

# **Part 3**

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# 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/>