tender (MEAT) may be requested to clarify aspects of the tender or confirm commitments contained in the tender provided this does not modify substantial aspects of the tender.

16. Form of Contract

- 16.1 The form of contract to be used must be determined before quotations or tenders are sought and either referred to or included in the quotation/tender documents.
- 16.2 Although it is preferable that the contract terms and conditions to be used are those put forward by the Council, there will be occasions when the use of the contractor's conditions will be required. In these circumstances the Contracting Officer shall either by himself or herself or by instructing Legal & Democratic Services amend the contractor's terms and conditions to ensure they are acceptable to the Council.
- 16.3 Where the contract is valued at £50,000 or above, terms and conditions must be approved by the Legal & Democratic Services and the Contracting Officer must consult with the procurement officer and agree a form of instruction to assist the Legal & Democratic Service in drafting a contract. Instructions should always allow sufficient time for the Legal & Democratic Service to prepare the contract.

Guidance – Form of Contract

- 1. It is at this stage that the decision is to be taken as to the form of contract to be used.*
- 2. For contracts valued below £20,000 the form of contract shall be a written official purchase order which refers to the contractor's quotation or written confirmation.*
- 3. For contracts valued £20,000 and above whether a standard form of contract such as JCT or NEC or contract conditions drawn up by the Head of Legal & Democratic Services, these must be included in the tender documentation.*
- 4. There may be occasions where it is appropriate to use contract forms such as PPC2000. If such a form is to be used this shall be agreed in advance by the Head of Finance and Revenues and the Head of Legal & Democratic Services.*
- 5. A generic form of instruction is available on the procurement page of the intranet for your guidance.*

17. Partnerships and Partnering

- 17.1 Legislation prevents the Council from entering into a partnership as defined by the Partnership Act 1890 whereby the partnership is a body capable of entering into a contract itself. It is however a term used to describe many types of working relationships between the Council and other bodies.
- 17.2 Prior approval to establish a partnership must be obtained from Head of Legal & Democratic Services and/or Head of Finance and Revenues. A competitive process should be undertaken to select the partner/s in accordance with these Contract Standing Orders.

- 17.3 Any contract entered into in connection with a partnership or partnering arrangement will have to be entered into either by the Council or one of the other bodies involved in the arrangement and, depending on the circumstances, there may have to be a competitive process involved in the awarding of the contract. (see 17.10 below).
- 17.4 The Full Procurement Procedure may apply to contracts under partnerships and partnering arrangements (see 17.10 below).
- 17.5 If the Council is not the contracting party the Head of Service or Deputy Chief Executive must ensure, where this is required, that the Contracting Party's contract procedures comply with relevant legislation and are at least as robust as the Council's Contract Standing Orders. (see 17.10 below).
- 17.6 Where the Council is not the contracting body the Head of Service or Deputy Chief Executive may require assurance from the contracting body to demonstrate that the contract has been let as a Framework Agreement which can be used by the Council. A copy of the advert and, where applicable, the award notice should be obtained and retained for Audit and Legal purposes (see 17.10 below).
- 17.7 Legal & Democratic Services, the Procurement Officer or must be consulted before a contract is let so that the correct method of procurement is used.
- 17.8 All partnering contracts, whether entered into by the Council or one of the other bodies and where the Council's contribution is £50,000 or above, must be in a form approved by the Head of Legal & Democratic Services.
- 17.9 Where the partnering contract is an employment contract it is essential that the Human Resources Manager confirms that the contract meets all employment legislation requirements.
- 17.10 The only circumstances in 17.3, 17.4, 17.5 and 17.6 above where it will be appropriate for there to be no tendering process or compliance with the Full Procurement Procedure will be where the Council's partner has been appointed following a competitive process. These exceptions will not necessarily apply in all cases and the partner will, in any event, be expected to demonstrate value for money. In all cases the contracting officer must seek prior confirmation from the Head of Legal & Democratic Services and/or the Head of Finance and Revenues as to whether a tendering process or the Full Procurement Procedure applies to the partnership and/or partnering contract and/or procurement to be undertaken by the partnership
- 17.11 In the event that the Council's partner undertakes a tender process on behalf of the partnership:
- a) the partner must apply these Contract Standing Orders unless the Head of Legal & Democratic Services and Head of Finance and Revenues approve an exception.
 - b) where the contract is between the Council and a Contractor the award must be approved by the Contracting Officer
 - c) where the contract is between the partner and a contractor the Contracting Officer must be consulted before award.

- d) Tenders should normally be submitted through the E-Procurement System or (for procurements valued at more than £5,000 but less than £20,000) in accordance with Contract Standing Order 19. With the prior approval of the Head of Legal and Democratic Services, the partner may operate an alternative tender receipt/opening process (e.g. use of the partner's own e-tendering system, or submission of sealed tenders). In such cases, a full report on the outcome of the opening procedure and confirmation that no tenders were opened before the specified date and time for receipt must be sent to the Contracting Officer following the tender opening.

Guidance - Partnerships and Partnering

The term 'partnership' is used loosely across the Council to describe many types of working relationships between the Council as service provider and other bodies, external to the Council.

There are a number of reasons for local authorities exploring the possibility of partnerships:

- *to share risk;*
- *to access new resources and specialist skills; or*
- *to review service delivery options.*

The Council's partner may be:

- *a voluntary organisation;*
- *a community enterprise/trust;*
- *a private contractor/developer;*
- *another public sector body;*
- *a local authority company;*

There are a variety of structures for a partnership arrangement:

- *contractually based (not PFI);*
- *joint ventures;*
- *not-for-profit joint entity (e.g. trust);*
- *PFI; and*
- *strategically co-ordinated services.*

However, the main point to remember is that intending to enter into a partnership arrangement does not automatically preclude the need for a competitive process at the outset, to actually choose the partner and the initial organisational and administrative arrangements. Indeed, many strategic partnership arrangements will exceed Threshold, and will therefore automatically be subject to a Restricted, Open, Competitive Dialogue or Competitive Procedure with Negotiation in accordance with the Regulations. Similarly, other seemingly small value partnerships will extend over a large number of years in order to reap the benefits of the partnership approach, and will again be subject to the full Procurement Procedure. Even where the

Threshold is not reached, a competitive process should be undertaken, in order to demonstrate probity in the choice of partner. However where the other party is another Local Authority this is unlikely to be relevant.

It will also be necessary to determine the identity of the contracting body where goods, services or works are being procured as the 'partnership' itself may not be a legal entity that is able to contract. The contracting party is likely to be one of the 'partners' or, in some occasions, all 'partners'.

Where the Council's partner has been appointed following a competitive procedure it may not always be necessary for subsequent contracts during the 'partnership' or for procurement undertaken by the partner to be subject to competitive tender or the Full Procurement Process. Contracting officers must always seek prior confirmation from the Head of Legal & Democratic Services and/or the Head of Finance & Revenues of the position.

18. Shared Services

- 18.1 This expression covers those arrangements where the Council enters into an arrangement with one or more other local authorities for the joint provision of part or the whole of a Council service.
- 18.2 The arrangement will take one of the following forms:
- a) the staff performing the service the subject of the agreement being employed by one of the councils concerned and an agreement with the other council(s) for the provision of the service by the employing council on terms agreed between the councils engaged in the shared service; or
 - b) the Head of Service or other senior manager only being employed by one of the councils concerned but managing staff employed by the councils engaged in the shared service; or
 - c) an agreement between one or more councils whereby staff within the specified service(s) work together on terms agreed between the councils engaged in the shared service.
- 18.3 The Contracting Officer must consult with the Head of Legal & Democratic Services so the best method of procurement is used in the event that the shared service wishes to procure a contract with a third party.
- 18.4 Where the Head of Legal & Democratic Services advises that a procurement exercise is required these Contract Standing Orders must be followed.
- 18.5 As a rule, shared services are not procurement contracts and can be established pursuant to provisions in the Local Government Act 1972, the Local Government Act 2000 and regulations made thereunder.

- 18.6 Special arrangements exist in respect of IT procurement as set out in the 'MEMORANDUM OF UNDERSTANDING between TEST VALLEY BOROUGH COUNCIL and WINCHESTER CITY COUNCIL for a SHARED INFORMATION TECHNOLOGY SERVICE'. The procurement of any new computer software or hardware for use by the Shared IT Service shall require the agreement of both the Authorities. The Shared Service Project Board shall agree which Authority will be the procuring Authority. Procurement of third party services and/or goods (including computer software), for the purposes of the Shared IT Service, shall be in accordance with the Contract Standing Orders of the procuring Authority.

Shared Services

The expression shared services encompasses a variety of different arrangements and can involve two or more councils.

Advice must be sought from the Head of Legal & Democratic Services at the outset to determine whether the proposed shared service can be effected under this legislation or should be the subject of a procurement exercise.

19. Receipt of Quotations valued at £5,000 or above but below £20,000.

- 19.1 Procurements between £5,000 and £20,000 must be undertaken either using the E-Procurement System in accordance with Contract Standing Order 20 or under this Contract Standing Order, which applies only where the E-Procurement system has not been used. Every quotation must be received and retained by the contracting Officer, unopened, until the time and date stated in the invitation to quote or tender.
- 19.2 The date and time of receipt must be written on the outside of the quotation by the Officer who first receives it, together with his/her initials.

Guidance – receipt of quotations

The Contracting Service should make clear in the advert/invitation to quote to whom the quotation should be returned, which should be the contracting Head of Service.

The Contracting Officer must ensure that either envelopes are provided with invitations to quote and clearly marked "Quotation for (contract title)" or instruction is given in the advert/invitation to quote that envelopes are to be marked "Quotation/ for (Contract Title)".

The Contracting Officer should instruct post opening staff not to open envelopes clearly marked "Quotation" and to record the date, time and their initials on the unopened envelope

An officer should be authorised to receive the quotations from post opening staff, to maintain a record and keep unopened quotations in safe custody until the time for opening.

20 Receipt and opening of Quotations and Tenders via the eProcurement System.

- 20.1 The eProcurement System's functionality prevents any access to submitted quotations/tenders (including access by the system administrators) until the date and time set for opening has passed. Every quotation or tender within the eProcurement System will therefore remain unopened, until the specified time and date.
- 20.2 The date and time of receipt of each quotation/tender will be recorded by the eProcurement System.
- 20.3 For all tenders submitted via the eProcurement System, the Contracting Officer shall be an officer within the contracting service who has been appointed for this purpose by the Head of Service.
- 20.4 Where a tenderer seeks to submit a tender after the deadline, and provides details of why it was unable to submit the tender before the deadline, the System Administrator shall:-
- a) ensure that other tenders received for that procurement are not opened until a decision on eligibility has been taken; and
 - b) report the full circumstances to the Head of Finance and Revenues and Legal and Democratic Services. Taking such report into account, the Head of Legal and Democratic Services, in consultation with the Head of Finance and Revenues, may determine that the tender be accepted after the deadline and evaluated. A record detailing the reasons for any such decision shall be kept.
- 20.5 All tenders received via the eProcurement system will be opened at the same time by a System Administrator after the tender deadline. The tender documents will then be downloaded and forwarded to the Contracting Officer, together with a Tender Opening Sheet completed by the System Administrator who opened the tenders, confirming the tender sum recorded against each tender. The Tender Opening Sheet shall also be sent to the Head of Internal Audit.
- 20.6 The System Administrator will ensure that reports are available from the eProcurement System if required..

Guidance – receipt of quotations and tenders

Use of the E-Procurement System ensures that tenders cannot be opened before the specified tender deadline, and provides a clear audit trail of the receipt/opening process.

The System will not allow the submission of "Late" tenders after the specified deadline, but in case of a technical issue with the System or fault on the part of the Council preventing a valid tender submission, 20.4 provides a procedure to consider and assess the full circumstances where a tenderer is unable to submit before the deadline and (where appropriate) permits late submission and consideration of such a tender.

Where a tenderer states that they have been unable to submit in time, opening of the other tenders should be suspended to allow the process in 20.4 to be undertaken.

21. Errors and Discrepancies

- 21.1 As a minimum requirement, the three lowest priced tenders are to be examined for any arithmetical omission, error or discrepancy by the Contracting Officer.
- 21.2 The documents for all tenders that are based on, or supported by, a Schedule of Rates, Bill of Quantities or other pricing document shall indicate how arithmetical and other errors are to be dealt with.
- 21.3 The methods for dealing with errors in the tender documents must be determined at the time the tender documents are drawn up, and included in the documentation sent out to tenderers. All tenders should be checked for arithmetical accuracy.
- 21.4 Errors are to be dealt with as follows:
- Confirm the tender price as submitted, including errors or amend to correct these errors;
 - The tenderer to be given written details of the errors and discrepancies and given the opportunity to confirm their offer or amend to correct genuine errors/omissions; and
 - If the tenderer amends the tender to correct genuine errors/omissions, the tender sum should be revised (corrected). This can involve amendment of rates.

All amendments or confirmation of offer must be confirmed in writing by the contractor.

- 21.5 The procedure must be seen to be fair and equitable to all tenderers. The materiality of the error also needs to be assessed – if the stance taken by the tenderer when the error is pointed out is such that it casts doubt on his ability to perform the contract for that price, the decision to award at that price should be taken only after careful consideration of the facts, and seeking of further advice where necessary.

22. Evaluation of Tenders and Quotations

- 22.1 A minimum of 2 officers nominated by the Head of Service should evaluate the tenders. Where the contract sum is £100k or above the Head of Service must either be one of the team evaluating the tenders or must approve an evaluation report produced by the evaluation team.
- 22.2 The criteria for evaluating each tender or quotation must be notified to all tenderers as part of the contract documentation. Where the criteria include non-financial matters as well as price, these must be formulated and prioritised clearly in the invitation to tender, together with any sub criteria and weightings.
- 22.3 All criteria and sub criteria used must be capable of objective assessment.

- 22.4 An evaluation model should be used to apply the evaluation criteria in order to identify the most economically advantageous tender for the Council. A full record of the decision making process should be recorded and filed. The evaluation model should be signed by the lead officer and one other officer from the contracting Service or where Members are involved by the lead officer and lead Member.
- 22.5 Submission documentation including costings must be retained for each tender involved in the evaluation for the duration of the contract plus one financial year for Audit and Legal purposes.

Guidance - Tender Evaluation

Tender evaluation is the process by which the Council decides which quotation or tender offers the best value for money for the Council, i.e. which is the most economically advantageous. For lower value contracts, the decision may be based on price alone, but for more complex and higher value contracts, the bids may be evaluated in terms of:

- a) Financial aspects;*
- b) Quality aspects; and*
- c) Other aspects such as sustainability.*

The criteria on which tenders will be evaluated and the method of evaluation (the tender evaluation model) must be set out in the tender documentation. An example Evaluation Model is available on the procurement section of the intranet.

23. Award of Contracts

- 23.1 Before awarding any contract, the contracting officer **must** ensure that an adequate approved budget is available to meet the cost. Where the quotation/tender proposed for acceptance exceeds the approved budget, there are a number of options available as set out in the Council's Financial Procedure Rules. The most common means of financing a budget shortfall is to identify savings elsewhere in the Service budgets and seek approval for a virement. If no spare financial capacity can be identified, it may be necessary to seek Cabinet approval for a supplementary estimate.
- 23.2 In the case of Capital Schemes, a tolerance of 10% of the project cost is built into the Capital Investment Programme and no further approval is necessary (unless the additional costs are over £100,000). If, however, quotations/tenders are more than 10% of the approved scheme budget and no virement opportunities exist, **prior** approval to proceed must be obtained from Cabinet even if this delays the project.

24. Award of Contracts below £20,000

- 24.1 Every contract shall be awarded to the contractor submitting the Best Value for money tender on the basis of the evaluation criteria.

- 24.2 Subject to 23.1 and 23.2 above, quotations/tenders may be accepted in writing by the Head of Service who must use the Standard Letter (Acceptance of Quotation/Tender).
- 24.3 Contractors submitting unsuccessful quotations or tenders shall be notified and the Standard Letter (Rejection of Quotation/Tender) must be used.
- 24.4 Where the contract value exceeds £5,000 and once the contract documentation has been completed details shall be entered into the Corporate Contracts Register. Where the Council's e_Procurement System was used to administer the quotation/tender process, this will be undertaken by the System Administrator. In all other cases, the Contracting Officer shall complete the eform on the procurement section of the intranet.

25. Award of Contracts £20,000 and above

- 25.1 Every contract shall be awarded to the contractor submitting the best value for money tender on the basis of the evaluation criteria.
- 25.3 Subject to 23.1 and 23.2 above, quotations/tenders may be accepted in writing by the Head of Service who must use the Standard Letter (Acceptance of Quotation/Tender). The award letter will be submitted through messaging on the E-Procurement System.
- 25.4 Contractors submitting unsuccessful quotations or tenders shall be notified and the Standard Letter (Rejection of Quotation/Tender) must be used. The award letter will be submitted through messaging on the E-Procurement System.
- 25.5 Where the contract exceeds the Threshold the Council is required by law to allow a period of at least ten (10) days to elapse between the date of despatch of the notice referred to in 25.4 above and the date on which the contract commences.
- 25.6 Once the contract documentation has been completed details shall be entered into the Corporate Contracts Register by the Procurement Officer via the Council's E-Procurement System.
- 25.7 Where the contract value exceeds £25,000 and once the contract documentation has been completed details shall be recorded by the Procurement Officer on Contracts Finder via the Council's E-Procurement system.
- 25.8 Where the contract value exceeds the Threshold and once the contract documentation has been completed details shall also be recorded on Find A Tender by the Procurement Officer via the Council's E-Procurement System

Guidance Note - Award of Contracts

Where the contract sum exceeds the Threshold the successful tenderer must be informed that the contract cannot commence until the expiration of 10 days from the notification of the award (this presupposes that electronic notification of the outcome is sent to all tenderers on the same day).

10 days must elapse between the sending of the notification to unsuccessful tenderers to ask for additional information to challenge the award. There are strict time limits for this and if additional information is sought the Contracting Officer should check with, the procurement officer or the Head of Legal & Democratic Services for these.

26. Contents of Contracts

- 26.1 All contracts must be in writing and those that are £50,000 and above in value and in any other case where the Head of Legal & Democratic Services so decides, shall be in a form approved by the Head of Legal & Democratic Services.
- 26.2 Where the appropriate Head of Service is satisfied that works must be executed, or supplies or services obtained as a matter of urgency prior to the execution of the contract, the procurement may commence provided that:
- the Head of Service has consulted with the Head of Finance and Revenues and the Head of Legal & Democratic Services and approval has been given;
 - an official order has been placed for the pre-contract element of the procurement; and
 - a written Contract is executed as soon as practicable thereafter.
- 26.3 In the case of the purchase or sale of goods by auction where a written contract is not appropriate the Head of Service must be satisfied that the best price has been obtained.
- 26.4 Every Contract of £100,000 and above in value, and in any other case where the Head of Legal & Democratic Services so decides, shall be under seal, unless the Head of Legal & Democratic Services or Director approves the use of an official order, such as a Call Off under a Framework Agreement.
- 26.5 Every Contract shall specify:
- a) the work, supplies or services to be undertaken or supplied;
 - b) the price to be paid with a statement of discounts or other deductions;
 - c) the time or times within which the Contract is to be performed and, where appropriate, the amount of liquidated damages which may otherwise become due;
 - d) insurance provisions ; and
 - e) the conditions of the Contract.
- 26.6 Every Contract in writing not made under seal shall be signed by the appropriate Head of Service and Contracting Officer (or where the Head of Service is the Contracting Officer – the Head of Legal & Democratic Services or Head of Finance and Revenues) in accordance with the limits defined in the list of authorised signatories.

Performance Guarantees

26.7 Where appropriate the Council shall require the Contracting Body to give sufficient security for the due performance of the contract. This can be

- a) a performance bond in the following sums

<u>Contract Value</u>	<u>Amount of Security</u>
£100,000 to £1,000,000	10%
Over £1,000,000	the higher of £100,000 and 5%

(all figures inclusive of VAT)

or

- b) a retention until expiry of the defects liability in such sum as shall be agreed in writing between the Contracting Officer and the Head of Finance and Revenues

26.8 If a performance bond is required to be provided the Authorised Officer shall arrange through the Head of Finance and Revenues for the financial status of the bondsman to be investigated.

26.9 The Head of Finance and Revenues may determine that for contracts where the Council will not or is unlikely to suffer loss or that any loss will be small such as those for:

- (a) maintenance; or
- (b) the supply of goods paid for upon invoice following delivery; or
- (c) services paid in arrears

that no performance bond or retention is required. The Head of Finance and Revenues may advise contracting officers on request.

Usual Clauses

26.10 Liquidated Damages

Where a Contract is for the execution of works, the provision of services or supplies by a particular date or series of dates, the appropriate Head of Service shall determine whether it should contain provision for liquidated damages.

26.11 Insurances

- (a) Where the Council is procuring works or services evidence of public liability insurance must be provided by the contractor and maintained throughout the period of the contract.
- (b) The value of Public Liability Insurance must not be less than £10,000,000 or such other sum as the Head of Finance and Revenues may advise.
- (a) Where the contractor is providing a professional service the Head of Finance and Revenues should be consulted to establish if Professional Indemnity insurance is appropriate and the sum to be required.
- (d) Where the contract extends beyond the expiry date of current insurances the Contracting Officers shall ensure that copies of renewal certificates are obtained and examined.

26.12 Construction Industry Tax Certificates

The Contracting Officer shall, where it is a lawful requirement, ensure that the contractor has produced for inspection a current Tax Certificate in respect of the contractor and any sub-contractors and a copy provided to the Head of Finance and Revenues.

Contract Clauses (all contracts)

26.13 Non-assignment or transfer of contract

Every written Contract shall include a clause to prevent the Contractor from transferring or assigning the Contract either directly or indirectly, without the written consent of the Council and to prevent the sub-letting of the Contract except to the extent permitted in writing by the appropriate Head of Service.

26.14 Prevention of Corruption

Every written Contract shall include a clause to secure that the Council shall be entitled to cancel the Contract and to recover from the Contractor the amount of any loss resulting from such cancellation if, in connection with the Contract, the contractor or an officer or employee of the contractor commits or, after commencement of the contract, it becomes known that prior to the commencement the contractor or an officer or employee of the contractor committed an offence under the Bribery Act 2010 or gives any fee or reward the receipt of which is an offence under s.19(2) of the 1972 Act, or has directly or indirectly canvassed any member or officer, or has obtained or attempted to obtain information concerning any other tender or otherwise acts in a similar unlawful manner.

26.15 Termination Provisions

Every written Contract shall include a clause to secure that, should the contractor fail to carry out the works, provide the services or deliver the supplies or any part thereof within the time specified in the Contract, the Council, without prejudice to any other remedy available, shall be at liberty to terminate the Contract either wholly or to the extent of such default and execute the works, procure the services or purchase other supplies to make good such default, or in the event of the Contract being wholly terminated, the remainder of the works to be executed, services to be provided or the supplies remaining to be delivered. Such clause shall further secure that the amount by which the cost of so executing the works, so procuring the services or so purchasing other supplies exceeds the amount which would have been payable to the contractor in respect of the works, services or supplies shall be recoverable from the contractor.

Specific Conditions

26.16 Where appropriate, every contract must provide for compliance with all relevant legislation including:

- a) The European Convention on Human Rights
- b) Equalities and Disabilities
- c) Health and Safety at Work – the Contractor must comply with the Council's policy which can be found on the Intranet
- d) Data Protection

- e) Freedom of Information
- f) Employment legislation, including TUPE where applicable.

26.17 Every contract must provide for information to be reasonably requested by the Council and provided by the supplier in relevant cases regarding:

- a) Equalities and Disabilities Matters
- b) Best Value
- c) Transfer of Undertakings and Protection of Employment
- d) Open book accounting
- e) Safeguarding

Standards

26.18 All goods, materials and workmanship must be specified by reference to any relevant European or International Specification or Standard or, if there are none, to any relevant British Specification or Standard.

26.19 Goods and materials shall not be specified by reference to a particular make, source or process which has the effect of favouring or eliminating particular contractors or suppliers, except when this is unavoidable because of the subject matter of the contract or the absence of relevant specifications or standards. When goods and materials are so specified, the contract shall permit the successful contractor to propose suitable alternatives.

27. Specific Contracts

Consultants

27.1 The Contracting Officer shall ensure that it is a condition of the engagement of a consultant that they are required to comply with these Contract Standing Orders and shall provide the consultant with a copy of these Contract Standing Orders.

27.2 Where the contract value is £20,000 or above a Head of Service or Deputy Chief Executive should approve the appointment of a consultant.

27.3 One off consultancy projects shall be managed in accordance with the Council's Project Management Methodology where applicable. The Head of Strategy and Innovation can advise on the need to follow the Methodology.

27.4 Where consultants are employed on a regular or ongoing basis the Estimated Contract Value should be calculated and these Contract Standing Orders applied accordingly.

27.5 The consultant should on request produce all records maintained by him in relation to the contract and on completion of the contract transmit all such records to the Contracting Officer.

27.6 In the event that the consultant is instructed to undertake a tender process:

- a) the consultant must apply these Contract Standing Orders unless the Head of Legal & Democratic Services and Head of Finance and Revenues approve an exception.

- b) where the contract is between the Council and a Contractor the award must be approved by the Contracting Officer
- c) where the contract is between the consultant and a contractor the Contracting Officer must be consulted before award.
- d) tenders should normally be submitted through the E-Procurement System or (for procurements valued at less than £20,000) in accordance with Contract Standing Order 19. With the prior approval of the Head of Legal and Democratic Services, the consultant may operate an alternative tender receipt/opening process (e.g. use of the consultant's own e-tendering system, or submission of sealed tenders). In such cases, a full report on the outcome of the opening procedure and confirmation that no tenders were opened before the specified date and time for receipt / no late tenders were accepted must be sent to the Contracting Officer following the tender opening.

27.7 The contract should be awarded on the basis of who best meets the brief in terms of cost/quality criteria.

27.8 Where a consultant is involved in the design stage of a project neither the consultant nor an associated company or business can enter any subsequent expression of interest to bid for the work without an independent assessment having been undertaken and the prior written consent of the Head of Finance and Revenues and the Head of Legal & Democratic Services is given. This is to ensure transparency and fairness of opportunity is maintained.

Guidance

A consultant is an individual engaged by the Council as an independent contractor to provide expert or professional advice or services. He/she is not an employee of the Council. A consultant may be appointed to undertake:

- *a one off project (e.g. architect)*
- *provide ongoing services in relation to a particular function (e.g. IT consultancy engineer)*

The following should be considered and included in the specification/contract.

- *As far as possible a fixed cost should be agreed rather than hourly rate. This may only be possible for part of the work.*
- *Specify a time period within which the work should be completed. This is particularly important where an hourly rate rather than a fixed fee has been agreed.*
- *Where a partnership or Company is appointed a condition should be agreed whereby the appointment can be terminated at the discretion of the Council if the particular individual whose personal skill is of primary importance to the Council ceases to be a partner in, or employed by, that partnership or company.*
- *On larger projects or projects with definable stages link payments to the completion/outcomes for each stage.*

- *Ensure that any incidental costs e.g. mileage rates are also agreed as part of the contract.*

The contract should be awarded on the basis of who best meets the brief in terms of cost/quality criteria, e.g.:

- *Management systems and control*
- *Ability to provide ongoing interface with client at local level*
- *Financial status check (available from the Finance Service)*
- *Designer ability/ cost management competence*
- *Previous relevant experience (inc references)*
- *Professional indemnity insurance and where appropriate public liability insurance.*
- *Skilled personnel resources*
- *Compliance with Health and safety regulations*
- *Ability to meet specification*

In relation to one off consultancy projects the Head of Strategy and Innovation shall advise whether the project is to be managed in accordance with the Council's Project Management Methodology.

It is essential that transparency and fairness of opportunity are maintained in relation to the procurement process. Therefore a consultant who has been involved in the design stage of a project cannot enter an expression of interest either him/herself or through an associated company or business unless both the Head of Finance and Revenues and the Head of Legal & Democratic Services have given their prior written consent.

IT

- 27.9 All contracts for computer hardware or software or for any services or works in relation to Information Technology shall be procured in consultation with the Head of Information Technology.

Leasing Agreements

- 27.10 All lease agreements shall be arranged through the Head of Finance and Revenues save that this clause does not apply to those leases that are delegated to the Head of Property and Asset Management under the Council's Officer Delegation Scheme.

Contracts linked with Leases or Licences of Property

- 27.11 There will be occasions where the Council is entering into a contract that is linked with the granting of a lease or licence of Council property to the contractors. At the start of the process for such contracts the Contracting Officer must consult with the Head of Property and Asset Management and the Head of Legal & Democratic Services to ensure that:

- a) all payments or payments in kind, e.g. rental reduction to the contractor, are taken into account when valuing the contract, and
- b) the termination provisions for both the contract and the property transaction coincide.

28. Contract Monitoring & Evaluation

28.1 During the life of the contract the Contracting Officer must monitor in respect of

- performance
- compliance with specification and contract
- cost
- any Best Value requirements
- user satisfaction and risk management

28.2 This provision applies to all contracts but the level of monitoring will depend on the type and value of the contract.

Guidance - Contract Monitoring and Evaluation

The methods by which contract monitoring will be undertaken should be included in the contract documentation as performance monitoring clauses and the link to the specification must be clear

- a) *Decide on the most **appropriate method(s)** for monitoring performance. These include:*
 - i) *Continuous/ Close/ Direct*
 - *particularly important at the beginning of the service, especially if it is an unusual type of outsourcing*
 - *labour intensive*
 - *can upset relationships.*
 - ii) *Scheduled arranged in advance according to :*
 - *Client's schedule*
 - *Contractor's schedule – joint inspection.*
 - iii) *Random/Sample Basis*
 - *must be based on planned sample basis*
 - *encourages contractor to maintain consistent standards*
 - iv) *Exception*
 - *based on reports received from contractor.*
 - v) *Self monitoring*
 - *Any monitoring method should try to avoid duplication of contractor's work and responsibilities.*

b) The Performance Standards

Where it is possible to determine the critical functions that the contractor is to perform and what counts as satisfactory or unsatisfactory performance these should be defined in objective and measurable terms and included in the contract.

Where this is not possible, performance monitoring will have a more generalised effect. It will be based on client/contractor liaison, and dependent on the pre-existence of a good relationship between the client and the contractor and upon the contractor being able, within its own skills base and within the contract price, to deliver a highly professional service/works.

c) Performance Monitoring Procedures

Their complexity depends on the nature and importance of the service/works. A simple (“do it again”) approach may be adequate. Alternatively, the Council may want specific procedures to allow it to adjust the price or issue a written instruction to the contractor. There may be a system for the issue of default notices (for which a charge may be imposed to reflect the administrative costs of investigation and issue), with more than a certain number leading to termination.

A more sophisticated approach may be needed for long-term professional-type services. In that case, simpler procedures based on default notices leading to termination may not be appropriate given the nature and length of the likely relationship. As an alternative, the Council may prefer escalation procedures with a series of steps providing, for example, for the issue of a preliminary letter, agreement of an action plan and an advanced action plan, with only then notice of intention to cease instructions and possible termination of the contract. This approach to managing performance implies a long term, partnership-type approach to the services – and so would not be suitable for managing a contractor delivering routine services on an aggressively priced bid.

d) The point at which poor performance leads to **Termination.**

What is the client’s strategy to control the move from monitoring and improvement to termination?

29. Variations

- 29.1 Subject to the provisions of the contract and in consultation with the Head of Legal & Democratic Services and Head of Finance and Revenues where appropriate, every variation order shall be authorised in writing by the Contracting Officer. All such variation orders must be agreed prior to the work being carried out but, in exceptional circumstances, should be issued as soon as possible thereafter.

- 29.2 All capital contracts must include a contingency sum to allow for variations. Variation Orders may be issued as long as they can be met from:
- a) the contingency allowed within the budget or,
 - b) where prior approval has been obtained in writing from the Head of Finance and Revenues, from another source within the Capital Programme. Where the additional cost cannot be met from an existing source of funding, or the Head of Finance and Revenues considers it to be a material change to an existing scheme then a report to the Cabinet shall be submitted by the Contracting Officer requesting additional funds.

30. Payments to contractors

- 30.1 The contracting officer must monitor instalment payments to contractors against the contract terms.
- 30.2 Payments to contractors in respect of works contracts made under seal shall only be made on a contract certificate signed by the Contracting Officer. The form of such certificate shall be agreed by the Head of Finance and Revenues.
- 30.3 Upon issue of the final certificate the Contracting Officer shall request the Head of Legal & Democratic Services to release the bond or other security. The Head of Legal & Democratic shall determine if it is in order for the bond to be released and shall inform the contracting service accordingly.

31. Project Management

- 31.1 Whatever the size of the contract to be let the Authorising Officer must seek advice from the Head of Strategy and Innovation to determine whether the Council's Project Management Methodology applies.
- 31.2 Where the contract is to be managed in accordance with the Project Management Methodology the steps and processes required shall be followed.

32. Retention of Documentation

- 32.1 All Contracts together with the documentation prepared as a result of applying these Contract Standing Orders must be securely retained for the duration of contract and in accordance with statutory retention timescales. Provided that all the documentation is scanned and a certificate of scanning (in a form approved by the Head of Legal & Democratic Services) is signed by the person undertaking it this requirement can be satisfied by retaining the scanned copies in an archive designated by the Council's IT Service.
- 32.2 All contracts bearing the common seal of the Council must be retained in the strong room.
- 32.3 Where the procurement takes place under a Framework Agreement advice must be sought from the Head of Legal & Democratic Services as to the documentation to be retained.
- 32.4 All documents, including unsuccessful tenders and quotations, should be retained as per the Council's Document Retention Schedule.

33. Amendments to these Contract Standing Orders

- 33.1 The Head of Legal & Democratic Services shall have the power to make technical amendments from time to time to make these Standing Orders consistent with legal requirements, changes in Council structures and personnel and best practice after consultation with the Head of Finance and Revenues.

Part 4

Complaints Procedure Rules

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Complaints Procedure Rules

Guidance Notes

The procedure detailed below is intended to provide a standard framework for the handling of complaints from members of the public.

The procedure is based on the principle that every endeavour should be made by the appropriate Service, in the first instance, to resolve complaints. However, it acknowledges that some complaints will not be capable of resolution (at least to the complainant's satisfaction) at Service level. Accordingly there are further levels to which complaints can be escalated, and if still unresolved, the complainant can refer the matter to the Local Government Ombudsman.

What constitutes a complaint?

A complaint is an expression of dissatisfaction, however made, about the standard of service, action or lack of action by the Council, or its staff, affecting an individual customer or group of customers. The procedure may also be invoked to deal with complaints about incidents of a racial nature.

Matters which are brought to the Council for the first time, (e.g. notification of broken play ground equipment or an unemptied wheeled bin) should be treated as requests for action and not as complaints to be dealt with under the procedure. Of course, the Council's response, or lack of response, to that first time notification might lead to a complaint if the customer is still dissatisfied.

Complaints can be made through the Test Valley Borough Council website, by letter, email, telephone or in person at the Council offices.

Remedies

As a general principle, any remedial action should be designed to put complainants in the position they would have been in, had things not gone wrong.

- (a) Council officers will endeavour to maintain, as far as practicable, a consistent approach to remedies.
- (b) Where a Head of Service, or the Chief Executive, finds a complaint wholly, or partially, justified, a suitable apology should be given and appropriate remedial action taken promptly.
- (c) Some complaints may be remedied by providing the service desired by the complainant.
- (d) A change of procedures may be necessary to prevent similar difficulties in the future, either for the individual complainant or customers generally.
- (e) The offer of compensation may also be appropriate. The Council has authorised the Chief Executive, Deputy Chief Executive and Heads of Service, in consultation with the Head of Finance and Revenues and the Leader of the Council, to settle complaints against the Council with the payment of compensation up to £1,000.

- (f) The Head of Service, or the Chief Executive, as appropriate, will be responsible for seeing that remedial action is taken, within the officers' delegated powers. Where the proposed remedy goes beyond the delegated powers, and/or involves compensation in excess of £1,000, the Head of Service or Chief Executive will seek the necessary authority.

Notes:

The complaints procedure outlined below is NOT to be used in the following cases:

- (a) Where other statutory reviews or legal process is available (e.g. Planning Appeals, Benefits Review).
- (b) Complaints from Council employees concerning employer/employee relations.
- (c) Complaints to Members about Council policy.*
- (d) Complaints by individual members of the public about the conduct of individual officers.
- (e) Complaints by individual members of the public about the conduct of individual Councillors.*

* Items (c), (d) and (e) above are to be dealt with as follows:

Complaints to individual Members about the Council policy.

In the first instance, Members should refer these to the Head of Service concerned, and if the complaint remains unanswered for fourteen days, to the Chief Executive.

Complaints by individual members of the public against members of staff

In the first instance complaints should be referred to the appropriate Head of Service (or the Chief Executive or Deputy Chief Executive, if it involves a Head of Service). If the matter remains unresolved it should then be referred to the Chief Executive.

Complaints about individual Members of the Council

The Council has adopted a 'Code of Conduct for Elected Members', which is available upon request from the Council Offices.

The General Purposes Employment Appeals and Ethics Sub-Committee will also consider any written complaints alleging that a Member has broken the code. Contact details and further information are available on request from Council Offices.

Complaints Procedure

Complaints Stage 1 – Within the Service and escalation to Head of Service

Members of the public should be advised to put their complaints in writing, to the Service concerned. However, a complaint received in person or over the telephone should be dealt with as though it were a complaint in writing.

The concern should then be dealt with by either the Head of Service and/or officers responsible for that area, as appropriate. If, in the first instance, the matter is dealt with by an officer, then the complainant has the right to escalate to the Head of Service if they do not feel the initial response they received successfully addressed the issues raised.

Record of complaints

A record of all formal complaints delivered in writing, in person or by telephone, should be kept by each Service.

Acknowledgement of complaints

Complaints in writing should be acknowledged within three working days and a copy of the leaflet 'If you have a complaint' should be sent with that acknowledgement. If a complaint is delivered in person or by telephone, and is not capable of resolution there and then, an acknowledgement should be sent to the complainant in the next post or by email with a copy of the complaint leaflet or a link to the complaints form on the Council's website. Should the complaint be delivered to the 'wrong' Service, the Service should, without delay, forward it to the correct Service and indicate in the acknowledgement to the complainant the action which has been taken.

Where a complaint affects more than one Service, the receiving Service should forward this to the Complaints and Communications Officer, who will liaise with the Service(s) concerned to write a response to the complainant.

If the receiving Service feels that the complaint is 'wide enough' to warrant a corporate response, then the complaint should be forwarded to the Chief Executive. The receiving Service will indicate in the acknowledgement to the complainant the action which has been taken.

If there is more than one signature to a letter of complaint, correspondence should be directed to the principal signatory or organiser and copies sent to other signatories.

Anonymous complaints may be investigated at the discretion of the relevant Head of Service, but not dealt with under the Complaints Procedure.

Response to complaints

A written response should be prepared by the Head of Service in consultation with the Chief Executive or Deputy Chief Executive, where appropriate, and sent to the complainant as soon as reasonably practicable (generally within 10 working days of receipt). If there is likely to be a delay over and above 10 working days, the complainant should be given an explanation and told when they can expect to receive a response.

Meeting with complainants

It may be helpful, in achieving a satisfactory resolution of the complaint, to arrange a meeting with the Complainant in order to discuss the matter.

Complaints Stage 2 - Chief Executive

If the Complainant is not happy with the Service's response and wishes to pursue the matter further, the procedure provides for reference to the Chief Executive. Complainants are asked where possible to use the standard methods outlined in the 'If you have a complaint?' leaflet to make a complaint. The Chief Executive will acknowledge receipt of a complaint, consult the relevant Head(s) of Service, and the appropriate Chief Executive or Deputy Chief Executive, and respond in writing to the complainant as soon as reasonably practicable - in general within 15 working days of receipt.

Complaints Stage 3 – Where next?

The Complainant may contact their local ward Member(s) with their concerns at any stage of the complaints process. In addition to this, if, after following the above steps, the complainant is still not satisfied then he or she has further options to pursue. These include:

Referral to a Borough Member

As previously noted, the complainant may contact their local ward Member(s) with their concerns at any stage of the complaints process. In the event that the complaint has not previously been made to the Service concerned, then it will be referred to that Service for action, and then follow the procedure detailed previously. The Head of Service responding to a complaint in these circumstances will send a copy of his/her response to the local Member involved.

Panel of Borough Members

If, after following the above steps, the complainant is still not satisfied then he/she is entitled to have the matter referred to a panel of Borough Members. Such a request should be put in writing by the complainant and addressed to the Chief Executive.

The role of the panel is to listen to the complaint, in a relaxed environment, seeking further clarification or elaboration from the complainant.

The panel will comprise the Leader (or in his absence the Deputy Leader), the appropriate Portfolio Holder (or another member of the Cabinet if the Portfolio Holder is not available) and a local Member (or a Member from a neighbouring ward if a local Member is not available).

A member of staff from Legal and Democratic Services will service the panel.

Prior to the panel hearing, Members and the complainant will be supplied with copies of all relevant documents/correspondence relating to the complaint.

The panel will generally hear the complaint in the absence of the Head of Service responsible for the service referred to by the complainant. The Head of Service would be interviewed by the panel on a separate occasion.

However, if the Head of Service, Chief Executive or Deputy Chief Executive, indicates that separate hearings are likely to lead to injustice, the Chief Executive will consider if, exceptionally, the panel should be convened to hear both sides at the same hearing.

Representations made to the panel will be recorded and copied to the appropriate Head of Service for their written observations.

These observations will be presented to a further meeting of the panel, attended by the appropriate Head of Service, or their representative.

The panel's conclusions will be forwarded to the Chief Executive for appropriate action and notification to the complainant.

Complaints Stage 4 – Complaints referred to Local Government Ombudsman

Complainants have the right, if they choose, to refer complaints directly to the Ombudsman. In such cases it is the normal practice of the Ombudsman to write to the Chief Executive in the first instance to ascertain what action the Council has taken previously. The Ombudsman will not, generally, consider a complaint unless the Council has been given a chance first to investigate and reply to the complaint.

Chief Executive to be informed

If a Council Member is asked to refer a complaint to the Local Government Ombudsman, the Member should inform the Chief Executive. In the event that the matter has not been considered in accordance with the Complaints Procedure outlined above, the Chief Executive will arrange for this to happen. The responding Service will send copies of correspondence with the complainant to the Member referring the complaint, for information.

Notification of complaint from the Local Government Ombudsman

Upon receipt of notification of a complaint from the Ombudsman, the Chief Executive will immediately forward copies of the correspondence to the Service(s) concerned. They should respond in time for the Council's observations to be sent back to the Ombudsman within the given timescale (usually 20 working days).

Upon receipt of comments from the Service(s), the Chief Executive will respond to the Ombudsman.

Notification that the Local Government Ombudsman is not investigating

Upon confirmation that the Ombudsman is not intending to investigate the matter further, Services will be advised accordingly.

Local Government Ombudsman investigating – interviews

If the Ombudsman has decided to pursue the investigation it may suggest a date for interviews with appropriate members of staff and Borough Councillors. The Chief Executive will make the necessary arrangements in consultation with those to be interviewed.

Local Government Ombudsman's draft statement of findings

Upon receipt of the Ombudsman's draft statement of facts, the Chief Executive will circulate copies to each person interviewed asking for any comments within the timescale set by the Ombudsman, and respond accordingly.

Local Government Ombudsman's final decision

Upon receipt of the Local Ombudsman's final decision, the Chief Executive will immediately send copies of it to the Service(s) concerned, to any Members of the Council involved in the matter and to employees interviewed by the investigating officer. (The Ombudsman will have sent copies of the document direct to the complainant and to the Member of the Council referring the complaint if applicable).

If the Ombudsman issues a Finding of Fault Report or determines that the matter is a public interest issue, the final decision document must be made available for public inspection. Notice of its availability will be published by the Chief Executive in the next appropriate issue of the local paper(s).

Report to Committee

Where the Ombudsman finds maladministration, the Head of Service concerned, or the Chief Executive where more than one Service is involved, will consider, in consultation with the relevant Portfolio Holder, whether it is necessary to present a report to Cabinet or an appropriate Committee of the Council, to authorise any necessary action in response to the Ombudsman's findings.

Monitoring of complaints

So that the Council may monitor complaints periodically, in order to decide whether any changes in policy or procedures are required, departments should prepare an annual analysis of complaints (1 April to 31 March), for submission to the Chief Executive who will, in turn, present a report to the appropriate Committee.

Part 4

Officer Employment Procedure Rules

[Standing Orders](#)

[Recruitment and Appointment](#)

[Recruitment of Chief Officers](#)

[Potential dismissal of a Chief Officer](#)

[Dismissal](#)

[Political Assistants](#)

Officer Employment Procedure Rules

1. Standing Orders

1.1 In this Part -

"the 1989 Act" means the Local Government and Housing Act 1989;

"the 2000 Act" means the Local Government Act 2000;

"the Local Authority 2001 Regulations" means the Local Authorities (Standing Orders) (England) Regulations 2001 as amended;

"the Local Authorities Regulations 2015" means the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015

"disciplinary action" has the same meaning as in the Local Authorities 2001 Regulations; namely any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the Authority, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a fixed term contract unless the Authority has undertaken to renew such a contract.

"Cabinet" and "Leader" have the same meaning as "executive" and "executive leader" in Part II of the 2000 Act;

"member of staff" means a person appointed to or holding a paid office or employment under the authority;

"Chief Officer" as defined by the Council shall mean those officers who together make up the Officers' Management Team, namely the Chief Executive, Deputy Chief Executive and Heads of Service.

1.2 Subject to paragraphs 3 and 4, the function of appointment of, dismissal of, or taking disciplinary action against, a member of staff of the Council must be discharged, on behalf of the Council, by the officer designated under section 4(1) of the 1989 Act as the Council's Head of Paid Service or by an officer nominated by him/her.

1.3 Paragraph 1.2 shall not apply to the appointment or dismissal of Chief Officers.

- 1.4. (a) Where a Committee or Sub-Committee is discharging, on behalf of the Council, the function of the appointment of an officer designated as the Council's Chief Executive, the Council must approve that appointment before an offer of appointment is made to him/her.
- (b) Where a Committee or a Sub-Committee of the Council is discharging, on behalf of the Council, the function of the appointment of a Chief Officer (other than the Chief Executive), at least one member of the Cabinet must be a member of the Committee or Sub-Committee convened for that purpose.

- (c) Any decision to dismiss a Statutory Chief Officer (Chief Executive, Chief Finance Officer or Monitoring Officer) or Deputy Chief Executive must be taken by a vote at a meeting of full Council, having taken into account any advice, views or recommendations of the Independent Panel in accordance with paragraphs 4.1 and 4.2 below.
- (d) Where a Committee or Sub-Committee is discharging, on behalf of the Council, the function of the potential dismissal of a Chief Officer (other than the Chief Executive, Deputy Chief Executive, Chief Finance Officer or Monitoring Officer) at least one member of the Cabinet must be a member of the Committee or Sub-Committee convened for that purpose.

2 Recruitment and Appointment

- (a) Declarations.

Candidates are required to state in writing if they are known to any Member or officer of the Council and, if so, to give details.

- (b) Seeking support for appointment.

- (i) Candidates are required to sign a statement acknowledging that the canvassing of a Member or officer of the Council will disqualify their application.
- (ii) No Member will seek support for any person for any appointment with the Council.

3 Recruitment of Chief Officers

- 3.1 Where the Council proposes to appoint a Chief Officer (and it is not proposed that the appointment be made exclusively from among their existing officers), the Council will:

- (a) draw up a job description and person specification including the qualifications and qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it;
- (c) make arrangements for an information pack including the job description to be sent to any person on request; and
- (d) the General Purposes Committee shall establish an Appointments Sub-Committee to deal with the appointment.

- 3.2 (a) In this paragraph, “appointor” means, in relation to the appointment of a person as an officer of the Council, the Council or where a Committee, Sub-Committee or officer is discharging the function of appointment on behalf of the Council, that Committee, Sub-Committee or officer as the case may be.
- (b) An offer of an appointment as an officer referred to in sub-paragraph 3.1 must not be made by the appointor until:
 - (i) the appointor has notified the Human Resources Manager of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;

- (ii) The Human Resources Manager has notified every member of the Cabinet of:
 - (a) the name of the person to whom the appointor wishes to make the offer;
 - (b) any other particulars relevant to the appointment which the appointor has notified to the Human Resources Manager; and
 - (c) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Proper Officer; and
- (iii) Either:
 - (a) the Leader has within the period specified in the notice under sub-paragraph (ii) (c) notified the appointor that neither he/she nor any other member of the Cabinet has any objection to the making of the offer;
 - (b) the Human Resources Manager has notified the appointor that no objection was received by him/her within that period from the Leader; or
 - (c) the appointor is satisfied that any objection received from the Leader within that period is not material or not well-founded.

4 Potential dismissal of a Chief Officer

- 4.1
 - (i) Where the conduct of a Chief Officer may lead to their dismissal, the General Purposes Committee shall establish a Sub-Committee for the purposes of discharging the decision of whether or not to dismiss. That Sub-Committee will include a member of the Cabinet.
 - (ii) In cases of potential dismissal of the Council's Chief Executive, Deputy Chief Executive, Chief Finance Officer or Monitoring Officer, this Sub-Committee will also include at least two independent persons in accordance with the Local Authorities Regulations 2015 and the task of the Sub-Committee in this instance will be to provide its advice, views and recommendations to full Council with whom the decision to dismiss lies.
- 4.2 No action to dismiss may be taken in respect of the Chief Executive, the Deputy Chief Executive, the Monitoring Officer or the Chief Finance Officer, except after having taken into account the advice, views or recommendations of the Sub-committee comprising no less than two Independent Persons, following the conclusions of any investigation into the proposed dismissal and any representations from the protected officer concerned as set out in the Local Authorities Regulations 2015.
- 4.3 Any decision to dismiss a Statutory Chief Officer (Chief Executive, Monitoring Officer and Chief Finance Officer) or Deputy Chief Executive must be taken by vote at a meeting of the full Council.

- 4.4 In this paragraph “dismissor” means, in relation to the dismissal of a Chief Officer, the Council or, where a Committee or Sub-Committee is discharging the function on behalf of the Council, that Committee or Sub-Committee as the case may be.
- 4.4.1 Notice of the dismissal of a Chief Officer must not be given by the dismissor until:
- (a) the dismissor has notified the Proper Officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
 - (b) the Human Resources Manager has notified every member of the Cabinet of:
 - (i) the name of the person who the dismissor wishes to dismiss;
 - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
 - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Human Resources Manager; and
 - (c) either:-
 - (i) the Leader has, within the period specified in the notice under sub-paragraph (b) (iii) notified the dismissor that neither he/she nor any other member of the Cabinet has any objection to the dismissal;
 - (ii) the Human Resources Manager has notified the dismissor that no objection was received by him/her within that period from the Leader; or
 - (iii) the dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.
- 4.4.2 Nothing in paragraph 1.2 shall prevent a person from serving as a member of any Committee or Sub-Committee established by the Council to consider an appeal by:
- (a) another person against any decision relating to the appointment of that other person as a member of staff of the Council; or
 - (b) a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
- 4.5 The Chief Executive, the Monitoring Officer or the Chief Finance Officer may be suspended whilst an investigation takes place and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

5 Dismissal

Members will not be involved in any disciplinary action or the dismissal of any officer other than in the circumstances provided for in paragraph 4 above, except where such involvement is necessary for any investigation or inquiry into alleged misconduct. Though the Council's disciplinary, capability and related procedures, as adopted from time to time, may allow a right of appeal to Members in respect of dismissals.

6 Political Assistants

- (1) No appointment shall be made to any post allocated to a political group until the Council has allocated a post to each of the political groups which qualify for one.
- (2) No post may be allocated to a political group which does not qualify for one; and
- (3) Not more than one post shall be allocated to any one political group.

Part 5

Codes and Protocols

[Part 1: General Provisions](#)

[Part 2: General obligations for members](#)

[Part 3: Disclosable Pecuniary Interests](#)

[Schedule of Disclosable Pecuniary Interests](#)

[Part 4: Registration and Disclosure of Disclosable Pecuniary Interests](#)

[Part 5: Personal Interests](#)

[Part 6: Sensitive Interests](#)

[Part 7: Offences](#)

Members' Code of Conduct

(Revised and Adopted 15 April 2015)

Part 1: General Provisions

- 1.1 This Code is adopted pursuant to the Council's statutory duty to promote and maintain high standards of Conduct by Members of the Council. It complies with the requirements of Section 28 of the Localism Act 2011 and is consistent with the principles set out in that section and which are listed in paragraph 1.5 below.
- 1.2 This Code applies to **you** being a holder of public office as a Member of Test Valley Borough Council ("the Council") when acting in your role as a Member.
- 1.3 This Code is not intended to be an exhaustive list of all the legal and constitutional obligations placed on Members of this Council. It is your responsibility to comply with the following provisions of this Code as well as other legal obligations beyond the scope of this Code.
- 1.4 In the interests of transparency and openness and in accordance with the requirements of the Localism Act 2011, a copy of the Register of Members' Interests is published on the Council's website, and is available for public inspection at the Council's offices at all reasonable hours.
- 1.5 This Code is based on and consistent with the following principles:

SELFLESSNESS

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits.

INTEGRITY

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public.

OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP

Holders of public office should promote and support these principles by leadership and example.

Part 2: General obligations for members

2.1 When acting in your role as a Member of the Council:

- (a) **Do** treat others with respect.
- (b) **Do** ensure that you are aware of and comply with the requirements which the Bribery Act 2010 places on you in your role as a Member and on the Council as a whole.
- (c) **Do** ensure that you behave in accordance with all the Council's legal obligations, policies, protocols and procedures as they relate to your conduct.
- (d) **Do not** do anything which may cause your Council to breach the equality enactments set out in the Equality Act 2010.
- (e) **Do not** bully any person (bullying is offensive, intimidating, malicious, insulting or humiliating behaviour that is directed at someone over whom you have some actual or potential influence).
- (f) **Do not** intimidate, or try to intimidate, anyone who has complained about you or who may be involved with a complaint about you.
- (g) **Do not** do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your Council.
- (h) **Do not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - you have the consent of a person authorised to give it;
 - you are required by law to do so;
 - the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
 - the disclosure is:
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the Council.
- (i) **Do not** prevent another person from gaining access to information to which that person is entitled by law.
- (j) **Do not** use or try to use your position improperly to obtain an advantage or disadvantage for yourself or any other person or body.

2.2 When making decisions on behalf of or as part of the Council:

- (a) **Do** exercise independent judgement and do not compromise your position by placing yourself under any obligations to outside individuals or organisations who might seek to influence your decision.

- (b) **Do** have regard to any relevant advice provided to you by the Council's Chief Financial Officer and Monitoring Officer where such advice is offered pursuant to his or her statutory duties.
 - (c) **Do** give reasons for the decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council.
- 2.3 When using or authorising the use by others of the resources of the Council:
- (a) **Do** act in accordance with the Council's reasonable requirements including the requirements of the Council's Use of IT and Social Media Policy for Members which you are deemed to have read;
 - (b) **Do** make sure that such resources are not used improperly or improperly for political purposes (including party political purposes); and
 - (c) **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
 - (d) **Do not** improperly use knowledge gained solely as a result of your role as a member for the advancement of your Disclosable Pecuniary Interests.

Part 3: Disclosable Pecuniary Interests

- 3.1 A disclosable pecuniary interest is an interest falling within the Schedule set out below of yourself, or your spouse or civil partner, or someone you are living with as if you were husband and wife or civil partners, where you are aware that that other person has the interest.
- 3.2 In the Schedule set out below, the following words or expressions mean as follows:
- '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 Council 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;

- '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 (2000 c. 8) and other securities of any description, other than money deposited with a building society

Schedule of Disclosable Pecuniary Interests

Subject	Prescribed description
Employment, office, trade profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (1992 c. 52).
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority: (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Corporate tenancies	<p>Any tenancy where (to M's knowledge):</p> <ul style="list-style-type: none"> (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	<p>Any beneficial interest in securities of a body where:</p> <ul style="list-style-type: none"> (a) that body (to M's knowledge) has a place of business or land in the the area of the relevant authority; and (b) either: <ul style="list-style-type: none"> (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 person has a beneficial interest exceeds one hundredth of the total issued share capital of that class

Part 4: Registration and Disclosure of Disclosable Pecuniary Interests

- 4.1 You must, within 28 days of taking office as a Member or Co-opted Member of the Council, notify the Council's Monitoring Officer of any disclosable pecuniary interests as defined by regulations made by the Secretary of State (as set out at Part 3 of this Code), where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.
- 4.2 You must also, within 28 days of becoming aware of any new disclosable pecuniary interest, or change thereto, notify the Council's Monitoring Officer of such new or changed interest.
- 4.3 If you have a disclosable pecuniary interest included on the Register of Members' Interests in any matter to be considered at any meeting of the Council, its Cabinet or Committees, at which you are present (even though you are not a member of the committee and are seated with the public), you must disclose that interest. Such an interest should be disclosed at the commencement of consideration of the business or when the interest becomes apparent. You do not need to disclose details of the interest itself unless in exercising your discretion you choose to do so.

- 4.4 If a disclosable pecuniary interest has not been entered onto the Council's Register of Interests, then you must also disclose the interest to any meeting of the Council, its Committees or the Cabinet at which you are present where you have such an interest in any matter being considered. Such an interest should be disclosed at the commencement of consideration of the business or when the interest becomes apparent. You should disclose the existence and the nature of the interest to the meeting. Following disclosure of a disclosable pecuniary interest not on the Council's Register or the subject of pending notification, you must notify the Monitoring Officer of such interest within 28 days, beginning with the date of disclosure.
- 4.5 Unless a dispensation has been granted in respect of a matter in which you have a disclosable pecuniary interest, you may not:
- participate in any discussion related to that matter;
 - vote on that matter; or
 - discharge any function related to that matter.
- 4.6 As soon as it becomes apparent that you have such an interest you must withdraw from the room where the meeting considering the business is being held, and must not seek improperly to influence a decision about that business.
- 4.7 If acting as a single Portfolio Holder you may not take any further steps in relation to the matter other than for the purpose of arranging for the matter to be dealt with otherwise than by yourself.

Part 5: Personal Interests

- 5.1 You have a "personal interest" in an item of business where it relates to or is likely to affect any of the following bodies of which you are a member: a public or charitable body, any body to which the Member has been appointed by the authority, any political party, trade union or other body one of whose principal purposes is to influence public opinion or policy.
- 5.2 You also have a "personal interest" (but which is not a disclosable pecuniary interest) in an item of business or decision affecting the well being or financial position of:
- a member of your family, or their close friends or close associates; or
 - your close friends or close associates;
- where the affect upon them might reasonably be regarded as greater than that on other council tax payers, ratepayers or inhabitants of the authority's area.
- 5.3 Where you believe you have a "personal interest" under 5.1 or 5.2 you should also consider whether a reasonable person might think that your personal interest is so significant that it would impair your ability to judge the public interest. You should seek the advice of the Monitoring Officer in these circumstances before participating in the meeting or business of the Council.

- 5.4 Where you have a “personal interest” in any business of the Council you shall disclose that interest at any meeting of the authority, committee or sub-committee, where you consider that interest to be relevant to an item of business being considered at that meeting. The disclosure shall be made at the commencement of the meeting, or when the interest becomes apparent, and shall be recorded in the minutes of the meeting. The requirement to declare a personal interest only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 5.5 Disclosure of a personal interest does not affect your ability to participate in a discussion or vote on the relevant item.
- 5.6 Where you have a personal interest, if you consider, having taken advice, that you should not participate in the business being considered, you should leave the room where the business is being considered after exercising any right to speak which a member of the public would have (and subject to complying with any such requirements as to registration)

Part 6: Sensitive Interests

- 6.1 These are interests where you consider that disclosure of the details of a disclosable pecuniary interest or a personal interest could lead to you, or a person connected with you, being subject to violence or intimidation.
- 6.2 A sensitive disclosable pecuniary interest or a change to such an interest must be notified to the Monitoring Officer.
- 6.3 If the Monitoring Officer agrees, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest which shall be recorded as withheld under Section 32(2) of the Localism Act 2011.
- 6.4 The requirement to declare such an interest at meetings shall be discharged simply by stating that you have a disclosable pecuniary interest or a personal interest in the matter concerned. You are not required to disclose the detail of the interest.

Part 7: Offences

- 7.1 It is a criminal offence to:
- (i) fail to notify the Monitoring Officer of any Disclosable Pecuniary Interest within 28 days of election.
 - (ii) fail to disclose a Disclosable Pecuniary Interest at a meeting if it is not on the register.
 - (iii) fail to notify the Monitoring Officer within 28 days of a Disclosable Pecuniary Interest that is not on the register that you have disclosed to a meeting.
 - (iv) participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest.
 - (v) as an executive member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer within 28 days of the interest.

- (vi) knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting

The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a Councillor for up to 5 years.

Part 5

Code of Conduct Arrangements for dealing with complaints

[Making complaints](#)

[Initial action by Monitoring Officer](#)

[Alternative action by the Monitoring Officer](#)

[Initial assessment of the complaint](#)

[Decision Options at Initial Assessment](#)

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Code of Conduct – Localism Act 2011 Section 28 – Arrangements for dealing with complaints

1. Making complaints

Any complaint that a Member has failed to comply with the Members' Code of Conduct should be addressed to:

The Monitoring Officer
Test Valley Borough Council
Beech Hurst
Weyhill Road
Andover
SP10 3AJ

A form for making complaints is available on the Council's website or at the Council's offices. Its use is encouraged, but is not essential providing the complaint includes all the necessary information.

2. Initial action by Monitoring Officer

On receiving the complaint the Monitoring Officer may dismiss it without further action if:

- (a) the person complained about is no longer a Member of the relevant Council;
- (b) the Monitoring Officer considers the complaint does not relate to behaviour in the Member's official capacity as a Councillor;
- (c) the matter being complained about happened more than 12 months before the complaint was received;
- (d) the matter being complained about came to the complainant's notice more than 6 months before the complaint was received; or
- (e) the complaint is made anonymously without any independent evidence to substantiate the complaint.

The Monitoring Officer will inform the complainant and the Member accordingly.

Before making his/her decision the Monitoring Officer may consult with an Independent Person appointed under Section 28 of the Localism Act 2011 if he/she considers it appropriate.

If the Monitoring Officer does not dismiss the complaint on one of the above grounds, he/she will acknowledge it and inform the complainant of the procedure to be followed. The Monitoring Officer may ask the complainant for further information or clarification.

The Monitoring Officer will send the Member complained about a copy of the complaint, and invite the Member to submit initial written comments within 10 working days (except in exceptional circumstances where he/she considers that it is in the public interest not to do so).

The Monitoring Officer will also:

- (a) Ask the Member if they wish the views of an Independent Person to be invited when the complaint is initially examined; and

- (b) Ask the Member any specific questions the Monitoring Officer considers will assist the initial assessment of the complaint.

As an alternative to the above action, the Monitoring Officer may, if he/she considers it appropriate, and, after consultation with the Independent Person, refer the complaint to the Police and take no further action under this procedure unless and until informed by the Police that they will not proceed. (Note: this is only possible where the complaint relates to Disclosable Pecuniary Interest as defined in Section 30(3) of the Localism Act 2011).

3. Alternative action by the Monitoring Officer

If the Monitoring Officer considers it appropriate and if the complainant agrees, the Monitoring Officer can discuss with the Member complained about whether he/she is willing to make an apology to the complainant.

If an apology is given this will be the end of the matter.

4. Initial assessment of the complaint

If the Monitoring Officer does not dismiss the complaint or alternative action is inappropriate or the complainant is unwilling to pursue it, the Monitoring Officer will undertake an initial assessment of the complaint. The initial assessment will, if practicable, take place within 15 working days of receipt of the Member's written comments under section 2 above.

The decision on the initial assessment will be made by the Monitoring Officer, together with the Independent Person if the Member has requested his/her involvement or the Monitoring Officer considers his/her involvement appropriate.

The Monitoring Officer will send to the Independent Person (if participating):

- (a) a copy of the complaint;
- (b) a copy of the Member's comments in response to the complaint; and
- (c) any other information in the Monitoring Officer's possession that he/she considers relevant.

The decision of the Monitoring Officer in consultation with the Independent Person (if participating) on the initial assessment, with reasons and the views of the Independent Person (if involved), will be given in writing to the Member, the complainant, and the Clerk to the Parish/Town Council (if the complaint was about a Parish/Town Councillor) within 5 working days.

There will be no right of appeal.

The decision will be available for public inspection.

5. Decision Options at Initial Assessment

The options upon initial assessment are:

- (a) To take no action (see Appendix 1); or
- (b) To attempt to resolve the matter informally between the complainant and Member, either in writing, by face-to-face meeting, or by any other method they consider appropriate. In this case there will be no formal decision as to whether or not there was a breach of the Code of Conduct. If an attempt to resolve the matter in this way is not achieved to the satisfaction of the Member and the complainant, options (a), (c) and (d) will remain open; or

- (c) To arrange a hearing before the General Purposes Employment Appeals & Ethics Sub-Committee and the Independent Person, at which the Member and complainant can state their case and, if appropriate, call witnesses. Procedures are set out in Appendix 2. The hearing will reach a formal decision as to whether the Member breached the Code of Conduct; or
- (d) If the complaint is potentially complex, to arrange for a formal investigation to be undertaken, including interview of appropriate witnesses, and to seek the view of the investigator as to whether there has been a breach of the Code of Conduct. If the investigator considers there has been a breach of the Code, a hearing will be arranged as in (c). If the investigator considers that there has not been a breach of the Code, the Monitoring Officer will issue a formal finding to that effect after consultation with the Independent Person.

Note

- 1. If the Monitoring Officer considers that it is not appropriate for him/her to act, such as where he/she has advised the Member or complainant in relation to the subject matter of the complaint or is otherwise conflicted out, then the Deputy Monitoring Officer will take his/her place.
- 2. At any stage in the process the Monitoring Officer can consult with one of the Parish Council representatives appointed by the Test Valley Association of Parish and Town Councillors. If a representative is consulted he/she will attend the relevant meeting for the purposes of the Initial Assessment.

Appendix 1

No action will be taken where the Monitoring Officer (and if participating, the Independent Person) considers that:

- (a) There is no prima facie evidence that the Code has been breached;
- (b) Taking into account the nature of the allegation, the use of public funds to examine the matter further would be disproportionate;
- (c) The complaint appears to be vexatious, politically motivated, tit-for-tat or made by a persistent complainant;
- (d) The conduct complained about has already been the subject of investigation or enquiry by another public body;
- (e) The same, or substantially the same, issue has been the subject of a previous Code of Conduct allegation, and that there is nothing further to be gained;
- (f) There is not enough information to take the matter further;
- (g) The complaint was made anonymously;
- (h) Where the complainant has requested that their identity as complainant be withheld from the Member, the matter cannot reasonably be taken further in these circumstances;
- (i) The Member has already apologised for the action that was the subject of the complaint, and that this is sufficient to dispose of the complaint; or
- (j) The complaint is essentially against the action of the Council or a Committee as a whole and cannot properly be directed against an individual Member(s).

Appendix 2

PROCEDURE FOR HEARINGS

General:

Hearings will where possible be held within 2 months of the initial assessment decision where there is no prior investigation, and within 2 months of receipt by the Monitoring Officer of the investigator's report where there has been a prior investigation.

The hearing will be before the Employment Appeals and Ethics Sub-Committee of the General Purposes Committee (the Sub-Committee). One of the members will be elected Chairman.

The Independent Person appointed under section 28 of the Localism Act 2011 will also be present. His/her views will be requested and taken into account by the Sub-Committee, but by law he/she cannot vote.

The Monitoring Officer or Deputy Monitoring Officer will be present as legal adviser to the Sub-Committee and a Democratic Services Officer will be present to take the minutes of the meeting.

Hearings are formal meetings of the Council under the Local Government Acts and are open to the public and press subject to the usual provisions regarding exempt business.

Both the Member and complainant will be invited to appear. They may present their own case or they may be represented.

If their involvement has been requested the Independent Person and/or Parish Representative will also be present.

They may bring witnesses (of a number the Sub-Committee considers is reasonable), in which case written statements from the witnesses must be lodged with the Monitoring Officer at least 8 working days before the hearing. "Character witnesses" who cannot provide evidence on the matter complained about will not be permitted.

The cost of any attendance/representation must be borne by the party concerned.

All written evidence will be circulated to the Sub-Committee, the Independent Person, the Member and the complainant at least 5 clear days before the hearing.

Written statements will not be read out at the hearing as it will be assumed all those present are already familiar with their contents.

The legal adviser can speak at any time to advise the Sub-Committee on technical matters or ask questions of any party.

Proceedings:

1. The complainant can address the Sub-Committee and call witnesses (if any).
2. The Member can ask the complainant and witnesses questions.
3. The Sub-Committee and Independent Person can ask the complainant and witnesses questions.
4. Where there has been an investigation the investigator will attend the hearing and present his/her report and findings.
5. The complainant can ask the investigator questions.
6. The Member can ask the investigator questions.

7. The Sub-Committee can ask the investigator questions.
8. The Member can address the Sub-Committee and call witnesses (if any).
9. The complainant can ask the Member and witnesses questions.
10. The Sub-Committee and Independent Person can ask the Member and witnesses questions.
11. The complainant can make a closing statement.
12. The Member can make a closing statement.
13. All those present except the Sub-Committee, the Independent Person, the Parish Representative, the legal adviser and Democratic Services Officer will leave the room while the Sub-Committee makes its decision.
14. The Sub-Committee's decision will be announced orally as soon as possible.
15. A written report of the hearing and decision, with reasons, will be prepared, usually within 5 working days. A copy will be sent to all those present at the hearing, and to the Clerk of the Parish/Town Council if the complaint was about a Parish/Town Councillor.
16. The written report will be available for public inspection.

Decisions open to the Sub-Committee:

These are:

- (a) That the Member did not fail to comply with his/her Council's Code of Conduct;
- (b) That the Member did fail to comply with his/her Council's Code of Conduct, and that:
 - (i) No action need be taken; or
 - (ii) Where the matter relates to a Borough Councillor that the Member be censured; and/or
 - (iii) Where the matter relates to a Parish or Town Councillor, that it be recommended to the Council concerned that the Member be censured; and/or
 - (iv) Whatever publicity the Sub-Committee considers appropriate be given to their findings; and/or
 - (v) It be recommended to the Council that the Member be removed from a specific Committee(s).

The Sub-Committee may also make any recommendations it considers appropriate to the Council concerned, whether Test Valley Borough Council or the relevant Parish or Town Council, on procedural amendments that might assist Members generally to follow the Code of Conduct.

Part 5

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Local Code for Members and Officers dealing with Planning Matters

1. GENERAL ROLE AND CONDUCT OF MEMBERS AND OFFICERS

This Local Code is an advisory document that expands on the Code of Conduct and other provisions concerning probity in public office as they relate to planning. As such, it will be taken into account when a complaint is investigated, whether the investigation is internal, or by an external body such as the Local Government Ombudsman.

Only Members of the Council and officers who are prepared to observe this Code ought to be involved in determining planning matters. This Code will be of importance to all Members of the Council, whether as members of the Area Planning Committees or the Cabinet (in view of the latter's primary responsibility for formulating planning policy for approval by Council, and for deciding other planning matters such as supplementary planning guidance and conservation area designations). The responsibility to abide by this Code also applies to all Members on those occasions when a planning matter is referred to full Council.

Why we have a Local Code for Planning

- 1.1 The law requires Members to comply with the Members' Code of Conduct which concerns probity and other aspects of conduct across the whole range of a Member's duties. This Local Code seeks to relate the Members' Code of Conduct's requirements specifically to planning. However, it goes beyond the specific concerns of the Members' Code of Conduct to give more detailed advice on the operation of the system. The aim of this additional advice is to ensure the integrity of the planning system is preserved, and that it is, and is seen to be, open and fair to all parties. Whilst remaining advisory only, and having no statutory basis, the expectation nonetheless is that both Members and officers will at all times abide by the guidance contained in the Code.
- 1.2 Determining a planning application is a formal administrative process involving rules of procedure, rights of appeal, and an expectation that people will act reasonably and fairly. Those involved should always be alert to the possibility that an aggrieved party may:
 - (a) seek judicial review of the way the decision was arrived at; and/or
 - (b) complain to the Local Government Ombudsman on grounds of maladministration; and/or
 - (c) complain to the General Purposes Employment Appeals & Ethics Sub-Committee that a Member has breached the Code of Conduct.

- 1.3 Decisions on planning involve considering private development proposals against the wider public interest. Much is often at stake, particularly the financial value of landholdings and the quality of their settings, and opposing views are often strongly held by those involved. It is important, therefore, that planning decisions affecting these interests are made openly, impartially, with sound judgement and for justifiable reasons. While Members should take account of the various views expressed, they should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so. The process should leave no grounds for suggesting that a decision has been partial, biased or not well-founded in any way. The Members' Code of Conduct requirement that a Member should act solely in terms of the public interest is also relevant in this context.

Officers

- 1.4 Officers must always act impartially.
- 1.5 Officers are required to disclose to the Council their direct or indirect pecuniary interests under Section 117 of the Local Government Act 1972. Officers involved in processing and determining planning matters must also observe the guidance set out in the Officers' Code of Conduct concerning gifts and hospitality and with the relevant sections of the Royal Town Planning Institute's Code of Professional Conduct.

Application to Policy Formulation and Other Planning Matters

- 1.6 While this Code will most commonly need to be followed in connection with dealing with planning applications, it also applies to consideration of development plans, development briefs, enforcement cases and all other planning matters.
- 1.7 The operation of executive arrangements means that many major planning issues, and formulation of planning policy, are considered by the Cabinet. The relevant principles of this Local Code apply in the same way to Cabinet members engaged in formulating planning policy and other planning issues as they do to members of the Planning Committees when determining planning applications. In particular, the following parts of this Code apply to policy formulation and planning issues other than determination of applications:
- (a) the duty to declare interests (section 2);
 - (b) dealing with lobbying, the duty to reach decisions impartially without "pre-judging" issues, and attendance at other public meetings (section 4); and
 - (c) pre-application and pre-decision discussions with applicants or potential applicants (section 5).
- 1.8 However:
- (a) subject to the overriding requirement to comply with the Members' Code of Conduct; and
 - (b) providing the discussions do not refer to individual sites;

this Code does not preclude Members from taking part in discussions on the general principles of land allocation policies in the Development Plan outside the Council's formal meetings.

- 1.9 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires all planning applications to be determined by reference to the Development Plan, if material to the application, and any other material consideration. Only material planning considerations are to be taken into account. If the Development Plan is material to the application, the law provides that the application should be determined in accordance with it unless material considerations indicate otherwise.

Training

- 1.10 Seminars are held from time to time to give guidance to Members on declaring interests and other issues in the Members' Code of Conduct. Members will also receive specialised training on planning law and procedures, and the practical operation of this Local Code and the Development Plan. All members of the Council's Planning Committees have an important role in providing a consistent approach to the determination of proposals, and in the application of policy, and may be involved in dealing with contentious proposals. It is, therefore, important that all Members attend a minimum level of training on planning matters.

Members who have not attended training sessions should not be involved in the decision-making process. Any Member who does not comply with this requirement may be reported to the Council in order to remove them from the Planning Committee(s). Members' attendance at training sessions will be monitored and reported to the General Purposes Employment Appeals & Ethics Sub-Committee, which may wish to offer advice to or in relation to a Member who has not undergone adequate training.

2. DECLARATION AND REGISTRATION OF INTERESTS

- 2.1 All Members, whether or not dealing with planning matters, must observe the Members' Code of Conduct and this Local Code by:
- (a) maintaining the general standards of conduct required in Part 1 of the Members' Code;
 - (b) disclosing interests at meetings (or when making a Portfolio Holder decision) as required in the Members' Code; and
 - (c) registering financial and other interests, gifts and hospitality.

Register of Members' Interests

- 2.2 Members will have provided the Monitoring Officer with details of their disclosable pecuniary interests, and these will be included in a register maintained under the Localism Act 2011. Where any changes occur to a disclosable pecuniary interest the Member is required to notify the Monitoring Officer, in writing, within 28 days of becoming aware of the change. The Monitoring Officer will affect any necessary amendment to the Register.

Disclosable Pecuniary Interests and Personal Interests at Meetings

- 2.3 So that the system operates in an open and transparent way, a Member who has any interest in a planning matter must immediately inform the Head of Planning and Building Services of that interest, in writing in accordance with the Member and Officer Interests Protocol. The Head of Planning and Building Services will report planning matters in respect of which such notification has been received to the appropriate Committee for determination. Such a matter must not be determined under delegated powers by officers. The report to Committee will identify the reason for the report as a Member interest. A similar procedure applies in relation to any officer interest, as defined in paragraphs 5.3, 5.4 and 15 of the Officers' Code of Conduct. Neither Members nor officers should assume that the Head of Planning and Building Services will otherwise be aware of any interests they may have in any planning matter.
- 2.4 The definition of a Disclosable Pecuniary Interest and a Personal Interest is contained in the Members' Code of Conduct. The first question is whether an interest is a Disclosable Pecuniary Interest or a Personal Interest.
- All such interests should be declared at meetings, with a brief description of the nature of the interest. This includes interests that may already have been registered in the register of Members' financial and other interests. The Member must (subject to certain exemptions specified in the Members' Code of Conduct) leave the room. He/she must also not seek improperly to influence a decision on the matter. Members should refer to the Members' Code of Conduct for detailed guidance on the meaning of Disclosable Pecuniary Interest and a Personal Interest and the circumstances in which a Member with a Personal Interest which impairs his/her ability to judge the public interest may still participate by making a statement.
- 2.5 The responsibility for declaring an interest lies with the individual Member. A Member who is also a Parish/Town Councillor will not have a declarable interest in a planning application made by a private individual simply because the Parish/Town Council has submitted observations to the Borough Council on that application, or because of his/her vote on the Parish/Town Council. However, the member should have regard to the guidance on pre-judging applications in section 4 of this Local Code.
- 2.6 Members who are also Parish/Town Councillors should adopt the practice of making it clear, when they participate in a debate on development proposals at a Parish/Town Council meeting, that the views they express are based on the information before them at that time, and might change in the light of further information and/or debate at the Committee meeting.

Gifts and Hospitality

- 2.7 All Members must register gifts or hospitality worth more than £25 within 28 days of their receipt. However, Members dealing with planning matters should be particularly alert to the possibility that they may be called upon to determine, or make representations on, a planning application submitted by someone who has offered them a gift or hospitality, even if an application has not yet been submitted. If a gift or hospitality is received from an actual or potential planning applicant, even if its receipt is registered and/or its value does not exceed £25, the recipient should still consider what the public perception might be. Cases where Members have accepted hospitality from planning applicants have been the subject of criticism by the Local Government Ombudsman. For this reason, all gifts, of whatever value, should be refused if there is any reason to suspect that the person offering them is an actual or potential planning applicant. If a gift is accepted, its receipt should be notified. If acceptance of a degree of hospitality by Members and/or officers is unavoidable, it should be ensured that this is of a minimum and that its receipt is notified. Members should be mindful of the need to declare a personal or disclosable pecuniary interest, as appropriate, in respect of the interests of any person from whom he/she has received a gift or hospitality within three years of the receipt. Members and officers should also consider whether it would be appropriate in a particular case to notify instances where gifts or hospitality have been offered, but refused. Officers should notify their the Chief Executive or Deputy Chief Executive, who will inform the Monitoring Officer. Members should send written notice to the Monitoring Officer. In all cases details will be entered in the appropriate register.

3. DEVELOPMENT PROPOSALS SUBMITTED BY OR ON BEHALF OF MEMBERS AND OFFICERS, AND COUNCIL DEVELOPMENT

Acting as agents for a planning applicant

- 3.1 Serving Members and officers should never act as agents for individuals (including a company, group or body) pursuing a planning matter with the Council.

Planning Applications by a Member or Officer

- 3.2 Proposals submitted by Members and officers must be reported to the relevant Planning Committee and not dealt with by officers under delegated powers, see paragraph 2.5.
- 3.3 If a Member submits a planning application he/she will be subject to the Localism Act 2011 relating to disclosable pecuniary interests. If officers submit their own development proposal to the Council, they should take no part in its processing. Officers will have the same rights as any member of the public to seek to explain and justify their proposal to an officer in advance of the Committee meeting and to attend the Planning Committee meeting and address the Committee under the Public Participation Scheme.

Proposals for the Council's Own Development or Development on Council Land

- 3.4 Proposals for the Council's own development (or a development involving the Council and another party) should be treated in the same way as those by private developers and in accordance with the National Planning Guidance. This Guidance outlines that the same administrative process, including consultation, should be carried out in relation to the Council's own planning applications, and that they should be determined against the same policy background (the Development Plan and any other material planning considerations). This paragraph also applies to private applications on Council owned land (e.g. before a land sale is agreed or negotiated). Decisions must be made strictly on planning merits and without regard to any financial or other gain that may accrue to the Council if the development is permitted. It is important that the Council treats such applications on an equal footing with all other applications, and is seen to do so.

4 LOBBYING AND REQUIREMENTS RELATING TO PUBLIC MEETINGS

Lobbying of Members by the Public or Planning Applicants

- 4.1 If Members are to undertake their constituency roles fully it is inevitable that they will be subject to lobbying on planning matters and specific planning applications. When Members are lobbied, great care is essential to maintain the Council's, and indeed the Member's own, integrity and the public perception of the planning process.
- 4.2 Members who are likely to be involved in determining a planning matter at any meeting should, before the meeting, simply listen to points of view about the proposal. They should actively take steps to explain that, whilst they can listen to what is said, it prejudices their impartiality to express a firm point of view or an intention to vote one way or another. (If however they do form a definitive view on the proposal, they should be guided by paragraphs 4.7 to 4.9 below). Where the applicant requires planning or procedural advice, he/she should be referred to officers.
- 4.3 If Members consider they have been exposed to undue or excessive lobbying or approaches, these should be reported to the Monitoring Officer, so that the Monitoring Officer can place on record the Members' concern.

Members' Duty not to Pre-Judge Applications/Lobbying by Members

- 4.4 As a general principle, and taking account of the need to make decisions impartially, Members involved in decision making on planning should not organise support or opposition to a proposal, lobby other Members, act as an advocate, or put pressure on officers for a particular recommendation.
- 4.5 Members need to take account of the general public's expectations (and the expectations of those who might investigate any complaint), that a planning application will be processed in a fair and open manner in which Members making the decision will take account of all the evidence presented before arriving at a decision, and that to commit themselves one way or the other before hearing all the arguments makes them vulnerable to an accusation of partiality. Members should not indicate (or give the impression of) support for or opposition to a proposal in a manner which suggests that they have a closed mind to any views or further

information which may be available at the meeting at which the matter is discussed. In particular, Members should not 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 and prejudicial and may amount to maladministration.

- 4.6 Whilst Members involved in making decisions on planning matters will begin to form a view as more information and options become available, a decision can only be taken by the relevant Planning Committee when all available information is to hand and has been duly 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, the views of the Cabinet, or an individual member of the Cabinet, should be accorded no more weight than those of any other Member. Likewise, any political group meetings before Committee meetings should not be used to decide how Members should vote. Decision can only be taken after full consideration of the officers' report and information and discussion at the Committee.
- 4.7 If a Member does appear to fully commit to a particular view on a planning issue before it is considered at Committee or Council, the public, or any other person, might well believe the Member had prejudiced their position and could not take part in a debate on the full facts before determining the application. If a Member has openly advocated a particular course of action, or feels that the public would reasonably believe he/she had come to a conclusive view on the matter before the meeting, he/she should leave the meeting room and take no part in the debate (subject to paragraph 4.8 below), nor vote on the application.
- 4.8 If, however, a Member (whether or not a member of the relevant Planning Committee) has publicly committed him/herself to a view on an application, he/she may be permitted to make a speech on the item at the Committee meeting, pursuant to the Public Participation Scheme provided he/she first declares his/her position. The Member will thereafter have no further involvement in determining the item, and should leave the meeting. If he/she is a Committee Member, he/she should not move or second a proposal or vote on the application. This will be recorded in the minutes. Members in this situation should also satisfy themselves that in speaking on the application there could be no reasonable allegation that they had breached any provision in the Members' Code of Conduct, in particular that relating to their duty to act solely in terms of the public interest.
- 4.9 Where the Monitoring Officer believes that a Member has prejudiced his/her position by expressing a conclusive view on an application before the Committee determines it, the Monitoring Officer will advise the Member that it would be inappropriate for him/her to be present at the meeting (unless the Member wishes to openly declare his/her position and speak as in paragraph 4.8), or to vote on the application. If the Member does not follow the Monitoring Officer's advice, the Monitoring Officer will consider referring the matter to the General Purposes Employment Appeals & Ethics Sub-Committee.

Chairman's Pre-Meeting Briefing

- 4.10 The Chairman and Vice-Chairman should attend a briefing with officers before the Committee meeting, to help them give an effective lead in Committee.

Members' and Officers' Attendance at Other Public Meetings

- 4.11 Officers and Members who intend to take part in the decision-making process, should be very cautious about attending meetings in connection with development proposals or submitted planning applications, unless those meetings have been arranged for the purpose of disseminating information by the Council, or by an appropriate local body (such as a Parish Council), that is not openly advocating support for or opposition to the proposal, or unless it is known that those with different views will also be attending, so that a balance of views will be expressed. Members should take advice from officers before deciding whether to attend meetings that appear to have been organised for lobbying purposes. When attending public meetings of any kind, officers and Members should do no more than explain background or policy, and should give no view on the merits or otherwise of the proposal. It should be explained that a decision can only be made when all relevant information is available.
- 4.12 The reason for being cautious and taking advice beforehand, particularly for Members involved in the decision-making process, is that those with opposing views could make allegations of bias or prejudice because a balance of views was not presented. In some circumstances, Members might feel it is valuable to attend meetings to listen to particular points of view, but should always make it clear that they must also listen to opposing arguments before reaching any conclusion.

5. PRE-APPLICATION AND PRE-DECISION DISCUSSIONS WITH APPLICANTS

Action by Officers

- 5.1 In any discussions on planning issues, officers will always make it clear at the outset that any views they express are based on the officer's provisional professional judgement and do not commit the Council to any particular decision.
- 5.2 Advice given will be consistent and based upon the Development Plan and other material considerations. Every effort will be made to ensure that there are no significant differences in interpretation of planning policies between Planning Officers.
- 5.3 Officers taking part in discussions should make it clear whether they or the Committee are likely to take the decision, or if this is not yet known, the criteria used to decide whether an application is referred to the Committee.
- 5.4 Where the Planning Officer considers it appropriate, a written note of discussions will be made, and/or a follow up letter sent explaining the conclusions of the discussion. Two or more officers will attend potentially contentious meetings.

Attendance by Members at Officers' Pre-Application or Pre-Decision Discussions

- 5.5 To maintain impartiality it is normally not good practice for Members to take part in officers' discussions with applicants. If Members are involved, they will be advised by the appropriate professional officers of the Council, which will always include a senior Planning Officer. Members should not seek to advise applicants, their agents or objectors on the likely acceptability of planning proposals. The involvement of Members in such discussions will be recorded as a written file record.

6. OFFICER REPORTS TO COMMITTEE

- 6.1 Reports to Committee on planning matters must be accurate and cover all relevant points, including the substance of any objections and the views of those consulted. Where a planning application is subject to a full report this will refer to the provisions of the Development Plan, and all other relevant material planning considerations
- 6.2 All reports will have a written recommendation of action/decision, and oral reporting (other than to update an existing report) will only be used on rare occasions and carefully minuted when this does occur. Whenever possible, an update on an existing report will be by way of a further written report.
- 6.3 All reports will contain a technical appraisal that clearly justifies the stated recommendation.
- 6.4 All reasons for refusal, and conditions to be attached to a permission, must be clear and unambiguous.
- 6.5 Members will not seek to interfere with the impartiality of the advice contained in officers' reports or to put improper pressure on officers for a particular recommendation. This would be contrary to the Code of Conduct, which requires Members not to do anything which compromises, or is likely to compromise, officers' impartiality.
- 6.6 If the report of the Head of Planning and Building Services recommends approval of a departure from the Development Plan, the material considerations justifying the departure must be clearly stated in the report.

7. THE DECISION MAKING PROCESS

Public Participation

- 7.1 At meetings of the Council's Planning Committees applicants/agents, Parish and Town Councils, and other interested parties will be allowed to address Members in accordance with the Public Participation Scheme in operation at the time of the meeting.

Decisions Contrary to Officer Recommendation

- 7.2 In discussing, and then determining, a planning application or other planning matter, Members will confine themselves to the planning merits of the case. The reasons for making a final decision should be clear and convincing, and supported by planning evidence. If Members wish to refuse an application against officer advice, or impose different or additional conditions on a permission, the reasons for refusal

or the different or additional conditions must be clearly stated at the time the propositions are moved at the meeting.

- 7.3 If Members wish to approve an application that has been advertised as not in accordance with the Development Plan contrary to the officer's recommendation, the material considerations leading to the conclusion must be clearly identified, and how those considerations justify overriding the development plan clearly demonstrated. The material considerations, and the justification, will be minuted.
- 7.4 If a resolution is passed which is contrary to a recommendation of the Head of Planning and Building Services (whether for approval or refusal), a copy of the minute showing the Committee's reasons will be placed on the application file. Officers should also be given the opportunity to explain the implications of a contrary decision before a vote is taken.

Conduct of Meetings

- 7.5 Conscious of the public arena in which planning decisions are made, Members will conduct the business of the Planning Committees in a fair and sensitive manner. Members and officers will address one another during the debate in a proper manner and shall not refer to one another by first names. Officers will sit separately from Members.
- 7.6 Senior Legal and Planning Officers should always attend meetings of the Planning Committees to ensure that procedures have been properly followed and planning issues properly addressed.
- 7.7 Because of the need to be properly informed as to all relevant issues on a planning matter, a Member who arrives at a meeting after the Case Officer has begun his presentation, or leaves the meeting before the vote is taken, should not debate the item, nor vote thereon.
- 7.8 As well as declaring interests (paragraph 2.4), Members will follow the Code of Conduct requirements relating to general behaviour; in particular the requirements to promote equality by not discriminating unlawfully; to treat others with respect; and not to use their position improperly to secure for any person an advantage or disadvantage.

Member Representations on Appeals against Planning Decisions

- 7.9 Where a Member wishes to support the Council, or an appellant, on any appeal against a Council decision on a planning matter, that Member shall as a matter of courtesy give written notice of his/her intention to the Monitoring Officer and the appellant. Where the appeal is to be dealt with at an inquiry, the notice shall be delivered to the Monitoring Officer and the appellant normally not less than five working days before the start of the inquiry.
- 7.10 In deciding whether to make representations on an appeal, Members should consider very carefully beforehand whether there could be any allegation that they are in breach of this Local Code or any other provisions in the Members' Code of Conduct. Members are reminded that their over-riding duty as a Member is to the whole local community.

8. SITE INSPECTIONS

- 8.1 Site visits should only be used where the expected benefit is substantial and the reasons for calling a site visit will be minuted.
- 8.2 A site visit should only be necessary if the impact of the proposed development is difficult to visualise from the plans and supporting material available at the meeting or there is good reason why the comments of the applicant and objectors cannot be expressed adequately in writing or the proposal is particularly contentious.
- 8.3 There shall be no discussion on the merits of a planning application at the site inspection. Site visits shall be unaccompanied except that the Planning Officer shall attend only for the purpose of pointing out important site features and to verify the relevant plans.
- 8.4 No recommendation or decision shall be made at a site inspection.

Informal Site Visits

- 8.5 It is often helpful if Members familiarise themselves with a site before the application is debated by Committee. However, Members should be aware that the Members' Code of Conduct, and this Local Code, apply to them should they become involved in any conversation with a member of the public while visiting a site. Members are reminded that they have no legal right to enter private land without the permission of the owner or occupier. If Members consider a site visit desirable, in accordance with the above criteria, they should notify the Head of Planning and Building Services in writing or e-mail, setting out their reasons.

9. REVIEW OF DECISIONS

- 9.1 The Development Managers will monitor Planning Committee decisions on a continuous basis. If concerns arise relating to decisions made contrary to the officer's recommendation, he/she will report these concerns to the relevant Committee.
- 9.2 The quality of decisions will be monitored through an annual tour of sites by Members.

10. COMPLAINTS AND RECORD KEEPING

- 10.1 In order that any complaints can be fully investigated, record keeping will be complete and accurate. In particular, every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings or significant telephone conversations.
- 10.2 The same principles of good record keeping will be observed in relation to enforcement and Development Plan matters. Monitoring of record keeping will be undertaken on a continuous basis by Managers in the Planning Service.

Part 5

Gifts and Hospitality – A Code of Conduct for Members

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Gifts and Hospitality – A Code of Conduct for Members

The acceptance of gifts and hospitality by Members is not merely an administrative issue. It reflects directly upon the perception of Members and of the Council as acting in the public interest or as acting for the personal advantage of friends or for what personal benefit Members themselves can get out of their position.

The law on the acceptance of gifts and hospitality is set out in the Bribery Act 2010 and other legislation and guidance. These requirements are then supplemented by the procedures which have been adopted by the Council to provide a clear set of rules for the protection of both Members and the Council. Acceptance of a gift or hospitality in breach of the Code, or failure to declare receipt of such a gift or hospitality, can lead to disqualification from holding any public office for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to 7 years' imprisonment.

This Code of Conduct sets out:

- (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality;
- (b) the procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it; and
- (c) the procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the Council.

This Code does not apply to the acceptance of any facilities or hospitality which may be provided by you or by the Council.

1. General Principles

In deciding whether it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles:

- (a) Never accept a gift or hospitality as an inducement or reward for anything you do as a Member.**

As a Member, you must act in the public interest and must not be swayed in the discharge of your duties by the offer or prospect of an offer, of any inducement or reward for discharging those duties in a particular manner.

Under the Bribery Act 2010, a person is guilty of an offence if he/she accepts directly or indirectly a financial or other advantage intending that in consequence a relevant function or activity should be performed improperly.

Further, the Members' Code of Conduct provides that you must act in the public interest, serving the Council and the whole community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code to improperly confer any advantage or disadvantage on any person, including yourself.

(b) You should only accept a gift or hospitality if there is a commensurate benefit to the Council.

The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the Council which would not have been available but for the acceptance of that gift or hospitality.

Acceptance of hospitality can confer an advantage on the Council, such as an opportunity to progress the business of the Council expeditiously through a working lunch, or to canvass the interests of the Council and its area at a meeting. Acceptance of a gift is less likely to confer such an advantage. But unless the benefit to the Council is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.

As set out above, the Council's Code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Member of a gift or hospitality for your own benefit or advantage, rather than for the benefit of the Council, would be a breach of the Code.

(c) Never accept a gift or hospitality if acceptance might be open to misinterpretation.

The appearance of impropriety can be just as damaging to the Council and to you as a Member as actual impropriety. The Council's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the Council favours any particular person, company or section of the community, or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality, or take appropriate steps to ensure that such a misunderstanding cannot arise.

Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:

- (i) Occasions when the Council is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer;
- (ii) Determination of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination;
- (iii) Funding decisions, when the Council is determining a grant application by any person or organisation.

(d) Never accept a gift or hospitality which puts you under an improper obligation.

Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others know that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial

consideration from the Council.

(e) Never solicit a gift or hospitality.

2. Consent Regimes

(a) General consent provisions

For clarity, the Council has agreed that you may accept gifts and hospitality in the following circumstances:

- (i) Civic hospitality provided by another public authority.
- (ii) Modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits.
- (iii) Tickets for sporting, cultural and entertainment events which are sponsored by the Council.
- (iv) Small gifts of low intrinsic value below £25.00, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise.
- (v) A modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party with whom you have done business on behalf of the Council if you meet accidentally in a public house, café or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable.
- (vi) A modest working lunch not exceeding £10.00 a head in the course of a meeting in the offices of a party with whom the Council has an existing business connection where this is required in order to facilitate the conduct of that business. Members should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £10.00 a head.
- (vii) Modest souvenir gifts with a value below £25.00 from another public Council given on the occasion of a visit by or to the Council.
- (viii) Hospitality received in the course of an external visit or meeting which has been duly authorised by the Council. Members should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction to make it clear that any such hospitality for Members and officers is to be no more than commensurate with the nature of the visit.
- (ix) Other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Member deals with the gift strictly in accordance with the following procedure. The Member must, as soon as practicable after the receipt of the gift, pass it to the Mayor's Assistant together with a written statement

identifying the information set out in Paragraphs 2(b) below. The Mayor's Assistant will then write to the person or organisation making the gift thanking them on the Member's behalf for the gift and informing them that it has been donated to the Mayor's Charity Fund, on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Mayor.

(b) Special consent provisions

If you wish to accept any gift or hospitality which is in accordance with the General Principles set out in Paragraph 1, but is not within any of the general consents set out in Paragraph 2(a), you may only do so if you have previously obtained specific consent in accordance with the following procedure.

You must make an application in writing to the Monitoring Officer, setting out:

- (i) the nature and your estimate of the market value of the gift or hospitality;
- (ii) who the invitation or offer has been made by or on behalf of;
- (iii) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the Council in which they have been involved;
- (iv) any work, permission, concession or facility which you are aware of that the person or organisation making the offer or invitation may seek from the Council; and
- (v) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper.

You must not accept the gift or hospitality until you have received the appropriate consent.

The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the Council's accounts for the relevant year. But note that this does not relieve you of the obligation to register the receipt of gifts and hospitality in accordance with paragraph 3, below.

3. Reporting

Where you accept any gift or hospitality which you estimate to have a market value or cost of provision of £25.00 or greater, you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer setting out the information set out in Paragraphs 2(b) above. A form for this purpose is available, but you can send the same information by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the Council's accounts for the year in question.

Even if the value of the gift or hospitality is less than £25.00, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a

contractor or tenderer, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

4. Gifts to the Council

Gifts to the Council may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition; an offer to carry out works; or the sponsorship of a function which is organised or supported by the Council.

You should not solicit any such gift on behalf of the Council except where the Council has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example the sponsorship of public musical and theatrical performances or developers' contributions under Section 106 Agreements. If you receive such an offer on behalf of this Council, you must first consider whether it is appropriate for the Council to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the Council under any improper obligation, whether there is a real benefit to the Council which would outweigh any dis-benefits). If you do not have delegated authority to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the Council. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the Council to accept the gift, you should consult the Monitoring Officer directly.

5. Definitions

- (a) "Gift or hospitality" includes:
 - (i) the free gift of any goods or services;
 - (ii) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public;
 - (iii) the opportunity to obtain any goods or services which are not available to the general public; or
 - (iv) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.
- (b) References to the "value" or "cost" of any gift or hospitality are references to the higher of:
 - (i) your estimate of the cost to the person or organisation of providing the gift or consideration; or
 - (ii) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

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Officers' Code of Conduct

1 Introduction

The public is entitled to expect the highest standards of conduct from all employees who work for local government. This Code of Conduct applies to all employees of Test Valley Borough Council including the Chief Executive, Deputy Chief Executive, as well as direct service organisations, temporary and casual employees, and agency staff.

Employees should behave and conduct themselves with impartiality, honesty, integrity and openness at all times. This Code identifies a range of issues and establishes the standards of conduct expected. Breach of the Code may result in disciplinary action being taken, including dismissal.

This Code is intended to supplement the Council's existing Financial Regulations and Standing Orders.

2 Standards

- 2.1 Local government employees are expected to give the highest possible standard of service to the public, and, where it is part of their duties, to provide appropriate advice to Members and fellow employees with impartiality. Employees must bring to the attention of the appropriate level of management any impropriety, breach of procedure, irregularities relating to income, expenditure, cash, stores or any other resources of the Council. The Deputy Chief Executive/Heads of Service should report such matters to the Monitoring Officer.
- 2.2 The "appropriate manager" will normally be an employee's immediate supervisor or business unit manager. However, in certain circumstances, it may be more appropriate to approach the Head of Service. Depending on the situation, employees may prefer to approach the Chief Executive, the Deputy Chief Executive, the Head of Legal and Democratic Services who is the Council's "Monitoring Officer", the Head of Finance and Revenues, Internal Audit, or the Human Resources Manager, who will ensure that the concern is investigated. Any financial irregularities must be reported to the Head of Finance and Revenues.
- 2.3 The Monitoring Officer is required to report to the Council any acts or omissions by councillors or Officers which constitute or may give rise to a contravention of any enactment, rule of law or statutory code of practice, or maladministration.

3 Disclosure of Information

- 3.1 It is generally accepted that open government is best. The law requires that certain types of information must be available to Members, auditors, government departments, service users and the public. Information which is already available to the general public, such as Committee minutes, information in the budget book, the annual report etc, may be freely disclosed. The disclosure of other information must be referred to a Head of Service, the Deputy Chief or the Chief Executive.

3.2 Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any personal information received by an employee about other employees or Members must be treated as strictly confidential and must not be divulged without the prior approval of the person concerned, except where such disclosure is required or sanctioned by the law.

3.3 Disclosure of computer held information must be in accordance with the Data Protection Act 1998 and any other legislation enacted in this area.

4 Political Neutrality

4.1 Employees serve the Council as a whole. It follows they must serve all Members and not just those of the controlling group.

4.2 Employees may be invited to advise political groups or to address meetings arranged by political parties on local government matters. Before doing so, they must seek permission from the Chief Executive and, if agreed, they must do so in ways which do not compromise their political neutrality.

4.3 The Chief Executive and Deputy Chief Executive are permitted at their discretion to decide whether they or members of their staff should accept invitations to attend public or private meetings in connection with their duties.

4.4 Employees holding politically restricted posts are disqualified, under The Local Government and Housing Act 1989, from membership of any local authority (other than a parish or community council), from being an MP or MEP, and are subject to prescribed restrictions on their political activity. All employees holding a politically restricted post will have been notified, in writing. Any queries should be raised with the Head of Legal and Democratic Services.

4.5 Employees, whether or not politically restricted, must follow every lawfully expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.

5 Relationships

5.1 Members

Close personal familiarity between employees and individual Members can damage working relationships and prove embarrassing to other employees and councillors. Such relationships should be avoided.

5.2 The Local Community and Service Users

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community.

5.3 Contractors

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the Head of Service and recorded in writing. Orders and contracts must be awarded in accordance with the Council's Standing Orders and Financial Regulations.

- 5.4 Employees who engage, supervise or have any other official relationship with contractors must notify their Head of Service in writing of any relationships of a private or domestic nature which they or their immediate family have, or have had previously, with those contractors.

6 Appointment and Other Employment Matters

- 6.1 Employees involved in appointments should ensure that these are made on the basis of merit. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to, or have a close personal relationship outside work with, an applicant.
- 6.2 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close friend or where such decisions could reasonably be seen as being influenced by their relationship with that employee or his/her immediate family.

7 Outside Commitments

- 7.1 Employees are not permitted to engage in additional employment which could conflict with or react detrimentally to the Council's interests or in any way weaken public confidence in the conduct of the Council's business. The prior written permission of the appropriate Head of Service must, therefore, be obtained before engaging in other employment.
- 7.2 Intellectual property which includes inventions, creative writings and drawings originated by employees in connection with their duties or any activities by the Council, whether during their own time or work time, using their own or Council resources, are the property of the Council.

8 Personal Interests

Employees must declare, in writing, to their supervisor or business unit manager any financial or non-financial interests which could conflict with, or could be viewed by others as conflicting with, the Authority's interests. This would include, for example, membership of organisations the membership of which is not freely available to the general public.

9 Equality Issues

All employees must ensure that the Council's policies relating to equality issues are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

10 Separation of Roles During Tendering

- 10.1 The tendering process must be open and above board. During certain parts of the competition process, particularly the evaluation of tenders, there must be a clear separation of client and contractor roles. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 10.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 10.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors must not disclose that information to any unauthorised party or organisation.
- 10.4 Employees contemplating a management buy-out must, as soon as they have formed a definite intent, inform the appropriate Chief Executive and Deputy Chief Executive and withdraw from the contract awarding processes.
- 10.5 Employees must ensure that no special favour is shown to current or former employees or their partners, close relatives or associates, in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.
- 10.6 Employees are required to register with the Head of Legal and Democratic Services any pecuniary interest in a Council contract, whether direct or indirect.

11 Corruption

It is a serious criminal offence to corruptly receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity.

12 Use of Financial Resources

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner and in accordance with the Council's Financial Regulations. They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

13 Gifts and Hospitality

- 13.1 In common with all public servants, employees of Test Valley Borough Council must exercise extreme caution about accepting gifts and hospitality. Section 117 of the Local Government Act 1972 forbids officers, by virtue of their employment, from accepting any fee or reward other than their proper remuneration. Gifts and hospitality must not be accepted where the intention is, or may reasonably be interpreted by others to be, to influence an officer in his/her dealings with an organisation or persons.
- 13.2 Officers must at all times be open about offers of gifts and hospitality received. Where the value of an offer is estimated to exceed £10, approval from the Head of Service concerned or the Monitoring Officer in the case the Chief Executive or

Deputy Chief Executive must be sought prior to acceptance and such gifts must be recorded in the Service's Register. Acceptable gifts would tend to be of low value and for business use or of a promotional nature. Hospitality received must not be extravagant, for example a lunch or dinner may be acceptable but a paid holiday would not.

- 13.3 When receiving authorised hospitality, employees should be particularly sensitive as to its timing in relation to decisions which the Council may be taking affecting those providing the hospitality.

14 Sponsorship - Giving and Receiving

- 14.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 14.2 Where the Council wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to the appropriate manager of any such interest. Similarly, where the Authority, through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

15 Planning Matters

The Member and Officer Interests Protocol places an obligation on employees, namely the Chief Executive, Deputy Chief Executive, Heads of Service, and Officers employed in the Planning and Building Service, Property and Asset Management Service, and the Planning Policy team, together with any other Officer who advises on planning matters, about planning matters currently before the Council. Any relevant employee as defined above who has an interest in any planning matter, whether as an applicant, as a directly interested party, or as a close relative of either, must disclose that interest to the Head of Planning and Building Services immediately. When such an interest is declared in relation to a planning application, that planning application will be dealt with by the appropriate Development Control Committee, and not by the Head of the Planning and Building Service under delegated powers.

16 Implementation

- 16.1 Concerns raised under this Code by employees will be treated seriously and sensitively. Where anonymity is requested every effort will be made to meet that request, however, it may not always be possible. If an allegation is found to be frivolous or malicious action may be taken against the individual concerned under the disciplinary procedure.
- 16.2 Employees who contravene this Code or other regulations, procedures, legislation etc may be subject to disciplinary action which could result in dismissal and, in certain cases, to legal action.

Part 5

Confidential Reporting Code for Employees

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Confidential Reporting Code for Employees

1. Preamble

- 1.1 Employees are often the first to realise that there may be something seriously wrong within an organisation. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the organisation. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 1.2 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.3 This policy document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. *This Confidential Reporting policy is intended to encourage and enable employees to raise serious concerns **within** the Council rather than overlooking a problem or 'blowing the whistle' outside.*
- 1.4 This policy applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders, drivers, and suppliers.
- 1.5 These procedures are in addition to the Council's Complaints Procedure, and other statutory reporting procedures applying to some departments. You are responsible for making service contractors aware of the existence of these procedures.
- 1.6 This policy has been discussed with the relevant trade unions and professional organisations and has their support.

2. Aims and scope of this Policy

- 2.1 This policy aims to:
 - (a) encourage you to feel confident in raising serious concerns and to question and act upon concerns about practices;
 - (b) provide avenues for you to raise those concerns and receive feedback on any action taken;
 - (c) ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied; and
 - (d) reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.
- 2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment e.g. the Grievance and Resolution Policy and the Dignity at Work Policy. This policy is intended to cover major concerns that fall outside the scope of other procedures. These include:

- (a) conduct which is an offence or a breach of law;
- (b) disclosures related to miscarriages of justice;
- (c) health and safety risks, including risks to the public as well as other employees;
- (d) damage to the environment ;
- (e) the unauthorised use of public funds;
- (f) possible fraud and corruption;
- (g) sexual or physical abuse of clients; or
- (h) other unethical conduct.

2.3 Thus, any serious concerns that you have about any aspect of service provision or the conduct of Officers or Members of the Council or others acting on behalf of the Council can be reported under this policy. This may be about something that:

- (a) makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to;
- (b) is against the Council's Standing Orders and policies;
- (c) falls below established standards of practice; or
- (d) amounts to improper conduct.

2.4 This policy does **not** replace the corporate Complaints Procedure.

3. **Safeguards**

Harassment or Victimisation

- 3.1 The Council is committed to good practice and high standards and wants to be supportive of employees.
- 3.2 The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is true, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.
- 3.3 The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith.
- 3.4 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

4. **Confidentiality**

- 4.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness.

5. Anonymous allegations

- 5.1 This policy encourages you to put your name to your allegation whenever possible.
- 5.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.
- 5.3 In exercising this discretion the factors to be taken into account would include:
 - (a) the seriousness of the issues raised;
 - (b) the credibility of the concern; and
 - (c) the likelihood of confirming the allegation from attributable sources.

6. Untrue allegations

- 6.1 If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

7. How to raise a concern

- 7.1 As a first step, you should normally raise concerns with your immediate manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved, you should approach the Chief Executive, Deputy Chief Executive, the Monitoring Officer, or Internal Audit.
- 7.2 Concerns may be raised verbally or in writing. Staff who wish to make a written report are invited to use the following format:
 - (a) the background and history of the concern (giving relevant dates); and
 - (b) the reason why you are particularly concerned about the situation.
- 7.3 The earlier you express the concern the easier it is to take action.
- 7.4 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 7.5 Advice/guidance on how to pursue matters of concern may be obtained from the Chief Executive, Deputy Chief Executive, the Monitoring Officer, Head of Finance and Revenues, Human Resources Manager, Internal Audit Partnership Manager or Senior Auditor.
- 7.6 You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.
- 7.7 You may invite your trade union, professional association representative or a work colleague to be present during any meetings or interviews in connection with the concerns you have raised.

8. How the Council will respond

- 8.1 The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.
- 8.2 Where appropriate, the matters raised may:
- (a) be investigated by management, internal audit, or through the disciplinary process;
 - (b) be referred to the police;
 - (c) be referred to the external auditor; or
 - (d) form the subject of an independent inquiry.
- 8.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example grievance and dignity at work issues) will normally be referred for consideration under those procedures.
- 8.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 8.5 Within 10 working days of a concern being raised, the Monitoring Officer will write to you:
- (a) acknowledging that the concern has been received;
 - (b) indicating how we propose to deal with the matter;
 - (c) giving an estimate of how long it will take to provide a final response;
 - (d) telling you whether any initial enquiries have been made;
 - (e) supplying you with information on staff support mechanisms; and
 - (f) telling you whether further investigations will take place, and if not, why not.
- 8.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.
- 8.7 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a trade union, professional association representative or a work colleague.
- 8.8 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the Council will arrange for you to receive advice about the procedure.

- 8.9 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

9. The Responsible Officer

- 9.1 The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

10. How the Matter can be taken further

- 10.1 This policy is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:
- (a) the external auditor;
 - (b) your trade union;
 - (c) your local Citizens' Advice Bureau;
 - (d) relevant professional bodies or regulatory organisations;
 - (e) a relevant voluntary organisation; or
 - (f) the police.
- 10.2 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the contact point about that.

Part 5

Protocol for Member and Officer Relations

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The Role of Members

The Role of Officers

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Protocol for Member and Officer Relations

1. Introduction

- 1.1 The purpose of this Protocol is to guide Members and officers of the Council in their relations with one another in a way that promotes openness and propriety and secures impartiality in the provision of officer advice and the management of services.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues that most commonly arise. It is hoped, however, that the approach that it adopts to these issues will serve as a guide to dealing with other circumstances.
- 1.3 The Protocol should be read in conjunction with the Members' and Officers' Codes of Conduct, the Council's Constitution, and any guidance issued by the General Purposes Employment Appeals & Ethics Sub-Committee and/or Monitoring Officer.

2. The Role of Officers and Members in general

- 2.1 Members and officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. As employees of the Council, the Chief Executive, Deputy Chief Executive, Heads of Service and other senior officers have overriding responsibility to the Council as a whole and not to any party political group. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council, its Cabinet, Committees and Sub-Committees.
- 2.2 It is the duty of the Chief Executive, Deputy Chief Executive, Heads of Service and other senior officers to arrange matters so that their employees properly understand the roles of Members and officers and the relations between them.

3. The Role of Members

- 3.1 Members have a number of roles and need to be alert to the potential for conflicts of interest that may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.
- 3.2 Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the Council's Policy Framework, strategic plans and budget.
- 3.3 Members represent the community, act as community leaders, and promote the social, economic and environmental well-being of the community, often in partnership with other agencies.
- 3.4 Every elected Member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.

- 3.5 Some Members have roles relating to their position as members of the Cabinet, the Overview and Scrutiny Committee, or other Committees and Sub-Committees of the Council.
- 3.6 The Leader, Deputy Leader and Portfolio Holders have individual delegated powers. They may determine matters within their Portfolios but implementation of their decisions is the responsibility of officers.
- 3.7 As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.
- 3.8 Members are not authorised to instruct officers other than:
 - (a) through the formal decision-making process;
 - (b) to request the provision of consumable resources provided by the Council for Members' use; or
 - (c) where staff have been specifically allocated to give support to a Member or group of Members.
- 3.9 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
- 3.10 Members must avoid taking actions that are unlawful, financially improper or likely to amount to maladministration. Members also have an obligation under their Code of Conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the designated S151 Finance Officer.
- 3.11 Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.

4. **The Role of Officers**

- 4.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.
- 4.2 Under the direction and control of the Council (including, as appropriate, the Cabinet, Committees and Sub-Committees), officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 4.3 Officers have a duty to implement decisions of the Council, the Cabinet, Committees and Sub-Committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's Constitution.
- 4.4 Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
- 4.5 Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.

- 4.6 Officers must be alert to issues that are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
- 4.7 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on officers' involvement in political activities.

5. The Relationship between Members and Officers: General

- 5.1 The conduct of Members and officers should be such as to instil mutual confidence and trust. The key elements are recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 5.2 Informal and collaborative two-way contact between Members and officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection.
- 5.3 Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.
- 5.4 It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Member should not sit on a body or participate in any decision that directly affects the officer on a personal basis.
- 5.5 All Members of the Council have a right of access to the Chief Executive, Deputy Chief Executive, Heads of Service and other senior officers for information, consultation, advice or service requests. Where a Member requires information, it will be provided if it is readily available, for example, in Committee reports, background papers or material published on behalf of the Council. The Chief Executive, Deputy Chief Executive and Heads of Service are free to give advice on a confidential basis about procedural matters or any other issue concerning the workings of the Council to any Member.
- 5.6 Members and officers need to respect each others' roles and duties. The Chief Executive and other officers are responsible for day-to-day management and operational decisions in which it is not appropriate for Members to intervene.
- 5.7 Because the Chief Executive, Deputy Chief Executive and Heads of Service are employees of the whole Council, they are unable to take instructions from individual Members. Naturally, however, all officers will treat Member requests for information, consultation or service very seriously. Such requests will be accommodated wherever possible by the normal operation of officer discretion and delegated authority but in some cases it may be impossible or inadvisable to comply. In such circumstances it may be necessary for the matter to be the subject of consultation with the Leader, Deputy Leader, Portfolio Holder or a Chairman of a Committee. The Member making the original request will be informed and given an opportunity to amend or withdraw his/her proposal before such a consultation takes place.

- 5.8 Should a request by a Member for information, consultation or a particular service not be accepted by the officer concerned, the officer shall explain the reasons. If dissatisfied, the Member will have the right to request that the officer seeks the instructions of the Leader, Deputy Leader, Portfolio Holder or a Chairman or a Committee on this matter.
- 5.9 Officers work to the instructions of their senior officers, not individual Members. It follows that, whilst such officers will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given by their senior officers. Except when the purpose of an enquiry is purely to seek factual information, Members should normally direct their requests and concerns to a Senior Officer, at least in the first instance.
- 5.10 Officers will do their best to give timely responses to Members' enquiries. However, officers should not have unreasonable requests placed on them. Their work priorities are set and managed by senior officers. Members should avoid disrupting officers' work by imposing their own priorities.
- 5.11 Members will endeavour to give timely responses to enquiries from officers.
- 5.12 Members and officers should respect each other's free (i.e. non-Council) time.

6. Cabinet Members, Chairmen and Officers

- 6.1 The Chief Executive, Deputy Chief Executive and Heads of Service are nevertheless expected to work closely with the Leader, Deputy Leader, Portfolio Holders and Chairmen of Committees, which will involve the frequent provision of information, assistance, and advice to the majority political group. However this should never be allowed to bring into question the officers' ability to deal impartially with other Members and other party groups, nor to undermine public trust and confidence in the Council.
- 6.2 Subject to maintaining their position as politically neutral, the Chief Executive, Deputy Chief Executive and Heads of service will provide support to and may develop a close working relationship with the leadership of the majority group and will not without consent disclose to any minority group any matters disclosed by that leadership.
- 6.3 Similarly, the Chief Executive, Deputy Chief Executive, Heads of Service and other senior officers will provide support to, and may develop a close working relationship with, the leadership of any minority group and will not without consent disclose to any other political group any matters disclosed by that leadership.
- 6.4 Whilst the Leader, Deputy Leader, Portfolio Holders and Chairmen will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an officer will be under a professional duty to submit a report. Similarly, a Head of Service or other senior officer will always be fully responsible for the contents of any report submitted in his/her name.

- 6.5 If a report is written in an officer's name, it remains the officer's report and, even if a Member is unhappy with its contents, it should not be amended other than with the express approval of the Chief Executive, Deputy Chief Executive or Head of Service. Where a Portfolio Holder wishes to suggest an alternative course of action to that proposed by the officer, then the officer's report will reflect that position as an alternative option albeit not one recommended by the officer. Members should not interfere with the day-to-day work of Heads of Service and their staff.
- 6.6 In relation to action between meetings, it is important to remember that the law only allows for decisions (relating to the discharge of any of the Council's functions) to be taken by the Leader, Deputy Leader, Portfolio Holder, the Cabinet, a Committee, a Sub-Committee or an officer. The law does not allow for such decisions to be taken by a Chairman of a Committee or the Mayor or indeed by any other single Member.
- 6.7 Decisions taken by Portfolio Holders give rise to legal and financial obligations in the same way as decisions taken collectively. Therefore, Portfolio Holders should always be aware of legal and financial liabilities that will arise from their decisions.
- 7. Overview and Scrutiny Members and Officers**
- 7.1 The Chairman and other leading Overview and Scrutiny members shall maintain regular contact with the officer(s) providing the principal support to the Overview and Scrutiny function. In consultation with the Chairman, it shall be the responsibility of the latter to ensure that those who need to know of matters being considered or for possible future consideration are so informed.
- 7.2 The Overview and Scrutiny Committee or its Chairman acting on its behalf may require officers to attend Overview and Scrutiny meetings. Members should not normally expect junior officers to give evidence. All requests should be made to Senior Officers in the first instance.
- 7.3 When making requests for officer attendance, Overview and Scrutiny members shall have regard to the workload of officers.
- 7.4 It is recognised that officers who are required to appear before the Overview and Scrutiny Committee may often be those who have advised the Cabinet or another part of the Council on the matter under investigation. Where this is the case, there may be circumstances where it is considered appropriate for research and advice to be sought elsewhere – from other Council officers or externally.
- 7.5 Subject to the above, officers should be prepared to justify advice given to the Council, the Cabinet, or other Committees and Sub-Committees even when the advice was not accepted.
- 7.6 Officers must also be prepared to justify decisions they have taken under delegated powers.
- 7.7 In giving evidence, officers must not be asked to give political views.

- 7.8 Officers should respect Members in the way they respond to Members' questions.
- 7.9 Members should not question officers in a way that could be interpreted as harassment. Neither should they ask about matters of a disciplinary nature.
- 7.10 Overview and Scrutiny proceedings must not be used to question the capability or competence of officers. Chairmen and members need to make a distinction between reviewing the policies and performance of the Council and its services, and appraising the personal performance of staff. The latter is not an Overview and Scrutiny function.
- 7.11 Members and officers need to respect each others' roles and duties. The Chief Executive and other officers are responsible for day-to-day management and operational decisions in which it is not appropriate for Members to intervene.
- 7.12 In exercising the right to call-in a decision of the Cabinet, Overview and Scrutiny members are advised to seek officer advice if they consider the decision is contrary to the Council's approved plans, policies or frameworks, or is unlawful.

8. Party groups and Officers

- 8.1 Senior officers may be asked to contribute to deliberations on matters concerning Council business.
- 8.2 Officers have the right to refuse such requests, and will normally not attend a meeting of a party group where some of those attending are not Members of the Council.
- 8.3 Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed. It is however recognised that staff of Democratic Services provide clerical support to the party groups.
- 8.4 Party group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal decisions. The presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.
- 8.5 Where officers provide factual information and advice to a party group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.
- 8.6 It must not be assumed that an officer is supportive of a particular policy or view considered at a party group meeting simply because he/she has attended or provided information to the meeting.
- 8.7 Officers will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions to another party group or to any other members. This shall not prevent an officer providing feedback to other senior officers on a need-to-know basis.

- 8.8 In their dealings with party groups, officers must treat each group in a fair and even-handed manner.
- 8.9 Members must not do anything which compromises or is likely to compromise officers' impartiality. They should not be asked to play any role or undertake any task which is likely to prejudice that neutrality, or make it difficult for them to serve a different majority political party at some future time in the life of the authority.
- 8.10 The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.
- 8.11 An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each.
- 8.12 An officer who is not a senior Officer shall not be invited to attend a party group meeting, but a senior Officer may nominate another officer to attend on his/her behalf.
- 8.13 An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.
- 8.14 No Member will refer in public or at meetings of the Council to advice or information given by officers to a party group meeting.
- 8.15 At party group meetings where some of those present are not Members of the Council, care must be taken **not** to divulge **confidential** information relating to Council business. Persons who are not Members are not bound by the Members' Code of Conduct. They do not have the same rights to Council information as Members.
- 8.16 Any particular cases of difficulty or uncertainty in relation to this part of the protocol should be raised with the Chief Executive and the relevant party group leader.

9. Support Services for Members

- 9.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photo-copying, transport etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

10. Meetings

- 10.1 When presenting reports to a Committee, officers should assume that Members have had sufficient time to consider the written material and will therefore keep their presentation short and to the point, focusing on the determining issues only and the recommendation. Officers have a duty to answer questions at the Cabinet or Committee and to advise Members on the implications of any particular actions, including the consequences of not accepting the officer recommendation.

10.2 At the Cabinet and in Committee, Members will naturally consider the advice of officers both in the main report and on any matter arising out of debate but it is, ultimately, the responsibility of Members to formulate a decision, having regard to the advice provided and any other considerations material to the issue. Once a lawful decision has been taken – irrespective of whether it supports the officer recommendation or not – it is the duty of officers to: assist Members in articulating that decision (planning grounds of refusal, for example); treat that decision as an instruction; give it their full support; and, implement it accordingly. It is also the duty of officers to promote and defend such decisions as the policy and proper action of the Council through all forms of media.

10.3 Officers will make themselves available for a Member level briefing before the report goes to Cabinet or the relevant Committee.

11. Involvement of Ward Members

11.1 Ward Members should be kept informed and consulted on relevant matters affecting their ward, i.e. on planning, licensing and other relevant matters. In the case of public meetings in a particular locality, the Ward Member will normally be invited to attend and could normally expect to be consulted on any form of consultative exercise on local issues.

11.2 Whenever a Member is invited to attend such a meeting, or any seminar, or conference or any ceremonial event, the Member will, at the same time, be informed as to whether they are entitled to claim any travelling or subsistence allowance.

11.3 So far as decision-making is concerned, a Member remains accountable to the whole electorate and must make a personal decision on matters. Members need to balance the interests of the electorate as a whole, including those members of the public who did not vote for them.

11.4 Members should also be mindful of the Local Code for Members and Officers dealing with Planning Matters.

12. Correspondence

12.1 Official letters from the Council on day-to-day matters should normally be sent out in the name of the appropriate officer rather than a Member. It may not be appropriate in certain circumstances (e.g. representations to a Government Minister, or where the Leader and Portfolio Holders are responding to letters specifically addressed to them); however this would be the exception rather than the norm. Letters that create obligations or give instructions should not be sent out in the name of a Member.

13. Members' Access to Documents and Information

13.1 The rights of access to information by Members is a complex mix of legislation available to Members and the public alike, legislation specific to local government and "common law rights" given to Members by the Courts. The information set out below is a summary and further details can be obtained from the Head of Legal and Democratic Services.

13.2 For general rights of access available to the public, see Part 4 'Access to Information Procedure Rules'.

13.3 The law relevant to access to information by Members includes the following:

- (a) **The Freedom of Information Act 2000** (FOIA). This makes non-personal information freely available to all, with only limited exceptions. The Council's Publication Scheme sets out most of the Council's published material and can be located on the Council's website. If the information required is in the Scheme it can be accessed without any further reference to the Council. There are some exemptions and full details can be obtained from the Head of Legal and Democratic Services.

In the event the information required cannot be accessed via the Publication Scheme the following provisions need to be considered.

- (b) **The Data Protection Act 1998** (DPA). This relates to personal information, and generally makes this non-disclosable except in certain circumstances. Therefore if the information required relates to an identified living individual the DPA applies.

Members have the same rights as Council employees to access personal information.

The Council has a duty to ensure that personal information disclosed to Members using the above procedures is used strictly for the purposes for which it is disclosed and that Members will keep the information secure and confidential (and then dispose of in a similarly careful manner). Officers will automatically assume that Members will treat personal information in this way.

- (c) **Access to Information provisions of the Local Government Act 1972**, as amended. This gives the public access to Committee Minutes and Agendas, and to background material relevant to those documents.

The recent amendments to these provisions now require a public interest test to be applied before reaching a decision as to whether information remains confidential. This is as a result of the FOIA.

Full details of these provisions are set out in Part 4 'Access to Information Procedure Rules'.

- (d) **"Common Law Rights"** (derived from Court judgements) give Members the right to inspect Council documents insofar as this is reasonably necessary to enable a Member to perform his/her duties as a Member – this is known as the "need to know" basis.

13.4 Some general points regarding access to information:

- (a) Members do not have any right to "a roving commission" through Council documents – mere curiosity is not sufficient.
- (b) Material from Legal Services (where Legal Services is providing legal advice to one of its in-house clients at the Council) may be non-disclosable due to legal professional privilege.
- (c) Information supplied under the DPA must not be used or disclosed for political purposes.

- (d) Requests for information under the control of officers should normally be made to the relevant Head of Service.
- (e) Requests for information under the control of the Leader and Cabinet should normally be made to the Leader and/or the relevant Portfolio Holder.
- (f) Members must not put undue pressure on officers to release information to which the Member is not entitled to have access.
- (g) Should a Head of Service need advice as to whether information can be released to a Member, he/she should contact the Head of Legal and Democratic Services and/or the Data Protection Administrator.
- (h) Once a matter has reached the stage where it is before the Cabinet or a Committee, then members of the Cabinet or that Committee will have a “need to know” all relevant information; and other Members are able to use the usual Access to Information provisions.
- (i) The additional access to information rights given to Members are to allow them to do their jobs as Members. Confidential or exempt information should only be used in appropriate circumstances, in accordance with the proper performance of their duties as Members. Information should only be passed between Members if both Members can demonstrate a “need to know”.
- (j) Any complaints by a Member about the non-disclosure of information should be made in writing to the Chief Executive (or, in his/her absence, Deputy Chief Executive) whose decision (after advice has been taken from both the Head of Legal and Democratic Services and also from the Head of Service concerned) shall be final as far as the Council is concerned.
- (k) However, if the Member remains dissatisfied, the Member can refer the matter to the Information Commissioner.

14. Complaints

14.1 If a Member is dissatisfied with the conduct of an officer, the procedure below should be followed:

- (a) The matter should be raised in the first instance, in confidence, by the Member with the officer’s Head of Service, Chief Executive/Deputy Chief Executive who will carry out an investigation. If it is found that there is no case to answer then the Member and officer will be informed accordingly.
- (b) If it is found that there is a case to answer, depending on the nature of the allegation, the Head of Service/Chief Executive/Deputy Chief Executive may decide that the matter can be dealt with by an informal reprimand or counselling when the required standard will be emphasised. This will be undertaken on a one to one basis within ten working days of receiving the complaint and will not form part of the disciplinary procedure. The Head of Service/Chief Executive/Deputy Chief Executive will confirm to the Member concerned that appropriate action has been taken.

- (c) Where such informal action has been ineffective or is considered inappropriate, formal action will be taken by management in accordance with the Council's Disciplinary Procedure.

The Member making the allegation will be interviewed as part of the investigation and will be required to put their allegation in writing to the investigating officer. The Member may also be required to attend a disciplinary hearing as a witness.

Following the disciplinary hearing, the Member will be informed, in general terms and on a confidential basis, of the action taken against the officer. The decision of the manager hearing the case is final and the Member will have no recourse to further action unless the misconduct continues. In such cases the matter should be referred again to the appropriate Head of Service/ Chief Executive/Deputy Chief Executive.

The officer concerned has the right of appeal against the disciplinary action. If an appeal hearing is to be held, the Member may be required to attend as a witness.

- (d) During the process Members should:
- (i) avoid personal attacks on or abuse of the officer at all times;
 - (ii) ensure that their allegations are well founded and constructive;
 - (iii) never criticise the officer in public; and
 - (iv) treat the process of resolving the matter as confidential.
- (i) The Head of Service/Deputy Chief Executive will brief the Chief Executive of action taken pursuant to paragraph (b) or (c) and the Chief Executive will in turn brief the Leader of the Council or the Leader of the Minority Group as appropriate.

14.2 A complaint by an officer against a Member should be made as follows:

- (a) Informal Discussion.
- (i) The matter should be raised in the first instance with the appropriate Head of Service/Chief Executive/Deputy Chief Executive.
 - (ii) The Head of Service/Deputy Chief Executive and the officer will discuss the issue with the Chief Executive. An employee may be accompanied by a work colleague or a Trade Union representative.
 - (iii) The Chief Executive will discuss the matter with the appropriate Group Leader. Every attempt will be made to resolve the matter satisfactorily on an informal basis within ten working days.
 - (iv) The Chief Executive will inform the Head of Service/Deputy Chief Executive and officer of the outcome.
 - (v) If the matter is not dealt with to the satisfaction of the officer then the formal procedure should be entered into.

(b) Formal – Stage 1.

- (i) If the matter has not been resolved through informal discussion, the officer should raise the matter with their Head of Service/Chief Executive/Deputy Chief Executive in writing on the form provided.
- (ii) The form will then be passed to the Chief Executive who will discuss it with the Leader of the Council and the appropriate Group Leader and arrangements will be made to hold a hearing with the Chief Executive, Group Leader, the Member concerned and their representative (who must be a Member of the Council, no other representative will be permitted) and the officer concerned (who may be accompanied by a work colleague or a Trade Union representative).
- (iii) The Chief Executive will give a confidential briefing on the matter to the Leader of the Minority Group in the event that he/she is not involved in the process.
- (iv) The hearing will be conducted in accordance with the Council's Grievance and Resolution Policy.
- (v) Advisers to the Chief Executive/Group Leader will attend as appropriate.

NB: Implementation of Stage 1 above will be dependent on the Member concerned being willing to co-operate under the procedure.

(c) Formal – Stage 2.

- (i) If the matter has not been resolved at Stage 1 it will be open to the officer to make a formal complaint to the General Purposes Employment Appeals and Ethics Sub-Committee. Advice on how to do this will be provided by the Council's Monitoring Officer.

14.3 Officers should avoid making personal attacks on Members, and vice versa. Both officers and Members should ensure that they demonstrate respect for each other.

15. Council Press Releases

15.1 Officers and Members are reminded of the need to comply with the requirements of the Local Government Act 1986 and the Code of Recommended Practice on Local Authority Publicity (which prohibit authorities from publishing any material which appears to be designed to effect public support for a political party). Publicity should not be used as a means to publicise individual Members, except where they are acting to represent the Council as a whole.

16. Ceremonial events

16.1 The Mayor, or in his/her absence the Deputy Mayor, will be the appropriate person to lead Council ceremonial events, which are of particular significance or are not specifically associated with a particular Portfolio or Committee. Similarly, the Mayor, or in his/her absence the Deputy Mayor, will be the appropriate person to represent the Council at ceremonial events of other organisations, which are not specifically associated with a Portfolio or a particular Committee.

- 16.2 Subject to the above, the Leader, Deputy Leader and Portfolio Holders are the appropriate representatives for ceremonial events within the scope of their Portfolios. Where the Leader, Deputy Leader or a Portfolio Holder, will not be available, they may nominate another Member.
- 16.3 Any Member 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 Member is representing the Council as a whole.
- 17. Non-Adherence to the Protocol**
- 17.1 Serious breaches of this protocol by officers should be dealt with under the Council's disciplinary procedures. Breaches by Members may be referred to the relevant Group Leader for consideration and should also be reported to the Chief Executive and the Monitoring Officer.

Part 5

Member and Officer Interests Protocol

[Planning Matters](#)

[Contractual Matters](#)

Member and Officer Interests Protocol

The protocol is intended to supplement the Members' and Officers' Codes of Conduct, and the Local Code for Members and Officers dealing with Planning Matters. It sets out the procedure to be followed in circumstances where a Member of the Council or a relevant officer, namely Chief Executive, Deputy Chief Executive, Head of Service, Officer employed in the Planning and Building Service, the Planning Policy team, or the Property and Asset Management Service or any other Officer who advises on planning matters, has an interest in any planning matter, or has an interest in a contractual matter.

For the purposes of this protocol in relation to a Member of the Council, an interest means an interest as defined in the Members' Code of Conduct; and in relation to an Officer of the Council, an interest means an interest as defined in paragraphs 5.3, 5.4 and 15 of the Officers' Code of Conduct.

Planning Matters:

1. A Member of the Council or an officer (as defined above) who has an interest in any planning matter must immediately inform the Head of Planning & Building Services of that interest, in writing, which includes electronic communication.
2. The Head of Planning and Building Services will report planning applications in which a written notification as set out in 1 above has been received to the appropriate Committee for determination. The report will identify the reason for the report to the Committee as a Member or Officer interest.

Contractual Matters:

1. An Officer who has an interest relating to a contractual matter, a contractor or potential contractor must immediately inform his/her Head of Service, in writing.
2. The Head of Service shall ensure that the Officer with such an interest has no dealings with the matter or the contractor or potential contractor.

A breach of this protocol may result in disciplinary action (officers) or referral to the General Purposes Employment Appeals and Ethics Sub-Committee (Members).

Part 5

Councillor Call for Action Protocol

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Councillor Call for Action Protocol

1. Introduction

The “Councillor Call for Action” (CCfA) was introduced under Section 119 of the Local Government and Public Involvement in Health Act 2007 (the Act).

The Act enables any Councillor to refer to an Overview and Scrutiny Committee any local government matter or any crime and disorder matter (see appendix 2). The Overview and Scrutiny Procedure Rules in Part 4 already provide the opportunity for any Councillor to raise an item at a meeting of the Overview and Scrutiny Committee by sending a written request to the Democratic Services Manager, who will ensure that the item is placed on a future agenda for consideration by the Committee.

A Councillor can refer a matter even if no citizen has asked him/her to consider it, and there is no requirement for councillors in multi-member wards to agree – any of them can refer a matter.

2. Limitations

It is important to recognise that CCfA is not guaranteed to solve a given issue. CCfA provides a method for discussing such issues and, through discussion, trying to overcome them.

3. Issues excluded from referral as a CCfA

The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008 excludes the following matters from referral as a CCfA:

- (a) Individual complaints concerning personal grievances or commercial issues;
- (b) Any matter relating to an individual or entity where there is already a statutory right to review or appeal (other than the right to complain to the Local Government Ombudsman), for example:
 - Planning and licensing applications and appeals;
 - Council Tax/Housing Benefits complaints and queries;
 - Issues currently under dispute in a court of law.
- (c) Any matter which is vexatious, discriminatory or not reasonable (see Appendix 2 for definitions) to be included on the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee.

4. CCfA referrals should not contain:

- (a) offensive, intemperate, inflammatory, sarcastic or provocative language or language to which those reading could reasonably take offence;
- (b) false or defamatory statements;

- (c) information which is protected by an interdict or court order;
- (d) commercially sensitive or confidential material; or
- (e) the name of individuals, or information whereby they may be easily identified, in relation to criminal accusations.

The Democratic Services Manager, in consultation with the Chairman, will assess an issue to ensure that it is not a matter excluded from referral to Overview and Scrutiny.

5. Key Points on CCfA referrals:

- (a) CCfA should be submitted in good faith and be decent, honest and respectful.
- (b) CCfA will be rejected if defamatory, frivolous or offensive.
- (c) During politically sensitive periods, such as before an election, politically controversial material will be restricted.
- (d) CCfA which do not follow these guidelines will be considered inadmissible, in which case the Councillor will be informed in writing of the reasons why.
- (e) CCfA which are the same or substantially similar and which are lodged by or on behalf of the same person or organisation will be considered inadmissible unless more than a year has passed since the original CCfA was considered by the Overview and Scrutiny Committee. Advice on admissibility can be obtained from the Democratic Services Manager, whose contact details are provided on the website. In cases of dispute, the Overview and Scrutiny Committee shall decide whether a petition is admissible.

A referral, provided it is not an excluded matter (see above), will ensure that the matter is included on the agenda of the Overview and Scrutiny Committee. It is then up to the Members of the Committee to decide whether or not to take the matter further.

6. Steps to be taken prior to making a Councillor Call for Action referral

Prior to a Councillor referring a matter as a CCfA, a Councillor **must** have tried to resolve the issue/problem themselves, using all mechanisms and resources available to them at ward level. Councillors should:

- (a) If a local crime and disorder matter, raise the issue through the Test Valley Partnership to find a way to resolve the issue. For further details contact the Council's Community Engagement Manager – Community Safety.
- (b) Ensure that all relevant partner organisations have been informed of the issue and given enough time to resolve it, for example through formal letters written on behalf of constituents, discussion at public meetings, petitions, or communication with local MPs.
- (c) Ensure that all relevant internal potential routes to solution have been followed, for example informal discussions with Officers and/or Members.

- (d) Ensure that this is not an issue that is currently being or should be pursued via the Council's Complaints Procedure.

7. How to make a Councillor Call for Action referral

If the issue/problem is still not resolved, a Councillor can refer it as a "Councillor Call for Action".

- (a) Complete a CCfA Request Form, outlining what the issue is and what steps have been taken towards a resolution..
- (b) The Democratic Services Section will receive the referral form, log it to track its progress, and the Democratic Services Manager, in consultation with the Chairman, will assess the issue to ensure that it is not a matter excluded from referral to scrutiny.
- (c) The Democratic Services Manager will inform the Chairman of the Overview and Scrutiny Committee, the Leader and the Chief Executive that the item will be included on the next Committee agenda.
- (d) The Councillor submitting the CCfA will be invited to attend the meeting of the Overview and Scrutiny Committee to speak in connection with the issue.

A successful referral will ensure that the CCfA will be placed on the next agenda of the Overview and Scrutiny Committee. The Committee will then decide whether or not to take the matter further.

A summary of the CCfA process is attached at Appendix 1.

8. Decision of the Overview and Scrutiny Committee whether to take the matter further

In deciding whether or not to take the matter further, the Committee will consider:

- Anything that the Councillor has done in relation to this matter; and
- Representations made by the Councillor as to why the Committee should take the matter up. *This information will need to take account of the disclosures of exempt information as detailed in the Access to Information Procedure Rules in Part 4.*

The criteria the Committee will use to decide whether or not to take the matter further include:

- (a) Is the Committee satisfied that all reasonable attempts have been made to resolve the issue by the Ward Councillor?
- (b) Do the responses received by the referring Councillor demonstrate that the matter is not being progressed?
- (c) Has the Scrutiny Panel considered a similar issue recently – if yes, have the circumstances or evidence changed?

- (d) Is there a similar or related issue which is the subject of a review on the current Work Programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account.
- (e) Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the Councillor received?
- (f) Is this a case that is being or should be pursued via the Council's Complaints Procedure?
- (g) Is it relating to a 'quasi-judicial' matter or decision such as planning or licensing?
- (h) Is the issue part of an individual's own personal agenda (an issue of genuine local concern should have an impact on the local community)?
- (i) Does the matter referred have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the referring Member's Ward?

In considering the CCfA, the Committee may invite the Chief Executive, Deputy Chief Executive, Head of Service or external organisation to discuss the issue with the Committee and answer any questions, if the Committee considers this relevant.

If the Committee decides not to accept the CCfA referral it must inform the Councillor and provide reasons.

If the Committee decides to accept the CCfA referral, it will decide how it intends to take the matter forward and include the CCfA in its work programme or refer to a relevant Scrutiny Panel.

9. Potential outcome

Following consideration of the CCfA by a Panel, a report will be produced and recommendations made to the Overview & Scrutiny Committee. Once the Committee has completed its work on the CCfA referral, the report and minutes will be published on the Council's website in the usual way.

10. Timescales

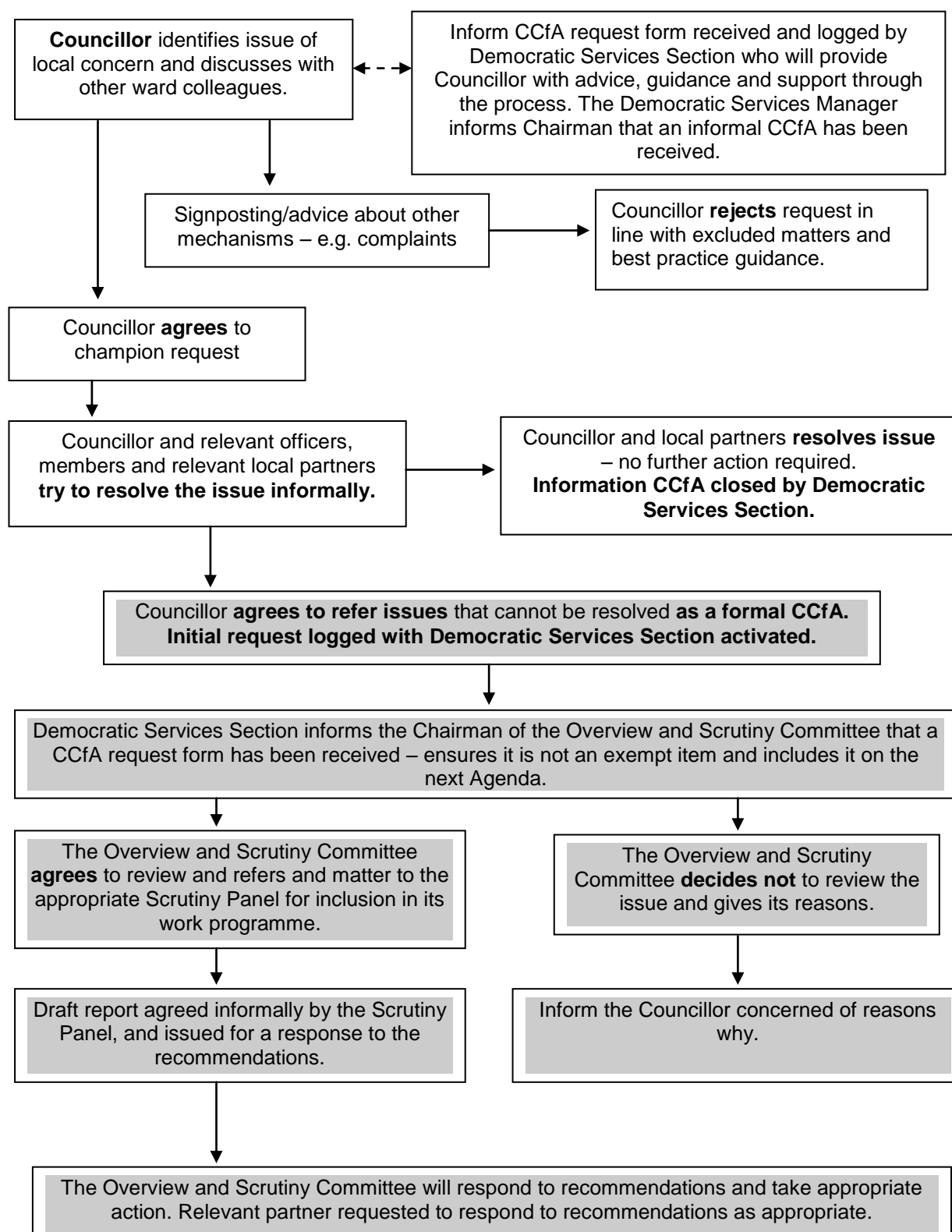
Once a CCfA has been assessed as not being a matter which is excluded from referring to scrutiny, the item will be included on the next available Overview and Scrutiny Committee agenda.

11. Structure of the CCfA hearing

A CCfA hearing will be based on the Overview and Scrutiny Committee's structure for dealing with call-in hearings.

Appendix 1

Summary of CCfA Mechanism



Appendix 2

Explanatory Notes

12. Definition of a local government matter and a local crime and disorder matter

(a) Local government matter

For the purpose of the Act a local government matter, in relation to a member of a local authority is one which:

- (i) relates to the discharge of any function of the authority;
- (ii) affects all or part of the electoral area for which the referring member is elected or any person who lives or works in the area (ie it must be specific to a particular locality); and
- (iii) is not an excluded matter.

(b) Local crime and disorder matter

A local crime and disorder matter, in relation to a member of a local authority, has been defined to mean a matter concerning:

- (i) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
- (ii) the misuse of drugs, alcohol and other substances that affects the electoral area represented by the member, or the people who live or work in that area.

13. Definitions of “vexatious” “persistent” “discriminatory” and “not reasonable”

Statutory regulations deal with matters that can be excluded from CCfA, stating that “any matter which is vexatious, discriminatory or not reasonable to be included on the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee is to be excluded”.

(a) Vexatious/Persistent

Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause.

Issues around persistency are implied by this definition. However, a persistent request may well be entirely valid – it may relate to a systematic problem that has not been effectively resolved. Similarly, a request which some members may regard as vexatious, for political reasons, may actually be entirely reasonable.

CCfAs need to be looked at on their merits, rather than on the basis of who is bringing them, or whether somebody thinks there is an ulterior motive for them being brought.

Where a request for a CCfA is clearly vexatious, detailed reasons for coming to this decision will be given to the councillor concerned. There could, however, be instances where changes to the scope of the CCfA, or its focus, could make it more acceptable while still meeting the councillor's requirements.

(b) Discriminatory

Modern interpretations of the word "discrimination" both direct and indirect are provided at Chapter 2 of Part 2 of the Equality Act 2010.

(c) Not reasonable

It is suggested that, in the interests of transparency, authorities do not interpret "not reasonable" as being the same as the legal word "unreasonable". It is best to consider it as a qualifier to the word "vexatious", as a vexatious request is likely not to be reasonable and a request that is not reasonable is likely to be vexatious.

Part 6

Members' Allowances Scheme

[Basic Allowance](#)

[Special Responsibility Allowance](#)

[Travelling Allowance](#)

[External Meetings](#)

[Child Care and Dependant Carers' Allowance](#)

Members' Allowances Scheme

As from 1 May 2003, the Members' Allowances Code is subject to the amendments made to section 18 of the 1989 Act as amended by section 99 of the Local Government Act 2000, by section 100 of the 2000 Act, and the Local Authorities (Members' Allowances) (England) Regulations 2003.

On 28 January 2015 the Council resolved that the Basic and Special Responsibility Allowances be increased annually from 1 April 2016 in line with any overall percentage increases awarded to employees by the National Joint Council (NJC) for Local Government Services after 7 May 2015.

1. Basic Allowance

All members receive a basic allowance which will be adjusted on a daily basis for Members retiring from or joining the Council during the financial year. The Basic Allowance also incorporates an allowance (previously Communications Allowance) for the purchase of hardware and software to enable Councillors to access the Council's IT Services where required and to do their Council business. This allowance also covers telecommunications. This allowance is taxable and is subject to the regulations relating to Class 1 contributions under the Social Security Act 1975.

2. Special Responsibility Allowance

Members holding certain offices will be paid Special Responsibility Allowance. The allowance will be paid in 12 monthly instalments. Allowances will be adjusted on a daily basis for Members retiring from or joining the Council during the financial year, and when changes in office held are made.

The Council has the right to pay Special Responsibility Allowances to:

- (a) Leader of the Council;
- (b) Deputy Leader of the Council;
- (c) Minority Opposition Group Leader;
- (d) Portfolio Holders; and
- (e) Chairman and Vice-Chairman of Council, Overview and Scrutiny Committee, Northern Area Planning Committee, Southern Area Planning Committee, Licensing Committee, General Purposes Committee.

3. Travelling Allowance

Travel and Subsistence are payable in the following cases:

- (a) A Councillor attending Council, or a Councillor attending as a member of a Committee, Sub-Committee, Working Party etc. (including the Benefit Review Board) which is convened by the Chief Executive or the Head of Administration.

- (b) A Chairman and/or Vice Chairman and a spokesperson for each of the other political groups attending a Group Representative Briefing for a Committee.
- (c) Where a Chairman (or in his/her absence, Vice Chairman), Portfolio Holder or Cabinet Member has been invited to meet with a Chief Officer.
- (d) A Councillor attending a tour of the Borough or a Councillor appointed to attend a site visit accompanied by officers, in both cases which a Committee or Sub-Committee has resolved should be made.
- (e) A Councillor appointed by Committee or given prior approval by the Chief Executive to attend an official meeting with other local authorities.
- (f) A Councillor attending a meeting or visit where a minimum of two political Groups are invited to attend, called by the Chief Officer, subject to prior approval of the Chief Executive.
- (g) A Councillor attending any formal meeting of the Council, it's Committee or Sub-Committees.
- (h) Member Training - subject to the following:
 - (i) It should be arranged by a Head of Service as a training seminar with a formal invitation sent or prior approval given by the Chief Executive or Head of Administration.
 - (j) Attendance of a Member before any representative of the Commission for Local Administration, at the latter's request, in connection with any investigation under Part III of the Local Government Act 1974 (Ombudsman Complaints).
 - (k) Attendance of a Member before the District Auditor at the latter's request in connection with a matter being considered at audit other than a payment to or a pecuniary claim by that Member.
 - (l) Attendance of a Member, at the written request of the Head of Legal and Democratic Services, in connection with a public inquiry or legal proceedings to which the Council is a party.
 - (m) Attendance of a member of the Council at public inquiries where a Member is called by the Head of Legal and Democratic Services as a witness to represent the Council's position.
 - (n) Travel to and from formal meetings of Town and Parish Councils.
 - (o) Travel by a member of the Licensing Sub-Committee to visit the site of a license application prior to a meeting of the Sub-Committee at which they are due to consider that application.

4. External meetings

Please note that for categories a and b below, if any payment is available from the host organisation, for travel or subsistence, then no payment can be made under this scheme for the category for which the host organisation has made an allowance.

Where payment is permitted under the following categories, all members appointed by council, or a committee, to attend a duty are eligible to claim, except where a limitation on the numbers receiving payment has been agreed, which is referred to by each item.

(a) Category "A" - Travel and Subsistence Payable

(i) Local Government Association General Assembly (NB: The LGA has its own Members' Allowance Scheme and payment is made direct, including for attendance at LGA committees. Appointed Members will receive details of this separately. Travel costs will be reimbursed by the Council.)

(ii) Members appointed by Council to outside bodies.

(b) Category "B" - Can be Approved on an Ad-Hoc Basis either Travel and Subsistence, or Travel Only

Where a Member wishes to attend an ad-hoc meeting, or an official event on behalf of the Council, which is not listed in Category A in the Scheme, prior approval needs to be obtained from the Cabinet.

(c) Category "C" - No Travel or Subsistence is Payable

Remuneration is only payable for the specific duties listed in the categories of the Scheme, and not for any other activity, even though it may be linked to Council business. The following list of duties not eligible for payment is not an exhaustive list, but includes duties where it is not considered appropriate to pay, or where other bodies reimburse travel costs.

No allowance is payable in respect of duties in connection with any of the following:

(i) Universities, Colleges and Schools

(ii) Residents' interest and action groups

5. Child Care and Dependant Carers' Allowance

Child Care and Dependant Carers' Allowance is available to those Councillors who incur expenditure for the care of dependant relatives or children whilst undertaking approved duties of the Council. Approved duties are specified as follows:

Approved Duties for the purposes of Child Care & Dependant Carer's Allowance:

- (a) A meeting of the Cabinet.
- (b) A meeting of a Committee of the Cabinet.
- (c) A meeting of the Authority.
- (d) A meeting of a Committee or Sub-Committee of the Authority.
- (e) A meeting of some other body to which the Authority makes appointments or nominations, or a meeting of a Committee or Sub-Committee of a body to which the Authority makes appointments or nominations.
- (f) A meeting which has been both authorised by the Authority, a Committee or Sub-Committee of the Authority or a joint Committee of the Authority and one or more other Authorities, or a Sub-Committee of a joint Committee and
To which representatives of more than one political group have been invited or to which two or more Councillors have been invited.
- (g) A meeting of a local Authority Association of which the Authority is a member.
- (h) Duties undertaken on behalf of the Authority in pursuance of any Standing Order requiring, a Member or Members to be present while tender documents are opened.
- (i) Duties undertaken on behalf of the Authority in connection with the discharge of any function of the Authority conferred by or under any enactment and empowering or requiring the Authority to inspect or authorise the inspection of premises.

A full copy of the scheme detailing current allowances can be obtained from:

Democratic Services Manager
Beech Hurst
Weyhill Road
Andover
SP10 3AJ

Tel: 01264 368000

Email: admin@testvalley.gov.uk

Or on the Test Valley Website [Latest Members' Allowances Scheme](#)