



## Communities Directorate

20 March 2017

**Joint Governance Committee  
6.30pm on Tuesday 28 March 2017  
Gordon Room, Town Hall, Worthing**

**Adur District Council:** Councillors George Barton (Chairman), Kevin Boram (Vice-Chairman), Carol Albury, Ken Bishop, Jim Funnell, Paul Graysmark, Emily Hilditch and Barry Mear

**Worthing Borough Council:** Councillors Elizabeth Sparkes (Chairman), Paul Yallop (Vice-Chairman), Paul Baker, Joan Bradley, Alex Harman, Lionel Harman, Steve Wills and Mark Withers

## Agenda

Part A	Page No.
<b>1. Substitute Members</b>	-
Any substitute members should declare their substitution.	
<b>2. Declarations of Interest</b>	-
Members and officers must declare any disclosable pecuniary interests in relation to any business on the agenda. Declarations should also be made at any stage such an interest becomes apparent during the meeting.	
If in doubt contact the Legal or Democratic Services representative for this meeting.	

<b>3. Minutes</b>	-
To approve the minutes of the Joint Governance Committee meeting held on 24 January 2017, copies of which have been previously circulated.	
<b>4. Public Question Time</b>	-
To receive any questions from members of the public.	
<i>(Note: Public Question Time will operate for a maximum of 30 minutes.)</i>	
<b>5. Items Raised Under Urgency Provisions</b>	-
To consider any items the Chairman of the meeting considers to be urgent.	
<b>6. External Audit Progress Report</b>	5
To consider the audit plans from the External Auditor, copies attached as item 6.	
<b>7. Internal Audit Progress Report</b>	21
To consider a report by the Acting Head of Internal Audit, copies attached as item 7.	
<b>8. Internal Audit Plan - 2017/18</b>	39
To consider a report by the Acting Head of Internal Audit, copy attached as item 8.	
<b>9. Joint Treasury Management Strategy Statement and Annual Investment Strategy 2017/18 to 2019/20 ADC &amp; WBC</b>	44
To consider a report by the Director for Digital and Resources, copy attached as item 9.	
<b>10. Local Government Ombudsman Complaints analysis - September 2016 - March 2017</b>	99
To consider a report by the Director for Customer Service, copy attached as item 10.	

<b>11. Joint Overview and Scrutiny Committee Procedure Rules</b>	103
To consider a report by the Monitoring Officer, copy attached as item 11.	
<b>12. Executive Procedure Rules</b>	119
To consider a report by the Monitoring Officer, copy attached as item 12.	
<b>13. Constitutional Provisions relating to Adur and Worthing Councils' Licensing Functions</b>	153
To consider a report by the Solicitor to the Councils and Monitoring Officer, copy attached as item 13.	
<b>14. Updating on changes to the Constitution</b>	169
To consider a report by the Director for Digital and Resources, copy attached as item 14.	

**Part B - Not for Publication - Exempt Reports**

None.

**Recording of this meeting**

The Council will be voice recording the meeting, including public question time. The recording will be available on the Council's website as soon as practicable after the meeting. The Council will not record any discussions in Part B of the agenda where the press and public have been excluded.

For Democratic Services enquiries relating to this meeting please contact:

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Senior Democratic Services Officer  
01903 221073  
[neil.terry@adur-worthing.gov.uk](mailto:neil.terry@adur-worthing.gov.uk)

For Legal Services enquiries relating to this meeting please contact:

Susan Sale  
Solicitor to the Councils  
01903 221119  
[susan.sale@adur-worthing.gov.uk](mailto:susan.sale@adur-worthing.gov.uk)

The agenda and reports are available on the Councils website, please visit [www.adur-worthing.gov.uk](http://www.adur-worthing.gov.uk)



# Adur District Council

Joint Governance Committee Progress Report

March 2017





The Members of the Joint Governance Committee  
Adur & Worthing Councils  
Worthing Town Hall  
Chapel Road  
Worthing  
West Sussex  
BN11 1HA

March 2017

Dear Members,

## Audit Progress Report

We are pleased to attach our Audit Progress Report.

This progress report summarises the work we have undertaken since the last meeting of the Joint Governance Committee in January 2017. The purpose of this report is to provide the Committee with an update of our plans for the 2016/17 audit, to ensure they continue to be aligned with your service expectations.

Our audit is undertaken in accordance with the requirements of the Local Audit and Accountability Act 2014, the National Audit Office's 2015 Code of Audit Practice, the Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA) Ltd, auditing standards and other professional requirements.

We welcome the opportunity to discuss this report with you as well as understand whether there are other matters which you consider may influence our audit.

Yours faithfully



Paul King  
Executive Director  
For and on behalf of Ernst & Young LLP  
Enc.





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In April 2015 Public Sector Audit Appointments Ltd (PSAA) issued ‘Statement of responsibilities of auditors and audited bodies 2015-16’. It is available from the Chief Executive of each audited body and via the [PSAA website](http://www.psa.co.uk) (www.psa.co.uk)

The Statement of responsibilities serves as the formal terms of engagement between appointed auditors and audited bodies. It summarises where the different responsibilities of auditors and audited bodies begin and end, and what is to be expected of the audited body in certain areas.

The ‘Terms of Appointment from 1 April 2015’ issued by PSAA sets out additional requirements that auditors must comply with, over and above those set out in the National Audit Office Code of Audit Practice (the Code) and statute, and covers matters of practice and procedure which are of a recurring nature.

This Annual Plan is prepared in the context of the Statement of responsibilities. It is addressed to the Audit Committee, and is prepared for the sole use of the audited body. We, as appointed auditor, take no responsibility to any third party.

Our Complaints Procedure - If at any time you would like to discuss with us how our service to you could be improved, or if you are dissatisfied with the service you are receiving, you may take the issue up with your usual partner or director contact. If you prefer an alternative route, please contact Steve Varley, our Managing Partner, 1 More London Place, London SE1 2AF. We undertake to look into any complaint carefully and promptly and to do all we can to explain the position to you. Should you remain dissatisfied with any aspect of our service, you may of course take matters up with our professional institute. We can provide further information on how you may contact our professional institute.

# 2016/17 audit

## Financial statements audit

We issued our 2016/17 Audit Plan in January 2017 where we outlined how we intend to carry out our responsibilities as auditor, including our proposed audit approach.

We have completed a number of additional interim procedures since the Audit Plan was issued and have concluded that we are able to rebut the risk of fraud in revenue recognition that is presumed under ISA240. This was reported as a significant risk in our Audit Plan, but our interim procedures have allowed us to rebut this risk.

Our interim procedures have also confirmed that the remaining risks identified in the Audit Plan remain appropriate. These were:

- Risk of Management Override.
- A Value for Money Conclusion risk regarding the Council's ability to plan its finances effectively to support the sustainable delivery of strategic priorities and maintain statutory functions.

## Second Interim Visit

We started our second interim visit on 20 February, to undertake outstanding documentation and walkthroughs of material systems, complete controls testing (including reliance on the work of Internal Audit) and undertake early substantive testing.

We have not identified any additional risks from this work that we need to make the Committee aware of, nor are there any issues arising from our work that we need to report to you.

## Post Statements Audit

Anticipating the move to faster closing, whereby the Council will have to publish its audited statement of accounts by 31 July 2018 for the 2017/18 financial year, we are looking to start our post statements work on the 2016/17 statement of accounts in mid-June 2017. Our post statements visit is scheduled to be completed by 7 August.

We will continue to use our computer-based analytics tools to enable us to capture whole populations of your financial data, in particular payroll and journal entries.

We will also review and report to the National Audit Office, to the extent and in the form required by them, on your whole of government accounts return.

We plan to present our audit results report, setting out the findings of our work and overall conclusions, to the Joint Governance Committee on 26 September 2017.

## Value for Money Assessment

We have completed our planning work and expect to carry out our detailed work during our post statements audit visit. We plan to report the results of this work to the Joint Governance Committee on 26 September 2017.

## Timetable

From the 2017/18 financial year, the timetable for preparation and approval of accounts will be brought forward to a draft accounts deadline of 31 May and an audit deadline of 31 July. In planning our work for 2016/17 we have planned our audit close to these revised deadlines. We set out below a timetable showing the key stages of the audit, including the value for money work, and the deliverables we will provide to you through the 2016/17 committee cycle.

Audit phase	EY Timetable	Deliverable	Report to Committee	Status
High level planning	Ongoing	Audit Fee Letter	2016	Completed
Risk assessment and setting of scope of audit	January 2017	Audit Plan	January 2017	Completed
Testing of routine processes and controls	February / March 2017	Progress Report	March 2017	In progress - this document.
Year-end audit	June / July 2017	<p>Audit results report to those charged with governance</p> <p>Audit report (including our opinion on the financial statements and a conclusion on your arrangements for securing economy, efficiency and effectiveness in your use of resources)</p> <p>Whole of Government Accounts Submission to NAO based on their group audit instructions</p> <p>Audit Completion certificate</p>	September 2017	Work is planned to start during June 2017 and completed by 7 August.

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## Internal Audit Progress Report

### Report of the Acting Head of Internal Audit

#### 1.0 Summary

- 1.1 This report notes the performance of the Internal Audit Section up to 28<sup>th</sup> February 2017.
- 1.2 This report provides a summary of the key issues raised in final audit reports issued since our last report to this Committee and provides the current status on the follow-up on the agreed audit recommendations made in final audit reports.

#### 2.0 Background

- 2.1 Each quarter a report is produced for this Committee which details the Internal Audit Section's performance against the current Annual Internal Audit Plan and summarises the results of audit work carried out.

##### Internal Audit Performance - 2016/17

- 2.2 The 2016/17 Annual Internal Audit Plan presented to the Joint Governance Committee on 22 March 2016 contained 514 days and 38 items of audit work to be undertaken by the Internal Audit Service during the year.
- 2.3 Since approval, the audit plan has been revised to accommodate requests to move audits to different parts of the year and to take account of changes in requirements. The current plan is summarised as:

Period	No of audits planned	No of days planned	% of days planned
Quarter 1 (April – June)	6	81	15.8%
Quarter 2 (July – September)	8	100	19.5%
Quarter 3 (October – December)	10	156	30.3%
Quarter 4 (January – March)	14	177	34.4%
	<b>38</b>	<b>514</b>	<b>100%</b>

- 2.4 At 28<sup>th</sup> February, 402.5 days (78.3%) of the planned days had been delivered against the plan. Attached, as **Appendix 1**, is a summary of the current status of audits in the plan.

## Final Audit Reports

- 2.5 Recommendations made in audit reports are categorised according to their level of priority as follows:

<b>Priority 1</b>	Major issues for the attention of senior management.
<b>Priority 2</b>	Other recommendations for local management action.
<b>Priority 3</b>	Minor matters.

- 2.6 Internal Audit's assurance opinions accord with an assessment of the controls in place and the level of compliance with these controls. During the course of an audit, a large number of controls will be examined for adequacy and compliance. The assurance level given is the best indicator of the system's control adequacy. The assurance levels and their associated explanations are:-

<b>Full Assurance</b>	There is a sound system of control designed to achieve the system objectives and the controls are being consistently applied.
<b>Satisfactory Assurance</b>	While there is a basically sound system, there are weaknesses that put some of the system objectives at risk, and/or there is evidence that the level of non-compliance with some of the controls may put some of the system objectives at risk.
<b>Limited Assurance</b>	Weaknesses in the system of controls are such as to put the system objectives at risk, and/or the level of non-compliance puts the system objectives at risk.
<b>No Assurance</b>	Control is generally weak, leaving the system open to significant error or abuse, and/or significant non-compliance with basic controls leaves the system open to error or abuse.

- 2.7 The report attached as **Appendix 2** provides a summary of key issues raised in all final reports issued since our last report to this Committee. Since the previous Committee, eight reports have been finalised; of these two were Limited assurance and six were satisfactory assurance. Eight P1 recommendations were raised within these reports.

## Follow up of Audit Recommendations

- 2.8 In accordance with the Council's Follow-Up Protocol, Internal Audit has continued following-up the status of implementation of recommendations contained in final audit reports.
- 2.9 Follow-up audits are undertaken to ensure that all recommendations raised have been successfully implemented according to the action plans agreed with the service managers. The Follow-up Protocol requires implementation of 80% of all priority 2 and 3 recommendations and 100% of priority 1 recommendations. The current performance in relation to these targets is shown in the tables below.

2.10 The Audit App is now being used more widely to provide updates on the implementation of recommendations. Going forward the App will be used to produce statistical information on the implementation of audit recommendations, but in the interim, we will continue to manually calculate the information provided to this Committee as detailed in the tables below.

**Analysis of status of recommendations 2013/14**

	Total Due	Imp	%	Carried Over (Not Impl'd)	%	FU & Overdue	%	FU & No Response	%	Total % NOT Impl'd	FU Not Due	Total
<b>P1</b>	15	14	<b>93.3%</b>	1	6.7%	0	0%	0	0%	<b>6.7%</b>	0	15
<b>P2</b>	111	85	<b>76.6%</b>	24	21.6%	1	1.8%	0	0%	<b>23.4%</b>	0	111
<b>P3</b>	23	17	<b>73.9%</b>	5	21.7%	1	4.4%	0	0%	<b>26.1%</b>	0	23
<b>Other</b>	6	6	<b>100%</b>	0	0%	0	0%	0	0%	<b>0%</b>	0	6
<b>Total</b>	<b>155</b>	<b>122</b>	<b>78.7%</b>	<b>30</b>	<b>19.4%</b>	<b>3</b>	<b>1.9%</b>	<b>0</b>	<b>0%</b>	<b>21.3%</b>	<b>0</b>	<b>155</b>

**Analysis of status of recommendations 2014/15**

	Total Due	Imp	%	Carried Over (Not Impl'd)	%	FU & Overdue	%	FU & No Response	%	Total % NOT Impl'd	FU Not Due	Total
<b>P1</b>	37	31	<b>83.8%</b>	1	2.7%	5	13.5%	0	0%	<b>16.2%</b>	0	37
<b>P2</b>	132	108	<b>82.4%</b>	15	11.5%	8	6.1%	0	0%	<b>17.6%</b>	0	132
<b>P3</b>	32	27	<b>87.1%</b>	3	9.7%	1	3.2%	0	0%	<b>12.9%</b>	0	32
<b>Other</b>	7	1	<b>14.3%</b>	0	0%	6	85.7%	0	0%	<b>85.7%</b>	0	7
<b>Total</b>	<b>208</b>	<b>167</b>	<b>81.1%</b>	<b>19</b>	<b>9.2%</b>	<b>20</b>	<b>9.7%</b>	<b>0</b>	<b>0%</b>	<b>18.9%</b>	<b>0</b>	<b>208</b>

**Analysis of status of recommendations 2015/16**

	Total Due	Imp	%	Carried Over (Not Impl'd)	%	FU & Overdue	%	FU & No Response	%	Total % NOT Impl'd	FU Not Due	Total
<b>P1</b>	39	35	<b>89.7%</b>	0	0%	4	10.3%	0	0%	<b>10.3%</b>	3	42
<b>P2</b>	76	44	<b>57.9%</b>	5	6.5%	17	22.4%	10	13.2%	<b>42.1%</b>	18	94
<b>P3</b>	14	8	<b>57.1%</b>	1	7.1%	3	21.5%	2	14.3%	<b>42.9%</b>	6	20
<b>Total</b>	<b>129</b>	<b>87</b>	<b>67.4%</b>	<b>6</b>	<b>4.7%</b>	<b>24</b>	<b>18.6%</b>	<b>12</b>	<b>9.3%</b>	<b>32.6%</b>	<b>27</b>	<b>156</b>

2.11 Attached as **Appendices 3, 4 & 5** are tables which summarise the current follow-up status of recommendations made in final audit reports from audits contained in the 2013/14, 2014/15 and 2015/16 Audit Plans. The shaded boxes indicate where changes have occurred since our last report. Follow up in respect of finalised 2016/17 audits has only recently commenced and will be summarised in detail within our next report to Committee.

### **3.0 Proposals**

3.1 That the Committee note the performance of the Internal Audit Section.

3.2 That the Committee note the summary of the key issues raised in final audit reports issued and the current status on the follow-up on Internal Audit recommendations.

### **4.0 Legal**

4.1 There are no legal matters arising as a result of this report.

### **5.0 Financial Implications**

5.1 There are no financial implications arising from this report.

### **6.0 Recommendations**

6.1 That the Committee note the performance of the Internal Audit Section.

6.2 That the Committee note the summary of the key issues raised in final audit reports issued since our last report to this Committee and the current status on the follow-up on Internal Audit recommendations.

## **Local Government Act 1972 Background Papers**

None.

### **Contact Officer:**

Pat Stothard  
Acting Head of Internal Audit  
Town Hall, Worthing  
Tel: 01903 221255  
[pat.stothard@mazars.co.uk](mailto:pat.stothard@mazars.co.uk)



## **Schedule of Other Matters**

### **1.0 Council Priority**

1.1 The report does not seek to meet any particular Council priorities.

### **2.0 Specific Action Plans**

2.1 (A) Matter considered and no issues identified.  
(B) Matter considered and no issues identified.

### **3.0 Sustainability Issues**

3.1 Matter considered and no issues identified.

### **4.0 Equality Issues**

4.1 Matter considered and no issues identified.

### **5.0 Community Safety Issues (SECTION 17)**

5.1 Matter considered and no issues identified.

### **6.0 Human Rights Issues**

6.1 Matter considered and no issues identified.

### **7.0 Reputation**

7.1 Matter considered and no issues identified.

### **8.0 Consultations**

8.1 (A) Matter considered and no issues identified.  
8.2 (B) Matter considered and no issues identified.

### **9.0 Risk Assessment**

9.1 Matter considered and no issues identified.

### **10.0 Health & Safety Issues**

10.1 Matter considered and no issues identified.

### **11.0 Procurement Strategy**

11.1 Matter considered and no issues identified.

### **12.0 Partnership Working**

12.1 Matter considered and no issues identified.

APPENDIX 1

	Project	Joint	ADC only	WBC only	Field Work complete	Draft Issued	Final Issued	Assurance level	Assurance at previous audit
1	Local Land Charges	*			Y	Y	Y	Satisfactory	Satisfactory
1	Fleet and Transport Management	*			Y	Y	Y	Satisfactory	No previous audit
1	Fire Risk Management	*			Y	Y			
1	Invest to Save Schemes	*			Y	Y	Y	Satisfactory	No previous audit
1	Management of the Council's Commercial Property Portfolio	*			Y	Y	Y	Satisfactory	Satisfactory
1	Disability Awareness	*			Y	Y			
2	Medium Term Financial Strategy	*			Y	Y	Y	Full	Satisfactory
2	Splashpoint Gym Equipment Fact Find			*	Y	Y	N/A	No opinion given	No previous audit
2	Voluntary and Community - Contract Procurement	*			Y	Y	Y	Limited	No previous audit
2	Corporate Governance	*			Y	Y			
2	Disaster Recovery (Extended Follow up)	*			Y	N/A	N/A	N/A	N/A
2	Programme Management	*			WIP				
2	Contract Management Audit - Mobile Phones	*			Y	Y			
2	Final Accounts	*			Y	Y	Y	Satisfactory	No previous audit
3	Right to Buy		*		Y	UR			
3	Creditors	*			Y	Y	Y	Satisfactory	Satisfactory
3	Debtors	*			Y	Y			
3	Census NDR		*		Y	UR			
3	Rent Collection and Collection of Arrears		*		Y	UR			
3	Works to Void Properties				Y	Y			
3	WBC Revenues (Council Tax and NDR)			*	Y	UR			
3	WBC Benefits			*	Y	UR			
3	Markets		*		WIP				
3	General Ledger	*			Y	UR			
4	Theatres Catering			*	WIP				
4	WBC Leisure Trust - Contract Management			*	WIP				
4	Sheltered Accommodation		*		WIP				
4	Capital Accounting	*			Y	UR			
4	Treasury Management	*			WIP				
4	Payroll	*			Y	Y			
4	Cashiering	*			Y	Y			
4	Risk Management	*			Y	UR			
4	Remote Access Protocols/VPN	*			WIP				
4	ADC Taxi Licensing Fact Find				WIP				
4	Property Management	*			WIP				
4	Telephony	*			P				
4	Penetration testing	*			P				
4	Welfare Reform - support to claimants	*			P				

KEY

- P In Planning stage
- WIP Work In Progress
- UR Under review

## Key issues from finalised audits

## Appendix 2

Audit Title	Risk Level	Assurance Level & Number of Issues	Summary of key issues raised
Fixed Assets (2015/16)	H	<b>Limited</b> (Three Priority 1 and Three Priority 2 recommendations)	Lack of current asset management plan/corporate property strategy; condition surveys not having recently been completed for all assets; and the lack of a corporate asset management system.
Delivery of Digital Strategy (2015/16)	H	<b>Satisfactory</b> (Two Priority 2 recommendations)	No P1 recommendations were raised.
Google Mail Post Implementation Review (2015/16)	H	<b>Satisfactory</b> (Three Priority 2 & Three Priority 3 recommendations)	No P1 recommendations were raised
Management of the Councils' Commercial Property Portfolio (2016/17)	H	<b>Satisfactory</b> (One Priority 1, Seven Priority 2 and Two Priority 3 recommendations)	There is currently not a documented Joint Investment Fund Strategy in place.
Voluntary & Community Sector – contract procurement	H	<b>Limited</b> (Two Priority 1 and Four Priority 2 recommendations)	Lack of a robust outline business case for the procurement and the need to ensure that comments, notes or scoring are based on the advertised award criteria.
Fleet & Transport Management	H	<b>Satisfactory</b> (One Priority 1, Four Priority 2 and One Priority 3 recommendations)	There is no specific Council policy which sets out what the Councils require from their drivers in terms of their behaviour, need to report changes in their health, etc. which they are required to sign up to.
Creditors	H	<b>Satisfactory</b>	No P1 recommendations were raised
Project Cost Control/Final Accounts/Project Closure	H	<b>Satisfactory</b> (One Priority 1 and Four Priority 2 recommendations)	The lack of a Strategic Outline Business Case/PID for one of the project sample tested.

Audit	Final Report Date	Assurance level	Total No of Recs	Number of agreed recs completed	% of recs completed	Recs carried over into next audit	% of recs carried over	Number of recs outstanding	1	2	3	% of recs outstanding	Key auditees	Comments
<b>Director of Digital &amp; Resources</b>														
<b>Finance</b>														
Annual Governance Statement (contrc	N/A	N/A	N/A											N/A
General Ledger	May-14	Satisfactory	7	5	71%	2	29%							Recs were followed up as part of 14/15 audit - 2 were reiterated in
Cashiering	Jun-14	Satisfactory	4	3	75%	1	25%							Self assessment received 7/11/14 - remaining recs were as part of 14/15 annual audit - one complete & one reiterated in 14/15 report
Creditors	May-14	Satisfactory	2	2	100%									Recommendations followed up as part of 14/15 annual audit.
Debtors	May-14	Satisfactory	3	2	67%	1	33%							Recommendation relates to review of procedures
Capital Expenditure & Fixed Assets	Dec-14	Satisfactory	7			7	100%							Recommendations were followed up a part of annual audit. All were reiterated in 14/15 report
Treasury Management	Jun-14	Satisfactory	2	2	100%									COMPLETE
Staff expenses (inc car mileage)	May-14	Satisfactory	2	2	100%									COMPLETED before FU due
Probity - Staff discounts & Concession	Mar-14	N/A	5	5	100%									COMPLETE
Probity - Underbankings	N/A	N/A	N/A											N/A
Probity audit - Stores	Oct-12	N/A	1	1	100%									COMPLETE - Manager requested to note bolt stock in next year end
<b>Legal Services</b>														
Corporate Governance	Mar-14	Limited	10	5	50%	5	50%							
DBS checks & requirements	Oct-13	Satisfactory	3	3	100%									COMPLETE - Update from the Strategic Head of Human Resources confirmed the DBS check has now been completed for the officer transferred to Southdown leisure
Legal Services	Dec-13	Limited	7	7	100%									COMPLETE
<b>Business &amp; Technical Services</b>														
Building Maintenance	May-15	Limited	7	3	43%	2	29%	2	0	1	1	29%	S Spinner	Met with EhoB&TS - actions were agreed in respect of the O/S 2 recs. Deadlines revised to 30/6/17
<b>Digital &amp; Design</b>														
Risk Management	Jul-14	Satisfactory	9	2	22%	7	78%							
<b>Director of Economy</b>														
<b>Growth</b>														
Bailiffs	Nov-14	Limited	3	3	100%									COMPLETE
<b>Director of Communities</b>														
<b>Housing</b>														
Housing Rents	May-14	Satisfactory	2	1	50%	1	50%							

Property Buy Back	Mar-14	Satisfactory	1	1	100%							Updated provided on 5 Oct confirms this scheme is no longer going to take place therefore O/S rec no longer applicable.
<b>Wellbeing</b>												
Local Strategic Partnership	Apr-15	Satisfactory	4	4	100%							COMPLETE
Safer Communities Partnership	Jun-14	Satisfactory	3	3	100%							COMPLETE
Community Wellbeing	Mar-14	Limited	3	3	100%							COMPLETE
Anti Social Behaviour Management	Jun-14	Satisfactory	4	4	100%							COMPLETE
<b>Environment</b>												
Foreshore Service	Apr-14	Satisfactory	6	5	83%	1	17%					Over 80% complete so no further FU required. O/s rec was partly
Cemeteries & Churchyards	May-14	Satisfactory	1	1	100%							COMPLETE
Grounds Maintenance	May-14	Limited	4	4	100%							COMPLETE
Parks Income Management	Oct-13	Satisfactory	5	5	100%							COMPLETE
Probity - Crematorium Ashes Procedu	Apr-14	Satisfactory	6	6	100%							COMPLETE
<b>Director of Customer Services</b>												
<b>Revenues &amp; Benefits</b>												
Benefits	Jun-14	Satisfactory	3	2	67%	1	33%					Rec relates to DR plans
Revenues (Council Tax & NDR)	May-14	Satisfactory	3	2	67%	1	33%					O/s rec relates to updating procedures
WBC - Business Improvement District	Dec-13	Satisfactory	2	2	100%							COMPLETE
CenSus NDR	Jun-14	Satisfactory	9	8	89%	1	11%					89% complete - no further FU required
<b>Waste &amp; Cleansing</b>												
AWCS - Vehicle Maintanance	May-14	Satisfactory	2	2	100%							COMPLETE
<b>Building Control &amp; Land Charges</b>												
Local Land Charges	Apr-14	Satisfactory	1	1	100%							COMPLETE
<b>Computer Audits</b>												
Joint website - content & workflow	Nov-13	Satisfactory	2	2	100%							Part of OS rec cannot be implemented due to functionality of T4 system - no further FU req'd.

Network (LAN & WAN)	Apr-15	Limited	10	9	90%			1	0	1	0	10%	S Taylor	Updates through Audit App confirmed 1 outstanding recommendation which is in progress and has a revised deadline of 31 Mar 17.
Data Centre	Nov-13	Satisfactory	4	4	100%									COMPLETE
House on the Hill	Mar-14	Satisfactory	8	8	100%									Updates provided on 28/10 via the Audit App confirmed that the four remaining outstanding recommendations will be covered in the new Cherwell / CenSus contract that is due to be implemented in December 2016, no further follow up therefore required
			155	122	79%	30	19%	3	0	2	1	2%		

Audit	Final Report Date	Assurance level	Total No of Recs	Number of agreed recs completed	% of recs completed	Recs carried over into	% of recs carried over	Number of recs outstanding	1	2	3	Other	% of recs outstanding	Key auditees	Comments	Comments re Outstanding Priority 1 recs
<b>Director of Digital &amp; Resources</b>																
<b>Finance</b>																
Annual Governance Statements	N/A	N/A	N/A	N/A	N/A	N/A	N/A								No Follow up required	
Budgetary Control	Dec-14	Satisfactory	1	1	100%										COMPLETE	
General Ledger	Mar-15	Satisfactory	3			3	100%								All recommendations made in 2014/15 have been reiterated in 15/16 audit so none had been implemented	
Cashiering	May-15	Satisfactory	4	3	75%	1	25%								15/16 audit has confirmed 3 recommendations from 2014/15 audit have been completed - one (re procedures) is being reiterated in 15/16 report.	
Creditors	Apr-15	Satisfactory	2	1	50%	1	50%								15/16 audit confirmed P1 recommendation has been completed - one (re duplicate payment reports) is being reiterated in 15/16 report.	
Debtors	Feb-15	Satisfactory	2	2	100%										COMPLETE	
Insurance	Oct-14	Satisfactory	2	2	100%										COMPLETE	
Payroll	Sep-15	Satisfactory	5	2	40%	3	60%								15/16 audit has confirmed 2 recommendations from 2014/15 audit have been completed - 3 are being reiterated in 15/16 report.	
Treasury Management	May-15	Satisfactory	2	2	100%										COMPLETE	
Petty Cash	Jan-15	Satisfactory	2	1	50%			1	0	1	0	0	50%	A Simmons	Update requested 7/3	
Staff Loans	Jan-15	Satisfactory	3	3	100%										COMPLETE	
Probity audits - inventories	Aug-15	N/A	6					6	0	0	0	6	100%	S Gobey	Issues to be addressed by Chief Financial Officer during next review of Financial Regulation requirements. Head of Digital to review IT inventory by revised deadline of 31 May 17.	
Probity - cash floats	Oct-14	N/A	1	1	100%										COMPLETE	
Business Rates - Forecasting & Income Projection	Feb-15	Satisfactory	1	1	100%										COMPLETE	
Pension Scheme- local	Oct-14	Full	0												No Follow up required	
<b>Legal Services</b>																
Corporate Governance	May-15	Satisfactory	6	6	100%										COMPLETE	

<b>Business &amp; Technical Services</b>																
Facilities Management & Security	May-15	Satisfactory	15	10	67%			5	0	4	1	0	33%	M Hosier / L Harris	Updates provided confirmed 5 still to be completed - revised deadlines set	
Health & Safety	Sep-15	Limited	7	6	86%			1	1	0	0	0	14%	L Dexter	Update received from Corp H & S Officer confirmed 1 rec (3.4) is being actioned by the development of a Matsoft App. Deadline revised to 31/7/17.	
Pool Car Pilot	May-15	Satisfactory	5	5	100%										COMPLETE	
Term Maintenance Contract Management - Keith Long Electrical	Mar-16	Limited	8	7	88%			1	1	0	0	0	13%	S Spinner	7/3 - update provided by EHO/S confirming that agreed actions are in progress	O/S P1 rec relates to loss of order details within the Recorder system
Construction Contract - MTC																
Land Drainage	Jul-15	Satisfactory	5	4	80%	1	20%								80% complete - no further follow up - one P2 rec had not been addressed	
Shoreham Centre	Mar-16	Satisfactory	1	1	100%										COMPLETE	
<b>Digital &amp; Design</b>																
Risk Management	Jun-15	Satisfactory	14	5	36%	9	64%								Meeting held on 21/1 with CPO - remaining recs were in progress and further FU would be performed as part of 15/16 audit	
<b>People</b>																
Agency Staff Arrangements	Dec-14	Satisfactory	4	4	100%										COMPLETE	
<b>Director of Economy</b>																
<b>Place &amp; Investment</b>																
External Funding	Apr-15	Limited	10	10	100%										COMPLETE	
<b>Growth</b>																
MSCP Plate Recognition Barrier System - Procurement	Nov-15	Satisfactory	2	1	50%			1	0	1	0	0	50%	J Jonker	Advised on 8/3 that responsibility now rests within another service - Recs re-assigned to JJ on 15/3 and one has already been confirmed as completed.	
<b>Director of Communities</b>																
<b>Housing</b>																
Housing Rents	May-15	Satisfactory	3	3	100%										COMPLETE	
Housing Maintenance	Oct-14	Satisfactory	3	3	100%										COMPLETE	



Void Management	Apr-15	Limited	9	9	100%										COMPLETE - Self Assessment response received which indicates all recommendations have been implemented.
Housing - Homelessness, Advice & Allocations	Jan-15	Limited	29	29	100%										COMPLETE
<b>Wellbeing</b>															
Hackney Carriage & Private Hire	Jul-15	Satisfactory	4	4	100%										COMPLETE
Third Party Commissioning	Nov-15	Satisfactory	1	1	100%										COMPLETE - Commissioning Strategy from 2014 being included within new Procurement Strategy
<b>Environment</b>															
Beach Huts	May-15	Limited	11	11	100%										COMPLETE
<b>Director of Customer Services</b>															
<b>Revenues &amp; Benefits</b>															
WBC Benefits	Apr-15	Satisfactory	1	1	100%										COMPLETE
WBC Revenues (Council Tax & NDR)	May-15	Satisfactory	5	5	100%										COMPLETE
CenSus - Benefits	Nov-15	Satisfactory	4	3	75%	1	25%								Updated provided by Benefits Manager confirmed 2 recs completed. 15/16 audit confirmed 2 further recs actioned but the P1 rec re WO authorisation was re-raised in 15/16 report
<b>Customer Contact &amp; Engagement</b>															
Complaints	Dec-14	Limited	7	6	86%			1	0	1	0	0	14%	M Lowe	update through Audit App confirmed deadline for outstanding rec revised to 31/3/17.
Register of Electors	Jul-15	Satisfactory													No follow up required
Car Parks	Oct-14	Satisfactory	1	1	100%										COMPLETE - the service has accepted that the 2 P1 recommendations re reconciliations could not be implemented as processes did not allow. The entire process for collecting car park income has therefore been revised instead.
<b>Computer Audits</b>															

Disaster Recovery	Jul-15	Limited	3					3	3	0	0	0	100%	S Taylor	Update provided via Audit App - 3 recs are still being progress, deadlines updated to 30/4/17 & 31/8/17.
HMS Application	Sep-15	Satisfactory	3	3	100%									P Turner	COMPLETE
Data Protection & Information Governance	Mar-15	Limited	9	7	78%			1	0	1	0	0	11%	B Bastable	Update provided via Audit App confirmed the one recommendation is still in progress - deadlines revised to 31 Mar 17.
Service Desk (ITIL)	Sep-15	Limited	2	2	100%										COMPLETE - Updates provided by Audit App confirmed recs are being addressed as part of larger IT projects so are therefore being addressed.
			206	166	81%	19	9%	20	5	8	1	6	10%		

Follow Up of Recommendations 2015/16 Audit Plan

	Final Report Date	Assurance level	Recs not applicable for follow up	Total No of Recs	Number of agreed recs completed	%of recs completed	Recs carried over into next audit	%of recs carried over	Number of recs outstanding	1	2	3	% of recs outstanding	Key auditees	Comments	Comments re Outstanding Priority 1 recs
<b>Chief Executive</b>																
<b>Corporate</b>																
Delivery of Corporate Priorities & Surf's Up Agenda	May-16	Satisfactory	1	2	2	100%									COMPLETE	
Annual Governance Statements Corporate Governance	N/A Jul-16	N/A Satisfactory	1	1			1	100%							N/A NFA - Recommendation carried forward into 16/17 audit	
Risk Management	May-16	Satisfactory		3					3	0	2	1	100%	M Lowe	Review of Audit App confirmed recs still in progress - deadlines had been revised to 31/3/17.	
Project Management Use of Consultants	Jun-16	Limited		11	3	27%			8	4	4	0	73%	S Sale /S Gobey	Update provide by Head of Legal on 7/3 confirmed 3 recs as complete	
Communications Communications	Mar-16	Limited		8					8	0	8	0	100%	N Hopkins	3rd request for update sent 7/3/17	
<b>Director for Economy</b>																
<b>Place &amp; Investment</b>																
Fixed Assets	Feb-17	Limited	1	5					5	2	3	0	100%	L Dine	Follow up will occur automatically through Audit App when recommendations become due	
<b>Growth</b>																
Planning Services	Sep-15	Satisfactory		2	2	100%									COMPLETE	
Local Development Framework	Aug-16	Satisfactory		2	1	50%			1	0	1	0	50%	J Appleton	Reminder for update sent 7/3/17.	
Community Infrastructure Levy	May-16	Satisfactory		3	1	33%			2	0	2	0	67%	G Peck	Update received on 8/3/17 confirmed both remaining recommendations relating to training have not yet been implemented due to there not yet being a need but both are being kept under review.	
<b>Director for Communities</b>																
<b>Housing</b>																
Housing Rents	Jun-16	Satisfactory		4	3	75%			1	0	1	0	25%	P Turner/ K Riches	1 rec re updating procedures is still in progress (3.4)	
Adur Building Services DSO	Mar-16	Limited	2	15	15	100%									COMPLETE - Update provided on 2/11 confirmed remaining 2 recs have now been completed.	
Wellbeing Public Health	Aug-16	Satisfactory		5	4	80%			1	0	1		20%	J Hoiles	Implementation deadline for remaining rec revised to Apr 2017	

Empty Property Management	Jul-16	Satisfactory		4	1	25%			3	0	3	0	75%	B Reynolds	Update requested 7/3 re 3 OS recs
<b>Director for Customer Services</b>															
<b>Revenues &amp; Benefits</b>															
WBC Benefits	Jun-16	Satisfactory		3	3	100%									COMPLETE
CenSus - Council Tax	Mar-16	Satisfactory	1	4	4	100%									COMPLETE
<b>Waste &amp; Cleansing</b>															
AWCS	Oct-15	Satisfactory		1					1	0	1	0	100%	T Patching	update requested 7/3
<b>Customer Contact &amp; Engagement</b>															
Customer Services	Aug-16	Limited	2	14	2	14%			12	1	8	3	86%	T Bryant	Update via App confirmed 2 recs complete - remainder not due until May 17
Electoral Services															
<b>Building Control &amp; Land Charges</b>															
Building Control	Nov-15	Satisfactory		5	1	20%			4	0	2	2	80%	G Goacher	update requested 7/3
<b>Director of Digital &amp; Resources</b>															
<b>Finance</b>															
General Ledger	Jun-16	Satisfactory		5					5	0	4	1	100%	J Gamlin	Recs not due for implementation until Apr 17
Cashiering	Aug-16	Satisfactory		2	1	50%	1	50%							16/17 audit confirms this rec still to be actioned (procedures) has been reiterated in 16/17 report.
Creditors	Jul-16	Satisfactory		2			2	100%							16/17 audit confirmed both recs still O/S and were reiterated in 16/17 report.
Debtors	Apr-16	Satisfactory	1	2	2	100%									COMPLETE
Payroll	Apr-16	Satisfactory		4	2	50%	2	50%							16/17 audit confirms these recs are still to be actioned and have been reiterated in 16/17 report.
Corporate Fraud Management															
Treasury Management	May-16	Satisfactory		2	2	100%									COMPLETE
<b>Legal</b>															
<b>Design &amp; Digital</b>															
Freedom of Information	Nov-15	Limited	4	5	5	100%									COMPLETE
Performance Management	Oct-15	Satisfactory	5												Update provided confirmed PM process has totally been revised & recs from this audit are now no longer applicable.
Delivery of Digital Strategy	Feb-17	Satisfactory		2					2	0	2	0	100%	P Brewer	Follow up will occur automatically through Audit App when recommendations become due
<b>Business &amp; Technical Services</b>															
Decent Homes - report from 14/15 fact funding	Mar-16	Nil		28	28	100%									COMPLETE
<b>Computer Audits</b>															
IT Resilience															
Public Services Network	Sep-15	Satisfactory		3	3	100%									COMPLETE

Cloud Computing	Oct-16	Satisfactory	7	2	29%			5	0	2	3	71%	B Bastable/ K Rowe	Update from Audit App confirmed 2 complete & 5 still in progress - deadlines revised
Google Mail post implementation review	Jan-17	Satisfactory	2					2	0	1	1	100%	B Bastable	Follow up will occur automatically through Audit App when recommendations become due
			156	87	56%	6	4%	63	7	45	11	40%		



## Internal Audit Plan 2017/18

### Report by the Acting Head of Internal Audit

#### 1.0 Summary

1.1 This report presents the 2017/18 Internal Audit Plan for consideration and approval.

#### 2.0 Background

2.1 Audit Plans have since 1998, been presented annually to Members for approval.

2.2 When developing the Audit Plans approved by this Committee on 22 March 2016, a re-assessment of the Councils' audit universe was completed in order to focus reduced Audit resources on audits in high risk areas. In drafting the 2017/18 Audit Plan, the Acting Head of Internal Audit considered this assessment and updated it by:

- Mapping the Councils directorates and services against the risks contained within the Councils' corporate and service risk registers to identify potential audits;
- Mapping audits performed in recent years and current issues impacting on Local Government against the directorates and service areas to identify further potential audits;
- Considering the requirements of the Chartered Institute of Internal Auditors (CIIA) International Standards which became effective from 1 April 2013.

2.3 The draft 2017/18 plan was discussed with the Chief Financial Officer, updated and issued to the Councils' Leadership Team and all Heads of Service for comment. Any comments received have been addressed within the attached plan.

2.4 The proposed 2017/18 Annual Audit Plan (which includes the proposed quarterly split) is attached as **Appendix A**.

### 3.0 Proposals

3.1 The proposed 2017/18 Internal Audit Plan is presented for approval by this Committee. The plan consists of 34 audits and 511 days of work allocated as summarised below:

Category of Work	Type of Work	Number of Days
Audits of High Risk areas	System audits & annual testing of key financial and governance systems	280
Audits of High Risk areas	Cross service audits	26
ICT Audits	Specialist ICT related audits and Application Reviews	60
Contract Audits	Specialist reviews & Contract examination	20
NFI	Co-Ordination & investigation of matches	35
Follow Up	Follow up to confirm implementation of agreed audit recommendations	25
Other	Management & Contingency	65
<b>Total Days in Plan</b>		<b>511</b>

3.2 An ongoing system of monitoring the progress of audit work against the plan is in place. Monthly progress is reported to the Chief Financial Officer and quarterly reports on progress are presented to this Committee. In accordance with the Terms of Reference, other reports may be presented to the Committee as necessary during the year.

3.3 The Committee is also asked to consider whether there are any specific areas of interest which they would like to see covered in the 2017/18 Audit Plan.

### 4.0 Legal

4.1 There are no legal matters arising as a result of this report.

### 5.0 Financial implications

5.1 This plan has been based on the reduced audit plan agreed in order to achieve the savings reported to Overview & Scrutiny Committee on 26 November 2015.



## **6.0 Recommendations**

- 6.1 That the Committee consider whether there are any specific audits which they would like to see progressed in 2017/18 which are not currently contained within the proposed plans.
- 6.2 That the 2017/18 Audit Plan be approved.

## **Local Government Act 1972 Background Papers:**

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## Schedule of Other Matters

### **1.0 Council Priority**

1.1 The report does not seek to meet any particular Council priorities.

### **2.0 Specific Action Plans**

2.1 (A) Matter considered and no issues identified.  
(B) Matter considered and no issues identified.

### **3.0 Sustainability Issues**

3.1 Matter considered and no issues identified.

### **4.0 Equality Issues**

4.1 Matter considered and no issues identified.

### **5.0 Community Safety Issues (Section 17)**

5.1 Matter considered and no issues identified.

### **6.0 Human Rights Issues**

6.1 Matter considered and no issues identified.

### **7.0 Reputation**

7.1 Matter considered and no issues identified.

### **8.0 Consultations**

8.1 (A) Matter considered and no issues identified.  
(B) Matter considered and no issues identified.

### **9.0 Risk Assessment**

9.1 Matter considered and no issues identified.

### **10.0 Health & Safety Issues**

10.1 Matter considered and no issues identified.

### **11.0 Procurement Strategy**

11.1 Matter considered and no issues identified.

### **12.0 Partnership Working**

12.1 Matter considered and no issues identified.

	DAYS	ANNUAL AUDIT	Q1	Q2	Q3	Q4
			APR-JUN	JUL-SEP	OCT-DEC	JAN-MAR
<b>COMMUNITIES</b>						
<b>Housing</b>						
Housing Tenancy	8		8			
Rent Collection and Collection of Arrears	10	Y			10	
Leasehold Management	8					8
Homelessness	15			15		
<b>Wellbeing</b>						
Contract Management audit - Voluntary & Community contract	10			10		
<b>CUSTOMER SERVICES</b>						
<b>Revenues &amp; Benefits</b>						
Revenues (Council Tax & NDR)	30	Y			30	
Benefits	25	Y			25	
<b>ECONOMY</b>						
<b>Culture</b>						
Theatres Box Office	10					10
<b>Place &amp; Investment</b>						
Fixed Assets	10	Y	10			
Estates	10					10
<b>Growth</b>						
Local Plans for new homes	10			10		
<b>DIGITAL &amp; RESOURCES</b>						
<b>Finance</b>						
Budget Monitoring	10		10			
General Ledger	10	Y			10	
Capital Accounting	8	Y				8
Treasury Management	8	Y				8
Tax Risk assessments (VAT & employee taxes)	8			8		
Creditors	10	Y			10	
Debtors	10	Y			10	
Payroll	10	Y				10
Cashiering	10	Y				10
<b>Legal Services</b>						
Corporate Governance	10	Y		10		
Compliance with the Data Protection Act	10		10			
<b>Digital &amp; Design</b>						
ICT Management & Strategy	10			10		
Risk Management	10	Y				10
<b>People</b>						
Human Resources	10		10			
<b>COMPUTER AUDITS</b>						
Cyber Security	20			20		
Thematic review of password security of all key systems	15		15			
Web Security	15				15	
Mobile Devices	10					10
<b>CONTRACT AUDITS</b>						
Contract Management audit	10		10			
Compliance with Public Contracts Regulations 2015	10			10		
<b>CROSS SERVICE REVIEWS</b>						
Debt Management	8			8		
Ethics (including gifts & hospitalities and declarations of interest)	8		8			
Change Management	10		10			
<b>OTHER</b>						
Management & Admin	40		10	10	10	10
Ad-Hoc/Contingency	25		10	5	5	5
NFI Co-Ordination	10		2.5	2.5	2.5	2.5
NFI Testing	25		25			
Follow Up	25		6.5	6	6.5	6
	<b>511</b>		<b>145</b>	<b>124.5</b>	<b>134</b>	<b>107.5</b>

28.38%	24.36%	26.22%	21.04%
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## JOINT TREASURY MANAGEMENT STRATEGY STATEMENT AND ANNUAL INVESTMENT STRATEGY 2017/18 TO 2019/20 ADUR DISTRICT COUNCIL AND WORTHING BOROUGH COUNCIL

### REPORT BY DIRECTOR OF DIGITAL AND RESOURCES

#### 1.0 INTRODUCTION

##### 1.1 Background

The Councils are required to operate a balanced budget, which broadly means that cash raised during the year will meet cash expenditure. Part of the treasury management operation is to ensure that this cash flow is adequately planned, with cash being available when it is needed. Surplus monies are invested in high quality counterparties or instruments commensurate with the Councils' low risk appetite, providing adequate liquidity initially, before considering investment return. This is consistent with national guidance which promotes security and liquidity above yield.

The second main function of the treasury management service is the funding of the Councils' capital plans. These capital plans provide a guide to the borrowing need of the Councils, essentially the longer term cash flow planning, to ensure that the Councils can meet their capital spending obligations. This management of longer term cash may involve arranging long or short term loans, or using longer term cash flow surpluses. On occasion any debt previously drawn may be restructured to meet Councils' risk or cost objectives.

CIPFA defines treasury management as:

*"The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks."*

##### 1.2 Reporting requirements

The Councils are required to receive and approve, as a minimum, three main reports each year, which incorporate a variety of policies, estimates and actuals.

**Prudential and treasury indicators and treasury strategy** (this report), to be approved by the Joint Strategic Committee (JSC) - the first, and most important report covers:

## 1.0 INTRODUCTION

### 1.2 Reporting requirements

- the capital plans (including prudential indicators);
- a minimum revenue provision (MRP) policy (how residual capital expenditure is charged to revenue over time);
- the treasury management strategy (how the investments and borrowings are to be organised) including treasury indicators; and
- an investment strategy (the parameters on how investments are to be managed).

A mid year treasury management report – This will update members with the progress of the capital position, amending prudential indicators as necessary, and whether any policies require revision.

An annual treasury report – This provides details of a selection of actual prudential and treasury indicators and actual treasury operations compared to the estimates within the strategy.

Scrutiny - The above reports are required to be scrutinised by the Joint Governance Committee (JGC) which may make recommendations to the JSC regarding any aspects of Treasury Management policy and practices it considers appropriate in fulfilment of its scrutiny role. Such recommendations as may be made shall be incorporated within the above named reports and submitted to meetings of the JSC for consideration as soon after the meetings of the JGC as practically possible.

### 1.3 Treasury Management Strategy for 2017/18

The strategy for 2017/18 covers two main areas:

#### Capital issues

- the capital plans and the prudential indicators;
- the minimum revenue provision (MRP) policy.

#### Treasury management issues

- the current treasury position;
- treasury indicators which limit the treasury risk and activities of the Councils;
- prospects for interest rates;
- the borrowing strategy;
- policy on borrowing in advance of need;

## **1.0 INTRODUCTION**

### **1.3 Treasury Management Strategy for 2017/18**

#### Treasury management issues

- debt rescheduling;
- the investment strategy;
- creditworthiness policy; and
- policy on use of external service providers

These elements cover the requirements of the Local Government Act 2003, the CIPFA Prudential Code, CLG MRP Guidance, the CIPFA Treasury Management Code and CLG Investment Guidance.

### **1.4 Training**

The CIPFA Code requires the responsible officer to ensure that members with responsibility for treasury management receive adequate training in treasury management. This especially applies to members responsible for scrutiny. Training is arranged as required.

The training needs of treasury management officers are periodically reviewed and officers attend courses provided by appropriate trainers.

### **1.5 Treasury management consultants**

The Councils last undertook a joint re-tender for treasury management consultancy services in 2013. This culminated in the re-appointment of the Councils' incumbent consultants, Capita Treasury Solutions Limited (formerly known as Capita Asset Services Limited) on similar terms. The contract is currently being re-procured with a start date of 1 April 2017.

The Councils recognise that responsibility for treasury management decisions remains with the organisations at all times and will ensure that undue reliance is not placed upon our external service providers.

They also recognise that there is value in employing external providers of treasury management services in order to acquire access to specialist skills and resources. The Councils will ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed and documented, and subjected to regular review.

## **2.0 THE CAPITAL PRUDENTIAL INDICATORS 2017/18 – 2019/20**

The Councils' capital expenditure plans are the key driver of treasury management activity. The output of the capital expenditure plans is reflected in the prudential indicators, which are designed to assist members' overview and confirm capital expenditure plans.

## 2.0 THE CAPITAL PRUDENTIAL INDICATORS 2017/18 – 2019/20

### 2.1 Capital expenditure

This prudential indicator is a summary of the Councils' capital expenditure plans, both those agreed previously, and those forming part of this budget cycle. Members are asked to approve the capital expenditure forecasts.

The table below summarises the capital expenditure plans and how these plans are being financed by capital or revenue resources. Any shortfall of resources results in a funding borrowing need.

#### ADUR DISTRICT COUNCIL

Capital expenditure	2015/16 Actual	2016/17 Estimate	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate
	£m	£m	£m	£m	£m
Non-HRA	4.965	3.269	*19.390	*12.300	*11.291
HRA	4.651	4.340	6.496	5.100	5.100
<b>TOTAL</b>	<b>9.616</b>	<b>7.609</b>	<b>25.886</b>	<b>17.400</b>	<b>16.391</b>
<b>Financed by:</b>					
Capital receipts	0.372	0.772	0.740	0.606	0.606
Capital grants and contributions	1.591	0.987	4.047	1.143	0.318
Revenue Reserves & contributions	4.380	4.044	5.967	4.557	4.557
<b>Net financing need for the year</b>	<b>3.273</b>	<b>1.806</b>	<b>15.132</b>	<b>11.094</b>	<b>10.910</b>

\*The capital expenditure includes £10m allocated to the Strategic Property Fund for 2017/18 and each of the following years.

#### WORTHING BOROUGH COUNCIL

Capital expenditure	2015/16 Actual	2016/17 Estimate	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate
	£m	£m	£m	£m	£m
Non-HRA	2.373	*13.546	*23.709	*13.407	*12.794
<b>Financed by:</b>					
Capital receipts	0.590	0.369	6.140	0.500	0.500
Capital grants and contributions	0.865	1.394	0.941	0.792	0.774
Revenue Reserves & contributions	0.212	0.346	0.233	0.189	0.189
<b>Net financing needed for the year</b>	<b>0.706</b>	<b>11.437</b>	<b>16.395</b>	<b>11.926</b>	<b>11.331</b>

\*The capital expenditure includes a £10m loan to a local Registered Social Landlord (£5m to be paid in 2016/17 and £5m in 2017/18) and the amounts allocated to the Strategic Property Fund - £5m in 2016/17 and £10m in 2017/18, 2018/19 and 2019/20.

## 2.0 THE CAPITAL PRUDENTIAL INDICATORS 2017/18 – 2019/20

### 2.2 The Councils' borrowing need (the Capital Financing Requirement)

The second prudential indicator is the Councils' Capital Financing Requirement (CFR). The CFR is simply the total historic outstanding capital expenditure which has not yet been paid for from either revenue or capital resources. It is essentially a measure of the Councils' underlying borrowing need. Any capital expenditure above, which has not immediately been paid for, will increase the CFR.

The CFR does not increase indefinitely, as the minimum revenue provision (MRP) is a statutory annual revenue charge which broadly reduces the borrowing need in line with each asset's life. The CFR includes any other long term liabilities (e.g. finance leases). Whilst these increase the CFR, and therefore the Councils' borrowing requirement, these types of scheme include a borrowing facility and so the Councils are not required to separately borrow for these schemes.

The Councils are asked to approve the CFR projections below:

#### ADUR DISTRICT COUNCIL

	2015/16 Actual	2016/17 Estimate	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate
	£m	£m	£m	£m	£m
<b>Capital Financing Requirement</b>					
CFR – non-HRA	15.003	15.918	30.231	40.380	50.338
CFR – HRA	61.819	60.103	60.103	60.103	60.103
<b>Total CFR</b>	<b>76.822</b>	<b>76.021</b>	<b>90.334</b>	<b>100.483</b>	<b>110.441</b>
<b>Movement in CFR</b>	<b>0.837</b>	<b>(0.801)</b>	<b>14.313</b>	<b>10.149</b>	<b>9.958</b>
<b>Movement in CFR represented by</b>					
Net financing need for the year (above)	3.273	1.806	15.132	11.094	10.910
<b>Less: MRP/VRP and other financing movements</b>	<b>(2.436)</b>	<b>(2.607)</b>	<b>(0.819)</b>	<b>(0.945)</b>	<b>(0.952)</b>
<b>Movement in CFR</b>	<b>0.837</b>	<b>(0.801)</b>	<b>14.313</b>	<b>10.149</b>	<b>9.958</b>



## 2.0 THE CAPITAL PRUDENTIAL INDICATORS 2017/18 – 2019/20

### 2.2 The Councils' borrowing need (the Capital Financing Requirement)

#### WORTHING BOROUGH COUNCIL

	2015/16 Actual	2016/17 Estimate	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate
	£m	£m	£m	£m	£m
<b>Capital Financing Requirement</b>					
<b>CFR – non housing</b>	<b>23.361</b>	<b>33.821</b>	<b>49.143</b>	<b>59.922</b>	<b>70.034</b>
<b>Movement in CFR</b>	<b>(0.225)</b>	<b>10.460</b>	<b>15.322</b>	<b>10.779</b>	<b>10.112</b>
<b>Movement in CFR represented by</b>					
Net financing need for the year (above)	0.706	11.437	16.395	11.926	11.331
Less MRP/VRP and other financing movements	(0.931)	(0.977)	(1.073)	(1.147)	(1.219)
<b>Movement in CFR</b>	<b>(0.225)</b>	<b>10.460</b>	<b>10.322</b>	<b>10.779</b>	<b>10.112</b>

### 2.3 Minimum revenue provision (MRP) policy statement

The Councils are required to pay off an element of the accumulated General Fund capital spend each year (the CFR) through a revenue charge (the minimum revenue provision - MRP), although they are also allowed to undertake additional voluntary payments (voluntary revenue provision - VRP). CLG regulations have been issued which require the full Councils to approve an MRP Statement in advance of each year. The 2016/17 MRP Statements were approved by Adur Council on 25th February 2016 and by Worthing Council on 23rd February 2016 and were amended at JSC on 2 June 2016.

A variety of options are provided to councils, so long as there is a prudent provision. The Councils are recommended to approve the following MRP Statements:

#### Adur District Council

For Adur District Council it was first approved by the Policy and Strategy Committee on 18th March 2008 that for capital expenditure incurred before 1st April 2008, the MRP will be calculated on 4% of the Non-Housing CFR at the closing balance of the previous financial year (ie no "Adjustment A" to negate the impact on Council Tax – the CFR Method). No such policy was required by Worthing Borough Council who had no debt at this time.

## **2.0 THE CAPITAL PRUDENTIAL INDICATORS 2017/18 – 2019/20**

### **2.3 Minimum revenue provision (MRP) policy statement**

#### **2.3.1 Adur District Council General Fund**

For non-HRA capital expenditure after 1st April 2008 the MRP will be calculated as the annual amount required to repay borrowing based on the annuity method: equal annual payments of principal and interest are calculated, with the interest element reducing and the principal element increasing as the principal is repaid. The interest is based on the rate available to the Council at the beginning of the year in which payments start and the MRP is calculated as the amount of principal, so that by the end of the asset's life the principal is fully repaid. The option remains to use additional revenue contributions or capital receipts to repay debt earlier (the Asset Life Method).

An exception was agreed in the 2015/16 Treasury Management Strategy Statement: the Chief Financial Officer has discretion to defer MRP relating to debt arising from loans to Registered Social Landlords (RSLs) to match the profile of debt repayments from the RSL. RSLs normally prefer a maturity type loan as it matches the onset of income streams emanating from capital investment with the timing of the principal debt repayment. The deferral of MRP to the maturity date would therefore mean that MRP is matched at the same point as the debt is repaid, and is therefore cash (and revenue cost) neutral to the Council.

If concerns arise about the ability of the RSL to repay the loan, the Chief Financial Officer will use the approved discretion to make MRP as a "prudent provision" from the earliest point to ensure that sufficient funds are set aside from revenue to repay the debt at maturity if the RSL defaults.

It is proposed to use the same policy for 2017/18.

#### **Housing Revenue Account**

Unlike the General Fund, the HRA is not required to set aside funds to repay debt. The Adur HRA debt at the beginning of 2012/13 was close to the Government's imposed debt limit of £68.912m. The Council is not permitted to borrow in excess of this amount for HRA purposes. The Council's MRP policy to date has applied the financially prudent option of voluntary MRP for the repayment of HRA debt, to facilitate new borrowing in future for capital investment.

It is proposed to change this approach for 2017/18: in order to provide additional capital funding to address the maintenance backlog identified by the condition survey, the voluntary MRP will be suspended for a period of 9 years whilst the Council invests in its current housing stock and manages the impact of rent limitation.

## 2.0 THE CAPITAL PRUDENTIAL INDICATORS 2017/18 – 2019/20

### 2.3 Minimum revenue provision (MRP) policy statement

#### 2.3.2 Worthing Borough Council

Worthing's MRP policy was also amended at JSC on 2 June 2016, when the annuity method was approved. Worthing has the same discretion as Adur Council in the application of MRP in respect of loans to RSLs. It is proposed to retain this policy for 2017/18.

If any finance leases are entered into the repayments are applied as MRP.

### 2.4 Affordability prudential indicators

The previous sections cover the overall capital and control of borrowing prudential indicators, but within this framework prudential indicators are required to assess the affordability of the capital investment plans. These provide an indication of the impact of the capital investment plans on the Councils' overall finances. The Councils are asked to approve the following indicators:

### 2.5 Ratio of financing costs to net revenue stream

This indicator identifies the trend in the cost of capital (borrowing and other long term obligation costs net of investment income) against the net revenue stream.

#### ADUR DISTRICT COUNCIL

	2015/16 Actual	2016/17 Estimate	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate
	%	%	%	%	%
Non-HRA	13.93	15.48	16.22	19.36	19.54
HRA	41.94	40.76	24.10	25.94	25.46

The HRA ratio for 2017/18 onwards is lower due to the suspension of VRP.

#### WORTHING BOROUGH COUNCIL

	2015/16 Actual	2016/17 Estimate	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate
	%	%	%	%	%
Non-HRA	7.36	8.27	10.01	11.04	11.84

The estimates of financing costs include current commitments and the proposals in this budget report.

### 2.6 Incremental impact of capital investment decisions on Council Tax

This indicator identifies the revenue costs associated with proposed changes to the three year capital programme recommended in this budget report compared to the Councils' existing approved commitments and current plans. The assumptions are based on the budget, but will invariably include some estimates, such as the level of increase in Council Tax.

## 2.0 THE CAPITAL PRUDENTIAL INDICATORS 2017/18 – 2019/20

### 2.6 Incremental impact of capital investment decisions on Council Tax

#### Incremental impact of capital investment decisions on the band D Council Tax

##### ADUR DISTRICT COUNCIL

	2015/16 Actual	2016/17 Estimate	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate
	£	£	£	£	£
<b>Council Tax - Band D</b>	(5.92)	7.10	(0.33)	4.97	0.25

##### WORTHING BOROUGH COUNCIL

	2015/16 Actual	2016/17 Estimate	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate
	£	£	£	£	£
<b>Council Tax - Band D</b>	(1.77)	3.74	4.13	2.65	2.69

### 2.7 Estimates of the incremental impact of capital investment decisions on housing rent levels

Similar to the Council Tax calculation, this indicator identifies the trend in the cost of proposed changes in the housing capital programme recommended in this budget report compared to the Adur District Council's existing commitments and current plans, expressed as a discrete impact on weekly rent levels.

Incremental impact of capital investment decisions on housing rent levels:

##### ADUR DISTRICT COUNCIL

	2015/16 Actual	2016/17 Estimate	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate
	£	£	£	£	£
<b>Weekly housing rent levels</b>	(0.39)	(0.40)	(14.09)	(0.49)	(0.41)

This indicator shows the revenue impact on any newly proposed changes, although any discrete impact will be constrained by rent controls. The reduction for 2017/8 is due to the suspension of VRP.

### 3.0 BORROWING

The capital expenditure plans set out in Section 2 provide details of the service activity of the Councils. The treasury management function ensures that the Councils' cash is organised in accordance with the the relevant professional codes, so that sufficient cash is available to meet this service activity. This will involve both the organisation of the cash flow and, where capital plans require, the organisation of appropriate borrowing facilities. The strategy covers the relevant treasury / prudential indicators, the current and projected debt positions and the annual investment strategy.

#### 3.1 Current portfolio position

The Councils' treasury portfolio positions at 31 March 2016, with forward projections are summarised below. The table shows the actual external debt (the treasury management operations), against the underlying capital borrowing need (the Capital Financing Requirement - CFR), highlighting any over or under borrowing.

#### ADUR DISTRICT COUNCIL

The increase in debt includes £10m in 2017/18 and the following years for investment in the Strategic Property Fund.

	2015/16 Actual	2016/17 Estimate	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate
	£m	£m	£m	£m	£m
<b>External Debt</b>					
Debt at 1 April	75.986	74.268	72.549	83.975	91.363
Expected change in Debt	(1.718)	(1.719)	11.426	7.388	7.203
Other long-term liabilities (OLTL)	-	-	-	-	-
Expected change in OLTL	-	-	-	-	-
<b>Debt at 31 March</b>	<b>74.268</b>	<b>72.549</b>	<b>83.975</b>	<b>91.363</b>	<b>98.566</b>
<b>The Capital Financing Requirement</b>					
<b>Under / (over) borrowing</b>	<b>2.554</b>	<b>3.472</b>	<b>6.359</b>	<b>9.120</b>	<b>11.875</b>

#### WORTHING BOROUGH COUNCIL

The increase in debt allows for £5m in 2016/17 and £5m in 2017/18 for the Worthing loan to Worthing Homes and £5m in 2016/17 and £10m in the following years for investment in the Strategic Property Fund.

### 3.0 BORROWING

#### 3.2 Current portfolio position

##### WORTHING BOROUGH COUNCIL

	2015/16 Actual	2016/17 Estimate	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate
	£m	£m	£m	£m	£m
<b>External Debt</b>					
Debt at 1 April	18.088	19.136	26.136	40.531	50.457
Expected change in Debt	1.048	7.000	14.395	9.926	9.331
Other long-term liabilities (OLTL)	-	-	-	-	-
Expected change in OLTL	-	-	-	-	-
<b>Debt at 31 March</b>	<b>19.136</b>	<b>26.136</b>	<b>40.531</b>	<b>50.457</b>	<b>59.788</b>
<b>The Capital Financing Requirement</b>	<b>23.361</b>	<b>33.821</b>	<b>49.143</b>	<b>59.922</b>	<b>70.034</b>
<b>Under / (over) borrowing</b>	<b>4.225</b>	<b>7.685</b>	<b>8.612</b>	<b>9.465</b>	<b>10.246</b>

Within the prudential indicators there are a number of key indicators to ensure that the Councils operate their activities within well-defined limits. One of these is that the Councils need to ensure that their gross debt does not, except in the short term, exceed the total of the CFR in the preceding year plus the estimates of any additional CFR for 2016/17 and the following two financial years. This allows some flexibility for limited early borrowing for future years, but ensures that borrowing is not undertaken for revenue purposes.

The Chief Financial Officer reports that the Councils complied with this prudential indicator in the current year and does not envisage difficulties for the future. This view takes into account current commitments, existing plans, and the proposals in this budget report.

#### 3.2 Treasury Indicators: limits to borrowing activity

The operational boundary - This is the limit beyond which external debt is not normally expected to exceed. In most cases, this would be a similar figure to the CFR, but may be lower or higher depending on the levels of actual debt.

### 3.0 BORROWING

#### 3.2 Treasury Indicators: limits to borrowing activity

##### ADUR DISTRICT COUNCIL

Operational boundary	2016/17 Approved	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate
	£m	£m	£m	£m
Debt	93.0	93.0	103.0	113.0
Other long term liabilities	1.0	1.0	1.0	1.0
<b>Total</b>	<b>94.0</b>	<b>94.0</b>	<b>104.0</b>	<b>114.0</b>

##### WORTHING BOROUGH COUNCIL

Operational boundary	2016/17 Approved	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate
	£m	£m	£m	£m
Debt re Worthing Homes	10.0	10.0	10.0	10.0
Other Debt	29.0	41.0	51.0	61.0
Other long term liabilities	1.0	1.0	1.0	1.0
<b>Total</b>	<b>40.0</b>	<b>52.0</b>	<b>62.0</b>	<b>72.0</b>

The authorised limit for external debt - A further key prudential indicator represents a control on the maximum level of borrowing. This represents a limit beyond which external debt is prohibited, and this limit needs to be set or revised by the full Councils. It reflects the level of external debt which, while not desired, could be afforded in the short term, but is not sustainable in the longer term.

1. This is the statutory limit determined under section 3 (1) of the Local Government Act 2003. The Government retains an option to control either the total of all councils' plans, or those of a specific council, although this power has not yet been exercised.
2. The Councils are asked to approve the following authorised limits:

##### ADUR DISTRICT COUNCIL

Authorised limit	2016/17 Approved	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate
	£m	£m	£m	£m
Debt	99.0	99.0	109.0	119.0
Other long term liabilities	1.0	1.0	1.0	1.0
<b>Total</b>	<b>100.0</b>	<b>100.0</b>	<b>110.0</b>	<b>120.0</b>

### 3.0 BORROWING

#### 3.2 Treasury Indicators: limits to borrowing activity

##### WORTHING BOROUGH COUNCIL

Authorised limit	2016/17 Approved	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate
	£m	£m	£m	£m
Debt re Worthing Homes	10.0	10.0	10.0	10.0
Other Debt	34.0	49.0	54.0	64.0
Other long term liabilities	1.0	1.0	1.0	1.0
<b>Total</b>	<b>45.0</b>	<b>60.0</b>	<b>65.0</b>	<b>75.0</b>

Separately, Adur District Council is also limited to a maximum HRA CFR through the HRA self-financing regime. This limit is currently:

HRA Debt Limit	2016/17 Approved	2017/18 Estimate	2018/19 Estimate	2019/20 Estimate
	£m	£m	£m	£m
HRA debt cap	68.912	68.912	68.912	68.912
HRA CFR	60.103	60.103	60.103	60.103
HRA headroom	8.809	8.809	8.809	8.809

#### 3.3 Prospects for interest rates

The Councils have appointed Capita Asset Services as their treasury advisor and part of their service is to assist the Council to formulate a view on interest rates. The following table gives their central view.

	Dec-16	Mar-17	Jun-17	Sep-17	Dec-17	Mar-18	Jun-18	Sep-18	Dec-18	Mar-19	Jun-19	Sep-19	Dec-19	Mar-20
Bank rate	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.50%	0.50%	0.75%	0.75%
5yr PWLB rate	1.60%	1.60%	1.60%	1.60%	1.60%	1.70%	1.70%	1.70%	1.80%	1.80%	1.90%	1.90%	2.00%	2.00%
10yr PWLB rate	2.30%	2.30%	2.30%	2.30%	2.30%	2.30%	2.40%	2.40%	2.40%	2.50%	2.50%	2.60%	2.60%	2.70%
25yr PWLB rate	2.90%	2.90%	2.90%	2.90%	3.00%	3.00%	3.00%	3.10%	3.10%	3.20%	3.20%	3.30%	3.30%	3.40%
50yr PWLB rate	2.70%	2.70%	2.70%	2.70%	2.80%	2.80%	2.80%	2.90%	2.90%	3.00%	3.00%	3.10%	3.10%	3.20%

The Monetary Policy Committee, (MPC), cut Bank Rate from 0.50% to 0.25% on 4th August in order to counteract what it forecast was going to be a sharp slowdown in growth in the second half of 2016. It also gave a strong steer that it was likely to cut Bank Rate again by the end of the year.



## **3.0 BORROWING**

### **3.3 Prospects for interest rates**

However, economic data since August has indicated much stronger growth in the second half 2016 than that forecast; also, inflation forecasts have risen substantially as a result of a continuation of the sharp fall in the value of sterling since early August. Consequently, Bank Rate was not cut again in November or December and, on current trends, it now appears unlikely that there will be another cut, although that cannot be completely ruled out if there was a significant dip downwards in economic growth. During the two-year period 2017 – 2019, when the UK is negotiating the terms for withdrawal from the EU, it is likely that the MPC will do nothing to dampen growth prospects, (i.e. by raising Bank Rate), which will already be adversely impacted by the uncertainties of what form Brexit will eventually take. Accordingly, a first increase to 0.50% is not tentatively pencilled in, as in the table above, until quarter 2 2019, after those negotiations have been concluded, (though the period for negotiations could be extended). However, if strong domestically generated inflation, (e.g. from wage increases within the UK), were to emerge, then the pace and timing of increases in Bank Rate could be brought forward.

Economic and interest rate forecasting remains difficult with so many external influences weighing on the UK. The above forecasts, (and MPC decisions), will be liable to further amendment depending on how economic data and developments in financial markets transpire over the next year. Geopolitical developments, especially in the EU, could also have a major impact. Forecasts for average investment earnings beyond the three-year time horizon will be heavily dependent on economic and political developments.

The overall longer run trend is for gilt yields and PWLB rates to rise, albeit gently. It has long been expected that at some point, there would be a start to a switch back from bonds to equities after a historic long term trend over about the last twenty five years of falling bond yields. The action of central banks since the financial crash of 2008, in implementing substantial quantitative easing purchases of bonds, added further impetus to this downward trend in bond yields and rising prices of bonds. The opposite side of this coin has been a rise in equity values as investors searched for higher returns and took on riskier assets. The sharp rise in bond yields since the US Presidential election, has called into question whether, or when, this trend has, or may, reverse, especially when America is likely to lead the way in reversing monetary policy. Until 2015, monetary policy was focused on providing stimulus to economic growth but has since started to refocus on countering the threat of rising inflationary pressures as strong economic growth becomes more firmly established. The expected substantial rise in the Fed. rate over the next few years may make holding US bonds much less attractive and cause their prices to fall, and therefore bond yields to rise. Rising bond yields in the US would be likely to exert some upward pressure on bond yields in other developed countries but the degree of that upward pressure is likely to be dampened by how strong, or weak, the prospects for economic growth and rising inflation are in each country, and on the degree of progress in the reversal of monetary policy away from quantitative easing and other credit stimulus measures.

## 3.0 BORROWING

### 3.3 Prospects for interest rates

PWLB rates and gilt yields have been experiencing exceptional levels of volatility that have been highly correlated to geo-political, sovereign debt crisis and emerging market developments. It is likely that these exceptional levels of volatility could continue to occur for the foreseeable future.

The overall balance of risks to economic recovery in the UK is to the downside, particularly in view of the current uncertainty over the final terms of Brexit and the timetable for its implementation.

Apart from the above uncertainties, downside risks to current forecasts for UK gilt yields and PWLB rates currently include:

- Monetary policy action by the central banks of major economies reaching its limit of effectiveness and failing to stimulate significant sustainable growth, combat the threat of deflation and reduce high levels of debt in some countries, combined with a lack of adequate action from national governments to promote growth through structural reforms, fiscal policy and investment expenditure.
- 
- Major national polls:
  - Italian constitutional referendum 4.12.16;
  - Spain has a minority government with only 137 seats out of 350 after already having had two inconclusive general elections in 2015 and 2016. This is potentially highly unstable.
  - Dutch general election 15.3.17;
  - French presidential election April/May 2017;
  - French National Assembly election June 2017;
  - German Federal election August – October 2017.
- A resurgence of the Eurozone sovereign debt crisis, with Greece being a particular problem, and stress arising from disagreement between EU countries on free movement of people and how to handle a huge influx of immigrants and terrorist threats
- Weak capitalisation of some European banks, especially Italian.
- Geopolitical risks in Europe, the Middle East and Asia, causing a significant increase in safe haven flows.
- UK economic growth and increases in inflation are weaker than we currently anticipate.
- Weak growth or recession in the UK's main trading partners - the EU and US.

## **3.0 BORROWING**

### **3.3 Prospects for interest rates**

The potential for upside risks to current forecasts for UK gilt yields and PWLB rates, especially for longer term PWLB rates, include: -

- UK inflation rising to significantly higher levels than in the wider EU and US, causing an increase in the inflation premium in gilt yields.
- A rise in US Treasury yields as a result of Fed. funds rate increases and rising inflation expectations in the USA, dragging UK gilt yields upwards.
- The pace and timing of increases in the Fed. funds rate causing a fundamental reassessment by investors of the relative risks of holding bonds as opposed to equities and leading to a major flight from bonds to equities.
- A downward revision to the UK's sovereign credit rating undermining investor confidence in holding sovereign debt (gilts).

#### **Investment and borrowing rates**

- Investment returns are likely to remain low during 2017/18 and beyond;
- Borrowing interest rates have been on a generally downward trend during most of 2016 up to mid-August; they fell sharply to historically phenomenally low levels after the referendum and then even further after the MPC meeting of 4<sup>th</sup> August when a new package of quantitative easing purchasing of gilts was announced. Gilt yields have since risen sharply due to a rise in concerns around a 'hard Brexit', the fall in the value of sterling, and an increase in inflation expectations. The policy of avoiding new borrowing by running down spare cash balances, has served well over the last few years. However, this needs to be carefully reviewed to avoid incurring higher borrowing costs in later times when authorities will not be able to avoid new borrowing to finance capital expenditure and/or to refinance maturing debt;

There will remain a cost of carry to any new long-term borrowing that causes a temporary increase in cash balances as this position will, most likely, incur a revenue cost – the difference between borrowing costs and investment returns

### **3.4 Borrowing Strategy**

The Councils are both currently maintaining an under-borrowed position. This means that the capital borrowing need (the Capital Financing Requirement), has not been fully funded with loan debt, as cash supporting the Councils' reserves, balances and cash flow has been used as a temporary measure. This strategy is prudent as investment returns are currently low and counterparty risk is still an issue that needs to be considered.

### 3.0 BORROWING

#### 3.4 Borrowing Strategy

Against this background and the risks within the economic forecast, caution will be adopted with the 2017/18 treasury operations. The Chief Financial Officer will monitor interest rates in financial markets and adopt a pragmatic approach to changing circumstances:

- *if it was felt that there was a significant risk of a sharp FALL in long and short term rates (e.g. due to a marked increase of risks around relapse into recession or of risks of deflation), then long term borrowings will be postponed, and potential rescheduling from fixed rate funding into short term borrowing will be considered.*
- *if it was felt that there was a significant risk of a much sharper RISE in long and short term rates than that currently forecast, perhaps arising from an acceleration in the start date and in the rate of increase in central rates in the USA and UK, an increase in world economic activity or a sudden increase in inflation risks, then the portfolio position will be re-appraised. Fixed rate funding probably will be drawn whilst interest rates are still lower than they are projected to be in the next few years.*

Any decisions will be reported to the appropriate decision making body at the next available opportunity.

- 3.5 Both Councils will refer in the first instance to the Public Works Loan Board (PWLB) for sourcing their borrowing needs, given that they are eligible to access the PWLB "Certainty" rate of interest, being 20 basis points below the normal prevailing PWLB rates. However, borrowing from other sources, including other Councils and the Local Government Association Municipal Bonds Agency (see para 3.10), may from time to time offer options to borrow more cheaply than from the PWLB, and therefore will be considered.

Given the expected under borrowing position of the Councils, the borrowing strategy will give consideration to new borrowing in the following order of priority:-

- i) Internal borrowing, by running down cash balances and foregoing interest earned at historically low rates, as this is the cheapest form of borrowing;
- ii) Weighing the short term advantage of internal borrowing against potential long term borrowing costs, in view of the overall forecast for long term borrowing rates to increase over the next few years;
- iii) PWLB fixed rate loans for up to 20 years;
- iv) Long term fixed rate market loans at rates significantly below PWLB rates for the equivalent maturity period (where available) and to maintaining an appropriate balance between PWLB, market debt and loans from other councils in the debt portfolio;
- v) PWLB borrowing for periods under 5 years where rates are expected to be significantly lower than rates for longer periods. This offers a range of options for new borrowing which will spread debt maturities away from a concentration in longer dated debt.

### 3.0 BORROWING

3.6 Preference will be given to PWLB borrowing by annuity and EIP loans instead of maturity loans, as this may result in lower interest payments over the life of the loans.

### 3.7 Treasury management limits on activity

There are three debt related treasury activity limits. The purpose of these are to restrain the activity of the treasury function within certain limits, thereby managing risk and reducing the impact of any adverse movement in interest rates. However, if these are set to be too restrictive they will impair the opportunities to reduce costs / improve performance. The indicators are:

- Upper limits on variable interest rate exposure. This identifies a maximum limit for variable interest rates based upon the debt position net of investments
- Upper limits on fixed interest rate exposure. This is similar to the previous indicator and covers a maximum limit on fixed interest rates;
- Maturity structure of borrowing. These gross limits are set to reduce the Councils' exposure to large fixed rate sums falling due for refinancing, and are required for upper and lower limits.

The Councils are asked to approve the following treasury indicators and limits:

#### ADUR DISTRICT COUNCIL

Interest rate exposures	2017/18	2018/19	2019/20
	Upper %	Upper %	Upper %
Limits on fixed interest rates – debt only	100	100	100
Limits on fixed interest rates – Investments only	100	100	100
Limit on fixed interest rates on net debt	100	100	100
Limits on variable interest rates – debt only	25	25	25
Limits on variable interest rates - Investments only	100	100	100

### 3.0 BORROWING

#### 3.7 Treasury management limits on activity

##### ADUR DISTRICT COUNCIL

<b>Maturity structure of fixed interest rate borrowing</b>		
	<b>Lower Limit</b>	<b>Upper Limit</b>
<b>Under 12 months</b>	0%	10%
<b>12 months to 2 years</b>	0%	15%
<b>2 years to 5 years</b>	0%	20%
<b>5 years to 10 years</b>	0%	30%
<b>10 years to 20 years</b>	0%	35%
<b>20 years to 30 years</b>	0%	30%
<b>30 years to 40 years</b>	0%	30%
<b>40 years to 50 years</b>	0%	45%

##### WORTHING BOROUGH COUNCIL

<b>Interest rate exposures</b>	<b>2016/17</b>	<b>2017/18</b>	<b>2018/19</b>
	<b>Upper</b>	<b>Upper</b>	<b>Upper</b>
	<b>%</b>	<b>%</b>	<b>%</b>
<b>Limits on fixed interest rates – debt only</b>	100	100	100
<b>Limits on fixed interest rates – Investments only</b>	100	100	100
<b>Limit of fixed interest rates on net debt</b>	100	100	100
<b>Limits on variable interest rates – debt only</b>	25	25	25
<b>Limits on variable interest rates - Investments only</b>	100	100	100

<b>Maturity structure of fixed interest rate borrowing</b>		
	<b>Lower Limit</b>	<b>Upper Limit</b>
<b>Under 12 months</b>	0%	75%
<b>12 months to 2 years</b>	0%	75%
<b>2 years to 5 years</b>	0%	75%
<b>5 years to 10 years</b>	0%	75%
<b>10 years to 20 years</b>	0%	75%
<b>20 years to 30 years</b>	0%	50%

### **3.0 BORROWING**

#### **3.8 Policy on borrowing in advance of need**

The Councils will not borrow more than or in advance of their needs purely in order to profit from the investment of the extra sums borrowed. Any decision to borrow in advance will be within forward approved Capital Financing Requirement estimates, and will be considered carefully to ensure that value for money can be demonstrated and that the Councils can ensure the security of such funds.

Risks associated with any borrowing in advance activity will be subject to prior appraisal and subsequent reporting through the mid-year or annual reporting mechanism.

#### **3.9 Debt rescheduling**

As short term borrowing rates will be considerably cheaper than longer term fixed interest rates, there may be potential opportunities to generate savings by switching from long term debt to short term debt. However, these savings will need to be considered in the light of the current treasury position and the size of the cost of debt repayment (premiums incurred).

The reasons for any rescheduling to take place will include:

- the generation of cash savings and/or discounted cash flow savings;
- helping to fulfil the treasury strategy;
- enhancement of the balance of the portfolio (amend the maturity profile and/or the balance of volatility).

Consideration will also be given to identifying any residual potential for making savings by running down investment balances to repay debt prematurely as short term rates on investments are likely to be lower than rates paid on current debt.

74% of Adur's debt portfolio consists of long term loans with a duration of over 10 years left to run, and at rates above prevailing market rates for equivalent loans. The cost to redeem these loans early would incur a large debt premium, making this an unaffordable option.

By contrast, only 3% of Worthing's existing fixed rate debt portfolio is for over 10 years, so options for early settlement do not really apply.

All rescheduling will be reported to the Councils at the earliest meeting following its action

#### **3.10 Municipal Bond Agency**

The Municipal Bond Agency intends to offer loans to local authorities in the future. It is hoped that the borrowing rates will be lower than those offered by the Public Works Loan Board (PWLB). This Authority intends to make use of this new source of borrowing as and when appropriate.

## **4.0 ANNUAL INVESTMENT POLICY AND STRATEGY 2017/18**

### **Background - Investment Policy**

- 4.1 The Councils' investment policy has regard to the CLG's Guidance on Local Government Investments ("the Guidance") and the revised CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes ("the CIPFA TM Code"). The Councils' investment priorities will be security first, liquidity second, then return.
- 4.2 The CLG's revised Guidance on investments reiterates security and liquidity as the primary objectives of a prudent investment policy. The speculative procedure of borrowing purely in order to invest is unlawful.
- 4.3 Investments are categorised as 'Specified' or 'Non Specified' investments based on the criteria in the CLG Guidance. Potential instruments for the Councils' use within its investment strategy are contained in Appendix A.
- 4.4 The credit crisis has refocused attention on the treasury management priority of security of capital monies invested. The Councils will continue to maintain a counterparty list based on the approved criteria and will monitor and update the credit standing of the institutions on a regular basis. This assessment will include credit ratings and other alternative assessments of credit strength as outlined in paragraphs 4.5 - 4.16.

### **Creditworthiness Policy**

- 4.5 The Councils use the creditworthiness service provided by Capita Treasury Solutions Limited. If a different Treasury Management Advisor is appointed from April 1, the Councils will use the new advice in the most similar way possible in order to maintain the security of the Councils' investments. The Capita service uses a sophisticated modelling approach with credit ratings from all three rating agencies - Fitch, Moody's and Standard and Poor's, forming the core element. However, it does not rely solely on the current credit ratings of counterparties but also uses the following as overlays:
- Credit watches and credit outlooks from credit rating agencies
  - Credit Default Swap (CDS) spreads to give early warning of likely changes in credit ratings
  - Sovereign ratings to select counterparties from only the most creditworthy countries
- 4.6 The modelling approach combines credit ratings, credit watches and credit outlooks in a weighted scoring system which is combined with an overlay of CDS spreads. The result is a series of colour code bands for counterparties indicating the relative creditworthiness of each as they are categorised by durational bands. These bands are used by the Councils to form a view of the duration for investments by each counterparty. The Councils are satisfied that this service gives a robust level of analysis for determining the security of its investments. It is also a service which the Councils would not be able to replicate using its own in-house resources.



## 4.0 ANNUAL INVESTMENT POLICY AND STRATEGY 2016/17

### Creditworthiness Policy

4.7 The selection of counterparties with a high level of creditworthiness will be achieved by reference to the minimum durational band proposed by Capita's weekly credit list of worldwide potential counterparties. The Councils will consider, but not necessarily adhere rigidly to (see paras.4.10-4.11), the categorised counterparties within the following durational bands: -

- Yellow (Y) 5 years \*
- Dark pink (Pi1) 5 years for Enhanced money market funds (EMMFs) with a credit score of 1.25
- Light pink (Pi2) 5 years for Enhanced money market funds (EMMFs) with a credit score of 1.5
- Purple (P) 2 years
- Blue (B) 1 year (only applies to nationalised or semi nationalised UK Banks)
- Orange (O) 1 year
- Red (R) 6 months
- Green (G) 100 days \*\*
- No colour (N/C) not to be used

Y	Pi1	Pi2	P	B	O	R	G	N/C
1	1.25	1.5	2	3	4	5	8	7
Up to 5yrs	Up to 5yrs	Up to 5yrs	Up to 2yrs	Up to 1yr	Up to 1yr	Up to 6mths	Up to 100days	No Colour

\* The yellow colour category is for UK Government debt, or its equivalent, Constant Net Asset Value money market funds and collateralised deposits where the collateral is UK Government debt.

\*\* The green limit was formerly for 3 months but in July 2013 the Financial Conduct Authority set a requirement for qualifying deposits for bank liquidity buffers of a minimum of 95 days so the green band has been slightly extended to accommodate this regulatory change.

4.8 Although the Capita creditworthiness service does use ratings from all three agencies, the practice of using a risk weighted scoring system eliminates any tendency to give undue preponderance to just one agency's ratings.

4.9 Using Capita's ratings service, potential counterparty ratings are monitored on a real time basis with knowledge of any changes notified electronically as the agencies notify modifications. The effect of a change in ratings may prompt the following responses:

- If a downgrade results in the counterparty/investment scheme no longer meeting the Councils' minimum criteria, its further use as a new investment will be withdrawn immediately.

## 4.0 ANNUAL INVESTMENT POLICY AND STRATEGY 2017/18

- In addition to the use of Credit Ratings the Councils will be advised by Capita of movements in Credit Default Swaps and other market data on a weekly basis. Extreme market movements may result in downgrade of an institution or removal from the Councils' lending lists.

4.10 The Councils' officers recognise that ratings should not be the sole determinant of the quality of an institution and that it is important to continually assess and monitor the financial sector on both a micro and macro basis and in relation to the economic and political environments in which institutions operate. The assessment will also take account of information that reflects the opinion of the markets, the government support for banks, and the credit ratings of that government support.

4.11 Accordingly, the Councils may exercise discretion to deviate from Capita's suggested durational bands for counterparties where sudden changes in financial markets, the banking sector, or other circumstances warrant a more flexible approach being taken.

### **The Councils' Minimum Investment Creditworthiness Criteria**

4.12 The minimum credit ratings criteria the Councils use will be a short term rating (Fitch or equivalents) of F1, and long term rating A-. The Councils will no longer rely, as in previous years, on viability and support ratings of counterparties. The reason for this reflects the withdrawal of these ratings by the rating agencies as explained by Capita Treasury Solutions Limited. :

*"Continuing regulatory changes in the banking sector are designed to see greater stability, lower risk and the removal of expectations of Government financial support should an institution fail. This withdrawal of implied sovereign support is anticipated to have an effect on ratings applied to institutions. This will result in the key ratings used to monitor counterparties being the Short Term and Long Term ratings only. Viability, Financial Strength and Support ratings previously applied will effectively become redundant. This change does not reflect deterioration in the credit environment but rather a change of method in response to regulatory changes."*

4.13 There may be occasions when the counterparty ratings from one or more of the three Ratings Agencies are marginally lower than the minimum requirements of F1 Short term, A- Long term (or equivalent). Where this arises, the counterparties to which the ratings apply may still be used with discretion, but in these instances consideration will be given to the whole range of topical market information available, not just ratings.

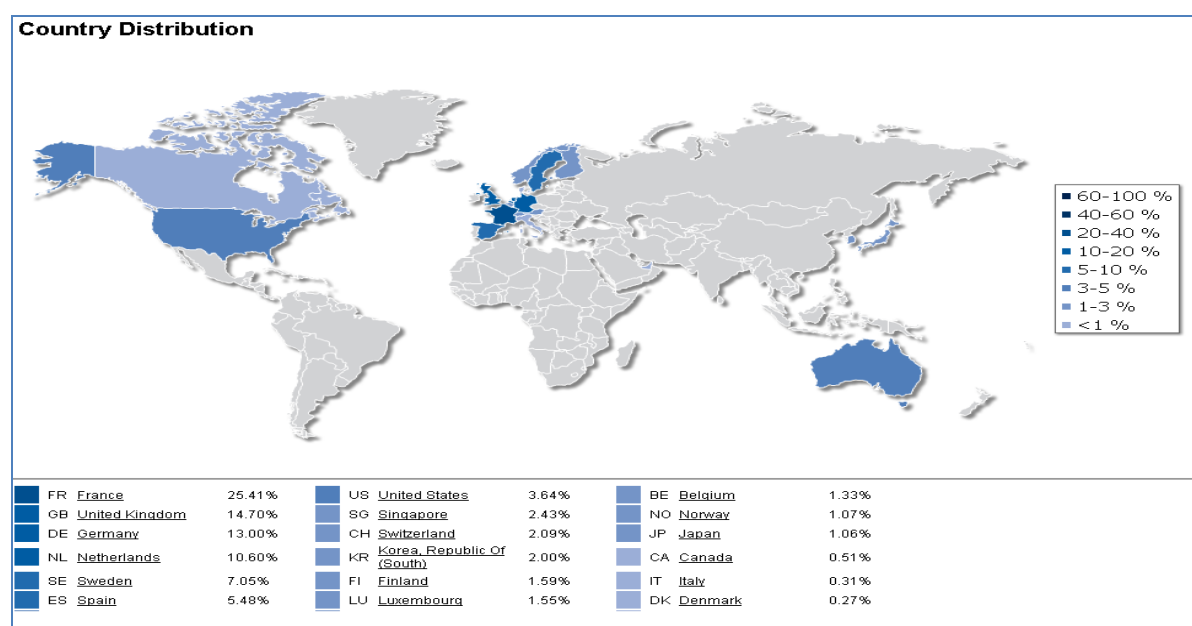
### **Country Limits and Proposed Monitoring Arrangements**

4.14 The Councils have determined that they will only use approved counterparties from countries with a minimum sovereign credit rating of AA- from Fitch Ratings (or equivalent from other agencies if Fitch does not provide one). The list of countries that qualify using these credit criteria is reflected in the Counterparty Approved Lending List shown at Appendix A. No more than 25% of investments shall be placed in Non-UK financial institutions at any given time.

## 4.0 ANNUAL INVESTMENT POLICY AND STRATEGY 2017/18

### Country Limits and Proposed Monitoring Arrangements

- 4.15 The monitoring of the Councils' exposure to non-UK institutions is especially important in the present climate, particularly in respect of sovereign debt issues within Eurozone countries.
- 4.16 Although the Councils can control the foreign exposure for fixed term deposits via the choice of counterparties, the ability to do this for instant access Money Market Funds (MMFs) is more difficult, as the assets which comprise the funds generally consist of loans to other financial institutions (UK and worldwide).
- 4.17 Recognising the present financial climate, and that any investment is only as good as the underlying assets, the Councils shall use a Money Market Fund Portal for placing and redeeming transactions. This will allow access to information on the underlying composition of the MMFs, including the geographic spread of the underlying assets. A sample report showing underlying assets by Country is shown below:



- 4.18 The Interest Rate Outlook is summarised in 3.3 above. The Councils will avoid locking into longer term investments beyond 1 year duration while investment rates are down at historically low levels, unless attractive rates are available with counterparties of particularly high creditworthiness (i.e. other Councils or approved counterparties with a minimum credit rating of AA- from Fitch Ratings, or equivalent from other agencies if Fitch does not provide one) which make longer term deals worthwhile and within the risk parameters set by the Councils.
- 4.19 In-house funds - Investments will be made with reference to the core balance and cash flow requirements and the outlook for short-term interest rates (i.e. rates for investments up to 12 months).

## 4.0 ANNUAL INVESTMENT POLICY AND STRATEGY 2017/18

### Country Limits and Proposed Monitoring Arrangements

4.20 Investment returns expectations - Bank Rate is forecast to remain unchanged at 0.25% before starting to rise from quarter 2 of 2019. Bank Rate forecasts for financial year ends (March) are:

2017/18	0.25%
2018/19	0.25%
2019/20	0.50%

### Investment Outlook

4.21 There are upside risks to these forecasts (i.e. start of increases in Bank Rate occurs sooner) if economic growth remains strong and unemployment falls faster than expected. However, should the pace of growth fall back, there could be downside risk, particularly if Bank of England inflation forecasts for the rate of fall of unemployment were to prove to be too optimistic.

4.22 The suggested budgeted investment earnings rates for returns on investments placed for periods up to 100 days during each financial year for the next three years are as follows:

2017/18	0.25%
2018/19	0.25%
2019/20	0.50%

4.23 Within the approach described in 4.18 above, total principal funds invested for greater than 364 days will be determined with regard to the Councils' liquidity requirements and to reduce the need for early sale of an investment, and are based on the availability of funds. The amounts invested greater than 364 days shall remain within the limit set for this purpose within the Treasury Management Prudential Indicator below.

### Investment Outlook

#### ADUR DISTRICT COUNCIL

MAXIMUM PROPORTION OF PRINCIPAL SUMS INVESTED > 364 DAYS			
	2017/18	2018/19	2019/20
Principal sums invested > 364 days	50%	50%	50%

## 4.0 ANNUAL INVESTMENT POLICY AND STRATEGY 2017/18

### Investment Outlook

#### WORTHING BOROUGH COUNCIL

MAXIMUM PROPORTION OF PRINCIPAL SUMS INVESTED > 364 DAYS			
	2017/18	2018/19	2019/20
Principal sums invested > 364 days	50%	50%	50%

#### Investments managed in-house

- 4.24 For its cash flow generated balances, the Councils will seek to utilise business reserve accounts and notice accounts, money market funds, and short-dated deposits (overnight to three months) in order to benefit from the compounding of interest.
- 4.25 The Chief Financial Officer, under delegated powers, will undertake the most appropriate form of investments in keeping with the investment objectives, income and risk management requirements and Prudential Indicators. Decisions taken on the core investment portfolio will be reported to the meetings of the JGC and JSC in accordance with the reporting arrangements contained in the Treasury Management Practices Statement.
- 4.26 In any sustained period of significant stress in the financial markets, the default position is for investments to be placed with The Debt Management Account Deposit Facility of the Debt Management Office (DMO) of the UK central government. The rates of interest are below equivalent money market rates, however, the returns are an acceptable trade-off for the guarantee that the Councils' capital is secure.
- 4.27 The Councils' proposed investment activity for placing cash deposits in 2017/18 is unchanged from the previous year and will be to use:
- AAA-rated Money Market Funds with a Constant Net Asset Value (CNAV).
  - other local authorities.
  - business reserve accounts and term deposits. These are primarily restricted to UK institutions that are rated at least A- long term.
  - the top five building societies by asset size

#### Use of Building Societies

- 4.28 In recognition of the inclusion of the building society names and that they may carry a lower credit rating than the Councils' other counterparties, the lending limits for the building societies shall be £2m each, excepting that for Nationwide (the top building Society) the lending limit shall be £4m

## 4.0 ANNUAL INVESTMENT POLICY AND STRATEGY 2017/18

### Impact of European Commission Proposals for Money Market Funds

- 4.29 The Councils use of Money Market Funds (MMFs) for short term investments of surplus cash provides instant liquidity with high quality counterparties at a return comparable to (if not better than) other fixed deposits of short term duration.
- 4.30 The funds used are “triple A” rated because of their sheer size, liquidity, and constant net asset value (CNAV), the latter of which means that typically for every pound of principal invested the Councils are assured of receiving one pound back. This is not guaranteed, but offers indications of better protection than using alternative MMFs which are based on a Variable Net Asset Value (VNAV). On this basis the underlying assets are priced on a daily market rate that is subject to change, and could result in a loss of principal (where say one pound invested one day is priced at less than one pound on another day).
- 4.31 While the Councils avoid the use of VNAV MMFs to mitigate the risk of exposure to incurring a capital loss, legislative changes proposed by the European Commission could result in the closure or withdrawal of CNAV MMFs in future. Among the proposals are the withdrawal of formal credit ratings (but not an opinion of credit worthiness) from the ratings agencies, and changing the valuation basis of the underlying funds such that existing CNAV MMFs indicate it would be impractical to continue.
- 4.32 Given that the Councils’ overriding investment priority is “security of principal”, in the event that the proposed changes are implemented, the Councils will desist from using MMFs if it is the case that they do not retain the CNAV basis of valuation, or that the triple A rating is withdrawn or replaced with a measure below the Councils’ minimum criteria for short term investment.
- 4.33 Alongside the use of MMFs, the Councils will utilise Call or Notice Accounts offered by counterparties included within the Approved Counterparty Investment List. These accounts differ from MMFs in that deposits must reside in the accounts for a minimum duration, typically 60 or 95 days, although other durations or conditions may apply. Consideration will be given to the use of such accounts where they provide extra return over MMFs or fixed term deposits with banks and building societies meeting the Councils’ short term investment criteria.

### Other Options for Longer Term Investments

- 4.34 To provide the Councils with options to enhance returns above those available for short term durations, it is proposed to retain the option to use the following forms for longer term investments, as an alternative to cash deposits:
- a) **Supranational bonds greater than 1 year to maturity**
    - (i) Multilateral development bank bonds - These are bonds defined as an international financial institution having as one of its objects economic development, either generally or in any region of the world (e.g. European Reconstruction and Development Bank etc.).

## 4.0 ANNUAL INVESTMENT POLICY AND STRATEGY 2017/18

### Other Options for Longer Term Investments

- a) **Supranational bonds greater than 1 year to maturity**
- (ii) A financial institution that is guaranteed by the United Kingdom Government (e.g. National Rail, The Guaranteed Export Finance Company {GEFCO})
- The security of interest and principal on maturity is on a par with the Government and so very secure. These bonds usually provide returns above equivalent gilt edged securities. However the value of the bond may rise or fall before maturity and losses may accrue if the bond is sold before maturity.
- b) **Gilt edged securities** with a maturity of greater than one year. These are Government bonds and so provide the highest security of interest and the repayment of principal on maturity. Similar to category (a) above, the value of the bond may rise or fall before maturity and losses may accrue if the bond is sold before maturity.
- c) **Building societies not meeting the basic security requirements under the specified investments.** The operation of some building societies does not require a credit rating, although in every other respect the security of the society would match similarly sized societies with ratings. The Council may use the top five building societies by asset size up to £2m, (£4m Nationwide).
- d) Any **bank or building society** that has a minimum long term credit rating of A- for deposits with a maturity of greater than one year (including forward deals in excess of one year from inception to repayment).
- e) Any **non-rated subsidiary** of a credit rated institution included in the specified investment category. These institutions will be included as an investment category subject to a guarantee from the parent company, and exposure up to the limit applicable to the parent.
- f) **Registered Social Landlords** (Housing Associations) - subject to confirming the Councils have appropriate powers, consideration will be given to lending to Registered Social Landlords. Such lending may either be as an investment for treasury management purposes, or for the provision of “social policy or service investment”, that would not normally feature within the Treasury Management Strategy.
- g) **Property Investment Funds** for example the Local Authority Property Fund. The Councils will consult the Treasury Management Advisors and undertake appropriate due diligence before investment of this type is undertaken. Some of these funds are deemed capital expenditure – the Councils will seek guidance on the status of any fund considered for investment.

## 4.0 ANNUAL INVESTMENT POLICY AND STRATEGY 2016/17

### Accounting treatment of investments

- g) **Share capital in a body corporate** – *The use of these instruments will be deemed to be capital expenditure, and as such will be an application (spending) of capital resources. Revenue resources will not be invested in corporate bodies.*
- h) **Loan capital** in a body corporate.

**(Note: For (h) and (i) above the Councils will seek further advice on the appropriateness and associated risks with investments in these categories as and when an opportunity presents itself).**

- 4.35 The accounting treatment may differ from the underlying cash transactions arising from investment decisions made by the Councils. To ensure that the Councils are protected from any adverse revenue impact, which may arise from these differences, the accounting implications of new transactions will be reviewed before they are undertaken.
- 4.36 The Councils will not transact in any investment that may be deemed to constitute capital expenditure (e.g. Share Capital, or pooled investment funds other than Money Market Funds), without the resource implications being approved as part of the consideration of the Capital Programme or other appropriate Committee report.

## 5.0 BALANCED BUDGET REQUIREMENT

- 5.1 The Councils comply with the provisions of S32 of the Local Government Finance Act 1992 to set a balanced budget.

## 6.0 OTHER MATTERS

### Shared Services Arrangement with Mid Sussex District Council

- 6.1 The Councils' in-house treasury management team provides services to Mid Sussex District Council under a Shared Services Arrangement (SSA). The contract was recently renewed for a further three years to 17th October 2019.

### Worthing Leisure Trust

- 6.2 The arrangements for establishing The Worthing Leisure Trust include provision for Worthing Council to provide the Trust with temporary cash flow advances (if required) up to a maximum of £500k to assist it in the early start-up years. Such advances as may be made shall be repayable as soon as practical and attract a rate of interest for the loan term of Bank Base Rate plus 5%.



## **6.0 OTHER MATTERS**

### **Property Funds**

- 6.3 To offer more options for increased long term income, Property Funds have been added to the list of non-specified investments. Such investment will only be made following due diligence including advice from the Councils' Treasury Management Advisors. The Local Authorities' Property Fund is considered to be a potentially suitable investment.

## **7.0 LEGAL**

- 7.1 Part 1 of the Local Government Act 2003 provides a legal framework of powers for and duties upon Local Authorities in relation to the borrowing of money and capital finance.
- 7.2 The Local Authorities (Capital Finance and Accounting) (England) Regulation 2003 provide additional legislative guidance, including, the duty to have regard to the code of practice entitled the "Prudential Code for Capital Finance in Local Authorities" published by CIPFA, as amended or reissued from time to time.

## **8.0 RECOMMENDATIONS**

### **8.1 The Joint Strategic Committee is recommended to:**

- i) approve and adopt the TMSS and AIS for 2017/18-2019/20, incorporating the Prudential Indicators and Limits, and MRP Statements**
- ii) forward the Prudential Indicators and Limits, and MRP Statements of the report for approval by Worthing Council at its meeting on 21 February 2017, and by Adur Council at its meeting on 23 February 2017.**
- iii) Forward the report for noting to the meeting of the Joint Governance Committee to be held on 28 March 2017.**

### **8.2 The Joint Governance Committee is recommended to:**

- i) note the TMSS and AIS report (including the Prudential Indicators and Limits, and MRP Statements) for 2017/18 - 2019/20,**
- ii) refer any comments on or amendment to the TMSS and AIS to the next meeting of the Joint Strategic Committee.**

### **Principal Author and Contact Officer:**

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**Background Papers:**

- (1) Joint Treasury Management Strategy and Annual Investment Strategy 2016/17 to 2018/19, JSC 2 Feb 2016.
- (2) Overall Budget Estimates 2017/18 and Setting of 2017/18 Council Tax Report
- (3) TMSS and AIS Template Report – Capita Treasury Solutions Limited.
- (4) Treasury Management in the Public Services: Code of Practice and Cross Sectoral Guidance Notes (CIPFA 2011).
- (5) CLG Investment Guidance (Revised April 2010).
- (6) The Prudential Code for Capital Finance in Local Authorities (CIPFA 2013)

## **SCHEDULE OF OTHER MATTERS**

### **1.0 COUNCIL PRIORITY**

1.1 Matters considered and no issues identified.

### **2.0 SPECIFIC ACTION PLANS**

2.1 Those matters considered and contained within the TMSS and AIS reported here-in.

### **3.0 SUSTAINABILITY ISSUES**

3.1 Matter considered and no issues identified

### **4.0 EQUALITY ISSUES**

4.1 Matter considered and no issues identified

### **5.0 COMMUNITY SAFETY ISSUES (SECTION 17)**

5.1 Matter considered and no issues identified

### **6.0 HUMAN RIGHTS ISSUES**

6.1 Matter considered and no issues identified

### **7.0 REPUTATION**

7.1 Matter considered and no issues identified

### **8.0 CONSULTATIONS**

8.1 Matters considered in conjunction with the Councils' Treasury Management consultants.

### **9.0 RISK ASSESSMENT**

9.1 Matter considered within Para 1.3 of the report.

### **10.0 HEALTH AND SAFETY ISSUES**

10.1 Matter considered and no issues identified

### **11.0 PROCUREMENT STRATEGY**

11.1 Matter considered and no issues identified

### **12.0 PARTNERSHIP WORKING**

12.1 Matter considered and no issues identified

<b>SPECIFIED AND NON SPECIFIED INVESTMENTS</b>
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**SPECIFIED AND NON SPECIFIED INVESTMENTS****Specified Investments identified for use by the Councils**

Specified Investments will be those that meet the criteria in the CLG Guidance, i.e. the investment

- is sterling denominated
- has a maximum maturity of 1 year
- meets the “high” credit criteria as determined by the Councils or is made with the UK government or is made with a local authority in England, Wales and Scotland.
- the making of which is not defined as capital expenditure under section 25(1)(d) in SI 2003 No 3146 (i.e. the investment is not loan capital or share capital in a body corporate).

“Specified” Investments identified for the Councils’ use are:

- Deposits in the DMO’s Debt Management Account Deposit Facility
- Deposits with UK local authorities
- Deposits with banks and building societies
- \*Certificates of deposit with banks and building societies
- \*Gilts : (bonds issued by the UK government)
- \*Bonds issued by multilateral development banks
- AAA-rated Money Market Funds with a Constant Net Asset Value (Constant NAV)
- Other Money Market Funds and Collective Investment Schemes– i.e. credit rated funds which meet the definition of a collective investment scheme as defined in SI 2004 No 534 and SI 2007 No 573.

*\* Investments in these instruments will be on advice from the Councils’ treasury advisor.*

For credit rated counterparties, the minimum criteria, excepting for the Councils’ own banker and the specified building societies, (see below) will be the short-term / long-term ratings assigned by various agencies which may include Moody’s Investors Services, Standard and Poor’s, Fitch Ratings, being:

**Long-term investments (365 days or more) : minimum: Aa3 (Moody’s) or A- (SandP) or A- (Fitch)**

**Or**

**Short-term investments (364 days or less) : minimum P-1 (Moody’s) or A-1 (SandP) or F1 (Fitch).**

For all investments the Councils will also take into account information on corporate developments of, and market sentiment towards, investment counterparties.

**ADUR DISTRICT COUNCIL**  
**SPECIFIED AND NON SPECIFIED INVESTMENTS**

**Specified Investments identified for use by the Council**

New specified investments will be made within the following limits:

<b>Instrument</b>	<b>Country and Sovereign Rating</b>	<b>Counterparty</b>	<b>Maximum Exposure Limit £m</b>
Term Deposits	UK – AA	DMADF, DMO	No limit
Term Deposits/Call Accounts	UK – AA	Other UK Local Authorities	No limit
Term Deposits/Call Accounts	UK – AA	Santander (UK)	£4m
Term Deposits/Call Accounts	UK – AA	Bank of Scotland/Lloyds	£4m
Term Deposits/Call Accounts	UK – AA	Barclays	£4m
Term Deposits/Call Accounts	UK – AA	Clydesdale	£4m
Term Deposits/Call Accounts	Sweden – AAA	Svenska Handelsbanken AB	£3m
Term Deposits/Call Accounts	UK – AA	HSBC	£4m
Term Deposits/Call Accounts	UK – AA	Royal Bank of Scotland Group	£4m
Term Deposits /Call / Overnight Accounts	UK – AA	Close Brothers Limited	£4m
Term Deposits/Call Accounts	Germany – AAA	Deutsche Bank AG	£3m
Term Deposits/Call Accounts	Australia – AAA	National Australia Bank	£3m
Term Deposits/Call Accounts	US – AAA	JP Morgan Chase Bank	£3m
Term Deposits/Call Accounts	UK – AA	Goldman Sachs International Bank	£3m
Gilts	UK – AA	Debt Management office (DMO)	£3m or 25% of funds
Bonds	EU	European Investment Bank/Council of Europe	£3m or 25% of funds
AAA Rated Money Market Funds	UK/Ireland incorporated	Constant Net Asset Value MMFs	£5m or 30% of funds
Other MMFs and CIS	UK – AA	Collective Investment Schemes	25%

**ADUR DISTRICT COUNCIL**  
**SPECIFIED AND NON SPECIFIED INVESTMENTS**

**Specified Investments identified for use by the Council**

New specified investments will be made within the following limits:

<b>Instrument</b>	<b>Country and Sovereign Rating</b>	<b>Counterparty</b>	<b>Maximum Exposure Limit £m</b>
Term Deposits	UK – AA	Nationwide BS	£4m
Term Deposits	UK – AA	Yorkshire BS	£2m
Term Deposits	UK – AA	Coventry BS	£2m
Term Deposits	UK – AA	Skipton BS	£2m
Term Deposits	UK – AA	Leeds BS	£2m
Share Capital	n/a	Local Capital Finance Company.	£0.05m
Share Capital/Loans	n/a	West Sussex Credit Union	£0.025k Share Capital

*NB Any existing deposits outside of the current criteria will be reinvested with the above criteria on maturity.*

*NB No more than 25% of funds shall be invested in Non-UK financial institutions whether by term deposits, call accounts or Money Market Funds, or any combination thereof.*

*NB Investments in AAA rated Money Market Funds are limited to £5m or 30% of funds except that this limit may be breached for liquidity purposes for up to 1 week at any time.*

**ADUR DISTRICT COUNCIL  
NON-SPECIFIED INVESTMENTS DETERMINED FOR USE BY THE COUNCIL:**

Having considered the rationale and risk associated with Non-Specified Investments, the following have been determined for the Council's use.

	In-house use	Use by Fund Managers	Maximum Maturity	Maximum % of portfolio or £m	Capital Expenditure?
<ul style="list-style-type: none"> <li>Deposits with banks and building societies</li> <li>Certificates of deposit with banks and building societies</li> </ul>	√		5 years	The higher of £8m or 50% of funds, maximum of £2m per institution	No
<p><b>Gilts and Bonds:</b></p> <ul style="list-style-type: none"> <li>Gilts</li> <li>Bonds issued by multilateral development banks</li> <li>Bonds issued by financial institutions guaranteed by the UK government</li> <li>Sterling denominated bonds by non-UK sovereign governments</li> </ul>	√ √ √ √ (on advice from treasury advisor)	√ √ √ √	5 years	The higher of £3m or 25% of funds	No
<p>Money Market Funds and Collective Investment Schemes (pooled funds which meet the definition of a collective investment scheme as defined in SI 2004 No. 534 and SI 2007, No. 573), but which are not credit rated.</p>	√ (on advice from treasury advisor)	√	These funds do not have a defined maturity date.	The higher of £5m or 30% of funds, maximum of £3m per fund	No
<p>Government guaranteed bonds and debt instruments (e.g. floating rate notes) issued by corporate bodies</p>	√ (on advice from treasury advisor)	√	5 years	The higher of £2m or 10% of funds	Yes

**SPECIFIED AND NON SPECIFIED INVESTMENTS**

**ADUR DISTRICT COUNCIL  
NON-SPECIFIED INVESTMENTS DETERMINED FOR USE BY THE COUNCIL:**

	In-house use	Use by Fund Managers	Maximum Maturity	Maximum % of portfolio or £m	Capital Expenditure?
Non-guaranteed bonds and debt instruments (e.g. floating rate notes) issued by corporate bodies	√ (on advice from treasury advisor)	√	5 years	The higher of £2m or 10% of funds	Yes
Property Funds approved by HM Treasury and operated by managers regulated by the Financial Conduct Authority, such as the Local Authorities' Property Fund	√ (on advice from treasury advisor)	√	These funds do not have a defined maturity date	The higher of £2m or 10% of funds	To be confirmed
Collective Investment Schemes (pooled funds) which do not meet the definition of collective investment schemes in SI 2004 No. 534 or SI 2007, No. 573.	√ (on advice from treasury advisor)	√	These funds do not have a defined maturity date	The higher of £2m or 20% of funds	Yes

1. In determining the period to maturity of an investment, the investment should be regarded as commencing on the date of the commitment of the investment rather than the date on which funds are paid over to the counterparty.
2. The use of the above instruments by the Council's fund manager(s) will be by reference to the fund guidelines contained in the agreement between the Council and the individual manager.



**WORTHING BOROUGH COUNCIL**  
**SPECIFIED AND NON SPECIFIED INVESTMENTS**

**Specified Investments identified for use by the Council**

New specified investments will be made within the following limits:

<b>Instrument</b>	<b>Country and Sovereign Rating</b>	<b>Counterparty</b>	<b>Maximum Exposure Limit £m</b>
Term Deposits	UK – AA	DMADF, DMO	No limit
Term Deposits/Call Accounts	UK – AA	Other UK Local Authorities	No limit
Term Deposits/Call Accounts	UK – AA	Santander UK	£4m
Term Deposits/Call Accounts	UK – AA	Bank of Scotland/Lloyds	£4m
Term Deposits/Call Accounts	UK – AA	Barclays	£4m
Term Deposits/Call Accounts	UK – AA	Clydesdale	£4m
Term Deposits/Call Accounts	UK – AA	HSBC	£4m
Term Deposits /Call / Overnight Accounts	UK – AA	Close Brothers Limited	£4m
Term Deposits/Call Accounts	UK – AA	Royal Bank of Scotland Group	£4m
Term Deposits/Call Accounts	Australia – AAA	National Australia Bank Limited	£3m
Term Deposits/Call Accounts	Germany - AAA	Deutsche Bank AG	£3m
Term Deposits/Call Accounts	Sweden – AAA	Svenska Handelsbanken AB	£3m
Term Deposits/Call Accounts	US – AAA	JP Morgan	£3m
Term Deposits/Call Accounts	UK – AA	Goldman Sachs International Bank	£3m
Gilts	UK – AA	Debt Management Office (DMO)	£3m or 25% of funds
Bonds	EU	European Investment Bank/Council of Europe	£3m or 25% of funds
AAA Rated Money Market Funds	UK/Ireland incorporated	Constant Net Asset Value MMFs	£5m or 30% of funds
Other MMFs and CIS	UK – AA	Collective Investment Schemes	25%
Term Deposits	UK – AA	Nationwide BS	£4m

**WORTHING BOROUGH COUNCIL**  
**SPECIFIED AND NON SPECIFIED INVESTMENTS**

<b>Instrument</b>	<b>Country and Sovereign Rating</b>	<b>Counterparty</b>	<b>Maximum Exposure Limit £m</b>
Term Deposits	UK – AA	Yorkshire BS	£2m
Term Deposits	UK – AA	Coventry BS	£2m
Term Deposits	UK – AA	Skipton BS	£2m
Term Deposits	UK – AA	Leeds BS	£2m
Share Capital	n/a	Local Capital Finance Company.	£0.05m
Share Capital	n/a	West Sussex Credit Union	£0.025m Share Capital
Term Deposits	n/a	Worthing Homes Limited	£10m
Temporary Loans	n/a	Worthing Leisure Trust	£0.5m

*NB Any existing deposits outside of the current criteria will be reinvested with the above criteria on maturity.*

*NB No more than 25% of funds shall be invested in Non-UK financial institutions whether by term deposits, call accounts or Money Market Funds, or any combination thereof.*

*NB Investments in AAA rated Money Market Funds are limited to £5m or 30% of funds except that this limit may be breached for liquidity purposes for up to 1 week at any time.*

**SPECIFIED AND NON SPECIFIED INVESTMENTS**

**WORTHING BOROUGH COUNCIL  
NON-SPECIFIED INVESTMENTS DETERMINED FOR USE BY THE COUNCIL:**

Having considered the rationale and risk associated with Non-Specified Investments, the following have been determined for the Council's use.

	In-house use	Use by Fund Managers	Maximum Maturity	Maximum % of portfolio or £m	Capital Expenditure?
<ul style="list-style-type: none"> <li>• Deposits with banks and building societies</li> <li>• Certificates of deposit with banks and building societies*</li> </ul>	√	√	5 years	The higher of £10m or 50% of funds, maximum of £2m per institution	No
<p><b>Gilts and Bonds*:</b></p> <ul style="list-style-type: none"> <li>• Gilts</li> <li>• Bonds issued by multilateral development banks</li> <li>• Bonds issued by financial institutions guaranteed by the UK government</li> <li>• Sterling denominated bonds by non-UK sovereign governments</li> </ul>	√ √ √  √ (on advice from treasury advisor)	√ √ √  √	5 years	The higher of £3m or 25% of funds	No
<p>Money Market Funds and Collective Investment Schemes (pooled funds which meet the definition of a collective investment scheme as defined in SI 2004 No. 534 and SI 2007, No. 573), but which are not credit rated.</p>	√ (on advice from treasury advisor)	√	These funds do not have a defined maturity date.	The higher of £5m or 30% of funds, maximum of £3m per fund	No
<p>Government guaranteed bonds and debt instruments (e.g. floating rate notes) issued by corporate bodies</p>	√ (on advice from treasury advisor)	√	5 years	The higher of £5m or 20% of funds	Yes

<b>SPECIFIED AND NON SPECIFIED INVESTMENTS</b>
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**WORTHING BOROUGH COUNCIL  
NON-SPECIFIED INVESTMENTS DETERMINED FOR USE BY THE COUNCIL:**

	In-house use	Use by Fund Managers	Maximum Maturity	Maximum % of portfolio or £m	Capital Expenditure?
Non-guaranteed bonds and debt instruments (e.g. floating rate notes issued by Corporate Bodies)	√ (on advice from treasury advisor)	√	5 years	The higher of £2m or 10% of funds	Yes
Property Funds approved by HM Treasury and operated by managers regulated by the Financial Conduct Authority, such as the Local Authorities' Property Fund	√ (on advice from treasury advisor)	√	These funds do not have a defined maturity date	The higher of £2m or 20% of funds	To be confirmed
Collective Investment Schemes (pooled funds) which do not meet the definition of collective investment schemes in SI 2004 No. 534 or SI 2007, No. 573.	√ (on advice from treasury advisor)	√	These funds do not have a defined maturity date	The higher of £2m or 20% of funds	Yes

1. In determining the period to maturity of an investment, the investment should be regarded as commencing on the date of the commitment of the investment rather than the date on which funds are paid over to the counterparty.
2. The use of the above instruments by the Council's fund manager(s) will be by reference to the fund guidelines contained in the agreement between the Council and the individual manager.

**TREASURY MANAGEMENT SCHEME OF DELEGATION**

**(i) Full Council**

- receiving and reviewing reports on treasury management policies, practices and activities
- approval of annual Treasury Management Strategy Statement and Annual Investment Strategy
- approval of MRP Statement

**(ii) Joint Strategic Committee**

- approval of/amendments to the organisation's adopted clauses, treasury management policy statement and treasury management practices
- budget consideration and approval
- approval of the division of responsibilities
- receiving and reviewing regular monitoring reports and acting on recommendations
- approving the selection of external service providers and agreeing terms of appointment.

**(iii) Joint Governance Committee**

Receiving and reviewing the following, and making recommendations to the Cabinet

- regular monitoring reports on compliance with the Treasury Management Strategy, practices and procedures.

**(iv) The S151 (responsible) officer**

- recommending clauses, treasury management policy/practices for approval, reviewing the same regularly, and monitoring compliance
- submitting regular treasury management policy reports
- submitting budgets and budget variations
- receiving and reviewing management information reports
- reviewing the performance of the treasury management function
- ensuring the adequacy of treasury management resources and skills, and the effective division of responsibilities within the treasury management function
- ensuring the adequacy of internal audit, and liaising with external audit
- recommending the appointment of external service providers.

## CAPITA ASSET SERVICES COMMENTARY ON THE GLOBAL ECONOMY

## ECONOMIC BACKGROUND

**UK GDP growth rates** in 2013, 2014 and 2015 of 2.2%, 2.9% and 1.8% were some of the strongest rates among the G7 countries. Growth is expected to have strengthened in 2016 with the first three quarters coming in respectively at +0.4%, +0.7% and +0.5%. The latest Bank of England forecast for growth in 2016 as a whole is +2.2%. The figure for quarter 3 was a pleasant surprise which confounded the downbeat forecast by the Bank of England in August of only +0.1%, (subsequently revised up in September, but only to +0.2%). During most of 2015 and the first half of 2016, the economy had faced headwinds for exporters from the appreciation of sterling against the Euro, and weak growth in the EU, China and emerging markets, and from the dampening effect of the Government's continuing austerity programme.

The **referendum vote for Brexit** in June 2016 delivered an immediate shock fall in confidence indicators and business surveys at the beginning of August, which were interpreted by the Bank of England in its August Inflation Report as pointing to an impending sharp slowdown in the economy. However, the following monthly surveys in September showed an equally sharp recovery in confidence and business surveys so that it is generally expected that the economy will post reasonably strong growth numbers through the second half of 2016 and also in 2017, albeit at a slower pace than in the first half of 2016.

The **Monetary Policy Committee, (MPC), meeting of 4th August** was therefore dominated by countering this expected sharp slowdown and resulted in a package of measures that included a cut in Bank Rate from 0.50% to 0.25%, a renewal of quantitative easing, with £70bn made available for purchases of gilts and corporate bonds, and a £100bn tranche of cheap borrowing being made available for banks to use to lend to businesses and individuals.

The **MPC meeting of 3 November** left Bank Rate unchanged at 0.25% and other monetary policy measures also remained unchanged. This was in line with market expectations, but a major change from the previous quarterly Inflation Report MPC meeting of 4 August, which had given a strong steer, in its forward guidance, that it was likely to cut Bank Rate again, probably by the end of the year if economic data turned out as forecast by the Bank. The MPC meeting of 15 December also left Bank Rate and other measures unchanged.

The latest MPC decision included a forward view that **Bank Rate** could go either up or down depending on how economic data evolves in the coming months. Our central view remains that Bank Rate will remain unchanged at 0.25% until the first increase to 0.50% in quarter 2 2019 (unchanged from our previous forecast). However, we would not, as yet, discount the risk of a cut in Bank Rate if economic growth were to take a significant dip downwards, though we think this is unlikely. We would also point out that forecasting as far ahead as mid 2019 is highly fraught as there are many potential economic headwinds which could blow the UK economy one way or the other as well as political developments in the UK, (especially over the terms of Brexit), EU, US and beyond, which could have a major impact on our forecasts.

**CAPITA ASSET SERVICES COMMENTARY ON THE GLOBAL ECONOMY**

The pace of Bank Rate increases in our forecasts has been slightly increased beyond the three year time horizon to reflect higher inflation expectations.

The August quarterly Inflation Report was based on a pessimistic forecast of near to zero GDP growth in quarter 3 i.e. a sharp slowdown in growth from +0.7% in quarter 2, in reaction to the shock of the result of the referendum in June. However, consumers have very much stayed in a 'business as usual' mode and there has been no sharp downturn in spending; it is consumer expenditure that underpins the services sector which comprises about 75% of UK GDP. After a fairly flat three months leading up to October, retail sales in October surged at the strongest rate since September 2015 and were again strong in November. In addition, the GfK consumer confidence index recovered quite strongly to -3 in October after an initial sharp plunge in July to -12 in reaction to the referendum result. However, in November it fell to -8 indicating a return to pessimism about future prospects among consumers, probably based mainly around concerns about rising inflation eroding purchasing power.

**Bank of England GDP forecasts** in the November quarterly Inflation Report were as follows, (August forecasts in brackets) - 2016 +2.2%, (+2.0%); 2017 1.4%, (+0.8%); 2018 +1.5%, (+1.8%). There has, therefore, been a sharp increase in the forecast for 2017, a marginal increase in 2016 and a small decline in growth, now being delayed until 2018, as a result of the impact of Brexit.

**Capital Economics' GDP forecasts** are as follows: 2016 +2.0%; 2017 +1.5%; 2018 +2.5%. They feel that pessimism is still being overdone by the Bank and Brexit will not have as big an effect as initially feared by some commentators.

**The Chancellor** has said he will do 'whatever is needed' i.e. to promote growth; there are two main options he can follow – fiscal policy e.g. cut taxes, increase investment allowances for businesses, and/or increase government expenditure on infrastructure, housing etc. This will mean that the PSBR deficit elimination timetable will need to slip further into the future as promoting growth, (and ultimately boosting tax revenues in the longer term), will be a more urgent priority. The Governor of the Bank of England, Mark Carney, had warned that a vote for Brexit would be likely to cause a slowing in growth, particularly from a reduction in business investment, due to the uncertainty of whether the UK would have continuing full access, (i.e. without tariffs), to the EU single market. He also warned that the Bank could not do all the heavy lifting to boost economic growth and suggested that the Government would need to help growth e.g. by increasing investment expenditure and by using fiscal policy tools. The newly appointed Chancellor, Phillip Hammond, announced, in the aftermath of the referendum result and the formation of a new Conservative cabinet, that the target of achieving a budget surplus in 2020 would be eased in the Autumn Statement on 23 November. This was duly confirmed in the Statement which also included some increases in infrastructure spending.

## CAPITA ASSET SERVICES COMMENTARY ON THE GLOBAL ECONOMY

The other key factor in forecasts for Bank Rate is inflation where the MPC aims for a target for CPI of 2.0%. The November Inflation Report included an increase in the peak forecast for inflation from 2.3% to 2.7% during 2017; (Capital Economics are forecasting a peak of just under 3% in 2018). This increase was largely due to the effect of the sharp fall in the value of sterling since the referendum, although during November, sterling has recovered some of this fall to end up 15% down against the dollar, and 8% down against the euro (as at the MPC meeting date – 15.12.16). This depreciation will feed through into a sharp increase in the cost of imports and materials used in production in the UK. However, the MPC is expected to look through the acceleration in inflation caused by external, (outside of the UK), influences, although it has given a clear warning that if wage inflation were to rise significantly as a result of these cost pressures on consumers, then they would take action to raise Bank Rate.

What is clear is that **consumer disposable income** will come under pressure, as the latest employers' survey is forecasting median pay rises for the year ahead of only 1.1% at a time when inflation will be rising significantly higher than this. The CPI figure has been on an upward trend in 2016 and reached 1.2% in November. However, prices paid by factories for inputs rose to 13.2% though producer output prices were still lagging behind at 2.3% and core inflation was 1.4%, confirming the likely future upwards path.

**Gilt yields, and consequently PWLB rates**, have risen sharply since hitting a low point in mid-August. There has also been huge volatility during 2016 as a whole. The year started with 10 year gilt yields at 1.88%, fell to a low point of 0.53% on 12 August, and hit a new peak on the way up again of 1.55% on 15 November. The rebound since August reflects the initial combination of the yield-depressing effect of the MPC's new round of quantitative easing on 4 August, together with expectations of a sharp downturn in expectations for growth and inflation as per the pessimistic Bank of England Inflation Report forecast, followed by a sharp rise in growth expectations since August when subsequent business surveys, and GDP growth in quarter 3 at +0.5% q/q, confounded the pessimism. Inflation expectations also rose sharply as a result of the continuing fall in the value of sterling.

**Employment** had been growing steadily during 2016 but encountered a first fall in over a year, of 6,000, over the three months to October. The latest employment data in December, (for November), was distinctly weak with an increase in unemployment benefits claimants of 2,400 in November and of 13,300 in October. House prices have been rising during 2016 at a modest pace but the pace of increase has slowed since the referendum; a downturn in prices could dampen consumer confidence and expenditure.

**USA.** The American economy had a patchy 2015 with sharp swings in the quarterly growth rate leaving the overall growth for the year at 2.4%. Quarter 1 of 2016 at +0.8%, (on an annualised basis), and quarter 2 at 1.4% left average growth for the first half at a weak 1.1%. However, quarter 3 at 3.2% signalled a rebound to strong growth. The Fed. embarked on its long anticipated first increase in rates at its December 2015 meeting. At that point, confidence was high that there would then be four more increases to come in 2016. Since then, more downbeat news on the international scene, and then the Brexit vote, have caused a delay in the timing of the second increase of 0.25% which came, as expected, in December 2016 to a range of 0.50% to 0.75%.



**CAPITA ASSET SERVICES COMMENTARY ON THE GLOBAL ECONOMY**

**USA.** Overall, despite some data setbacks, the US is still, probably, the best positioned of the major world economies to make solid progress towards a combination of strong growth, full employment and rising inflation: this is going to require the central bank to take action to raise rates so as to make progress towards normalisation of monetary policy, albeit at lower central rates than prevailed before the 2008 crisis. The Fed. therefore also indicated that it expected three further increases of 0.25% in 2017 to deal with rising inflationary pressures.

The result of the presidential election in November is expected to lead to a strengthening of US growth if Trump's election promise of a major increase in expenditure on infrastructure is implemented. This policy is also likely to strengthen inflation pressures as the economy is already working at near full capacity. In addition, the unemployment rate is at a low point verging on what is normally classified as being full employment. However, the US does have a substantial amount of hidden unemployment in terms of an unusually large, (for a developed economy), percentage of the working population not actively seeking employment.

Trump's election has had a profound effect on the bond market and bond yields rose sharply in the week after his election. Time will tell if this is a reasonable assessment of his election promises to cut taxes at the same time as boosting expenditure. This could lead to a sharp rise in total debt issuance from the current level of around 72% of GDP towards 100% during his term in office. However, although the Republicans now have a monopoly of power for the first time since the 1920s, in having a President and a majority in both Congress and the Senate, there is by no means any certainty that the politicians and advisers he has been appointing to his team, and both houses, will implement the more extreme policies that Trump outlined during his election campaign. Indeed, Trump may even rein back on some of those policies himself.

In the first week since the US election, there was a major shift in investor sentiment away from bonds to equities, especially in the US. However, gilt yields in the UK and bond yields in the EU have also been dragged higher. Some commentators are saying that this rise has been an overreaction to the US election result which could be reversed. Other commentators take the view that this could well be the start of the long expected eventual unwinding of bond prices propelled upwards to unrealistically high levels, (and conversely bond yields pushed down), by the artificial and temporary power of quantitative easing.

**EZ.** In the Eurozone, the ECB commenced, in March 2015, its massive €1.1 trillion programme of quantitative easing to buy high credit quality government and other debt of selected EZ countries at a rate of €60bn per month. This was intended to run initially to September 2016 but was extended to March 2017 at its December 2015 meeting. At its December and March 2016 meetings it progressively cut its deposit facility rate to reach -0.4% and its main refinancing rate from 0.05% to zero. At its March meeting, it also increased its monthly asset purchases to €80bn.

**CAPITA ASSET SERVICES COMMENTARY ON THE GLOBAL ECONOMY**

**EZ.** These measures have struggled to make a significant impact in boosting economic growth and in helping inflation to rise significantly from low levels towards the target of 2%. Consequently, at its December meeting it extended its asset purchases programme by continuing purchases at the current monthly pace of €80 billion until the end of March 2017, but then continuing at a pace of €60 billion until the end of December 2017, or beyond, if necessary, and in any case until the Governing Council sees a sustained adjustment in the path of inflation consistent with its inflation aim. It also stated that if, in the meantime, the outlook were to become less favourable or if financial conditions became inconsistent with further progress towards a sustained adjustment of the path of inflation, the Governing Council intended to increase the programme in terms of size and/or duration.

EZ GDP growth in the first three quarters of 2016 has been 0.5%, +0.3% and +0.3%, (+1.7% y/y). Forward indications are that economic growth in the EU is likely to continue at moderate levels. This has added to comments from many forecasters that those central banks in countries around the world which are currently struggling to combat low growth, are running out of ammunition to stimulate growth and to boost inflation. Central banks have also been stressing that national governments will need to do more by way of structural reforms, fiscal measures and direct investment expenditure to support demand and economic growth in their economies.

There are also significant specific political and other risks within the EZ: -

- Greece continues to cause major stress in the EU due to its tardiness and reluctance in implementing key reforms required by the EU to make the country more efficient and to make significant progress towards the country being able to pay its way – and before the EU is prepared to agree to release further bail out funds.
- Spain has had two inconclusive general elections in 2015 and 2016, both of which failed to produce a workable government with a majority of the 350 seats. At the eleventh hour on 31 October, before it would have become compulsory to call a third general election, the party with the biggest bloc of seats (137), was given a majority confidence vote to form a government. This is potentially a highly unstable situation, particularly given the need to deal with an EU demand for implementation of a package of austerity cuts which will be highly unpopular.
- The under capitalisation of Italian banks poses a major risk. Some German banks are also undercapitalised, especially Deutsche Bank, which is under threat of major financial penalties from regulatory authorities that will further weaken its capitalisation. What is clear is that national governments are forbidden by EU rules from providing state aid to bail out those banks that are at risk, while, at the same time, those banks are unable realistically to borrow additional capital in financial markets due to their vulnerable financial state. However, they are also 'too big, and too important to their national economies, to be allowed to fail'.

## CAPITA ASSET SERVICES COMMENTARY ON THE GLOBAL ECONOMY

- 4 December Italian constitutional referendum on reforming the Senate and reducing its powers; this was also a confidence vote on Prime Minister Renzi who has resigned on losing the referendum. However, there has been remarkably little fall out from this result which probably indicates that the financial markets had already fully priced it in. A rejection of these proposals is likely to inhibit significant progress in the near future to fundamental political and economic reform which is urgently needed to deal with Italy's core problems, especially low growth and a very high debt to GDP ratio of 135%. These reforms were also intended to give Italy more stable government as no western European country has had such a multiplicity of governments since the Second World War as Italy, due to the equal split of power between the two chambers of the Parliament which are both voted in by the Italian electorate but by using different voting systems. It is currently unclear what the political, and other, repercussions are from this result.
- Dutch general election 15.3.17; a far right party is currently polling neck and neck with the incumbent ruling party. In addition, anti-big business and anti-EU activists have already collected two thirds of the 300,000 signatures required to force a referendum to be taken on approving the EU – Canada free trade pact. This could delay the pact until a referendum in 2018 which would require unanimous approval by all EU governments before it can be finalised. In April 2016, Dutch voters rejected by 61.1% an EU – Ukraine cooperation pact under the same referendum law. Dutch activists are concerned by the lack of democracy in the institutions of the EU.
- French presidential election; first round 13 April; second round 7 May 2017.
- French National Assembly election June 2017.
- German Federal election August – 22 October 2017. This could be affected by significant shifts in voter intentions as a result of terrorist attacks, dealing with a huge influx of immigrants and a rise in anti EU sentiment.
- The core EU, (note, not just the Eurozone currency area), principle of free movement of people within the EU is a growing issue leading to major stress and tension between EU states, especially with the Visegrad bloc of former communist states.

Given the number and type of challenges the EU faces in the next eighteen months, there is an identifiable risk for the EU project to be called into fundamental question. The risk of an electoral revolt against the EU establishment has gained traction after the shock results of the UK referendum and the US Presidential election. But it remains to be seen whether any shift in sentiment will gain sufficient traction to produce any further shocks within the EU.

**CAPITA ASSET SERVICES COMMENTARY ON THE GLOBAL ECONOMY**

**Asia.** Economic growth in China has been slowing down and this, in turn, has been denting economic growth in emerging market countries dependent on exporting raw materials to China. Medium term risks have been increasing in China e.g. a dangerous build up in the level of credit compared to the size of GDP, plus there is a need to address a major over supply of housing and surplus industrial capacity, which both need to be eliminated. This needs to be combined with a rebalancing of the economy from investment expenditure to consumer spending. However, the central bank has a track record of supporting growth through various monetary policy measures, though these further stimulate the growth of credit risks and so increase the existing major imbalances within the economy.

Economic growth in Japan is still patchy, at best, and skirting with deflation, despite successive rounds of huge monetary stimulus and massive fiscal action to promote consumer spending. The government is also making little progress on fundamental reforms of the economy.

**Emerging countries.** There have been major concerns around the vulnerability of some emerging countries exposed to the downturn in demand for commodities from China or to competition from the increase in supply of American shale oil and gas reaching world markets. The ending of sanctions on Iran has also brought a further significant increase in oil supplies into the world markets. While these concerns have subsided during 2016, if interest rates in the USA do rise substantially over the next few years, (and this could also be accompanied by a rise in the value of the dollar in exchange markets), this could cause significant problems for those emerging countries with large amounts of debt denominated in dollars. The Bank of International Settlements has recently released a report that \$340bn of emerging market corporate debt will fall due for repayment in the final two months of 2016 and in 2017 – a 40% increase on the figure for the last three years.

Financial markets could also be vulnerable to risks from those emerging countries with major sovereign wealth funds, that are highly exposed to the falls in commodity prices from the levels prevailing before 2015, especially oil, and which, therefore, may have to liquidate substantial amounts of investments in order to cover national budget deficits over the next few years if the price of oil does not return to pre-2015 levels.

## HRA TREASURY MANAGEMENT STRATEGY

### 1.0 INTRODUCTION

- 1.1 This Appendix sets out the HRA Treasury Management Strategy Statement for 2017-18. The requirement to produce a separate strategy specifically for HRA is a direct consequence of the introduction of the self-financing regime, as it reflects the underlying principle that borrowing and debt management decisions should operate equitably and independently from the General Fund.
- 1.2 The treasury management and investment strategies presented and proposed for 2017/18 are unchanged from 2016/17, as it has been accepted by the Council's external auditors as an appropriate method of apportioning debt management costs and interest accrued from balances and investments between HRA and General Fund. However, in order to provide additional capital funding to address a backlog of maintenance, the Voluntary Revenue Provision will be suspended for at least 10 years.
- 1.3 Underpinning all Treasury Management activity of the Council is the CIPFA Treasury Management Code of Practice, which was last revised in November 2011 to address the implications for introducing HRA Self-financing from 2012/13.
- 1.4 The published Code identified the need for local authorities "...to allocate existing and future borrowing costs between housing and General Fund as the current statutory method of apportioning debt charges between the General Fund and HRA will cease".
- 1.5 The Council has adopted the "Two-Pooled Approach". This entailed allocating historic debt at 31 March 2012 between HRA and General Fund, with any new debt acquired after this date to be assigned to the HRA or General Fund according to the purpose for which it is acquired.
- 1.6 Additionally, the Strategy aims to achieve borrowing outcomes that are affordable, sustainable and prudent in keeping with the requirements of the Prudential Code for Capital Finance in Local Authorities. This Code requires the Council to consider the impact of borrowing as well as address a number of other fundamental principles, being:
  - (i) The splitting of loans (i.e. debt) at the HRA Settlement transition date must be of no detriment to the General Fund.
  - (ii) The Council is required to deliver a solution that is broadly equitable between the HRA and the General Fund;
  - (ii) Future charges to the HRA in relation to borrowing are not influenced by General Fund decisions, giving the HRA greater freedom, independence, certainty and control;
  - (iv) Uninvested balance sheet resources which allow borrowing to be below the CFR are properly identified between General Fund and HRA.

### **HRA TREASURY MANAGEMENT STRATEGY**

- 1.6 Points (i) – (iii) above were addressed by adopting the “Two-Pool Approach”. The last point is met in the Strategy in accordance with the CIPFA Treasury Management code recommendation that the effect should be included in the interest on balances calculation to appropriately allocate the respective portions to HRA and General Fund.
- 1.7 With these background principles and approaches in place the HRA Treasury Management Strategy aims to cover:
- Overall Objectives
  - The Current & Future Position – Underlying Need to Borrow compared to Actual Borrowing
  - The Debt Maturity Profile & Headroom for New Borrowing
  - How to allocate debt and attributable financing costs between HRA and General Fund equitably
  - How to recognise HRA cash balances and reserves which form part of the Council's total investments
  - How to recognise any costs or revenues generated from over/under borrowing
- 1.8 Accordingly, these aspects of the Strategy are approached in turn.

## **2.0 OVERALL OBJECTIVES OF THE HRA TREASURY MANAGEMENT STRATEGY**

The central aim of the Strategy agreed for 2016/17 and unchanged for 2017/18 is:

- to provide borrowing that is affordable, sustainable and prudent, as required by The Prudential Code, and which underpins the requirements of the HRA Capital Investment Programme, 30 year Business Plan, and any other corporate plans.
- to manage the HRA investments and cash flows, its banking, money market and capital market transactions within the purview of the Council's overall Treasury Management Strategy, and to provide effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.
- to support budget and service delivery objectives for the benefit of tenants at no detriment to the General Fund or council taxpayers generally.

**HRA TREASURY MANAGEMENT STRATEGY****3.0 THE CURRENT POSITION – UNDERLYING NEED TO BORROW COMPARED TO ACTUAL BORROWING**

- 3.1 The underlying need to borrow for capital investment is called the Capital Financing Requirement (CFR) and relates to the amount of planned capital expenditure that is not financed from internal resources, which for HRA are primarily capital receipts, revenue contributions, and the Major Repairs Reserve.
- 3.2 Capital expenditure in any year above the amount allocated to be used from these resources must be financed from borrowing or other credit arrangements (e.g. leasing), and results in an increase to the CFR. By comparing the CFR to the amount of actual borrowing, the extent to which the Council is under or over borrowed is determined, and this provides a key prudential indicator for performance management. The HRA Debt Limit is £68.912m. The current estimates, based on the capital investment programme for the next three years, are shown in the table below:

<b>Adur District Council</b>	<b>2015/16 Actual £m</b>	<b>2016/17 Estimate £m</b>	<b>2017/18 Estimate £m</b>	<b>2018/19 Estimate £m</b>	<b>2019/20 Estimate £m</b>
<b>Capital Financing Requirement (CFR)</b>					
General Fund	15.003	15.918	30.231	35.380	40.338
Housing Revenue Account	61.819	60.103	60.103	60.103	60.103
<b>Total CFR</b>	<b>76.822</b>	<b>76.021</b>	<b>90.334</b>	<b>95.483</b>	<b>100.441</b>
<b>Actual Debt</b>					
General Fund	(12.978)	(12.968)	(26.100)	(30.194)	(34.104)
Housing Revenue Account	(61.290)	(59.581)	(57.875)	(56.169)	(54.462)
<b>Total Debt Amount</b>	<b>(74.268)</b>	<b>(72.549)</b>	<b>(83.975)</b>	<b>(86.363)</b>	<b>(88.566)</b>
<b>(Over)/Under Borrowing</b>					
General Fund	2.025	2.950	4.131	5.186	6.234
Housing Revenue Account	0.529	0.522	2.228	3.934	5.641
<b>Total</b>	<b>2.554</b>	<b>3.472</b>	<b>6.359</b>	<b>9.120</b>	<b>11.875</b>
<b>HRA Borrowing Headroom</b>	<b>7.622</b>	<b>9.331</b>	<b>11.037</b>	<b>12.743</b>	<b>14.450</b>

*(Note that the General Fund position is shown for comparative purposes and is extracted from the Annual Treasury Management & Annual Investment Strategy Report 2017/18-2019/20 submitted to the meeting of the Joint Strategic Committee on 2<sup>nd</sup> February 2017).*

## HRA TREASURY MANAGEMENT STRATEGY

### **3.0 THE CURRENT POSITION – UNDERLYING NEED TO BORROW COMPARED TO ACTUAL BORROWING**

- 3.3 The comparison shows the HRA is under borrowed at the end of 2015/16 by £529k, reflecting the amount by which debt outstanding and Minimum Revenue Provision (MRP) has reduced over and above the incidence of new capital expenditure financed from borrowing since 2012/13. In the following years the amount by which actual borrowing is below CFR changes as the value of debt repaid and MRP provided for in each year exceeds the amount of new borrowing anticipated to fund capital investment.
- 3.4 The propensity to bring actual borrowing into line with the CFR is constrained by the requirement to stay within the HRA Debt Limit of £68.912m imposed by Central Government. This is only a constraint if the CFR based on capital investment proposals is above the debt limit. However, for all years from 2017/18 to 2019/20 the CFR is projected to be below the debt as reflected in the capital investment proposals to be approved by the meeting of the Joint Strategic Committee on 2 February 2017.

### **4.0 THE DEBT MATURITY PROFILE AND HEADROOM FOR NEW BORROWING**

The last row of the table in the preceding section compares the existing debt profile with the Debt Ceiling Limit of £68.912m. The amount by which actual borrowing is below the limit provides “Headroom” for new borrowing to fund capital expenditure. For each of the years to 2019/20 the headroom is more than sufficient to allow new borrowing to occur to bring total indebtedness in line with the underlying need to borrow as measured by the CFR – albeit the decision to borrow will be influenced by the prevailing forecast for interest rates, alternative sources of capital funding, and the ability to meet the direct financing costs of borrowing from within the approved HRA budget.

### **5.0 HOW TO ALLOCATE DEBT AND ATTRIBUTABLE FINANCING COSTS BETWEEN HRA AND GENERAL FUND EQUITABLY – THE TWO POOLED APPROACH**

- 5.1 The methodology adopted in the Strategy draws upon CIPFA guidance relating to the two pooled approach, the essence of which is:
- to disaggregate historic debt at the HRA Debt Settlement transition date by the CIPFA methodology and allocate the respective portions to the HRA and General Fund. To each share is added new debt arising after the transition date according to the purpose for which it was incurred.



### HRA TREASURY MANAGEMENT STRATEGY

#### 5.0 HOW TO ALLOCATE DEBT AND ATTRIBUTABLE FINANCING COSTS BETWEEN HRA AND GENERAL FUND EQUITABLY – THE TWO POOLED APPROACH

- 5.2 In adopting this methodology, the Council was mindful of its Treasury Management Consultant's comments that "The two pool approach is the preferred option by CIPFA and DCLG. It is relatively simple and allows the HRA to present a preferred funding structure to the Treasury Management team. It allocates a greater proportion of fixed rate borrowing to the HRA, which may suit its needs as it provides a greater degree of certainty over initial costs".
- 5.3 Another reason for adopting the two pool approach was that an assessment was made of the impact of the resultant financing costs at transition on the HRA and it was concluded that the effect was negligible.
- 5.4 For historic debt at the transition date, the two pooled approach assumed the HRA was fully borrowed at the level of its CFR, with the residual debt attributed to the General Fund. Thus, any over borrowing at that date was attributed to the General Fund, rather than shared with the HRA. The effect at 31 March 2012 of applying the two pooled approach was:

CFR Allocations at Transition Date		Debt Allocations at Transition Date	
	<b>£000</b>		<b>£000</b>
HRA	68,676	HRA	68,676
General Fund	11,160	General Fund	13,430
<b>TOTAL</b>	<b>79,836</b>	<b>TOTAL DEBT</b>	<b>82,106</b>

#### 6.0 HOW TO RECOGNISE HRA CASH BALANCES AND RESERVES WHICH FORM PART OF THE COUNCIL'S TOTAL INVESTMENTS

- 6.1 Before 2012/13, the former subsidy system provided for a statutory determination – the Item 8 credit – to attribute interest on notional average HRA cash balances to the HRA Comprehensive Income and Expenditure statement.
- 6.2 This recognised the general principal that the HRA should benefit from its cash balances and reserves, and the introduction of the self-financing arrangements did not alter this principle.
- 6.3 The Strategy adopts the CIPFA recommended approach for all investments to be pooled, since it states that the "interest on cash balances calculation can be used to manage the charge between HRA and General Fund". Accordingly, to do this the Strategy retains the use of the notional average cash balance approach used within the former Statutory Item 8 calculation as the basis for crediting the HRA share of interest receivable.

**HRA TREASURY MANAGEMENT STRATEGY****7.0 HOW TO RECOGNISE ANY COSTS OR REVENUES GENERATED FROM OVER/UNDER BORROWING**

- 7.1 In practice it is recognised that there will be timing differences between the Council's underlying need to borrow (the CFR) and actual borrowing.
- 7.2 Where under borrowing occurs, the Council is drawing upon internal reserves and balances to fund capital expenditure, and therefore bears the cost of interest foregone on the amount of cash consumed that might otherwise be invested.
- 7.3 Conversely, where over borrowing occurs surplus cash to requirements is held that forms part of surplus cash available for investment. This may arise where borrowing for capital expenditure is undertaken in advance of actual expenditure to take advantage of low interest rates.
- 7.4 In both scenarios the CIPFA Treasury Management code states that the effect should be included in the interest on balances calculation to appropriately allocate the respective portions to HRA and General Fund.
- 7.5 Accordingly, the Strategy adopts the approach whereby the relevant credit or debit shall be computed with reference to the difference between the HRA and General Fund CFR and the respective actual debt during the year. Where an over-borrowing position occurs interest shall be credited at the average rate of interest on all investments prevailing for the period during which the over borrowing was sustained. For an under-borrowed position, interest shall be charged to reflect the interest foregone through consumption of internal resources and at the average rate of all investments achieved during the period of under borrowing.

Ward: N/A

**Local Government Ombudsman Complaints analysis - September 2016 - March 2017**

**Report by the Director for Customer Service**

**1.0 Summary**

1.1 This report provides further analysis on the most recent Local Government Ombudsman (LGO) complaints that have been processed by the Councils.

**2.0 Background**

2.1 The Commission for Local Administration in England was created by Part 3 of the Local Government Act 1974 to run the Local Government Ombudsman service. The Local Government Ombudsman investigates complaints by members of the public who, generally, have had complaints considered by the Local Authority, but still consider that they have been caused injustice by the administrative actions of Local Authorities and other bodies within the jurisdiction of the LGO.

2.2 The Committee has previously requested further analysis on the LGO complaints and as part of this ongoing analysis it received a report to its meeting on 27 September 2016.

**3.0 Proposals**

3.1 A detailed analysis of the most recent ongoing LGO complaints is now provided in the table below which covers the period September 2016 to March 2017.

3.2 For this period of reporting there were **no complaints referred from the LGO relating to Worthing Borough Council:-**

<u>Description of complaint</u>	<u>LGO decision</u>
<b><u>Adur District Council</u></b>	
Complaint about the failure to investigate a noise nuisance issue.	Complaint not upheld. The Local Government Ombudsman found no fault in the way that the Council dealt with a temporary event notice from a nearby football club. There was also no fault in the way that the Council investigated the complaint about noise from the football club's clubhouse.

Complaint that the Council did not properly investigate about an unknown Councillor breaching the Councillor Code of conduct and other related matters.	The Local Government Ombudsman stated that she would not investigate the complaint that a Councillor breached the Members Code of Conduct and would be unlikely to find fault in the Council's actions. The Ombudsman could not investigate the complaints about employment matters as they were outside his jurisdiction.
Complaint that the Council failed to deal properly with Housing Benefit and Council Tax matters.	Most of the complaint not upheld about matters related to the Benefit claims but the Council was at fault for not acting on some financial information that the complainant sent but that fault did not in itself disadvantage the complainant significantly.
Complaint about the way that the Council dealt with a planning application for two new properties on land next to his home.	Complaint not upheld and the Local Government Ombudsman did not criticise the Council for approving the planning application. There was no fault in the Council's handling of the planning application complained about.
Complaint about the way that the Council handled a housing application request.	Local Government Ombudsman investigation is ongoing. Decision pending.

3.3 The Service areas which have been generating the recorded LGO complaints since September 2014 have been broken down as follows.

<b><u>Adur District Council</u></b>	
Planning	5 Not upheld
Environmental Health	3 (2 Not upheld and 1 partially upheld)
Housing	2 (1 Partially upheld and 1 decision pending)
Census (Revenues & Benefits)	4 (2 not upheld, 2 partially upheld)
Legal	1 (Not upheld)
<b><u>Worthing Borough Council</u></b>	
Parks and Foreshore	2 not upheld
Housing Services	2 not upheld
Planning	2 not upheld
Revenues and Benefits	3 (1 upheld and 2 not upheld)
Democratic Services	1 (not upheld)
Financial Services	1 (not upheld)

#### **4.0 Analysis of Complaints and compliments for 2017/18**

- 4.1 Increased scrutiny and analysis of complaints and compliments continues to ensure that the available complaints and compliments data is accurate. A new in-house digital complaints and compliments system has now been developed and built. Complaints and compliments are now recorded on the new system which provides improved recording and a reporting Dashboard is being tested and adapted.
- 4.2 Directors and Heads of Service will use complaints as opportunities to make continuous improvements to services.

#### **5.0 Legal**

- 5.1 The role of the Local Government Ombudsman is governed by Part 3 of the Local Government Act 1974.

#### **6.0 Financial implications**

- 6.1 There are no direct financial implications arising from this report.

#### **7.0 Recommendation**

- 7.1 That the Committee notes the contents of the report and agrees to receive a further analysis of Local Government Ombudsman complaints in September 2017.

#### **Local Government Act 1972 Background Papers:**

None.

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## **Schedule of Other Matters**

### **1.0 Council Priority**

1.1 Matter considered. Priority to review customer complaints handling and reporting.

### **2.0 Specific Action Plans**

2.1 Matter considered and no issues identified.

### **3.0 Sustainability Issues**

3.1 Matter considered and no issues identified.

### **4.0 Equality Issues**

4.1 Matter considered and no issues identified.

### **5.0 Community Safety Issues (Section 17)**

5.1 Matter considered and no issues identified.

### **6.0 Human Rights Issues**

6.1 Matter considered and no issues identified.

### **7.0 Reputation**

7.1 Responding in a timely and open manner to investigations by the Local Government Ombudsman assists the Council to improve their service, service delivery and reputation.

### **8.0 Consultations**

8.1 Matter considered and no issues identified.

### **9.0 Risk Assessment**

9.1 Matter considered and no issues identified.

### **10.0 Health & Safety Issues**

10.1 Matter considered and no issues identified.

### **11.0 Procurement Strategy**

11.1 Matter considered and no issues identified.

### **12.0 Partnership Working**

12.1 Matter considered and no issues identified.

Ward: All

## Joint Overview and Scrutiny Committee Procedure Rules

### Report by the Monitoring Officer

#### 1.0 Summary

- 1.1 Work has been ongoing by the Joint Overview and Scrutiny Committee (JOSC) to introduce and review 'New Ways of Working' for the Committee to ensure they are able to robustly, efficiently and effectively, scrutinise decisions of the Councils, take a lead role in policy development and generally add value to the work of the Councils.
- 1.2 This review of JOSC's New Ways of Working has coincided with a timely periodic review of the Councils' JOSC Procedure Rules, which form part of each Councils' constitutions. Proposed revised JOSC Procedure Rules for Adur and Worthing are attached to this report as Appendix 1.

#### 2.0 Background

- 2.1 JOSC has undertaken a review of its approach to how it has performed the overview and scrutiny role on behalf of the two Councils. Their approach has focused more on JOSC holding 'themed' meetings and scrutinising key issues affecting the Communities, which in turn has provided more opportunity for better public engagement. For agility in the decision making process and efficiency of time it is likely that such themed meetings may require greater use of working groups which report back to the joint committee.
- 2.2 Issues to be included in the JOSC agenda are now selected in accordance with the Councils' strategic objectives, the ability of the Committee to have influence and add value on a subject and in accordance with the new criteria which relate to public interest, ability to change, performance, extent and replication (known as the PAPER criteria).

#### 3.0 Proposals

- 3.1 The main provisions of the JOSC procedure rules can be summarised as follows:
  - 3.1.1 The Rules clarify and confirm that the terms of reference of the JOSC are determined by the Joint Committee Agreement, which provides that JOSC shall

exercise the scrutiny function of both Councils in relation to all matters, except those to be determined by the individual Executives;

- 3.1.2 The procedure rules provide that any Elected Member of the Council, other than a Member of the Executive, may be a Member of JOSC, subject to the provision that no Member may be involved in scrutinising their own decision, nor any decision in which they have been involved as a policy advisor.
- 3.1.3 The revised rules set out governance arrangements for co-opted Members of JOSC at paragraph 4. They provide that JOSC and its sub committees may appoint a maximum of two co-opted non voting members to assist it on a particular matter. Such co-opted members of the Committee may or may not be Elected Members of the Council, but they cannot be a co-opted member of the Executive considering the same matter. JOSC working groups may also appoint co-opted non voting members to act in an advisory capacity but are not limited to the number of such members. When JOSC, its sub committee or working group is considering a matter relating to housing tenants or leaseholders, the Adur Consultative Forum appointed co-optee shall be a co-opted member.
- 3.1.4 Governance arrangements for working groups are established in the revised procedure rules at paragraph 6 and provisions relating to scope, membership, officer attendance, quorum and substitutes have been introduced.
- 3.1.5 The procedure rules at paragraph 9.1 set out the new criteria introduced by JOSC to consider when determining whether matters should be recommended for inclusion in their work plan; in addition to consideration of the Councils' strategic objectives and the ability of the Committee to have influence and/or add value on the subject JOSC will now consider the public interest; ability to change; performance; extent and replication (known as the PAPER criteria). Approval of the JOSC work programme is the responsibility of each Council and the matter will be considered in April of each year for the following municipal year. Sufficient flexibility is provided in the rules to enable items to be added to the work programme throughout the year, and such additions are to be noted by the Councils.
- 3.1.6 Paragraph 11 of the rules enables JOSC and its sub committees to make proposals to the Councils, their Committees and the Executives for policy development. Paragraph 12 provides a route for recommendations from JOSC to be submitted to the relevant body for consideration in the form of either an Officer report or a JOSC minute extract.
- 3.1.7 Paragraph 15 of the Rules provide JOSC with the power to call any Elected Member, Head of Paid Service, Chief Officer or Deputy Chief Officer to attend its meetings, on notice, to answer questions relating to a particular decision made or action taken. JOSC may invite residents, stakeholders and partners to attend meetings of JOSC to answer questions, but they are not obliged to attend.
- 3.1.8 Paragraph 17 of the rules confirm the procedure to be used when an Executive decision is called-in. Paragraph 18 provides procedural guidance as to the conduct of the meetings themselves.



## **4.0 Legal**

- 4.1 Under section 111 of the Local Government Act 1972, the Councils have the power to do anything to facilitate or which is conducive or incidental to the discharge of any of their function.
- 4.2 Section 1 of the Localism Act 2011 provides a Local Authority with the power to do anything that individuals generally may do (subject to any current restrictions or limitations prescribed in existing legislation).
- 4.3 Section 3(1) of the Local Government Act 1999 contains a general duty on a best value authority to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 4.4 Regulation 3 of the Overview and Scrutiny (Excluded Matters) (England) Order 2012 defines that an excluded matter is a local crime and disorder matter relating to a planning or licensing decision, or where a person has a right of recourse to a review or appeal, or where the matter is vexatious, discriminatory or unreasonable.

## **5.0 Financial implications**

- 5.1 There are no financial implications arising from this report, although should the JOSC work programme increase substantially there would be some consequential resourcing implications.

## **6.0 Recommendation**

- 6.1 The Joint Governance Committee is recommended to recommend to both Adur District Council and Worthing Borough Council the adoption of the revised Joint Overview and Scrutiny Procedure Rules and inclusion of the rules in each Council's Constitution.

## **Local Government Act 1972**

### **Background Papers:**

Adur District Council Constitution  
Worthing Borough Council Constitution

### **Contact Officer:**

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## **Schedule of Other Matters**

### **1.0 Council Priority**

- 1.1 Sound governance procedures and constitutional arrangements facilitate the Council in meeting its priorities with minimal risk of challenge.

### **2.0 Specific Action Plans**

- 2.1 Matter considered and no issues identified.

### **3.0 Sustainability Issues**

- 3.1 Matter considered and no issues identified.

### **4.0 Equality Issues**

- 4.1 Matter considered and no issues identified.

### **5.0 Community Safety Issues (Section 17)**

- 5.1 Issues relating to crime and disorder can be contained in the JOSC work programme but would be excluded by virtue of legislation where the matter relates to a planning or licensing decision or where an individual has a right of recourse to a review or appeal.

### **6.0 Human Rights Issues**

- 6.1 Matter considered and no issues identified.

### **7.0 Reputation**

- 7.1 An effective scrutiny function helps to ensure compliance with sound decision-making principles, which in turn helps to improve transparency and public perception and confidence in democracy and improves the reputation of the Councils.

### **8.0 Consultations**

- 8.1 Consultation has taken place with the Joint Overview and Scrutiny Committee on 16th March 2017.

### **9.0 Risk Assessment**

- 9.1 Matter considered and no issues identified.

### **10.0 Health & Safety Issues**

- 10.1 Matter considered and no issues identified.

## **11.0 Procurement Strategy**

11.1 Matter considered and no issues identified.

## **12.0 Partnership Working**

12.1 The Joint Overview and Scrutiny Committee is governed by the Joint Committee Agreement between Adur District Council and Worthing Borough Council which is critical to the successful partnership working between the two Authorities.

### JOINT OVERVIEW AND SCRUTINY PROCEDURE RULES

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#### **1.0 ARRANGEMENTS FOR THE JOINT OVERVIEW AND SCRUTINY COMMITTEE**

- 1.1 The Councils will have a Joint Overview and Scrutiny Committee, as set out in Article 6, and will appoint Members to it on an annual basis.
- 1.2 The Committee may appoint such Sub-Committees or Working Groups as it sees fit.
- 1.3 The Joint Overview and Scrutiny Committee will comprise 8 Elected Members from Adur District Council and 8 Elected Members from Worthing Borough Council and shall not include Members of either Executive.

#### **2.0 TERMS OF REFERENCE**

- 2.1 The general terms of reference of the Joint Overview and Scrutiny Committee are as set out in the Joint Committee Agreement, which says that the Joint Overview and Scrutiny Committee shall exercise the Scrutiny function of both Councils in relation to all matters except those to be determined by the individual Executives.

#### **3.0 MEMBERSHIP OF THE JOINT OVERVIEW AND SCRUTINY COMMITTEE**

- 3.1 Any Members (except Members of the Executive) may be Members of the Joint Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision in which they have been directly involved, for example as a decision-maker or advisor.

#### **4.0 CO-OPTED MEMBERS**

- 4.1 Co-opted Elected Members

Subject to 4.3 below, the Joint Overview and Scrutiny Committee, its Sub-Committee or Working Group, shall be entitled to co-opt non-voting Elected Members to the membership of the Committee, to assist on a particular matter. A Co-opted Member may not sit as a Co-opted Member on both an

Executive and a Scrutiny Committee when considering the same matter. A Committee or Sub-Committee of the Joint Overview and Scrutiny Committee may appoint no more than two non-voting Co-opted Members to any particular Meeting. A Working Group is not limited to these numbers.

#### 4.2 Co-opted Unelected Members

Subject to 4.3 below, the Joint Overview and Scrutiny Committee, or its Sub-Committee or Working Group, shall be entitled to co-opt non-voting unelected persons to the membership of the Committee, to assist on a particular matter. A Co-opted Member may not sit as a Co-opted Member on both an Executive and a Scrutiny Committee when considering the same matter. A Committee or Sub-Committee of the Joint Overview and Scrutiny Committee may appoint no more than two non-voting Co-opted Members to any particular Meeting. A Working Group is not limited to these numbers.

- 4.3 Where the matter relates to the Adur Housing Revenue Account, terms and conditions of tenancies or leaseholds, leasehold service charges and any other matter directly affecting housing tenants or leaseholders which do not have a general effect on other residents, the Adur Consultative Forum appointed co-optee shall be co-opted onto the Committee, Sub-Committee, or Working Group.

### **5.0 MEETINGS OF THE JOINT OVERVIEW AND SCRUTINY COMMITTEE**

- 5.1 There shall be at least four Ordinary Meetings of the Joint Overview and Scrutiny Committee in each municipal year.
- 5.2 In addition, Extraordinary Meetings may be called from time to time as and when appropriate. An Extraordinary Meeting of the Joint Overview and Scrutiny Committee may be called by the Joint Chairpersons, in agreement, requesting in writing that the Director for Communities call an Extraordinary Meeting; or by any four Committee Members, being at least one from each Authority, signing a requisition, and presenting it to the Joint Chairpersons, who if they have failed to call a meeting within 7 calendar days, may provide notice in writing to the Director for Communities, who shall then call such an Extraordinary Meeting.
- 5.3 Working Groups may go on site visits, carry out evidence gathering, investigations and write reports, for the approval of Joint Overview and Scrutiny Committee or any Sub-Committee. Reports of a Working Group shall be submitted under cover of an Officer report and will be included in the Agenda for the meeting, and must comply with the Access to Information Procedure Rules.
- 5.4 Meetings of Working Groups do not have to meet in public as they are informal non-decision making meetings, unlike meetings of the Joint Overview and Scrutiny Committee or any Sub-Committee.

## **6.0 WORKING GROUPS**

6.1 Working Groups may be established as:

- (a) A standing Working Group for a particular topic - for example budget monitoring or holding the Executive to account.
- (b) As a task and finish Working Group based on an agreed scoping report, likely to involve external attendees, site visits or gathering evidence over time.
- (c) A time-limited Working Group based on an agreed scoping report, likely to be a review of an internal Council service.

6.2 Membership

The Working Group shall consist of at least four Members of the Joint Overview and Scrutiny Committee selected when establishing the Terms of Reference under paragraph 6.1 above.

Membership can be a mixture of Members from both Councils with a preference of at least one Member from each Council. The overriding criterion shall be the following:

- (a) The subject under discussion;
- (b) The skill set of the Members selected;
- (c) The location in the District or Borough of the matter under review;
- (d) As resolved by the Joint Overview and Scrutiny Committee;
- (e) Availability and time commitment as outlined in the scoping report.

6.3 Officer Attendance at Working Groups

The Working Group may invite Officers of the Councils to attend meetings of the Working Group as consultees or specialist advisors.

6.4 Quorum

There is quorum of two for a Working Group meeting or site visit.

6.5 Chairing

Each Working Group will select its own Chairman.

6.6 Substitutes

Substitutes are not allowed, although the Working Group may invite other Members of Joint Overview and Scrutiny to assist it for a particular meeting.

Any change to the permanent membership of a Working Group should be approved by the Joint Overview and Scrutiny Committee.

## **7.0 QUORUM**

7.1 The quorum for the Joint Overview and Scrutiny Committee shall be determined in accordance with the Joint Committee Agreement.

## **8.0 CHAIRING OF THE JOINT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

8.1 The Chairpersons and Vice-Chairpersons of the Joint Overview and Scrutiny Committee are appointed by each Annual Council each year.

8.2 It is for each Sub-Committee or Working Group to decide who should Chair those meeting(s). In the event of a dispute, reference should be made to Council Procedure Rule 8.

## **9.0 WORK PROGRAMME**

9.1 The Joint Overview and Scrutiny Committee will be responsible for proposing their own draft work programme and in doing so they shall take into account the wishes of all Members on that Committee, regardless of political group.

When determining whether to include an item on the Joint Overview and Scrutiny draft Work Programme, Members should be guided by:

- (a) The Councils' Strategic objectives;
- (b) the ability of the Committee to have influence and/or add value on the subject;
- (c) the PAPER criteria: Public Interest (P), Ability to Change (A), Performance (P), Extent (E) and Replication (R). (See Appendix 1 to these Procedure Rules).

9.2 Approval of the Joint Overview and Scrutiny Work Programme is the responsibility of the Council. It will be considered and determined by each Council at the April meeting each year, for the following municipal year.

9.3 During the Municipal year, items may be added to the Joint Overview and Scrutiny Committee Work Programme, where appropriate. Requests for additional matters to be included in the Work Programme will initially be considered by the Joint Chairpersons in accordance with the criteria set out in paragraph 9.1 above, who will make their recommendations to the next Joint Overview and Scrutiny Committee for consideration and determination, following receipt of the Officer report. Consideration should also be given to capacity of the Committee and resources available. Any changes to the Work Programme should be reported to Council mid municipal year for noting.

- 9.4 The Director for Digital and Resources will consult with the Joint Chairpersons of the Joint Overview and Scrutiny Committee throughout the year to monitor the Work Programme, and will report to the Committee on a regular basis.
- 9.5 After consideration of an Officer report, the Joint Overview and Scrutiny Committee will be responsible for setting the scope of the work of any Sub-Committee or Working Group established to assist the Joint Overview and Scrutiny Committee in carrying out its functions and responsibilities. The scope of the work should include timeframes, objectives, membership, resources and final reporting.

## **10.0 AGENDA ITEMS**

- 10.1 A Member of the Joint Overview and Scrutiny Committee shall be entitled to request that an item be added to the Work Programme in accordance with the provisions of paragraph 9.3 above. Should the Chairpersons fail to include the item on the agenda, at the next available meeting (in accordance with the Access to Information Procedure Rules), the Member may give written notice to the Director for Communities that they wish an item relevant to the functions of the Committee to be considered by the Committee. On receipt of such a request, the Director for Communities will include the item in an agenda to be discussed at a meeting of the Committee (unless the matter is an Excluded Matter as defined in Regulation 3 of the Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012). An excluded matter is a local crime and disorder matter within the meaning of the Police and Justice Act or any matter relating to a planning or licensing decision, or where a person has a right of recourse to a review or appeal, or where the matter is vexatious, discriminatory or not reasonable.
- 10.2 Any Member of the Council who is not a Member of the Joint Overview and Scrutiny Committee may, on a maximum of four occasions in any municipal year, give written notice to the Director for Communities that they wish an item to be included on the agenda for the Committee. If the Director for Communities receives such a notification, then they will consult with the Joint Chairpersons of the Committee who will follow the procedure set out in paragraph 9.3 above. Should the Chairpersons fail to put the item on the agenda for the next available meeting (in accordance with Access to Information Procedure Rules) then the Member may ask the Director for Communities to put it on the agenda and they shall do so. The Committee will then consider the agenda item and determine whether it will be included on the Work Programme of the Joint Overview and Scrutiny Committee or not. If the Committee decide not to include the item in their Work Programme, the Member will be notified of the reasons. This procedure rule is to be taken in conjunction with the Council's Protocol on Councillor Call for Action in Part 5 of this Constitution.



- 10.3 The Council or its Committee may request that the Joint Overview and Scrutiny Committee undertake scrutiny or development work on their behalf. The Joint Overview and Scrutiny Committee shall respond, as soon as their Work Programme permits, to requests from the Council and, if it considers it appropriate, the Executive to review particular areas of Council activity. Where the Joint Overview and Scrutiny Committee does so, it shall report its findings and any recommendations back to the commissioning body. The commissioning body shall consider the report of the Joint Overview and Scrutiny Committee at their next available (in accordance with Access to Information Procedure Rules) meeting.
- 10.4 A member of the public may request that an item be added to the Agenda of the Joint Overview and Scrutiny Committee. Any such request shall be considered by the Joint Chairpersons, and unless inappropriate to do so, shall be dealt with in accordance with paragraph 9.3 above.

## **11.0 POLICY REVIEW AND DEVELOPMENT**

- 11.1 The Joint Overview and Scrutiny Committee or any Sub-Committees may make proposals to the Council, its Committees or the Executive for policy development, in so far as they relate to matters within that body's terms of reference.
- 11.2 The Joint Overview and Scrutiny Committee may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. Such advisors may or may not be appointed as Co-opted Members, subject to the provisions of paragraph 4.0 above. The Committee may go on site visits, conduct public meetings, commission research and do all things that it reasonably considers necessary to inform their deliberations. It may ask witnesses to attend (see below) to address it on any matter under consideration and may, subject to available resources, pay to any advisors, assessors and witnesses a reasonable fee to cover their expenses for doing so.

## **12.0 REPORTS FROM THE JOINT OVERVIEW AND SCRUTINY COMMITTEE**

- 12.1 Once it has formed recommendations, the Director for Digital and Resources will prepare a formal report incorporating the views of the Joint Overview and Scrutiny Committee and submit it to the relevant body.
- 12.2 The Council(s), the Executive(s) or the Committee shall consider any report of the Director for Digital and Resources submitting the views of Joint Overview and Scrutiny Committee at their next Ordinary Meeting (subject to Access to Information Rules), after it has been submitted to the Director for Communities for placing on the Agenda.
- 12.3 Alternatively the minute from a meeting of Joint Overview and Scrutiny

Committee may be referred to the Council, its Executive or a Committee. In cases where the minutes of the previous meeting have not been agreed by the Joint Overview and Scrutiny Committee a draft minute shall be prepared by the Director for Communities in consultation with the relevant Joint Chairperson prior to the meeting of the Executive(s), Committee(s) or Council(s).

### **13.0 CONSIDERATION OF JOINT OVERVIEW AND SCRUTINY REPORTS**

- 13.1 The Joint Overview and Scrutiny Committee will take advice from the Director for Communities as to the appropriate body to consider recommendations.

### **14.0 RIGHTS OF JOINT OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS**

- 14.1 In addition to their rights as Councillors, Members of the Joint 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 of this Constitution.

### **15.0 MEMBERS AND OFFICERS GIVING ACCOUNT**

- 15.1 Subject to paragraph 10.1 above, Joint Overview and Scrutiny Committee or Sub-Committee or Working Group may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions, unless prohibited elsewhere in this Constitution or by statute, for example in relation to quasi-judicial matters. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member, Head of Paid Service, Chief or Deputy Chief Officer to attend before it to explain in relation to matters within their remit:-

- (a) any particular decision or series of decisions;
- (b) the extent to which the actions taken implement Council policy;

and it is the duty of those persons to attend if so required. Questions for those being requested to attend should be pre-submitted no later than two working days in advance of the meeting.

When requesting Officers and Members of the Council to attend, the Joint Overview and Scrutiny Committee should have regard to the extent/number of the requests and the capacity of Officers and Members to attend. Sufficient notice of the meeting should be provided to them as referred below.

- 15.2 Where any Member or Officer is required to attend the Joint Overview and Scrutiny Committee under this provision, the Joint Chairperson of the Committee will inform the Director for Digital and Resources, who shall 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. 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.

- 15.3 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Joint Overview and Scrutiny Committee shall in consultation with the Member or Officer arrange an alternative date for attendance.

## **16.0 ATTENDANCE BY OTHERS**

- 16.1 The Joint Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 15 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and shall invite such people to attend.

## **17.0 CALL-IN OF A DECISION**

- 17.1 When a decision is:

- (a) a decision of the Joint Strategic Committee;
- (b) a Joint Individual Executive Member decision; or
- (c) a decision made by an Officer with delegated authority from the Executive in relation to a joint service;

and the decision has been published on the Councils' website and made available at the main offices of the Council, as set out in the Access to Information Procedure Rules in Part 4 of this Constitution, subject to the provisions of this paragraph it is subject to call-in.

(In respect of a decision made by:

- (a) an Individual Executive;
- (b) an Individual Executive Member in respect of a single service; or
- (c) an Officer with delegated authority from the Executive in relation to a single service;

a separate call-in procedure exists and is set out in the Overview and Scrutiny Procedure Rules for ADC and WBC).

- 17.2 The Record of Decision will bear the date on which it is published and, subject to general exceptions, will specify the date on which the decision will come into force, and may then be implemented unless the decision is called in.

- 17.3 A decision may be called in:

- (a) if it conflicts with Council policy;
- (b) If it conflicts with the Council's Budget Strategy;
- (c) where there is evidence to suggest the principles of decision-making (as set out in Article 12 of this Constitution) have not been complied with, for example the absence of appropriate consultation.

No decisions other than Executive decisions may be called in.

17.4 During the period between the decision being made and coming into force:

- (a) The Monitoring Officer shall call-in a decision for scrutiny if any three Members in total, being of either Council, submit to the Monitoring Officer in writing, by email to [monitoringofficer@adur-worthing.gov.uk](mailto:monitoringofficer@adur-worthing.gov.uk), a request for a matter to be called in. Such a request is to be made by 5.00pm on the fifth clear working day, from the day on which the Record of Decision is published. The request must include the reasons for the call-in.
- (b) Upon receipt of the request, the Monitoring Officer shall consult with both Chairpersons, or Vice-Chairpersons in their absence, and shall determine whether or not the call-in is in accordance with the requirement of these rules. The Monitoring Officer shall notify the Members who made the request, the Director for Communities, and the Decision-maker, or Chairperson of Decision Making body, of the determination, within 2 clear working days of the request being received.
- (c) If the call-in is accepted, the decision will be put on hold pending referral to the Joint Overview and Scrutiny Committee.
- (d) The Director for Communities shall, within 10 clear working days of the call-in being accepted, after consultation with the Joint Chairpersons, call a meeting of the Joint Overview and Scrutiny Committee. Such meeting is to be held on such date as the Director for Communities shall determine, but to be held as soon as is reasonably practicable.

17.5 The Monitoring Officer will provide a report for the Meeting in respect of the call-in which will include the procedure for the call-in hearing.

17.6 Prevention of Call-in Procedure

The call-in procedure set out above shall not apply where the decision relates to a matter which is urgent and cannot reasonably be deferred.

A decision will relate to a matter which is urgent if any delay caused by the call-in process would:-

- (a) be highly likely to result in either Council incurring significant additional expenditure or loss of significant additional income; or

- (b) be highly likely to result in significant damage to either Council's reputation; or
- (c) prevent either Council from meeting its legal obligations.

The agreement must be obtained in writing in advance of making the decision, by way of completion of a Notice, by the Director for Communities, of a Chairperson of the Joint Overview and Scrutiny Committee, that it is reasonable in all the circumstances to treat the decision to be made as one which is urgent and therefore not subject to call-in. In the absence of both Chairpersons of the Joint Overview and Scrutiny Committee, a Vice-Chairperson's consent shall be required. In the absence of both Chairpersons and Vice Chairpersons, the consent of a Civic Head (Council Chairman or Mayor) shall be required.

The Record of Decision and Notice that the decision is exempt from call-in, shall state that in the opinion of the Joint Chairpersons of Joint Overview and Scrutiny Committee the decision is one which is urgent, with reasons, and therefore not subject to call-in.

Decisions taken in accordance with this Procedural Rule must be reported to the next available Meeting of each Full Council.

- 17.7 Having considered the decision, the Joint Overview and Scrutiny Committee may refer the decision back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns. The decision-making person or body must reconsider the decision within a further 5 clear working days, and may or may not amend the decision.
- 17.8 Once the reconsidered decision is published following the call-in procedure, the decision cannot be called in again and may be implemented immediately.

## **18.0 PROCEDURE AT THE JOINT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS**

- 18.1 The Joint Overview and Scrutiny Committee and Sub-Committees shall consider the following business:
  - (a) Declarations of disclosable pecuniary and personal interests;
  - (b) Substitute Members;
  - (c) Public questions in accordance with Council Procedure Rule 11;
  - (d) Minutes of the last meeting;
  - (e) Agreement of any procedure relevant for the meeting;
  - (f) Consideration of any matter referred to the Committee for a decision in relation to call-in of a decision;
  - (g) Response of the Executives to reports of the Joint Overview and

Scrutiny Committee;

(h) Any business otherwise set out on the Agenda for the Meeting.

18.2 Joint Overview and Scrutiny Committee meetings are to be conducted in accordance with the following principles:

(a) That the scrutiny be conducted fairly and all Members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;

(b) That those assisting the meeting by giving evidence be treated with respect and courtesy;

(c) That the meeting be conducted so as to maximise efficiency; and

(d) To be constructive and positive, adopting non-confrontational and inquisitorial techniques.

18.3 Following any meeting, the Committee or Sub-Committee shall prepare recommendations for the Officer report, to be submitted to the Executive, Council or Committee as appropriate, and shall make its findings public, subject to Access to Information Procedure Rules.

## **19.0 COMMUNICATIONS STRATEGY FOR THE JOINT OVERVIEW AND SCRUTINY COMMITTEE**

19.1 Subject to Access to Information Procedure Rules, for each meeting of the Joint Overview and Scrutiny Committee, an appropriate communications strategy should be developed in consultation with the Joint Chairpersons and Head of Communications to promote the Work Programme of Joint Overview and Scrutiny, the meeting itself and to explain the function and purpose of Scrutiny.

## Executive Procedure Rules

### Report by the Monitoring Officer

#### 1.0 Summary

- 1.1 Requirements relating to Executive Decision Making are, in large part, provided for in legislation. The Councils have set out procedures relating to such decision making in their Constitutions to ensure compliance with statutory requirements, the principles of decision making, and the principles for those holding public office, whilst retaining agility, transparency and accountability in the process.
- 1.2 Procedures for Executive decision making may be found in The Executive Procedure Rules which can be found in Part 4 of each Council's Constitution. Those rules have been reviewed and various proposals for amendment are suggested by the Monitoring Officer.
- 1.3 This report makes proposals for change and revised Executive Procedure Rules can be found at Appendix 1 to this report for Adur District Council and Appendix 2 to the report for Worthing Borough Council.
- 1.4 The Joint Governance Committee is asked to consider the proposed new rules and to make a recommendation to each Council for the new Executive Procedure Rules to be adopted to become part of each Council's Constitution from the date of the Annual Council Meetings in 2017.
- 1.5 Consultation has been undertaken with each Council's Leader of the Council by way of a report asking them to provide comment to the Joint Governance Committee. The Committee will want to take account of such comments and will be updated with any comments or feedback received.

#### 2.0 Background

- 2.1 Executive decisions are routinely made by the Executive Collectively (e.g. at Executive meetings), by the Executive sitting with another body (e.g. Joint Strategic Committee), by an Executive Member with the appropriate delegation from the Leader of the Council, and by Officers with the appropriate delegation from the Executive.

- 2.2 Specific legislation relates to Executive decisions which may be Key, or contain either Exempt or Confidential information. Subject to urgency provisions set out in the Access to Information Rules, such decisions must be included on the Councils' forward plans to provide 28 days' notice before the decision may be made. This is the case regardless of whom the decision maker, or decision making body, may be and therefore applies equally to Officer Executive Key, Exempt or Confidential decisions as to such Member decisions.
- 2.3 There are statutory requirements relating to the earliest date upon which an Executive decision may be made. Where a decision is Key, Exempt or Confidential it cannot be made (other than in very limited circumstances) until the matter has been published on the forward plan for at least 28 days. Further the decision cannot be made until the expiry of 5 clear working days after the date of publication of the Officer report. The time period for the forward plan and publication of the report can run concurrently.

However there are no statutory requirements governing the timescale in which the decision should be made. In the case of decisions of the Executive as a whole, this is governed in practice by the schedule of meetings, with the ability to hold additional meetings as required. But for Individual Executive Member decisions, it is hoped that greater speed and agility is gained in the decision making process as there is no requirement to call a meeting or publish an agenda. This agility is lost if the decision maker fails to make the decision in a timely manner. It is therefore proposed in the revised rules that Individual Executive Member decisions should be made within 14 days of the earliest date that the decision could be made. It is not proposed that this be a mandatory rule as flexibility may be required depending on the specific decision to be made, and in particular any consultation process that may be appropriate.

- 2.4 Joint Executive decision making is governed by the Councils' Joint Committee Agreement between Adur District Council and Worthing Borough Council. Paragraph 4.2 of the Joint Committee Agreement establishes the process for the taking of decisions jointly by Individual Executive Members from different Authorities. It provides that where a decision relating to an Executive function falls within the portfolio of a single Executive Member and relates to a joint service, the relevant Individual Executive Member report shall be sent simultaneously to the relevant Individual Executive Member for each Council. The two Executive Members are required to consult with one another prior to the making of the decision.

In practice therefore, Officers should send Individual Executive Member reports to the relevant Executive Member for each Council, provided the matter relates to something within a joint service. It is now the case that almost all of the Councils' services are joint, with the exception of Adur District Council's Adur Homes Service and parts of Worthing Borough Council's Culture and Bereavement Services. Compliance with this provision of the Constitution has not always been good and is not clearly reflected in the existing Executive Procedure Rules.



Compliance with this provision of the Joint Committee Agreement will result in an increased number of Individual Executive Member reports and there will be circumstances when the Individual Executive Member from one Authority, considers it prudent to abstain from the decision making process, if the matter in reality, despite falling under a joint service, is primarily of relevance only to the other Authority.

The Joint Committee Agreement provides that where the two Individual Executive Members from different Authorities agree on the decision to be made, then it is to be made; where one abstains, the decision of the other will stand and where there is not agreement, the report will be referred to the Joint Strategic Committee for determination.

### **3.0 Proposals**

3.1 The revised procedure rules aim to:

- Emphasise the need for compliance with the statutory requirement for 28 days' notice afforded by the Councils' forward plans.
- Sets out the procedures for an individual decision maker who may have a conflict of interest in the decision to be made.
- Clarifies that the Leader may withdraw a delegation of an Executive function to a Member or Officer at any time, whether temporarily for a particular decision or permanently.
- Explains the difference between exempt and confidential information in Executive decision making and the rights of the public to have access to Executive meetings and copies of Executive reports.
- References the principles of decision making set out in Article 12 of the Constitution.
- Sets out the business which must be included at meetings of the Executive.
- Sets out the information which must be included in written reports for Executive decision makers.
- Sets out the information which must be included in the minutes or record of decision following an Executive decision.
- Sets out the timescales for making Executive decisions, publishing minutes and records of decisions and for implementation of such decisions.

## **4.0 Legal**

- 4.1 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 establishes the functions which may be Executive, cannot be Executive and which are a matter of Local Choice. Part 3 of the Councils' Constitutions set out the determination for Adur District Council and Worthing Borough Council as to Local Choice functions.
- 4.2 Part 3 of the Councils' Constitutions set out the Executive delegations by the Leader to his Individual Executive Members and specifies their portfolios.
- 4.3 Part 4 of the Councils' Constitutions contain the Scheme of Delegations to Officers and includes Executive functions delegated to Council Officers.
- 4.4 The Joint Committee Agreement between Adur District Council and Worthing Borough Council sets out Executive functions that have been delegated to the arena of joint decision making between the two Authorities.
- 4.5 The Local Government Act 1972 makes provisions as to the publication of reports and agendas, exempt and confidential information, and public access to agendas, reports and meetings.
- 4.6 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 set out requirements as to the Council's Forward Plan.

## **5.0 Financial implications**

- 5.1 There are no financial implications arising from this report.

## **6.0 Recommendation**

The Joint Governance Committee is recommended to:

- 6.1 recommend the adoption of the revised Executive Procedure Rules as set out at Appendix 1 to Adur District Council as part of their Constitution; and
- 6.2 recommend the adoption of the revised Executive Procedure Rules as set out at Appendix 2 to Worthing Borough Council as part of their Constitution.

## **Local Government Act 1972**

### **Background Papers:**

The Councils' Constitutions.

Local Government Act 1972.

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

### **Contact Officer:**

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## **Schedule of Other Matters**

### **1.0 Council Priority**

- 1.1 Executive Procedure Rules are part of the governance framework for the efficient operation of Council decision making.

### **2.0 Specific Action Plans**

- 2.1 No issues identified

### **3.0 Sustainability Issues**

- 3.1 No issues identified

### **4.0 Equality Issues**

- 4.1 [Details of any equality issues or how the proposal improves the current position]

### **5.0 Community Safety Issues (Section 17)**

- 5.1 No issues identified

### **6.0 Human Rights Issues**

- 6.1 No issues identified

### **7.0 Reputation**

- 7.1 Sound decision making procedures, and governance arrangements, established in the Councils' Constitutions, enhance transparency and accountability in the decision making process, which has a positive impact on the public perception and reputation of the Councils.

### **8.0 Consultations**

- 8.1 Consultation is being undertaken, via this report, with both Leaders of Adur District Council and Worthing Borough Council. Feedback received from this consultation will be provided to the Joint Governance Committee when considering this matter, prior to their making a recommendation to each Full Council.

### **9.0 Risk Assessment**

- 9.1 Matter considered and no issues identified

### **10.0 Health & Safety Issues**

- 10.1 Matter considered and no issues identified

## **11.0 Procurement Strategy**

11.1 Matter considered and no issues identified

## **12.0 Partnership Working**

12.1 Adur District Council and Worthing Borough Council remain separate legal entities and retain separate Constitutions governing their operation. Entirely separate Executive Procedure Rules have therefore been produced for Adur District Council and Worthing Borough Council.

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## EXECUTIVE PROCEDURE RULES

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### 1.0 INTRODUCTION

- 1.1 These Executive Procedure Rules have been adopted by the Council to help achieve the following aims:-
- (a) to protect the interests of the Council, individual Members and Officers;
  - (b) to ensure that decisions are based upon complete and sound information and advice from appropriate professional Officers; and
  - (c) to ensure that decisions are made in accordance with the Council's agreed governance arrangements.
- 1.2 A clear audit trail of decision-making must be maintained for future reference. The Monitoring Officer will advise Members and Officers to ensure that the decision-making process meets the requirements of the law and good governance and on the proper implementation of these procedures.
- 1.3 These Executive Procedure Rules do not cover all aspects of decision-making under Executive arrangements. Members and Officers will also need to be aware of and guided by other relevant sections of the Council's Constitution, particularly:-
- Scheme of Delegation;
  - Access to Information Procedure Rules;
  - Overview and Scrutiny Procedure Rules;
  - Members' Code of Conduct;
  - Officers' Code of Conduct;
  - Protocol on Member/Officer Relations;
  - Code of Corporate Governance;
  - Article 12 concerning decision-making.
- 1.4 If primary or secondary legislation is introduced which supersedes these Executive Procedure Rules, statutory legislation will prevail.
- 1.5 These Executive Procedure Rules must be read in accordance with the Joint Committee Agreement.

## **2.0. HOW THE EXECUTIVE OPERATES**

### **2.1 Who May Make Executive Decisions**

The arrangements for the discharge of Executive functions are to be determined by the Leader of the Council who may arrange for the discharge of any of the Executive functions to:

- (a) the Executive;
- (b) Member of the Executive;
- (c) a Committee of the Executive;
- (d) an Officer of the Council;
- (e) an Area Committee;
- (f) another body in accordance with joint working arrangements;
- (g) another Local Authority.

### **2.2 Delegation of Executive Functions**

The Solicitor to the Council will present to the Council, on an annual basis, a written record of delegations made by the Leader, for inclusion in Part 3 of the Council's Constitution. The document presented by the Solicitor to the Council will contain the following information about Executive functions in relation to the forthcoming year:

- (a) the name, address and Ward of each Member appointed to the Executive;
- (b) the extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;
- (c) the terms of reference and composition of such Executive Committees as may be appointed and the names of Executive Members appointed to them;
- (d) the nature and extent of any delegation of Executive functions to any other Authority or any joint arrangements and the names of those Executive Members appointed to any Joint Committee for the forthcoming year; and
- (e) 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.

### **2.3 Sub-Delegation of Executive Functions**

Where the Executive is responsible for an Executive function, it may delegate further to a Committee of the Executive, an individual Executive Member, an Officer or another body in accordance with joint working arrangements.

Unless the Executive directs otherwise, a Committee of the Executive or Executive Member may delegate further to an Officer.

Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

## **2.4 The Scheme of Delegation of Executive Functions**

The Scheme of Delegation of Executive Functions may be adopted by the Council containing the details required in Article 7 and thereafter is set out in Part 3 and Part 4 of this Constitution.

## **2.5 Conflicts of Interest**

- (a) Where the Leader has a conflict of interest in exercising an Executive function, this should be dealt with in accordance with the principles of the Council's Code of Conduct for Members in Part 5 of this Constitution. If a dispensation is not granted, the matter should be referred to a meeting of the Executive as a whole, or where appropriate, another body in accordance with joint working arrangements.
- (b) If every Member of the Executive has a conflict of interest in exercising an Executive function, this should be dealt with in accordance with the Council's Code of Conduct for Members in Part 5 of this Constitution. If a dispensation is not granted, the matter should be referred in accordance with paragraph 2.1 (d) (e) and (f) above.
- (c) If the exercise of an Executive function has been delegated to a Committee of the Executive, an individual Executive Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made to the person with the conflict, and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

## **3.0 FORWARD PLAN OF EXECUTIVE KEY DECISIONS AND/OR EXECUTIVE EXEMPT DECISION**

- 3.1 Subject to the Access to Information Procedure Rules, where an Executive decision is either 'key' (as defined in Article 12) or 'exempt' as (defined in the Access to Information Procedure Rules), the decision shall not be taken unless details have been included in the Council's forward plan.
- 3.2 Paragraph 3.1 above applies regardless of which individual or body is the decision-maker and is therefore applicable to decision to be made by the Executive, collectively or individually, and to Officers.



## **4.0 EXECUTIVE MEETINGS**

### **4.1 Exempt and/or Key Decisions**

Subject to the Access to Information Procedure Rules, the Executive may not make an exempt or key decision unless details have been included in the forward plan.

### **4.2 Frequency and Location of Executive Meetings**

The Executive will meet at least 8 times per year at times as agreed by the Council and at such other times as it shall determine. Some of these meetings will be held as the Executive sitting as another body in accordance with joint working arrangements. At least one of its Meetings each year will be held to deal with the Executive's recommendation to Council on its budget. The Executive shall meet at the Shoreham Centre, Pond Road, Shoreham-by-Sea or another location in accordance with Council Procedure Rules, or at another location in accordance with joint working arrangements.

### **4.3 Public Access to Meetings of the Executive**

Subject to (a) and (b) below, meetings of the Executive will be held in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution.

- (a) Exempt Information – where the Executive decides, by passing a resolution of its Members, to exclude the press and public, to prevent exempt information to be disclosed. It is open to the Executive to choose to consider in public matters involving exempt information; there is no statutory requirement compelling the body to discuss exempt information in a private meeting.
- (b) Confidential Information – where the presence of the public is likely to result in the Executive breaching a legal obligation to third parties about the keeping of confidential information, the meeting should be held in private. Confidential information means:
  - Information provided to the Council or Executive by a Government department on terms which forbid the disclosure of the information to the public; and
  - Information which is prohibited from being disclosed by any enactment or by a Court Order.

### **4.4 Quorum**

The quorum for a meeting of the Executive shall be 3 Members of the Executive, or as provided for under joint working arrangements.

#### **4.5 Decision-making by the Executive**

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a Committee of the Executive, these Rules will still apply.
- (c) Details of Executive decision-making under joint arrangements are contained in the Joint Committee Agreement.
- (d) All decisions made at Executive meetings are to be made following an Officer report and recorded in either the Minutes of the Meeting or a Decision Notice, both of which must be made publicly available, by the end of the third working day following the day of the meeting.
- (e) All decisions made at Executive meetings must be made in accordance with Article 12 of the Council's Constitution.

#### **4.6 The Person Presiding**

The Leader, or in his or her absence the Deputy Leader, will preside. In the absence of both the Leader and Deputy Leader, another Member of the Executive will be appointed to preside.

The Person Presiding at a Meeting held under joint arrangements is determined in accordance with the Joint Committee Agreement.

#### **4.7 Business of the Executive**

At each meeting of the Executive, the following business will be conducted:

- (a) disclosure of any disclosable pecuniary and personal interests;
- (b) consideration of the minutes or decision notice of the previous meeting(s) of the Executive;
- (c) questions by the public in accordance with Council Procedure Rules;
- (d) matters referred to the Executive by Overview and Scrutiny or by the Council (or under Joint Committee arrangements) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution, or such joint procedure rules;
- (e) consideration of reports and recommendations from the Overview and Scrutiny or Joint Overview and Scrutiny Committee;
- (f) matters set out in the agenda for the meeting;

- (g) urgent items which are defined as those items which by reason of special circumstance are urgent as they have arisen since the publication of the agenda and need to be determined before the next Meeting of the Executive, which may or may not be a meeting held in accordance with joint working arrangements, and are items of pressing importance requiring swift action given the gravity of the situation, which were unforeseeable (in an objective sense) and are not attributable to a failing on the part of the Council.

#### **4.8 Written Reports for Meetings of the Executive**

4.8.1 A written report on the proposed decision shall be prepared by the relevant Officer and shall be approved by the relevant Director, Chief Finance Officer and Solicitor to the Council.

4.8.2 The Officer's report shall set out the following:-

- (a) The Executive portfolio within which the issues falls, if appropriate;
- (b) The Ward(s) and any Parish(es) affected by the proposed decision;
- (c) The title of the Director with overall responsibility for the subject matter of the report;
- (d) The name and title of the Officer writing the report;
- (e) The date of the meeting at which the decision may be taken;
- (f) The subject/title of the report;
- (g) Whether a key decision is to be taken;
- (h) Whether the report contains confidential or exempt information;
- (i) A description of the issue to be decided;
- (j) The views of the relevant Local Ward Member(s) and/or the Parish Council(s) (if appropriate);
- (k) Any consultations undertaken, the method of consultation and a summary of any representations received. See also paragraph 4.8.3 below;
- (l) The Officer's recommendations and the reasons for them;
- (m) Details of any alternative options considered;
- (n) A list of background papers.

4.8.3 All reports to the Executive on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation 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 and any statutory or other requirements.

4.8.4 Subject to the provisions on confidential and exempt information and special urgency as set out in the Council's Access to Information Procedure Rules, the Director for Communities shall, at least 5 clear working days prior to the date that the proposed decision is scheduled to be taken:-

- (a) forward a copy of the report by e-mail to the Executive Members and all Members of the Council; and

- (b) make the report publicly available on the Councils' website.

#### **4.9 Decisions of Executive Meetings**

4.9.1 Subject to the provisions of the Access to Information Procedure Rules, after a decision has been taken by the Executive, either draft minutes of the meeting or a Record of Decision will be prepared by the Director for Communities. He or she will publish, by placing on the Councils' website, the draft minutes or Record of Decision which shall include:-

- (a) whether or not it was a key decision;
- (b) the title of the item;
- (c) the title of the decision-making body;
- (d) the date on which the decision was made;
- (e) the date on which the decision may be implemented;
- (f) any declarations of disclosable pecuniary or personal interest and details of any dispensation granted if appropriate;
- (g) details of consultation undertaken prior to making the decision;
- (h) the decision;
- (i) the reasons for the decision;
- (j) the alternative options considered, if any; and
- (k) a list of the documents taken into account by the decision-making body, including the report of the relevant Officer.

4.9.2 By 5.00 p.m. on the third working day, following the day of the meeting of the Executive, the Director for Communities shall publish the draft minutes or Record of Decision by e-mail to all Members of the Council and, at the same time, make the record available for public inspection by publishing on the Councils' website. This will enable Members to consider whether they wish to "call-in" the decision in accordance with Overview and Scrutiny Procedure Rules.

4.9.3 The Director for Communities will maintain records of all decisions made, together with associated reports, in accordance with the Council's Access to Information Procedure Rules.

4.9.4 The report author will ensure that all background papers listed in the report are made publicly available, by at least 5 working days prior to the date of the meeting at which the decision may be taken.

#### **5.0 DECISIONS TAKEN BY AN INDIVIDUAL EXECUTIVE MEMBER**

##### **5.1 Exempt and/or Key Decisions**

Subject to the Access to Information Procedure Rules, the Individual Executive Member may not make an exempt or key decision unless details have been included in the forward plan.

## **5.2 Decision-making by an Individual Executive Member**

- (a) Details of Executive decision-making by Individual Executive Members under joint arrangements are contained in the Joint Committee Agreement.
- (b) All decisions made by Individual Executive Members are to be made following an Officer report and recorded on a Decision Notice, which must be made publicly available, by the end of the second working day following receipt of the Decision Notice.
- (c) All decisions made by Individual Executive Members must be made in accordance with Article 12 of the Council's Constitution.

## **5.3 Written Reports for Individual Executive Member Decisions**

5.3.1 A written report on the proposed decision shall be prepared by the relevant Officer and shall be approved by the relevant Director, Chief Finance Officer and Solicitor to the Council.

5.3.2 The Officer's report shall set out the following:-

- (a) The Executive portfolio within which the issue falls, if appropriate;
- (b) The Ward(s) and any Parish(es) affected by the proposed decision;
- (c) The title of the Director with overall responsibility for the subject matter of the report;
- (d) The name and title of the Officer writing the report;
- (e) The date the proposed decision may be taken and the date by which it must be taken;
- (f) The subject/title of the report;
- (g) Whether a key decision is to be taken;
- (h) Whether the report contains confidential or exempt information;
- (i) A description of the issue to be decided;
- (j) The views of the relevant Local Ward Member(s) and relevant Parish Council(s) (if appropriate);
- (k) Any consultations undertaken, the method of consultation and a summary of any representations received. See also paragraph 5.3.3 below;
- (l) The Officer's recommendations and the reasons for them;
- (m) Details of any alternative options considered;
- (n) A list of background papers.

5.3.3 All reports to the Individual Executive Members on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation 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 and any statutory or other requirements.

5.3.4 Subject to the provisions on confidential and exempt information and special urgency as set out in the Council's Access to Information Procedure Rules, the

Director for Communities shall, at least 5 clear working days prior to the earliest date that the proposed decision may be made:-

- (a) forward a copy of the report by e-mail to the Individual Executive Member and all Members of the Council; and
- (b) make the report publicly available on the Councils' website.

#### **5.4 Timescales**

Subject to the Access to Information Rules, the decision cannot be made until the expiry of the time specified in the forward plan for a key decision. Further, the decision cannot be taken by the individual Executive Member before the expiry of 5 clear working days after publication of the report. The decision should be made at the latest by 14 days thereafter.

The Executive Member shall provide a written record of their decision, including reasons, to the Director for Communities within one working day of the decision being made.

#### **5.5 Interests**

Prior to taking the decision, the Executive Member will be required to consider whether they have any disclosable pecuniary or personal interest in the matter, or any other interests as may be described in the Members' Code of Conduct from time to time. If a personal interest, the Executive Member shall disclose it by recording the interest at the beginning of their record of decision. If a disclosable pecuniary interest, the Executive Member shall take no part in the consideration of the matter, save as permitted by law, and shall refer the matter to the Leader without comment, save as to record the nature of their disclosable pecuniary interest. Other interests shall have effect as outlined in the Members' Code of Conduct from time to time. See paragraph 2.5(c) above.

#### **5.6 The Leader making a decision referred by an Individual Executive Member**

- 5.6.1 The Leader can either make the decision on a report referred to him/her by an Individual Executive Member in accordance with Rule 5.5 above, or may refer the report to the next full meeting of the Executive for discussion and decision. The Leader will record a decision to defer an item to a Meeting of the Executive on the Decision Notice and it will be actioned by the Director for Communities.
- 5.6.2 If the Leader is exercising his ability to make the decision himself in these circumstances, the timescales in paragraph 5.4 above still apply: the decision may not be made until the expiry of 5 clear working days after the original publication of the report and should be made prior to the expiry of 14 days thereafter.

## **5.7 Delegations**

At any time, and for any reason, the Leader may temporarily, or permanently, withdraw the delegation of an Executive function to an Individual Executive Member and exercise the delegation in person.

Where the Leader temporarily removes a delegation to an Individual Executive Member for a particular decision, this must be recorded on the Decision Notice. Where the Leader removes a delegation to an Individual Executive Member on a permanent basis, the Monitoring Officer must be notified in writing.

## **5.8 Decisions of Individual Executive Members**

5.8.1 Subject to the provisions of the Access to Information Procedure Rules, after a decision has been taken by an Executive Member and the Record of Decision provided to the Director for Communities, he or she will publish, by placing on the Councils' website, the Record of Decision which shall include:-

- (a) whether it was a key decision;
- (b) the title of the item;
- (c) the name of the decision-maker;
- (d) the date on which the decision was made;
- (e) the date on which the decision will be implemented;
- (f) any declarations of disclosable pecuniary or personal interest and details of any dispensation granted if appropriate;
- (g) a list of any groups or individuals consulted prior to making the decision;
- (h) the decision;
- (i) the reasons for the decision;
- (j) the alternative options considered, if any; and
- (k) a list of the documents taken into account by the decision-maker, including the report of the relevant Officer.

5.8.2 By 5.00 p.m. on the second working day following the day upon which the Record of Decision was received, the Director for Communities shall forward the Record of Decision by e-mail to all Members of the Council indicating when it will become effective and, at the same time, will also make the record available for public inspection by publishing on the Councils' website. This will enable Members to consider whether they wish to "call-in" the decision in accordance with Overview and Scrutiny Procedure Rules.

5.8.3 The Director for Communities will maintain records of all decisions made, together with associated reports and background papers, in accordance with the Council's Access to Information Procedure Rules.

5.8.4 The report author will ensure that all background papers listed in a report are made publicly available, by at least 5 working days prior to the earliest date upon which the decision may be taken.

## **6.0 EXECUTIVE DECISIONS TAKEN BY OFFICERS**

### **6.1 Decision-making by an Officer**

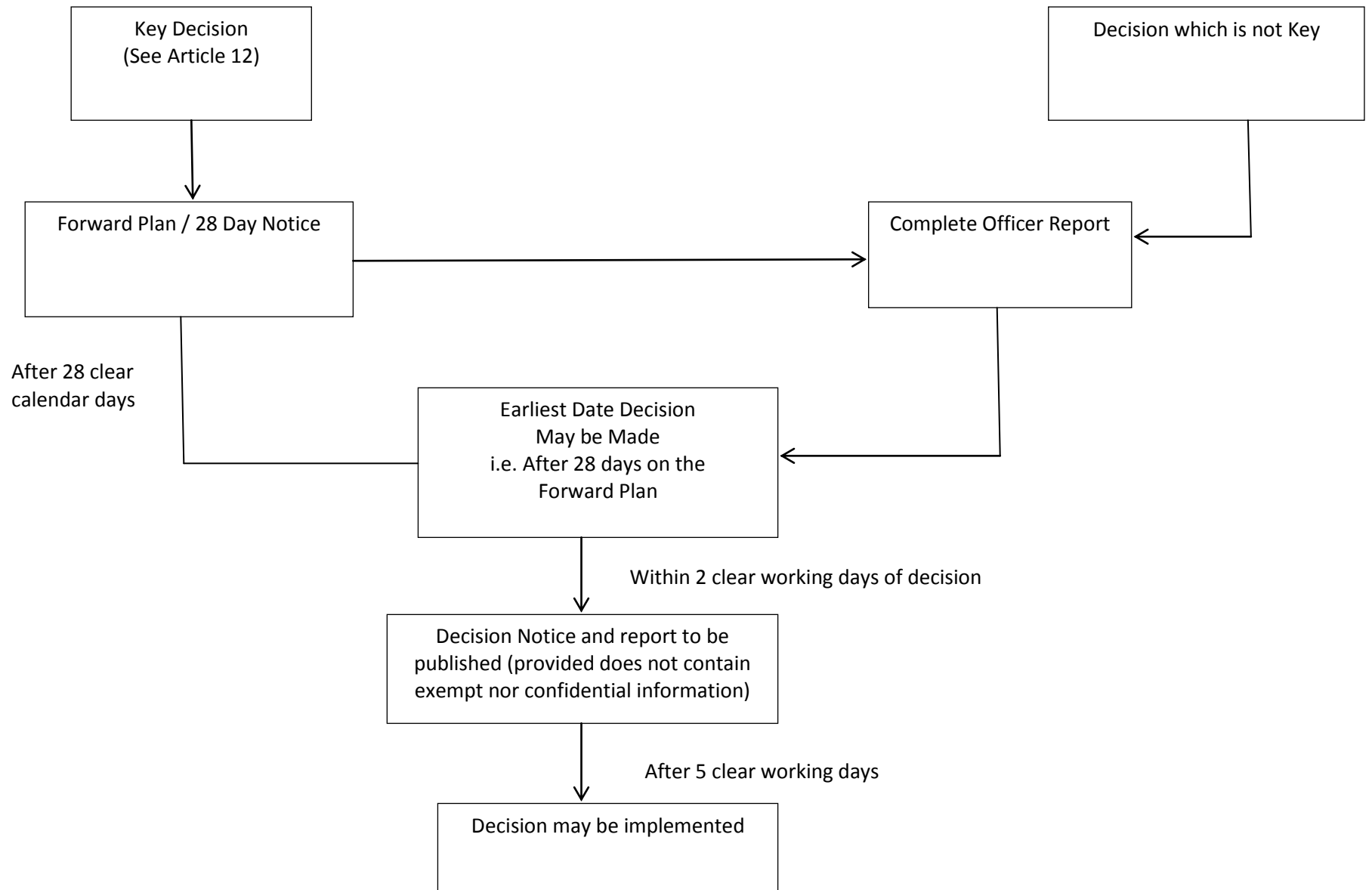
Decision making by Officers should be undertaken in accordance with the Protocol on Officer Decision Making in part 5 of the Constitution.



## EXECUTIVE DECISION MAKING PROCESS FOR EXECUTIVE MEMBERS



# EXECUTIVE DECISION MAKING FOR OFFICERS



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## EXECUTIVE PROCEDURE RULES

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### 1.0 INTRODUCTION

- 1.1 These Executive Procedure Rules have been adopted by the Council to help achieve the following aims:-
- (a) to protect the interests of the Council, individual Members and Officers;
  - (b) to ensure that decisions are based upon complete and sound information and advice from appropriate professional Officers; and
  - (c) to ensure that decisions are made in accordance with the Council's agreed governance arrangements.
- 1.2 A clear audit trail of decision-making must be maintained for future reference. The Monitoring Officer will advise Members and Officers to ensure that the decision-making process meets the requirements of the law and good governance and on the proper implementation of these procedures.
- 1.3 These Executive Procedure Rules do not cover all aspects of decision-making under Executive arrangements. Members and Officers will also need to be aware of and guided by other relevant sections of the Council's Constitution, particularly:-
- Scheme of Delegation;
  - Access to Information Procedure Rules;
  - Overview and Scrutiny Procedure Rules;
  - Members' Code of Conduct;
  - Officers' Code of Conduct;
  - Protocol on Member/Officer Relations;
  - Code of Corporate Governance;
  - Article 12 concerning decision-making.
- 1.4 If primary or secondary legislation is introduced which supersedes these Executive Procedure Rules, statutory legislation will prevail.
- 1.5 These Executive Procedure Rules must be read in accordance with the Joint Committee Agreement.

## **2.0. HOW THE EXECUTIVE OPERATES**

### **2.1 Who May Make Executive Decisions**

The arrangements for the discharge of Executive functions are to be determined by the Leader of the Council who may arrange for the discharge of any of the Executive functions to:

- (a) the Executive;
- (b) Member of the Executive;
- (c) a Committee of the Executive;
- (d) an Officer of the Council;
- (e) an Area Committee;
- (f) another body in accordance with joint working arrangements;
- (g) another Local Authority.

### **2.2 Delegation of Executive Functions**

The Solicitor to the Council will present to the Council, on an annual basis, a written record of delegations made by the Leader, for inclusion in Part 3 of the Council's Constitution. The document presented by the Solicitor to the Council will contain the following information about Executive functions in relation to the forthcoming year:

- (a) the name, address and Ward of each Member appointed to the Executive;
- (b) the extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;
- (c) the terms of reference and composition of such Executive Committees as may be appointed and the names of Executive Members appointed to them;
- (d) the nature and extent of any delegation of Executive functions to any other Authority or any joint arrangements and the names of those Executive Members appointed to any Joint Committee for the forthcoming year; and
- (e) 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.

### **2.3 Sub-Delegation of Executive Functions**

Where the Executive is responsible for an Executive function, it may delegate further to a Committee of the Executive, an individual Executive Member, an Officer or another body in accordance with joint working arrangements.

Unless the Executive directs otherwise, a Committee of the Executive or Executive Member may delegate further to an Officer.

Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

## **2.4 The Scheme of Delegation of Executive Functions**

The Scheme of Delegation of Executive Functions may be adopted by the Council containing the details required in Article 7 and thereafter is set out in Part 3 and Part 4 of this Constitution.

## **2.5 Conflicts of Interest**

- (a) Where the Leader has a conflict of interest in exercising an Executive function, this should be dealt with in accordance with the principles of the Council's Code of Conduct for Members in Part 5 of this Constitution. If a dispensation is not granted, the matter should be referred to a meeting of the Executive as a whole, or where appropriate, another body in accordance with joint working arrangements.
- (b) If every Member of the Executive has a conflict of interest in exercising an Executive function, this should be dealt with in accordance with the Council's Code of Conduct for Members in Part 5 of this Constitution. If a dispensation is not granted, the matter should be referred in accordance with paragraph 2.1 (d) (e) and (f) above.
- (c) If the exercise of an Executive function has been delegated to a Committee of the Executive, an individual Executive Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made to the person with the conflict, and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

## **3.0 FORWARD PLAN OF EXECUTIVE KEY DECISIONS AND/OR EXECUTIVE EXEMPT DECISION**

- 3.1 Subject to the Access to Information Procedure Rules, where an Executive decision is either 'key' (as defined in Article 12) or 'exempt' as (defined in the Access to Information Procedure Rules), the decision shall not be taken unless details have been included in the Council's forward plan.
- 3.2 Paragraph 3.1 above applies regardless of which individual or body is the decision-maker and is therefore applicable to decision to be made by the Executive, collectively or individually, and to Officers.

## **4.0 EXECUTIVE MEETINGS**

### **4.1 Exempt and/or Key Decisions**

Subject to the Access to Information Procedure Rules, the Executive may not make an exempt or key decision unless details have been included in the forward plan.

### **4.2 Frequency and Location of Executive Meetings**

The Executive will meet at least 8 times per year at times as agreed by the Council and at such other times as it shall determine. Some of these meetings will be held as the Executive sitting as another body in accordance with joint working arrangements. At least one of its Meetings each year will be held to deal with the Executive's recommendation to Council on its budget. The Executive shall meet at the Council's Town Hall, Chapel Road, Worthing or another location in accordance with Council Procedure Rules, or at another location in accordance with joint working arrangements.

### **4.3 Public Access to Meetings of the Executive**

Subject to (a) and (b) below, meetings of the Executive will be held in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution.

- (a) Exempt Information – where the Executive decides, by passing a resolution of its Members, to exclude the press and public, to prevent exempt information to be disclosed. It is open to the Executive to choose to consider in public matters involving exempt information; there is no statutory requirement compelling the body to discuss exempt information in a private meeting.
- (b) Confidential Information – where the presence of the public is likely to result in the Executive breaching a legal obligation to third parties about the keeping of confidential information, the meeting should be held in private. Confidential information means:
  - Information provided to the Council or Executive by a Government department on terms which forbid the disclosure of the information to the public; and
  - Information which is prohibited from being disclosed by any enactment or by a Court Order.

### **4.4 Quorum**

The quorum for a meeting of the Executive shall be 3 Members of the Executive, or as provided for under joint working arrangements.

#### **4.5 Decision-making by the Executive**

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a Committee of the Executive, these Rules will still apply.
- (c) Details of Executive decision-making under joint arrangements are contained in the Joint Committee Agreement.
- (d) All decisions made at Executive meetings are to be made following an Officer report and recorded in either the Minutes of the Meeting or a Decision Notice, both of which must be made publicly available, by the end of the third working day following the day of the meeting.
- (e) All decisions made at Executive meetings must be made in accordance with Article 12 of the Council's Constitution.

#### **4.6 The Person Presiding**

The Leader, or in his or her absence the Deputy Leader, will preside. In the absence of both the Leader and Deputy Leader, another Member of the Executive will be appointed to preside.

The Person Presiding at a Meeting held under joint arrangements is determined in accordance with the Joint Committee Agreement.

#### **4.7 Business of the Executive**

At each meeting of the Executive, the following business will be conducted:

- (a) disclosure of any disclosable pecuniary and personal interests;
- (b) consideration of the minutes or decision notice of the previous meeting(s) of the Executive;
- (c) questions by the public in accordance with Council Procedure Rules;
- (d) matters referred to the Executive by Overview and Scrutiny or by the Council (or under Joint Committee arrangements) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution, or such joint procedure rules;
- (e) consideration of reports and recommendations from the Overview and Scrutiny or Joint Overview and Scrutiny Committee;
- (f) matters set out in the agenda for the meeting;

- (g) urgent items which are defined as those items which by reason of special circumstance are urgent as they have arisen since the publication of the agenda and need to be determined before the next Meeting of the Executive, which may or may not be a meeting held in accordance with joint working arrangements, and are items of pressing importance requiring swift action given the gravity of the situation, which were unforeseeable (in an objective sense) and are not attributable to a failing on the part of the Council.

#### **4.8 Written Reports for Meetings of the Executive**

4.8.1 A written report on the proposed decision shall be prepared by the relevant Officer and shall be approved by the relevant Director, Chief Finance Officer and Solicitor to the Council.

4.8.2 The Officer's report shall set out the following:-

- (a) The Executive portfolio within which the issues falls, if appropriate;
- (b) The Ward(s) affected by the proposed decision;
- (c) The title of the Director with overall responsibility for the subject matter of the report;
- (d) The name and title of the Officer writing the report;
- (e) The date of the meeting at which the decision may be taken;
- (f) The subject/title of the report;
- (g) Whether a key decision is to be taken;
- (h) Whether the report contains confidential or exempt information;
- (i) A description of the issue to be decided;
- (j) The views of the relevant Local Ward Member(s) (if appropriate);
- (k) Any consultations undertaken, the method of consultation and a summary of any representations received. See also paragraph 4.8.3 below;
- (l) The Officer's recommendations and the reasons for them;
- (m) Details of any alternative options considered;
- (n) A list of background papers.

4.8.3 All reports to the Executive on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation 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 and any statutory or other requirements.

4.8.4 Subject to the provisions on confidential and exempt information and special urgency as set out in the Council's Access to Information Procedure Rules, the Director for Communities shall, at least 5 clear working days prior to the date that the proposed decision is scheduled to be taken:-

- (a) forward a copy of the report by e-mail to the Executive Members and all Members of the Council; and



- (b) make the report publicly available on the Councils' website.

#### **4.9 Decisions of Executive Meetings**

4.9.1 Subject to the provisions of the Access to Information Procedure Rules, after a decision has been taken by the Executive, either draft minutes of the meeting or a Record of Decision will be prepared by the Director for Communities. He or she will publish, by placing on the Councils' website, the draft minutes or Record of Decision which shall include:-

- (a) whether or not it was a key decision;
- (b) the title of the item;
- (c) the title of the decision-making body;
- (d) the date on which the decision was made;
- (e) the date on which the decision may be implemented;
- (f) any declarations of disclosable pecuniary or personal interest and details of any dispensation granted if appropriate;
- (g) details of consultation undertaken prior to making the decision;
- (h) the decision;
- (i) the reasons for the decision;
- (j) the alternative options considered, if any; and
- (k) a list of the documents taken into account by the decision-making body, including the report of the relevant Officer.

4.9.2 By 5.00 p.m. on the third working day, following the day of the meeting of the Executive, the Director for Communities shall publish the draft minutes or Record of Decision by e-mail to all Members of the Council and, at the same time, make the record available for public inspection by publishing on the Councils' website. This will enable Members to consider whether they wish to "call-in" the decision in accordance with Overview and Scrutiny Procedure Rules.

4.9.3 The Director for Communities will maintain records of all decisions made, together with associated reports, in accordance with the Council's Access to Information Procedure Rules.

4.9.4 The report author will ensure that all background papers listed in the report are made publicly available, by at least 5 working days prior to the date of the meeting at which the decision may be taken.

#### **5.0 DECISIONS TAKEN BY AN INDIVIDUAL EXECUTIVE MEMBER**

##### **5.1 Exempt and/or Key Decisions**

Subject to the Access to Information Procedure Rules, the Individual Executive Member may not make an exempt or key decision unless details have been included in the forward plan.

## **5.2 Decision-making by an Individual Executive Member**

- (a) Details of Executive decision-making by Individual Executive Members under joint arrangements are contained in the Joint Committee Agreement.
- (b) All decisions made by Individual Executive Members are to be made following an Officer report and recorded on a Decision Notice, which must be made publicly available, by the end of the second working day following receipt of the Decision Notice.
- (c) All decisions made by Individual Executive Members must be made in accordance with Article 12 of the Council's Constitution.

## **5.3 Written Reports for Individual Executive Member Decisions**

5.3.1 A written report on the proposed decision shall be prepared by the relevant Officer and shall be approved by the relevant Director, Chief Finance Officer and Solicitor to the Council.

5.3.2 The Officer's report shall set out the following:-

- (a) The Executive portfolio within which the issue falls, if appropriate;
- (b) The Ward(s) affected by the proposed decision;
- (c) The title of the Director with overall responsibility for the subject matter of the report;
- (d) The name and title of the Officer writing the report;
- (e) The date the proposed decision may be taken and the date by which it must be taken;
- (f) The subject/title of the report;
- (g) Whether a key decision is to be taken;
- (h) Whether the report contains confidential or exempt information;
- (i) A description of the issue to be decided;
- (j) The views of the relevant Local Ward Member(s) (if appropriate);
- (k) Any consultations undertaken, the method of consultation and a summary of any representations received. See also paragraph 5.3.3 below;
- (l) The Officer's recommendations and the reasons for them;
- (m) Details of any alternative options considered;
- (n) A list of background papers.

5.3.3 All reports to the Individual Executive Members on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation 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 and any statutory or other requirements.

5.3.4 Subject to the provisions on confidential and exempt information and special urgency as set out in the Council's Access to Information Procedure Rules, the Director for Communities shall, at least 5 clear working days prior to the earliest date that the proposed decision may be made:-

- (a) forward a copy of the report by e-mail to the Individual Executive Member and all Members of the Council; and
- (b) make the report publicly available on the Councils' website.

#### **5.4 Timescales**

Subject to the Access to Information Rules, the decision cannot be made until the expiry of the time specified in the forward plan for a key decision. Further, the decision cannot be taken by the individual Executive Member before the expiry of 5 clear working days after publication of the report. The decision should be made at the latest by 14 days thereafter.

The Executive Member shall provide a written record of their decision, including reasons, to the Director for Communities within one working day of the decision being made.

#### **5.5 Interests**

Prior to taking the decision, the Executive Member will be required to consider whether they have any disclosable pecuniary or personal interest in the matter, or any other interests as may be described in the Members' Code of Conduct from time to time. If a personal interest, the Executive Member shall disclose it by recording the interest at the beginning of their record of decision. If a disclosable pecuniary interest, the Executive Member shall take no part in the consideration of the matter, save as permitted by law, and shall refer the matter to the Leader without comment, save as to record the nature of their disclosable pecuniary interest. Other interests shall have effect as outlined in the Members' Code of Conduct from time to time. See paragraph 2.5(c) above.

#### **5.6 The Leader making a decision referred by an Individual Executive Member**

- 5.6.1 The Leader can either make the decision on a report referred to him/her by an Individual Executive Member in accordance with Rule 5.5 above, or may refer the report to the next full meeting of the Executive for discussion and decision. The Leader will record a decision to defer an item to a Meeting of the Executive on the Decision Notice and it will be actioned by the Director for Communities.
- 5.6.2 If the Leader is exercising his ability to make the decision himself in these circumstances, the timescales in paragraph 5.4 above still apply: the decision may not be made until the expiry of 5 clear working days after the original publication of the report and should be made prior to the expiry of 14 days thereafter.

## **5.7 Delegations**

At any time, and for any reason, the Leader may temporarily, or permanently, withdraw the delegation of an Executive function to an Individual Executive Member and exercise the delegation in person.

Where the Leader temporarily removes a delegation to an Individual Executive Member for a particular decision, this must be recorded on the Decision Notice. Where the Leader removes a delegation to an Individual Executive Member on a permanent basis, the Monitoring Officer must be notified in writing.

## **5.8 Decisions of Individual Executive Members**

5.8.1 Subject to the provisions of the Access to Information Procedure Rules, after a decision has been taken by an Executive Member and the Record of Decision provided to the Director for Communities, he or she will publish, by placing on the Councils' website, the Record of Decision which shall include:-

- (a) whether it was a key decision;
- (b) the title of the item;
- (c) the name of the decision-maker;
- (d) the date on which the decision was made;
- (e) the date on which the decision will be implemented;
- (f) any declarations of disclosable pecuniary or personal interest and details of any dispensation granted if appropriate;
- (g) a list of any groups or individuals consulted prior to making the decision;
- (h) the decision;
- (i) the reasons for the decision;
- (j) the alternative options considered, if any; and
- (k) a list of the documents taken into account by the decision-maker, including the report of the relevant Officer.

5.8.2 By 5.00 p.m. on the second working day following the day upon which the Record of Decision was received, the Director for Communities shall forward the Record of Decision by e-mail to all Members of the Council indicating when it will become effective and, at the same time, will also make the record available for public inspection by publishing on the Councils' website. This will enable Members to consider whether they wish to "call-in" the decision in accordance with Overview and Scrutiny Procedure Rules.

5.8.3 The Director for Communities will maintain records of all decisions made, together with associated reports and background papers, in accordance with the Council's Access to Information Procedure Rules.

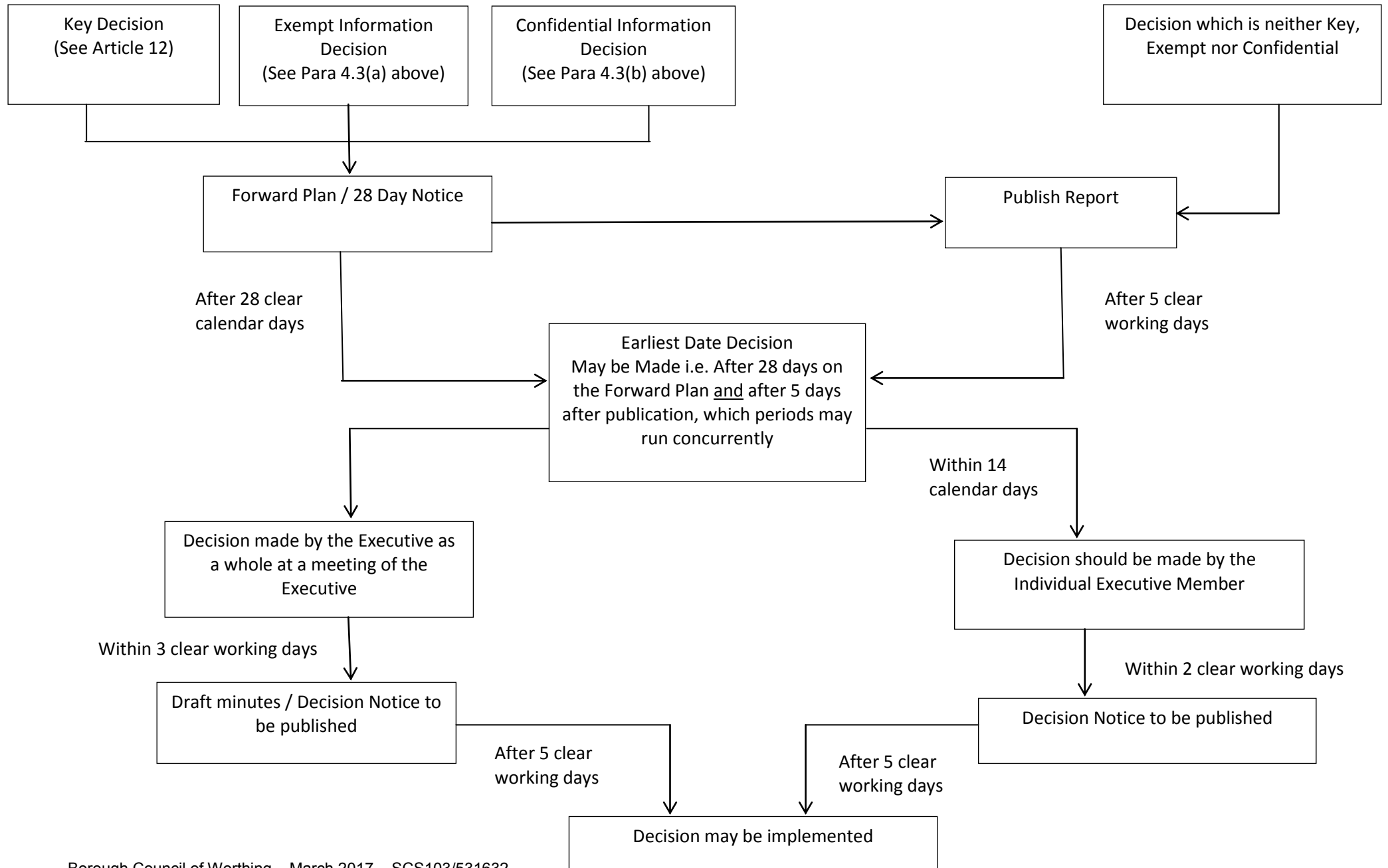
5.8.4 The report author will ensure that all background papers listed in a report are made publicly available, by at least 5 working days prior to the earliest date upon which the decision may be taken.

## **6.0 EXECUTIVE DECISIONS TAKEN BY OFFICERS**

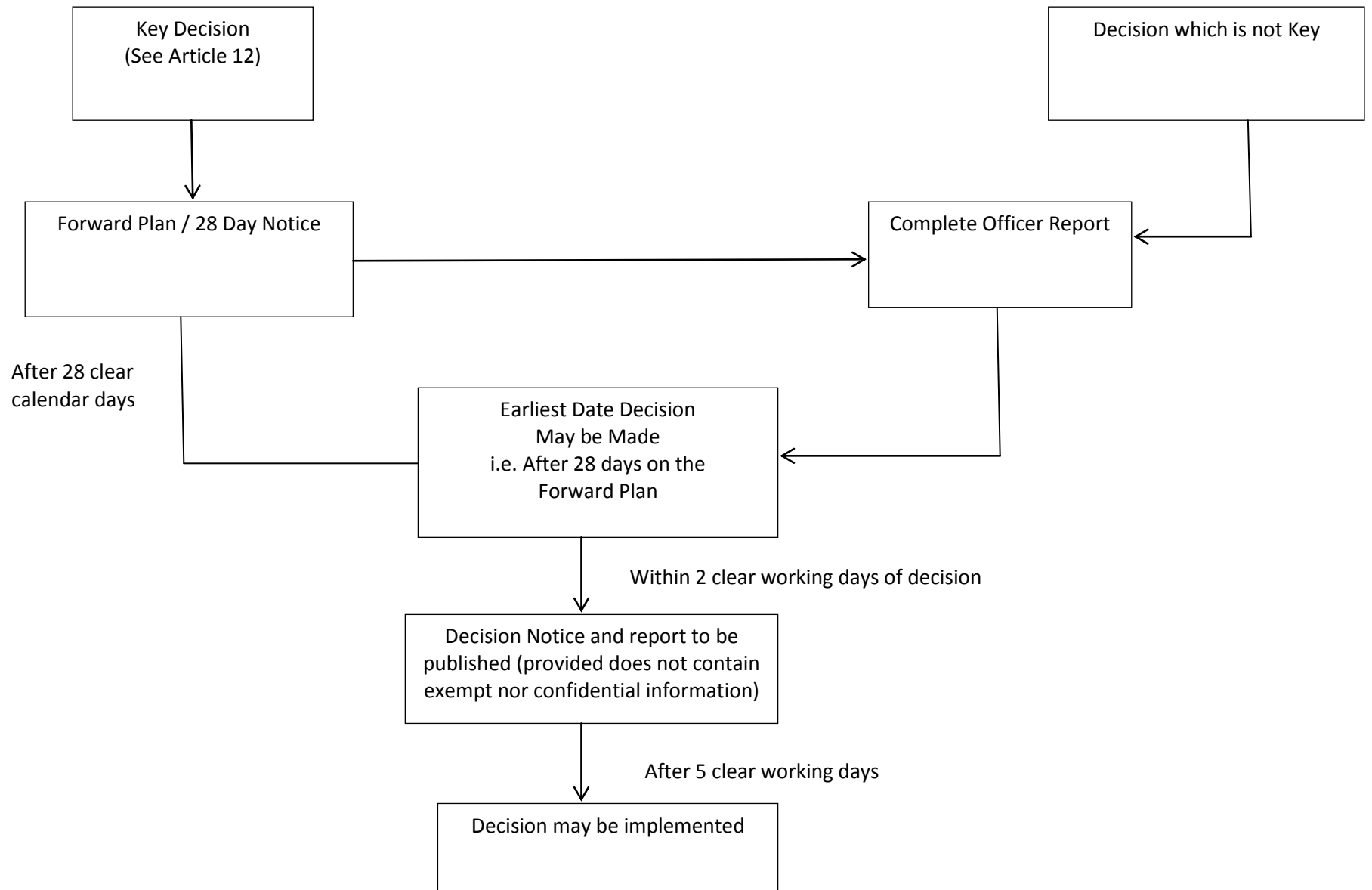
### **6.1 Decision-making by an Officer**

Decision making by Officers should be undertaken in accordance with the Protocol on Officer Decision Making in part 5 of the Constitution.

## EXECUTIVE DECISION MAKING PROCESS FOR EXECUTIVE MEMBERS



# EXECUTIVE DECISION MAKING FOR OFFICERS







## **Constitutional Provisions relating to Adur and Worthing Councils' Licensing Functions**

### **Report by the Solicitor to the Councils and Monitoring Officer**

#### **1.0 Summary**

- 1.1 The function of Licensing, being regulatory in nature, falls outside of the Joint Committee Agreement, and the partnership working between Adur District Council and Worthing Borough Council. Consequently, each Council retains responsibility for its own licensing function and operates its own Licensing Committees.
- 1.2 Constitutional and procedural arrangements relating to Licensing at Adur District Council and Worthing Borough Council vary significantly and this report provides an opportunity for governance arrangements and procedure rules to be reviewed; it is an opportunity to streamline procedures and to combine best practice from both Authorities.

#### **2.0 Background**

##### **2.1 Worthing Borough Council Licensing Committees**

Worthing Borough Council currently has 2 Licensing Committees, known as 'Licensing Control Committee A' and 'Licensing Control Committee B'.

Committee A deals with all licensing matters other than those under the Licensing Act 2003 and the Gambling Act 2005; in reality much of the work of Committee A surrounds hackney carriages and private hire vehicles. This Committee sits as a full Committee of 15 appointed Members; it does not have the power to convene a Sub-Committee. The quorum for this Committee is 4 Members and substitutes to the Committee are permitted, provided they have had appropriate training within the preceding two years.

Committee B on the other hand deals with licensing matters under the Licensing Act 2003 and the Gambling Act 2005 and in reality its work concerns premises licence applications, temporary event notices, and gaming club or machine permits. Licensing Committee B sits as a full Committee of 15 Members but also has the power to convene Sub-Committees of 3 Members, to discharge its functions. Individual applications for premises or gambling licenses are heard by a Sub-Committee of 3 Members of Committee B, with any review hearings being heard by the full Committee B. The quorum for Worthing's Licensing Committee B is 4 Members, whilst the quorum for a Sub-Committee is 3 Members. Substitutes on

Committee B are not permitted, but substitutes are permitted onto Sub-Committees of Committee B, from the full Committee.

For the current arrangements at Worthing Borough Council see Appendix A.

## 2.2 Adur District Council Licensing Committee

Adur District Council currently has 1 Licensing Committee comprising 10 Elected Members. The Committee deals with hackney carriage matters, private hire vehicles, and applications and reviews for premises and gambling applications.

The Committee has the power to convene Sub-Committees comprising 3 Elected Members, but only when dealing with specific applications and reviews relating to hackney carriage and private hire vehicles, and appeals against decisions relating to rate relief applications; they do not hear individual applications or reviews relating to premises or gambling matters.

The quorum of the Licensing Committee at Adur District Council is currently 3 Members, and the quorum for a Sub-Committee is 3. Substitutes on the Committee are not permitted when considering licensing and gambling matters under the 2003 and 2005 Acts, whereas they are when considering private hire vehicle and hackney carriage matters, (provided they have received appropriate training). As all matters are dealt with by one Licensing Committee at Adur, this potentially results in a substitute to a Committee Meeting being able to act as substitute for part of the Committee meeting only. Substitutes on the Sub-Committee are permitted from the Licensing Committee.

For the current arrangements at Adur District Council see Appendix B.

## 2.3 National Non-Domestic Rate Relief Applications

At Worthing Borough Council applications for rate relief are dealt with by the Head of Revenues and Benefits, under delegated authority, with an appeal against such decisions to the Executive Member for Resources.

At Adur District Council applications for rate relief are dealt with by the Individual Executive Member for Resources with appeals to the Sub-Committee of the Licensing Committee (Licensing Regulatory Sub-Committee). It could be said that this role does not naturally fit with the general work of the Committee and its terms of reference; the skills of the Members are in respect of investigatory hearings rather than rate relief applications.

## 2.4 Political Balance

Licensing Committees are required to be politically balanced in accordance with s101(1) Local Government Act 1972, when dealing with non Licensing Act 2003 and Gambling Act 2005 matters (e.g. when dealing with hackney carriage and private hire vehicle matters). They are not required to be politically balanced when dealing with Premises Licence applications and Gambling applications under the 2003 and 2005 Act. Both Councils' Licensing Committees are politically balanced, (the

Membership of Committees A and B at Worthing Borough Council are the same) and compliant with statutory requirements.

There is no requirement for Sub-Committees of the Licensing Committees to be politically balanced, although generally, where possible, Officers ensure that they are.

## 2.5 Executive Members

Both Councils' Constitutions are silent on whether or not an Executive Member may sit on a Licensing Committee. Worthing Borough Council currently have no Executive Members on their Licensing Committees, whereas Adur District Council have two.

There are no statutory provisions prohibiting Executive Members from sitting on Licensing Committees. But The Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2013 provide that certain Local Authority functions cannot be the responsibility of the Executive, and this includes any function of a licensing authority, relating to the Licensing Act 2003.

It could be argued that whilst licensing cannot be the responsibility of the Executive this does not bar individual Members of the Executive from being appointed to the Licensing Committee. But it could also be argued that if the majority of a Licensing Committee comprises Executive Members, then it is difficult to differentiate it from an Executive function. Without any restrictions in place it would be possible for an Authority to circumvent the Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2013 by appointing all Executive Members to the Licensing Committee; this cannot be what Parliament intended. Best practice would be to mitigate the risk of any challenge by introducing constitutional changes to prevent Executive Members comprising the majority of the membership of either Authority's Licensing Committee.

## 2.6 Licensing Procedure Rules

2.6.1 Both Councils have a set of Licensing Procedure Rules which differ significantly, and neither form part of the Councils' Constitutions.

2.6.2 In Worthing, those individuals who have made representations relating to an application may speak first at a hearing and are questioned, following which the applicant may make representations and is questioned. At the end of the hearing, the applicant sums up, followed by those who have made representations having the opportunity to sum up. It could be argued that this procedure is contrary to the principles of natural justice which should provide for the applicant to have the opportunity of speaking first on their application and also of having the last word of summing up.

2.6.3 In Adur, the applicant is able to speak first at the hearing and is questioned, followed by those individuals who have made representations. Further, at the end of the hearing those having made representations sum up, with the applicant then summing up and having the last word.

2.6.4 Both Authorities allow discretion within their procedure rules for the Chairman to amend the rules for a particular hearing, provided that the principles of natural justice are complied with.

### **3.0 Proposals**

#### **3.1 Worthing Borough Council Licensing and Control Committees**

It is proposed that Licensing and Control Committee A at Worthing have the power to set up Sub-Committees of 3 Members of the main Committee for the purpose of hearing individual applications and reviews from hackney carriage and private hire licence holders.

The reasons are as follows:

- An individual applicant for a private hire or hackney carriage licence, or driver facing review and potential loss of livelihood, who is often unrepresented, may find it very intimidating to have to face a body of 15 Members to make his application; the current procedures may be disproportionate, unnecessary and contrary to the principles of natural justice, and contrary to Article 6 of the Human Rights Act relating to the right to a fair trial;
- The current arrangement of the full Committee hearing applications and reviews can lead to the same Members reviewing their earlier decisions and a risk that potentially all Members may be conflicted when sitting to hear a review matter. If the applications and reviews were dealt with by Sub-Committees it could be ensured that the composition of the Sub-Committees differed reducing potential for conflict; and
- The Sub-Committee could be more agile when determining applications and reviews with a smaller membership.

For proposed arrangements at Worthing Borough Council see Appendix A.

#### **3.2 Adur District Council Licensing Committees**

It is proposed that at Adur, all specific applications for gambling and premises licence applications are dealt with by a Sub-Committee of 3 Members, rather than the full Committee of 10 Members, for the following reasons:

- An individual applicant for a premises licence or gambling licence, may find it very intimidating to have to face a body of 10 Members to make his application and representations; the current procedures may be disproportionate, unnecessary and contrary to the principles of natural justice, and may in themselves lead to grounds for an appeal or challenge; and
- The Sub-Committee could be more agile when determining applications with a smaller membership.

For proposed arrangements at Adur District Council see Appendix B.

### 3.3 Quorum

It is proposed that the quorum of Worthing Borough Council's Licensing and Control Committees A and B be increased from 4 Members to 5 Members to reflect a third of the Committee membership rather than a quarter, to ensure fairness of process.

It is further proposed that the quorum of Adur District Council Licensing Committee be increased from 3 Members to 4, again to reflect a third of the membership rather than a quarter.

It is proposed that the quorum of both Councils' Sub-Committees be reduced from 3 to 2 Members.

The full Membership of each Sub-Committee is 3 Members and having a quorum of 3, does present practical difficulties if a Member should be absent or late, with little notice. The current arrangements necessitate a substitute being on 'stand by' for every meeting, or risking meetings having to be aborted 'on the night'.

### 3.4 National Non-Domestic Rate Relief

The current arrangements for dealing with National Non-Domestic Rate relief applications are inconsistent. It is therefore suggested that both Adur and Worthing Councils delegate the determination of such applications to the Head of Revenues and Benefits, with a route of appeal against such determinations to each Council's Executive Member for Resources. If this proposal was adopted, such matters would no longer be in the remit of either Council's Licensing Committee, but it would enable decision making to be quicker, more agile and efficient.

### 3.5 Executive Members

It is advised that each Council amend their Constitution to prohibit Executive Members comprising the majority of the membership of any Licensing Committee.

### 3.6 Licensing Procedure Rules

It is proposed that the Solicitor to the Council be delegated to draft revised Licensing Procedure Rules, in accordance with the provisions of paragraph 2.6.3 above, and incorporate them into each Council's Constitution.

The procedure rules would retain the discretion for the Chairman to amend the rules for a particular case where appropriate to do so.

It is further proposed that the procedure rules include a provision that the Chairman (or Vice Chairman in his/her absence), of the Licensing Committee attend any hearing at the Magistrates Court where a decision of that Committee is being heard by way of an appeal.

## **4.0 Legal**

- 4.1 Section 101 Local Government Act 1972 allows the Councils to establish Committees and Sub-Committees to consider private hire and hackney carriage matters. Such Committees must be politically balanced.
- 4.2 Section 6(1) Licensing Act 2003 provides that a Licensing Authority must establish a Committee to deal with premises and gambling licences, amongst other matters, under the Licensing Act 2003 and the Gambling Act 2005, and that its membership must be between 10 and 15 Members. Section 9(1) Licensing Act 2003 states that a Licensing Committee may establish one or more Sub-Committees, consisting of 3 Members of the Committee.
- 4.3 The Councils' Constitutions set out the terms of reference of the Council's Licensing Committees and it is proposed they will also include Licensing Procedure Rules in due course. However a Council's Constitution or Standing Orders cannot override the legislative provisions.
- 4.4 The Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2013 which came into force on 1st October 2013 specifies that any function of a Licensing Authority relating to the Licensing Act 2003 cannot be an Executive function.

## **5.0 Financial implications**

- 5.1 With a move towards more of the Councils' licensing function being dealt with by small Sub-Committees rather than full Committees of 10 or 15 Members, there may be a small saving realised by sundry costs relating to printing and postage.

## **6.0 Consultation**

- 6.1 Consultation has been undertaken with both Worthing Borough Council's Licensing and Control Committee A and B, with Adur Licensing Committee, with both Leaders of the Councils and the Adur District Council Executive Member for Resources.
- 6.2 Minutes of the meetings of Adur District Council Licensing Committee and Worthing Borough Council Licensing and Control Committee which considered this matter, are attached as Appendix 1 and 2 to this report.

## **7.0 Recommendation**

- 7.1 That the Joint Governance Committee notes the comments received from both Adur District Council and Worthing Borough Council's Licensing Committees.
- 7.2 That the Joint Governance Committee recommends to Worthing Borough Council:
  - Licensing and Control Committee A establish a Sub-Committee of 3 Members of the main Committee for the purpose of hearing individual applications and reviews from hackney carriage and private hire licence holders;

- The quorum of Worthing Borough Council's Licensing and Control Committees A and B be increased from 4 Members to 5 Members;
- The quorum of Worthing Borough Council's Licensing Sub-Committees be reduced from 3 to 2 Members;
- That Executive Members be prohibited from comprising the majority of the membership of any Licensing Committee;
- That the Solicitor to the Council be delegated the authority to produce Licensing Procedure Rules to be incorporated into the Worthing Borough Council Constitution;
- That the Solicitor to the Council be delegated authority to make any consequential changes to the Worthing Borough Council Constitution arising from this decision.

7.3 That the Joint Governance Committee recommends to Adur District Council:

- The Licensing Committee establish a Sub-Committee of 3 Members of the main Committee for the purpose of hearing gambling and premises licence applications;
- The quorum of Adur District Council Licensing Committee be increased from 3 Members to 4;
- The quorum of Adur District Council's Licensing Sub-Committees be reduced from 3 to 2 Members;
- That the Council delegate the determination of National Non-Domestic Rate Relief applications to the Head of Revenues and Benefits, with a route of appeal against such determinations to the Adur District Council Executive Member for Resources;
- That Executive Members be prohibited from comprising the majority of the membership of any Licensing Committee;
- That the Solicitor to the Council be delegated the authority to produce Licensing Procedure Rules to be incorporated into the Adur District Council Constitution;
- That the Solicitor to the Council be delegated authority to make any consequential changes to the Adur District Council Constitution arising from this decision.

**Local Government Act 1972**  
**Background Papers:**

The Constitution of Worthing Borough Council; and  
The Constitution of Adur District Council

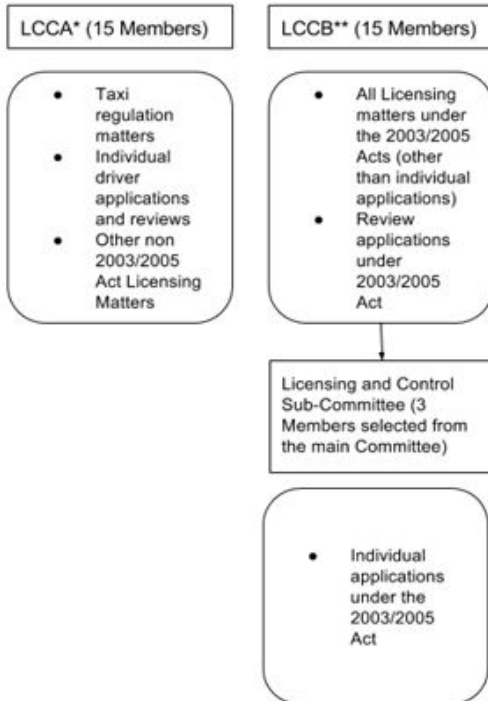
**Contact Officer:**

Susan Sale  
Solicitor to the Councils and Monitoring Officer  
Town Hall  
01903 221119  
[susan.sale@adur-worthing.gov.uk](mailto:susan.sale@adur-worthing.gov.uk)



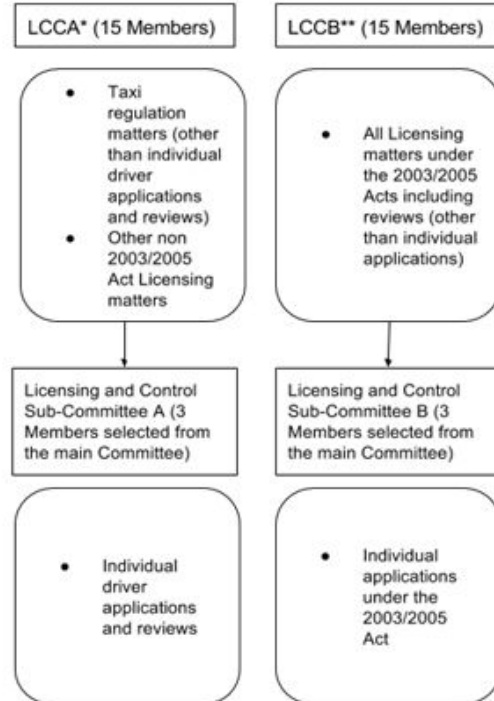
**APPENDIX A**

**WBC LICENSING COMMITTEE CURRENT**



\*Licensing and Control Committee A

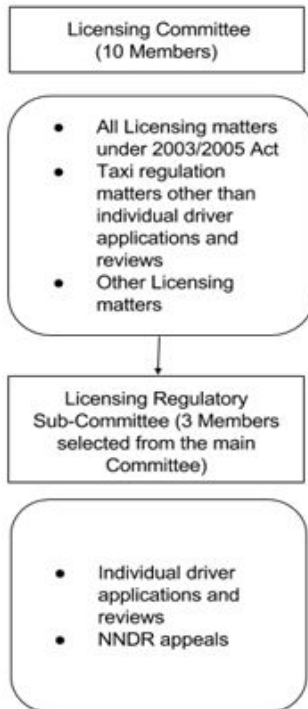
**WBC LICENSING COMMITTEE PROPOSED**



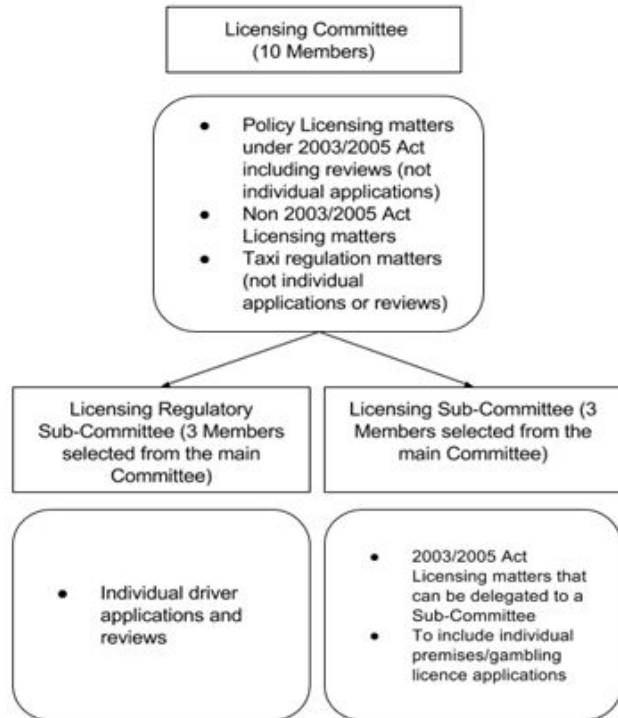
\*\*Licensing and Control Committee B

**APPENDIX B**

**ADC LICENSING COMMITTEE CURRENT**



**ADC LICENSING COMMITTEE PROPOSED**



## APPENDIX 1

### Extract from Draft Minutes of a Meeting of the WBC Licensing and Control Committee 'A' of Worthing Borough Council

Gordon Room, Town Hall, Chapel Road, Worthing

Monday 30 January 2017

Councillor Paul High (Chairman)

Paul Baker	Susan Jelliss
Keith Bickers	Luke Proudfoot
*Joan Bradley	Jane Sim
Callum Buxton	Bob Smytherman
Edward Crouch	Paul Westover
Lionel Harman	Steve Wills
Joshua High	Tom Wye

\*Absent

<b>LCCA/16-17/ 23</b>	<b>Constitutional Provisions relating to the Councils' Licensing Function</b>
<p>Before the Committee was a report by the Monitoring Officer, a copy of which had been circulated to all members, a signed copy of which is attached as item 4. The report before the committee provided an opportunity for governance arrangements and procedure rules to be reviewed; and an opportunity to streamline procedures and to combine best practice from Adur District Council and Worthing Borough Council.</p> <p>The Committee discussed the report and in particular the proposal to introduce sub-committees to deal with taxi and private hire applications and reviews. There was consensus that the full committee provided an opportunity to get the best decision because of the diverse range of skills and opinion contained within a full committee. Members felt that the current structure and working practices of the</p>	

committee were robust and did not need amendment.

**Recommendation:** that it be recommended to the Joint Governance Committee that:

That the proposals be not accepted and that the current constitutional arrangements be not amended.

## APPENDIX 2

**Extract from Draft Minutes of a Meeting of the  
Licensing Committee of Adur District Council  
Queen Elizabeth II Room, Shoreham Centre  
6 March 2017**

Councillor Brian Coomber (Chairman)  
Councillor David Simmons (Vice-Chairman)

Councillor James Butcher \*Councillor Peter Metcalfe  
Councillor Stephen Chipp \*Councillor David Lambourne  
Councillor Emma Evans Councillor Lyn Philips  
Councillor Robin Monk \*Councillor Ben Stride

\* Absent

### **LC/16-17/18 Constitutional Provisions relating to the Councils' Licensing Function**

Before the Committee was a report by the Solicitor to the Council and Monitoring Officer copies of which had been circulated to all Members and a copy of which is attached to the signed copy of these Minutes as Item 5. The report before the Committee provided an opportunity for governance arrangements and procedure rules to be reviewed; and an opportunity to streamline procedures and to combine best practice from Adur District Council and Worthing Borough Council.

The Monitoring Officer introduced the report to the Committee and outlined proposals therein. With reference to Executive Members being included amongst the membership of the Licensing Committee the Monitoring Officer advised that certain local authority functions are not the responsibility of the Executive. This included any function of a licensing authority relating to the Licensing Act 2003. That being the case the Monitoring Officer told the Committee it could be argued that whilst licensing cannot be the responsibility of the Executive this does not bar individual Members of the Executive from being appointed to the Licensing Committee. However, it could also be argued that those who sit on a Licensing Sub-Committee should not be a Member of the Executive and this was the best way to remove all risk of challenge. An alternative option was put forward which was that the constitution be changed to ensure that the Committee be prohibited from including a majority of Executive Members.

The Committee discussed proposals within the report to introduce the use of Sub Committees for 2003 act and 2005 act applications. A Member asked if there had been a successful challenge of a Licensing Committee decision on the grounds that the rules of natural justice had been contravened because of the size of the Committee. The Monitoring Officer told members she wasn't aware of any such case. The general feeling of the Committee was that a full Committee hearing was not unduly overbearing and the use of Sub-Committees would cause difficulties in assuring political balance.

Members discussed raising the quorum of the Committee from three to four Members and agreed that this was reasonable and commensurate with other Committees. However it was felt that reducing the quorum of the Licensing and Regulatory Sub-Committee from

three to two risked the maintenance of political balance and were therefore against that proposal.

Members discussed the proposed changes to the way that National Non Domestic Rate Relief (NNDR) appeals were heard and felt that further comment was needed from the Executive Member for Resources before the Joint Governance Committee make a recommendation on the matter.

In relation to Executive Members being part of the Committee membership, Members agreed that this should not be prohibited on the grounds that they could add valuable experience to the Committee and that the legislation did not prohibit Executive Members from sitting on the Committee, it prohibited the Committee from being an Executive responsibility. Members agreed that it was sensible to recommend that a rule stating a majority of the committee must not be made up of Executive Members so as not to give the impression that the functions of the Committee were being used as an Executive function.

The Committee noted that if a decision of the Licensing Committee is challenged by way of an appeal to the Magistrates Court, the matter would be dealt with by the Councils' Legal Officers. It was possible for negotiations to take place and a settlement to be reached as part of those proceedings, which may have been inconsistent with the Committee's original decision. Members expressed concerned that the intent of the Licensing Committee could be amended post decision. A Member commented that the expectation should be that the decision of the committee is defended in court. The Monitoring Officer explained to Members that a matter would be settled if it was in the Council's interest and that efforts would be made to contact the Chairman or Vice Chairman before such action was taken.

**Resolved:** that the following be recommended to the Joint Governance Committee:

1. That the majority of the membership of the Licensing committee is not made up of Executive Members;
2. That Licensing Act 2003 and Gambling Act 2005 matters are heard by the full committee of ten members;
3. That the quorum of the full committee be raised from three members to four members;
4. That the quorum of the Licensing and Regulatory sub committee remain as three;
5. That before recommending a change to the way that NNDR applications and appeals are heard, the Joint Governance seek the views of the Executive Member for Resources;
6. That the Committee Chairman or Vice Chairman be expected to attend appeals held at the magistrates court.

The meeting ended at 7.40pm it having commenced at 7.00pm

## **Schedule of Other Matters**

### **1.0 Council Priority**

1.1 Matters relating to the constitutional provisions of licensing processes and procedures relate to the Councils' regulatory functions.

### **2.0 Specific Action Plans**

2.1 Matter considered and no issues identified.

### **3.0 Sustainability Issues**

3.1 Matter considered and no issues identified.

### **4.0 Equality Issues**

4.1 Matter considered and no issues identified.

### **5.0 Community Safety Issues (Section 17)**

5.1 Matter considered and no issues identified.

### **6.0 Human Rights Issues**

6.1 Every individual has the right to a fair hearing in accordance with Article 6 of the Human Rights Act, particularly when there is a risk that the determination of that hearing could lead to a loss of livelihood for the individual. It is considered that the proposals within the report comply with the principles of natural justice and the Human Rights Act and reduce the risk of challenge.

### **7.0 Reputation**

7.1 Should the Councils operate practices and procedures in respect of their quasi-judicial regulatory licensing function which are not in accordance with the principles of natural justice, they leave the Councils open to challenge by way of appeal to the Magistrates' Court or Judicial Review. Such proceedings could be reputationally very damaging to the Council.

### **8.0 Consultations**

8.1 Consultation has been undertaken with each Council's Licensing Committee, each Council's Leader and the Adur District Council Executive Member for Resources.

### **9.0 Risk Assessment**

9.1 Matter considered and no issues identified.

## **10.0 Health & Safety Issues**

10.1 Matter considered and no issues identified.

## **11.0 Procurement Strategy**

11.1 Matter considered and no issues identified.

## **12.0 Partnership Working**

12.1 The Adur District Council and Worthing Borough Council Licensing Committees operate independently of each other and are not governed by the Joint Committee Agreement, nor do they operate under the principles of partnership working.



## Updating on changes to the Constitution

### Report by the Director for Digital & Resources

#### 1.0 Summary

- 1.1 The Councils' Monitoring Officer has a power given by the Councils to make minor changes to the constitution. This report advises the Joint Governance Committee of such changes that have been made since the last updating report, and asks the Committee to note the changes.

#### 2.0 Background

- 2.1 Paragraph 11.03a) of Article 11 of both the Adur District and Worthing Borough Council's constitutions provides a power to the Monitoring Officer to make minor changes to the constitution: it states "The Monitoring Officer has the delegated authority to make minor and consequential amendments to the Constitution at any time".
- 2.2 Minor amendments have been made recently to the Councils' Officer Scheme of Delegations and The Monitoring Officer has introduced new Standards Procedure Rules.

#### 3.0 Proposals

##### 3.1 Standards Procedure Rules

Revised standards procedure rules have been drafted by the Monitoring Officer and came into effect on 1st December 2016. They form part of each Council's constitution and are included in Part 4 which deals with various procedure rules.

In June 2012 the then Monitoring Officer brought a report to the then Joint Governance and Audit Committee introducing a new Code of Conduct for Elected Members and Process and Procedure documents. The report annexed various documents relating to the Councils' process for consideration of standards complaints, their investigation and the referral of a case to Committee for hearing; a procedure guide setting out the arrangements and providing guidance for a potential complainant; and a document relating to the composition, role and function and terms of reference of the then Joint Standards Committee. These documents were

all approved by the Joint Governance and Audit Committee, who recommended their adoption to each full Council where it was resolved that they be adopted.

The revised standards procedure rules are an amalgamation of the documents adopted by Council in 2012. The Monitoring Officer has undertaken a 'tidying up' exercise to produce one document known as the Standards Procedure Rules which include all provisions of the earlier documents. Changes have been made to wording and formatting but the substantive content remains the same, and has already been approved by each Council. For this reason the Monitoring Officer exercised her delegated authority in introducing the revised document which came into effect on 1st December 2012.

A copy of the revised Standards Procedure Rules are attached as appendix 1 to this report. They are included in part 4 of the Constitutions and are publically available on the Councils' website.

### 3.2 Scheme of Officer Delegations

The Scheme of Officer Delegations can be found in part 4 of each Councils' constitutions. Minor amendments have been made as follows:

3.2.1 Delegation 3.9.27 states "to determine matters relating to the failure of a Member to attend meetings for a period in excess of 6 months" and this authority is currently given to the Head of Legal Services. However the responsibility for declaring vacancy in office under section 86 of the Local Government Act 1972 lies with the Chief Executive and the Director of Communities as Deputy. It is therefore considered more appropriate for the Director for Communities to exercise delegation 3.9.27 and therefore the Monitoring Officer has moved the delegation to become delegation 2.3.4.

3.2.2 Delegation 3.14.3 states "to acquire land in connection with the Council's functions and to take leases, easements, licences and wayleaves of, in, or over buildings or land in connection with the Council's function". This delegation was given to the Head of Growth but recently transferred to the Head of Place and Investment as the Councils' Estates team now reports into the Head of Place and Investment. There were no restriction on the exercise of the delegation but it was noted that in February 2016 the Council resolved to amend the delegation to be exercised only "in consultation with the Leader and Executive Member for Resources and the Chief Financial Officer". The delegation has therefore been amended accordingly.

3.2.3 Delegation 3.13.2 provides a power to the Head of Culture to "manage the function of Events Management" and the exercise of the delegation is limited to "in consultation with the Councils' Head of Communications and Emergency Planning Officer". In line with views expressed by the Leaders, the Monitoring Officer has used her delegated powers to extend the restriction to be in consultation with the Leaders of the Councils where attendance at the event is expected to be in excess of 500 people.

3.2.4 In September 2016 the Joint Strategic Committee considered a report relating to the supply of emergency and temporary accommodation and the need for the Councils to acquire additional accommodation for such purposes. A budget of £3,000,000 was approved by each full Council, for the purpose, in October 2016, following a recommendation from the Joint Strategic Committee. However neither the Joint Strategic Committee nor the full Councils resolved to delegate authority to Officers to acquire such properties and incur the expenditure. It seems that this was an oversight, but it has left Housing Officers with no option but to seek the agreement of the Head of Place and Investment to exercise her delegated authority to acquire property, albeit it in connection with the Housing function. The Monitoring Officer has therefore used her delegated authority to grant an additional delegation, as must have been the intention of Joint Strategic Committee and the Councils at the time, to the Head of Housing, similar to that of the Head of Place and Investment at 3.14.3 of the scheme, set out at paragraph 3.2.2 above. Consequently delegation 3.1.9 now allows the Head of Housing to “acquire property or land in connection with the Council’s Housing function, for the purpose of providing emergency and temporary accommodation”; the delegation may only be exercised in consultation with the Leader, the Executive Member for Resources and the Chief Financial Officer.

### 3.3 Officer Employment Procedure Rules

Members of the Committee will recall that in January 2017 they considered a report from the Monitoring Officer proposing a review of Member involvement in the appointment and dismissal of the Councils’ senior Officers. Members made a recommendation to each full Council, that, subject to negotiation with Unison, the Councils’ amend the current procedures to allow all appointments and dismissals of Chief Officers and Deputy Chief Officers (other than Statutory Officers) to be dealt with by the Head of Paid Service or his nomination person, subject to the statutory provisions as to consultation with the Executive. Each Council endorsed this recommendation.

To update Members of the Joint Governance Committee, consultation is now ongoing with Unison. It is anticipated that if agreement is reached as to the proposals, that the revised procedures will be effective from the date of each Annual Council meeting in May and that the Councils’ constitutions will be amended by the Monitoring Officer, under delegated authority, on that date.

## 4.0 **Legal**

4.1 Article 11, paragraph 11.03, of the Councils’ Constitutions sets out the Functions of the Monitoring Officer and states “The Monitoring Officer has the delegated authority to make minor and consequential amendments to the Constitution at any time”.

## 5.0 **Financial implications**

5.1 There are no financial implications arising from this report.

## **6.0 Recommendation**

- 6.1 Members of the Joint Governance Committee are asked to note the contents of this report.

### **Local Government Act 1972**

#### **Background Papers:**

Adur District Council Constitution

Worthing Borough Council Constitution

Report of the Joint Governance & Audit Committee of 14th June 2012 'Future of Standards - Localism Act 2011'

#### **Contact Officer:**

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## **Schedule of Other Matters**

### **1.0 Council Priority**

- 1.1 Good governance and an up to date Constitution support the Councils' priorities and support good partnership working.

### **2.0 Specific Action Plans**

- 2.1 Matter considered and no issues identified

### **3.0 Sustainability Issues**

- 3.1 Matter considered and no issues identified

### **4.0 Equality Issues**

- 4.1 Matter considered and no issues identified

### **5.0 Community Safety Issues (Section 17)**

- 5.1 Matter considered and no issues identified

### **6.0 Human Rights Issues**

- 6.1 Matter considered and no issues identified

### **7.0 Reputation**

- 7.1 Good governance arrangements help to protect the reputation of the Councils

### **8.0 Consultations**

- 8.1 Matter considered and no issues identified

### **9.0 Risk Assessment**

- 9.1 The risk of not having an up to date constitution is that procedures and practices may not be transparent, fair, and consistent and may increase the risk of legal challenge.

### **10.0 Health & Safety Issues**

- 10.1 Matter considered and no issues identified

### **11.0 Procurement Strategy**

- 11.1 Matter considered and no issues identified

## **12.0 Partnership Working**

- 12.1 Constitutional arrangements enable and support the governance of partnership working.

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## STANDARDS PROCEDURE RULES

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### 1.0 INTRODUCTION

- 1.1 It is expected that Elected and Co-opted Members of the Borough, District and Parish Councils will uphold the highest standards of conduct expected of holders of public office. However, in the event that there is a complaint, it is important that this is handled effectively to ensure public confidence is maintained.
- 1.2 Section 28(6) and (7) of the Localism Act 2011 requires the Councils to put in place 'arrangements' under which allegations that a Member or Co-opted Member of the Borough, District or Parish Council has failed to comply with the relevant Authority's Code of Member Conduct when they are acting in that capacity:
- (a) can be investigated; and
  - (b) decisions made on such allegations.
- 1.3 These 'arrangements' must provide for the Authority to appoint at least one Independent Person whose views:
- (a) must be sought, and taken into account by the Authority before it takes a decision on an allegation which it has decided shall be investigated, (i.e. at the assessment stage);
  - (b) may be sought by the Authority at any other stage, including the Committee or Sub-Committee hearing the matter; and
  - (c) may be sought by a Member or Co-opted Member of the Borough/District/Parish Council if that person's behaviour is the subject of an allegation (i.e. by the Subject Member).
- 1.4 The purpose of these arrangements is to comply with the requirements of the Localism Act 2011 in relation to complaints about an Elected or Co-opted Member of Adur District Council / Worthing Borough Council / Sompting Parish Council or Lancing Parish Council and what happens if someone makes a complaint.

## **2.0 INTERPRETATION**

- 2.1 'Subject Member' means the Elected or Co-opted Member of the Authority who is the subject of the allegation made by the complainant, unless otherwise stated.
- 2.2 'Complainant' means the person who has submitted the complaint.
- 2.3 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake an investigation and may include the Monitoring Officer and/or his or her Deputy or representative.
- 2.4 'The matter' is the subject matter of the allegation.
- 2.5 'The Standards Sub-Committee' refers to the Sub-Committee of the Joint Governance Committee, to which it has delegated the conduct of the hearing. It comprises of an equal number of Elected Members from Worthing Borough Council and from Adur District Council.
- 2.6 'Independent Person' means a person appointed by the Councils under the Localism Act 2011, Sections 28(1) to advise the Joint Governance Committee and its Sub-Committee and who has the functions set out in the Localism Act Section 28(7).
- 2.7 'Parish Representative' means a Parish Councillor appointed by the Council to advise the Joint Governance Committee and its Sub-Committee in relation to cases involving Parish Councillors. A Parish Representative will not give advice or sit in relation to a complaint about the conduct of a Parish Councillor of their own Authority.
- 2.8 'Monitoring Officer' means a statutory officer appointed by the Councils under the Local Government and Housing Act, Sections 5 and 5A, who has a role in the promotion and maintenance of high standards of conduct within Local Authorities and includes his or her deputy or representative.

## **3.0 COMPLAINTS IN WRITING**

- 3.1 A complaint must be in writing and must allege a breach by the Member or Co-opted Member, of the relevant Council's Code of Conduct for Members, when the Member was acting in his/her capacity as a Councillor. The Monitoring Officer will be permitted to seek additional information from the complainant and/or the Subject Member.
- 3.2 A complaint should be made on the official complaint form, which can be found on the Councils' website.
- 3.3 A complaint must relate to an individual who was a Member or Co-opted Member of the Council at the time of the matter complained of. The Monitoring Officer cannot deal with complaints about the Borough, District or Parish



generally, or their staff or services; the Council's complaints procedure should be used for such issues. The Monitoring Officer cannot deal with complaints about an individual's conduct before he or she was Elected, Co-opted or appointed, nor after he or she ceased to be a Member.

#### **4.0 ACKNOWLEDGEMENT AND NOTIFICATION**

- 4.1 Within seven working days of receipt of the complaint, the Monitoring Officer will acknowledge receipt of the complaint and notify the Subject Member as to the existence of the complaint, the name of the complainant (unless it is not in the public interest to do so) and provide them with a copy of the complaint.
- 4.2 It is likely that the Monitoring Officer will also notify the Subject Member's Group Leader and the Councils' Chief Executive of the complaint and a summary of it.

#### **5.0 ASSESSMENT OF COMPLAINTS**

- 5.1 The Monitoring Officer has initial responsibility for considering written complaints by way of allegations against Members for breach of the relevant Code of Members' Conduct. This is known as assessment. The purpose of assessment is to determine whether or not, on the basis of information supplied by the Complainant, if the matter were proved, it would amount to a breach of the Code of Members' Conduct. No investigation or hearings are conducted at this stage.
- 5.2 The Monitoring Officer will consult with one of the Independent Persons on each complaint received, as to whether in their view it could amount to a breach of the Code of Conduct. The Parish Representative will also be consulted in relation to complaints concerning Parish Councillors, and their views will be sought as to whether the complaint merits formal investigation. Their views will be included in the Monitoring Officer's decision report.
- 5.3 If the Monitoring Officer requires further information in order to reach a decision, they may come back to the complainant for such information and may also request information from the Subject Member.
- 5.4 If the Subject Member was not acting in their capacity as a Member at the time of the matter complained of, or if the complaint does not disclose a potential breach of the Code of Members' Conduct, then the complaint will be rejected.
- 5.5 Complaints which in the opinion of the Monitoring Officer are trivial, simply malicious, vexatious, politically motivated or tit-for-tat are also likely to be rejected.
- 5.6 If the complaint does disclose a possible breach of the Code of Members' Conduct and has not been rejected under paragraphs 5.4 or 5.5 above, the Monitoring Officer will consider whether or not the complaint can be more

appropriately dealt with by way of informal resolution. If satisfied that this is the appropriate way forward then the Monitoring Officer will contact the complainant and the Subject Member and seek to arrive at an informal resolution of the complaint. Such informal resolution may involve the Member accepting that his or her conduct was unacceptable and offering an apology or other remedial action. Where the Subject Member makes a reasonable offer of local resolution but the complainant is not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

- 5.7 If the complaint identifies criminal conduct or breach of other regulations by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies. If the complaint identifies a safeguarding issue the Monitoring Officer has the power to refer it to other appropriate agencies.

## **6.0 HOW THE MONITORING OFFICER ASSESSES THE COMPLAINT**

- 6.1 In reaching a decision on the complaint, the Monitoring Officer will take into account the following considerations, depending on the nature of the complaint and the need to adopt a proportionate response:

- (a) The extent to which the Subject Member is alleged to have failed to treat others with respect;
- (b) The extent to which the Subject Member is alleged to have acted in a way that may cause the Authority to breach an equality enactment;
- (c) Whether the allegation relates to bullying, intimidating or attempting to intimidate a person involved in an allegation against a Member;
- (d) Whether in disclosing confidential information, the Subject Member failed to take on or heed advice;
- (e) The implications for public perception on the reputation of the Council;
- (f) The implication for staff relations;
- (g) The seniority or position of influence of the Member and public trust and confidence;
- (h) The consequences, or the likely consequences, of the Member's alleged actions;
- (i) The extent to which the Subject Member is alleged to have used his or her position as a Member improperly to confer or secure an advantage or disadvantage;
- (j) The extent to which the Subject Member is alleged to have misused or abused the resources of the Council;
- (k) The detriment caused by acting against advice when reaching decisions;
- (l) The extent to which a failure to register or declare interests results from a failure or refusal to seek or to follow advice;
- (m) Whether the matter of complaint has already been the subject of a previous investigation, or an investigation by another regulator, e.g. the Local Government Ombudsman or the District Auditor or the subject of proceedings in Court;

- (n) Whether the complaint is about something that happened so long ago that there would be little public benefit in taking action now;
- (o) Whether the complaint is too trivial to warrant further action;
- (p) Whether the complaint appears to be simply malicious, vexatious, politically motivated or tit-for-tat;
- (q) The public benefit in directing an investigation or other steps and the costs and Officer and Member time which could be incurred on an investigation or other steps;
- (s) Whether there is enough information currently available to justify a decision to refer the matter for investigation or to seek an informal resolution;
- (t) Whether the complaint is about someone who has died, resigned, is seriously ill or is no longer a Member of the Council concerned and it is not in the public interest to pursue;
- (u) Whether the complaint is such that it is unlikely that an investigation will come to a firm conclusion on the matter and where independent evidence is likely to be difficult or impossible to obtain;
- (v) Whether the Subject Member has already provided a satisfactory remedy (e.g. apologising);
- (w) Whether the matter is suitable for informal resolution and the Member complained of is amenable to such an approach.

## **7.0 WHAT THE MONITORING OFFICER CAN DO**

7.1 When the Monitoring Officer has considered the complaint, he/she can:

- (a) Decide to take no further action in respect of the complaint, whilst providing reasons for such a decision;
- (b) Ask the complainant for additional information, with reasons;
- (c) Refer your complaint for investigation;
- (d) Determine to use other steps rather than investigation, i.e. to resolve the complaint informally without the need for a formal investigation; or
- (e) Refer the complaint to the Police or other regulatory agency if the complaint identifies criminal conduct or a breach of other regulations by any person.

7.2 There is no right of appeal against the Monitoring Officer's decision on assessment.

## **8.0 A DECISION TO TAKE NO FURTHER ACTION**

8.1 Reasons for taking no further action include:

- (a) That the subject matter of the allegation is outside the jurisdiction of the Joint Governance Committee;
- (b) That the allegation does not appear to disclose a failure by the Member to comply with the Code of Members' Conduct when acting in that capacity;

- (c) The information submitted by the complainant is insufficient to enable the Monitoring Officer to reach a decision;
- (d) The matter of the complaint has already been the subject of a previous investigation or of an investigation by another regulator or the subject of proceedings in Court;
- (e) The complaint is about something that happened so long ago, that there would be little public benefit in taking action now;
- (f) The complaint is too trivial to warrant further action;
- (g) The complaint appears to be simply malicious, vexatious, politically motivated or tit-for-tat.

## **9.0 INFORMAL RESOLUTION**

- 9.1 If the Monitoring Officer decides to take steps other than dismissing the complaint or referring it for investigation, they will notify the Complainant, the Subject Member and the Independent Person. A decision to take other steps precludes an investigation or other disciplinary action.
- 9.2 If the Subject Member makes a reasonable offer of resolution but the Complainant is not willing to accept the offer, the Monitoring Officer will take account of this in deciding whether the complaint merits a formal investigation.

## **10.0 INVESTIGATIONS**

- 10.1 Should the Monitoring Officer, after having consulted with the Independent Person, and having concluded their assessment and considered informal resolution, decide that the matter should be investigated, they may conduct that investigation themselves, or delegate to another Investigating Officer, to investigate the matter on behalf of the Monitoring Officer. Such Investigating Officer may be a Deputy Monitoring Officer, another Officer of the Council, or an external appointment.
- 10.2 The investigation will be concluded in private and will result in an Investigator's Report, which will be shared with the Complainant, the Subject Member and the Independent Person. If the investigation identifies, in the view of the Monitoring Officer, that there is evidence that it is more likely than not, that the Subject Member has breached the Code of Conduct, then a meeting will be called of the Standards Sub-Committee of the Joint Governance Committee, to hear and determine the matter.
- 10.3 The Subject Member will be informed of the decision of the Monitoring Officer to call such a meeting. The Subject Member has the right to consult with the Independent Member who the Monitoring Officer has assigned to the case, and who has been involved in the assessment stage. The outcome of the investigation is reported to the Standards Sub-Committee, and may result in a hearing before that Sub-Committee, which is likely to be held in public.

## **11.0 THE STANDARDS SUB-COMMITTEE OF THE JOINT GOVERNANCE COMMITTEE**

11.1 The Joint Governance Committee operates in accordance with the Joint Committee Agreement between Adur District Council and Worthing Borough Council. The terms of reference of the Joint Governance Committee are set out in Part 3 of each Council's Constitution.

11.2 A Sub-Committee of the Joint Governance Committee will be convened to hear and determine any individual complaints that a Member has breached the Code of Conduct, which are referred to it by the Monitoring Officer.

11.3 The Sub-Committee will consist of 6 Members: 3 Members of each of Adur District Council and Worthing Borough Council reflecting the political balance of each of the Councils. It is permissible to have a maximum of 1 Member of each Authority's Executive on the Sub-Committee.

11.4 The Sub-Committee may co-opt 1 Independent Person for each matter, to advise the Sub-Committee on Standards matters. Usual practice is for the Independent Person who was involved in the assessment of the complaint to be co-opted onto the Committee for that particular meeting where the complaint will be heard and determined.

The Independent Person co-opted onto the Sub-Committee will not be entitled to vote at the meeting.

The Independent Person will be entitled to retire to the adjournment room when the Sub-Committee consider and determine their decision.

The views of the Independent Person should be given in front of the Monitoring Officer and the Subject Member, and the public and press if present.

11.5 The Sub-Committee will co-opt one Member of the Parish Council to the Sub-Committee when meeting to hear and determine a complaint that a Parish Councillor has breached the Parish Code of Conduct. The Co-opted Parish Councillor will not be from the same Parish Council as the Parish Councillor subject to the complaint.

The Co-opted Parish Councillor will not be entitled to vote at the meeting.

The Parish Councillor will be entitled to retire to the adjournment room when the Sub-Committee consider and determine their decision.

The views of the Parish Councillor should be given in front of the Monitoring Officer and the Subject Members, and the public and press if present.

11.6 The Sub-Committee has the power to co-opt, in an advisory capacity only, any person who is an Independent Person at another Local Authority to advise the Sub-Committee on such terms as the Joint Governance Committee may

determine and agree with the person concerned and the Local Authority and in accordance with the Localism Act 2011 and any relevant regulations.

- 11.7 Decisions made at a Sub-Committee of the Joint Governance Committee shall be by way of a show of hands. Where the Sub-Committee is determining, following an investigation, whether or not the Code of Members' Conduct has been breached, the decision shall be made by a simple majority, subject to paragraph 11.8 and 11.9 below.
- 11.8 Where the Sub-Committee is determining, following an investigation, whether or not a breach of the Code has occurred and they fail to reach a decision upon the matter by a majority of their votes, this is an unresolved decision. An unresolved decision shall be referred to the Chairmen of the Joint Governance Committee with a view to resolution by discussion and negotiation and, where appropriate, referral to the Joint Governance Committee for a decision.
- 11.9 Where the Sub-Committee is determining, following an investigation, whether or not a breach of the Code has occurred and there is a simple majority vote which indicated that there has been a breach of the Code, then if the majority of those Members who are Members of the same Council as the Subject Member voted against such a resolution, the matter shall not be determined but shall stand deferred to a meeting of the full Council of that Council for determination.

## **12.0 PROCEDURE FOR MEETING OF THE SUB-COMMITTEE OF THE JOINT GOVERNANCE COMMITTEE SITTING TO HEAR AND DETERMINE AN ALLEGATION OF A BREACH OF THE CODE OF CONDUCT**

- 12.1 Firstly the Chairperson will introduce all parties and Members and Co-opted Members of the Committee and will explain the procedure for the meeting.
- 12.2 The Committee will give consideration to excluding the press and public from the meeting but only do so in exceptional circumstances. It is generally considered that the public interest in the matter will outweigh the interests of the individual, bearing in mind the individual is a holder of public office. Advice will be taken from the Legal Advisor to the Committee on this point.
- 12.3 The Subject Member is entitled to be represented at the hearing.
- 12.4 The Monitoring Officer, or their representative, will outline the Council's case and call witnesses, who are likely to include the Investigating Officer (if different from the Monitoring Officer) and the complainant. After each witness is called they should come forwards to give their evidence and return to the gallery once they have given their evidence and answered any questions.
- 12.5 After each individual witness gives evidence for the Council, the Subject Member (or their representative) may ask questions of the Monitoring Officer or the Witness, through the Chairperson, immediately after they have given evidence. Following which, Committee Members may ask any questions of the

Monitoring Officer or the Councils' witnesses immediately after the Subject Member has done so.

- 12.6 The Subject Member or their representative will then outline their case and call witnesses. After each witness is called they should come forwards to give their evidence and return to the gallery once they have given their evidence and answered any questions.
- 12.7 The Monitoring Officer (or their representative) may ask any questions of the Subject Member and their witnesses, through the Chairperson, immediately after they have given evidence. Following which, the Committee Members may ask questions of the Subject Member or their witnesses immediately after the Monitoring Officer has done so.
- 12.8 The Monitoring Officer will then be offered an opportunity of a final comment and summing up. Then the Subject Member will be offered an opportunity of a final comment and summing up.
- 12.9 The views of the Independent Person (and the Parish Representative when considering a Parish complaint) will be sought and will be given with the Monitoring Officer, Subject Member and any press and public present.
- 12.10 Members of the Sub-Committee will adjourn into private session to determine the matter. The Legal Advisor to the Committee will be present throughout any discussion, as will the Independent Person (and the Parish Representative when considering a Parish complaint).
- 12.11 The Sub-Committee will reconvene to take a vote in public, deliver their decision and provide reasons.
- 12.12 There is no right of appeal against the decision of the Sub-Committee.
- 12.13 It should be noted that if the Subject Member accepts that there has been a breach of the Code of Conduct as alleged and evidenced in the Investigating Officer's report then the Sub-Committee may determine that the procedure above is not appropriate; they may dispense with the calling of witnesses, formally find a breach of the Code of Conduct and deal with the issues set out at paragraph 13 below.

### **13.0 MITIGATION**

- 13.1 Having heard the Sub-Committee's decision, if a breach has been found, the Legal Advisor to the Sub-Committee will outline the possible sanctions available.
- 13.2 The Monitoring Officer or their Representative has the opportunity to make representations relating to appropriate sanctions, to the Sub-Committee. The Subject Member or his Representative then have an opportunity to address the Sub-Committee on mitigation and sanctions.

- 13.3 The views of the Independent Person and the Parish Representative (if a Parish matter) will be sought and given in the meeting.
- 13.4 The Sub-Committee will then retire into private session, with the Legal Advisor, to come to a decision about sanctions. The decision together with reasons will then be announced in the meeting by the Chairperson of the Sub-Committee.
- 13.5 The decision of the Sub-Committee will be confirmed in writing within 5 working days.
- 13.6 The rules of natural justice apply to the hearing and determination of the Sub-Committee.

#### **14.0 SANCTIONS**

- 14.1 The Sub-Committee has no power to suspend or disqualify a Member.
- 14.2 Any sanction imposed must be proportionate and reasonable to the circumstances of the matter.
- 14.3 Any sanction imposed may not prevent the Member from being able to perform their duties as a Member.
- 14.4 Any sanctions imposed in respect of a Parish Councillor can only be recommendations from the Sub-Committee to the Parish Council. The District and Borough has no power to impose sanctions on a Parish Councillor and any recommendation would need to be agreed by the Parish.
- 14.5 Sanctions may include:
- Censure
  - Publishing a decision that the Member has been found to have breached the Code of Conduct
  - Recommending to the Group Leader or the Council that the Member be removed from any or all Committees or Sub-Committees.
  - Instructing the Monitoring Officer to arrange training
  - Recommending to the Group Leader or the Council that the Member be removed from outside body appointments
  - Withdrawal of facilities.

#### **15.0 WITHDRAWAL OF A COMPLAINT**

- 15.1 Once a valid complaint has been submitted it can only be withdrawn before assessment by the Monitoring Officer. Withdrawal requires the consent of the Monitoring Officer in consultation with the Independent Person and the Parish Representation, as appropriate. Consent will normally be given. However, in



considering a request from the complainant to withdraw the complaint, the Monitoring Officer will consider:

- (a) The reasons for the requests;
- (b) Whether the public interest in pursuing action outweighs the request;
- (c) If the public interest suggests the matter should proceed, the extent to which it can proceed without the complainant's involvement;
- (d) Whether there is an identifiable reason for the request, e.g. improper pressure that has been brought to bear.

After assessment by the Monitoring Officer, a complaint cannot formally be withdrawn without the Monitoring Officer or the Standards Sub-Committee, in consultation with the Independent Person and Parish Representative, as appropriate, depending upon the stage to which the action has reached, taking into account the request for the matter not to proceed further.

## **16.0 VARIATION**

- 16.1 The Monitoring Officer may vary this procedure in any particular instance where he or she is of the opinion that such variation is desirable and does not conflict with the statutory requirements, nor the principles of natural justice.