



Joint Governance Committee  
27 September 2022

# ADUR & WORTHING COUNCILS

Ward(s) Affected: None

## **Modernising and Updating the Councils' Constitutions**

### **A Report by the Monitoring Officer**

#### **Executive Summary**

##### **1. Purpose**

- 1.1. Following an internal governance review by the Councils' Monitoring Officer, opportunities were identified for amending and modernising both Councils' Constitutions to ensure that they are legally compliant, complete, support effective and sound decision-making, and reflect the character, culture and priorities of the two authorities.
- 1.2. At its meeting on 31 May 2022, the Joint Governance Committee approved the creation of a Working Group to consult on the proposed changes to the Constitutions, and agreed to receive this report with a view to recommending final draft Constitutions for approval by the Councils at their meetings in October 2022.
- 1.3. This report:
  - 1.3.1. Highlights the results of the consultation exercise held during July and August;
  - 1.3.2. Updates the Joint Committee on the work of the Working Group in its review of the Constitutions;
  - 1.3.3. Recommends amendments to the Constitutions.

## **2. Recommendations**

That the Joint Governance Committee:

- 2.1. Acknowledges the work undertaken by the Working Group.
- 2.2. Notes the responses to the consultation programme.
- 2.3. Endorses the amendments to the Constitutions proposed by the Working Group and determines any matters on which the Working Group could not agree or did not consider.
- 2.4. Recommends the revised Constitutions to:
  - 2.4.1. Joint Strategic Committee for comment at its meeting on 11 October 2022, and
  - 2.4.2. Both Full Councils for approval at their meetings on 8 October 2022 (Worthing) and 20 October 2022 (Adur)

## **3. Constitution Review Working Group**

- 3.1 At its meeting on 31 May 2022, the Joint Governance Committee approved the creation of a Working Group to consult on the proposed changes to the Constitutions, and agreed to receive this report with a view to recommending final draft Constitutions for approval by the Councils at their meetings in October 2022.
- 3.2 The Working Group's terms of reference were set as follows:
  - To comment on the Monitoring Officer's proposed amendments to modernise and update the Constitutions;
  - To consider what further constitutional amendments may be required to improve participation, efficiency, accountability and transparency in decision making, and to bring democracy closer to the community;
  - To consult with Members, Officers, and others as required;
  - To submit recommendations for final draft Constitutions, and any proposed amendments to the Joint Committees Agreement, to the Joint Governance Committee at its meeting on 27 September 2022.
- 3.3 The Joint Governance Committee agreed that the Working Group should comprise seven members from each Council, as follows:

	<b>Conservative</b>	<b>Labour</b>	<b>Liberal Democrat</b>	<b>Green</b>	<b>SBRA</b>
<b>Adur District Council</b>	Cllr Neil Parkin Cllr Kevin Boram Cllr Andy McGregor	Cllr Lee Cowen Cllr Catherine Arnold	-	Cllr Gabe Crisp	Cllr Julia Watts
<b>Worthing Borough Council</b>	Cllr Kevin Jenkins Cllr Nigel Morgan	Cllr Rita Garner Cllr Andy Whight Cllr Dan Hermitage Cllr Sam Theodoridi	Cllr Hazel Thorpe	-	-

- 3.4 The quorum was five members. Officer support to the Working Group was provided by Geoff Wild (Monitoring Officer), Joanne Lee (Deputy Monitoring Officer) and Neil Terry (Democratic Services Lead).
- 3.5 It was acknowledged that revising the Constitutions is a large piece of work and given that there was a limited amount of time, the Working Group should aim to meet fortnightly. It was also acknowledged that because of the demands on time during the summer holiday period, there would inevitably be occasions when some Members would be unavailable or would need to appoint substitutes to attend in their absence.
- 3.6 Meetings of the Working Group took place on the following dates:  
30 June  
18 July  
3, 15, 30 and 31 August  
7 September
- 3.6 Each meeting lasted 1.5-2 hours, with additional contributions received from Members between meetings. All meetings engendered lively and productive debate, with positive contributions from all sides, offering differing perspectives in a spirit of mutual respect and a willingness to make progress through constructive dialogue and compromise.

## Procedure

- 3.7 Under Article 12 of the Constitution, the Joint Governance Committee is responsible for monitoring and reviewing the operation of the Constitutions. The Monitoring Officer is also responsible for monitoring and reviewing the operation of the Constitutions, and for recommending ways in which it can be amended.
- 3.8 Changes to a Constitution may only be made:
- with the approval of each Full Council (in respect of its own Constitution) after consideration of the proposal by the Joint Governance Committee, the Joint Strategic Committee, the Chief Executive and the Monitoring Officer; or
  - by the Monitoring Officer arising from decisions of the Council or the Cabinet; where legislation requires a change in wording or terminology; or to make minor or consequential amendments.

## Consultation

- 3.9 A key part of the process was to consult with other councillors and allow them to have the opportunity to feed in their views. With this in mind, an all-Member questionnaire was approved by the Working Group and was open to responses during July and August:  
[https://docs.google.com/document/d/14dJResWatCh5tA\\_4tGo02WVfqrvue\\_nJ/edit?usp=sharing&oid=101641299264140322124&rtpof=true&sd=true](https://docs.google.com/document/d/14dJResWatCh5tA_4tGo02WVfqrvue_nJ/edit?usp=sharing&oid=101641299264140322124&rtpof=true&sd=true)
- 3.10 The results of the Member consultation are shown at **Appendix 1**.
- 3.11 In addition, the Working Group's amendments to the scrutiny elements of the Constitution will be considered by the Joint Overview and Scrutiny Committee on 22 September, and their comments in response will be circulated to Members as soon as possible in advance of this meeting.
- 3.12 Finally, the views and suggestions of the Corporate Leadership Team have been incorporated into the review and reflected in the revised Constitutions.

## Draft Constitutions

- 3.13 Attached at **Appendices 2 and 3** are drafts of the two revised Constitutions for Adur and Worthing Councils. These show (by way of tracked changes and marginal comments) where amendments are proposed to be made and the explanations behind them. Many are required by law or good practice, whilst

others are more locally-driven. Apart from those mentioned below, all have been discussed, carefully considered and approved by the Working Group.

#### **4. Key features of the revised Constitutions**

- 4.1 Over the course of its seven meetings, the Working Group went through the whole of the Constitution, discussed several specific areas in detail, considered the consultation responses and endorsed a number of proposals for change.
- 4.2 A series of amendments to the form and content of the Constitutions have been proposed to make them more succinct, accessible, easy to navigate and interactive. This has been achieved by joining together all the disparate parts of the current Constitutions into a single document, capable of being searched, navigated and read as a whole.
- 4.3 A number of improvements have been proposed. Whilst many of the amendments are administrative in nature or to comply with legal requirements, others reflect good practice and responses to consultation, the most significant of which are summarised below:
  - The current Constitutions comprise over 600 pages. The revised versions contain fewer than 400 pages (a reduction in size of one-third).
  - The revised versions are consistently formatted, easily navigated and fully searchable. A hyperlinked contents page allows the reader to go straight to the section they require.
  - A strengthened Citizens section (Art.3), with the addition of the five statutory 'community rights' and an ability for community groups to make deputations to full Council (see paragraph 5.4, below).
  - A reminder of Members' corporate parenting responsibilities.
  - Proposal to reduce the Policy Framework to the statutory minimum.
  - Ownership of the overview and scrutiny work programme given to the Joint Overview and Scrutiny Committee.
  - Strengthened emphasis on policy development and pre-decision scrutiny roles of overview and scrutiny.
  - Strengthened emphasis on the ability of Members and the public to request items be placed on the agenda of overview and scrutiny committees.
  - Extended rules on Call-In.
  - Reminder of the ability of overview and scrutiny to refer matters to Full Council.

- Inclusion of the ability to delegate functions and responsibilities to Ward Members.
- Reminder of restrictions on whipping.
- Insertion of section to deal with the council's external partnerships and joint arrangements.
- Provision included for electronic sealing of documents.
- Expanded Council functions list.
- Refreshed principles of decision-making.
- Inclusion of Cabinet Members' names.
- Expanded list of non-executive committee functions.
- A reduction in length of time for Council meetings.
- An extension of time for public questions.
- Changes to Motions on Notice.
- New public interest test to be used when deciding whether matters are exempt from publication.
- Updated list of Proper Officers.
- Revised protocol for Member/Officer working arrangements.
- New Dispensations Protocol.
- New provision for recording and publishing officer decisions.

## **5. Issues for further consideration**

- 5.1 The Working Group was able to achieve consensus on the vast majority of amendments, but there was one area where they agreed to defer to the Joint Governance Committee for determination. This concerns the proposal to offer the chair overview and scrutiny to an opposition member.
- 5.2 The Committee is therefore asked to decide which of the following two alternatives for the appointment of the Chair to the Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee they would wish to recommend to be included in the revised Constitutions:

*The Chair of the [Overview and Scrutiny Committee][Joint Overview and Scrutiny Committee] shall be appointed by the Council. In addition to consideration of experience, expertise, interests and the ability to act impartially, the Chair should have the ability to work as part of a group, to lead and build a sense of teamwork and consensus among committee members.*

Alternative suggestion:

*The Chair of the [Overview and Scrutiny Committee][Joint Overview and Scrutiny Committee] shall be appointed by the Council. The Chair will first be*

*offered to a member of a Political Group that does not form part of the Administration or an ungrouped Member, with the Vice Chair being drawn from any other Political Group.*

- 5.4 Legally, the chairing and membership of overview and scrutiny committees is a matter for a council's Annual General Meeting in May. Practically, chairing is entirely at the discretion of the majority party. Majority parties can, if they wish, reserve all committee chairships (and vice-chairships) to themselves. This is the case in about 50% of councils. Around 20% of councils allocate chairships politically proportionately.
- 5.3 Chairs should guard the committee's independence but avoid the committee being, and being viewed as, a de facto opposition to the Executive ([MHCLG guidance 2019](#)). On the other hand, the practice of reserving all positions of responsibility to the majority party can harm perceptions of scrutiny's credibility and impartiality ([CfGS](#)).
- 5.4 A further proposal received after the final meeting of the Working Group was to include provision in the Constitutions for local organisations or groups to make requests to address full Council meetings about specific issues relating to the borough/district or a Council function ('deputations'). A new section to give effect to this has therefore been included in the Council and Committee Procedure Rules (Part 4 Rule 11.3).

## **6. Financial Implications**

6.1. None other than officer time spent in assisting Members with the review.

6.2. However, depending on the outcome of the review, there may be financial implications arising from, say increasing the number of meetings to be supported.

## **7. Legal Implications**

- 7.1 Every local authority is under a duty to prepare and keep up to date its Constitution under s.9P of the Local Government Act 2000. The Constitution must contain:
- the standing orders/procedure rules
  - the Members' code of conduct
  - such information as the Secretary of State may direct

- such other information (if any) as the authority considers appropriate
  - Constitutions must be available for inspection at all reasonable hours by members of the public and supplied to anyone who asks for a copy on payment of a reasonable fee.
- 7.2 Under s.135 Local Government Act 1972, every local authority must make standing orders with respect to the making of contracts for the supply of goods or materials or for the execution of works.
- 7.3 Under sections 8 and 20 of the Local Government and Housing Act 1989, the Secretary of State may by regulations require local authorities to incorporate in standing orders relating to their staff, meetings and proceedings. Accordingly, the Local Authorities (Standing Orders) Regulations 1993, the Local Authorities (Standing Orders) (England) Regulations 2001 and the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 and 2015, all require certain standing orders relating to staff and council proceedings to be included in the Constitution. Other statutory guidance, such as that relating to Channel Panels, also requires references to be included in the Constitution.
- 7.4 Furthermore, the Secretary of State issued guidance in the form of the Local Government Act 2000 (Constitutions)(England) Direction in December 2000, which required over 80 minimum requirements to be included within Constitutions.
- 7.5 In considering the matters identified in the Terms of Reference above, the Working Group is to have regard to the Monitoring Officer's advice so as to ensure the changes to be proposed to the Joint Governance Committee in September are constitutionally and legislatively compliant.

### **Background Papers**

- Report to Joint Governance Committee, 31 May 2022.

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## **Sustainability & Risk Assessment**

### **1. Economic**

1.1 Matter considered and no issues identified

### **2. Social**

#### **2.1 Social Value**

Matter considered and no issues identified

#### **2.2 Equality Issues**

Matter considered and no issues identified

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

Matter considered and no issues identified

#### **2.4 Human Rights Issues**

Matter considered and no issues identified

### **3. Environmental**

Matter considered and no issues identified

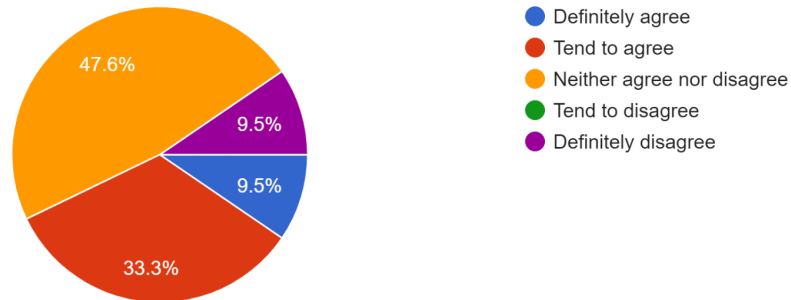
### **4. Risk and Governance**

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

OUTCOME OF THE CONSTITUTION REVIEW MEMBER SURVEY

1. The current Constitution demonstrates how the Council provides leadership to the community and partnership with citizens, businesses and other organisations.

21 responses

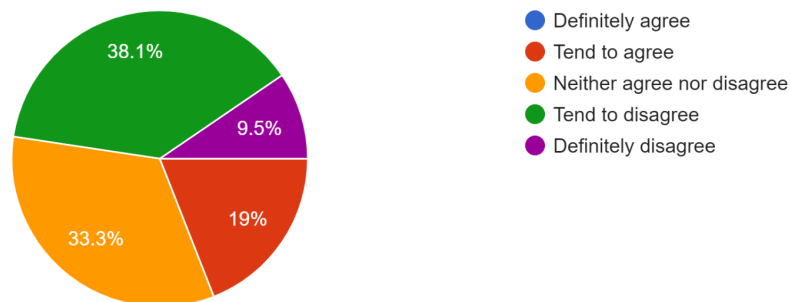


4 Comments:

- It's just not clear enough and it's not written for public consumption
- I hadn't really considered this as a function of the constitution prior to reading this question
- It's OK as far as it goes but it needs updating to reflect current constraints and challenges.
- N/A

2. The current Constitution supports the active involvement of citizens in the process of council decision making.

21 responses



7 Comments:

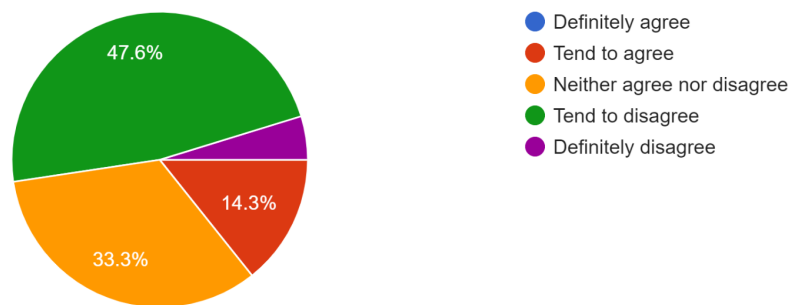
- Residents, unless politically active, do not wish to be involved. There is a danger that data can be skewed by unrepresentative minorities representative to be involved. There is a

danger that to be involved in Council decision making. What is very important is that committed activists e skewed (sic).

- This document doesn't fulfil this aim at all.
- It is not simple for citizens (or cllrs) to understand the constitution and apply it to their situation.
- Public can ask Public questions and take part in making comments at Planning Committee and Licensing Committee but not much else is prescribed.
- Public engagement and participation should always be encouraged - even if it falls on deaf ears with some sectors of our communities.
- A constitution is not necessarily particularly accessible for many citizens just by the nature of it being a lengthy legal document.
- It facilitates, wouldn't go as far as saying facilitates (sic).

### 3. The Constitution is easy to understand and up to date.

21 responses

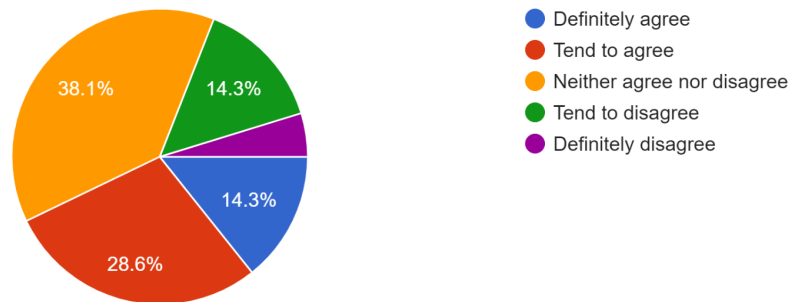


### 8 Comments:

- In terms of plain English can be dense and sometimes open to interpretation.
- I find it easy to understand and appreciate it is up to date, but again it's not written for a wider audience and doesn't have a clickable menu or a clear set of aims etc.
- There is way too much to learn and in a form which is impenetrable.
- Not easy to follow or understand or search.
- Having three constitutions doesn't help.
- It's written in fairly plain English (given various legal constraints) but it needs modernisation.
- It can be difficult to find the exact section applicable. Rules on motions are outdated.
- You need to be familiar with the roles and functions. To those that are are not familiar, it may as well be in another language.

#### 4. The Constitution helps councillors represent their constituents effectively.

21 responses

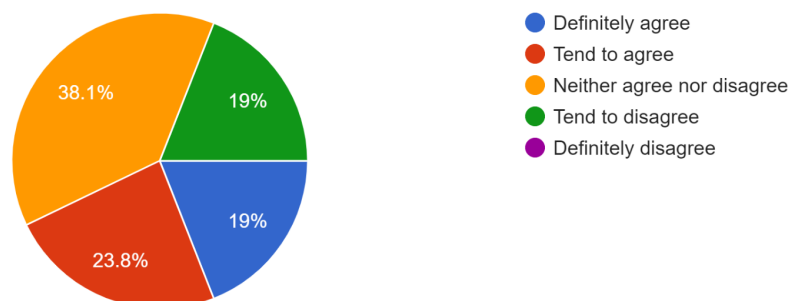


#### 6 Comments:

- No resident has ever requested how I represent them from a constitution perspective!
- A constitution is crucial but THIS version does little to help.
- Only if they read it.
- I haven't used the constitution at all in casework. Rather I have gone through officers and they have occasionally referred to the constitution. So is it a usable document for minority group Councillors dealing with case work? No!
- Part of the issue is that some members don't refer to the constitution regularly. I can be guilty of this and I tend to assume that I understand it, through experience. On a positive note, the Democratic Services and Legal Teams are very good at offering relevant and clear advice. Consultation and amendment should help to promote greater awareness and understanding.
- It is a useful resource.

#### 5. The Constitution enables decisions to be taken efficiently and effectively.

21 responses

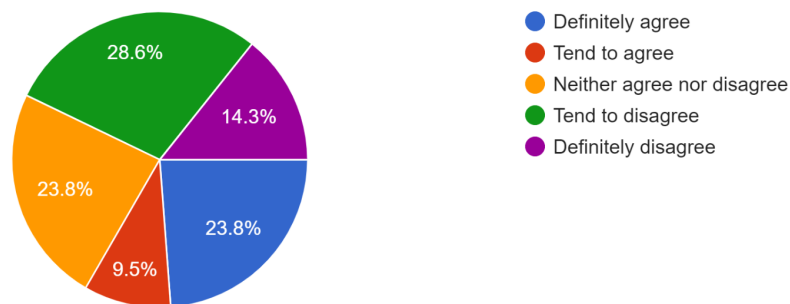


#### 5 Comments:

- I am not sure it does much at all in this regard.
- The key decision framework is difficult to understand and often we can end up making multiple key decisions on a single item.
- There does seem to be clear procedure from the officers as to how meetings are handled. Some issues do not seem to be dealt with according to the letter of the constitution but seem to have "always been done like this".
- Decisions are taken efficiently - as in that they're agreed within timescales. Whether or not they're always taken effectively is another issue and that's a flaw of the Cabinet system. Again some of the flaws lie with the back bench and opposition system, as not everybody is engaged/up to speed as they don't read papers thoroughly.
- The constitution provides certainty and in most cases clarity.

6. The Constitution ensures that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions.

21 responses

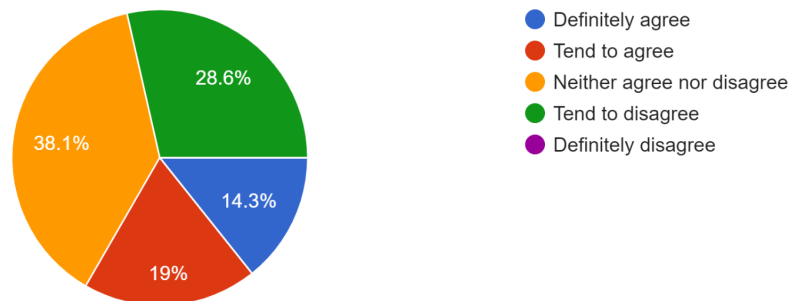


### 7 Comments:

- Council question time presents an opportunity as does Jsc as fo (sic).
- Again not sure that it covers this effectively.
- Quite often decisions are reached by officers or by the Executive. The written summary of decisions are not always clear to grasp what was decided and why.
- The constitution underpins this objective but it doesn't achieve it in isolation. The Councils' have a clear responsibility to ensure that the public understands the decision-making process through a whole raft of public engagement measures. The Constitution cannot achieve this alone.
- I don't think local people would necessarily be able to easily identify a decision maker from the constitution.
- If it needed to be referenced, yes.
- I do not believe decisions are communicated well.

7. The Constitution creates a powerful and effective means of holding decision makers to public account.

21 responses

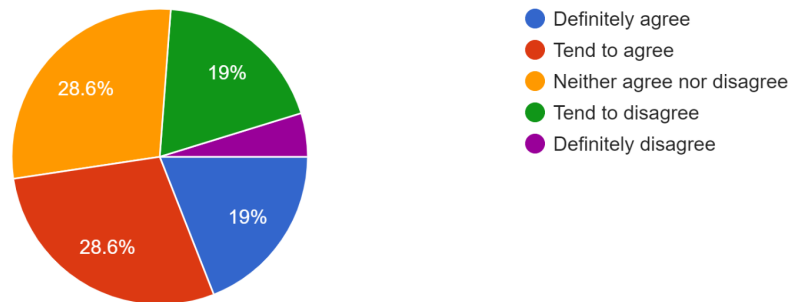


### 7 Comments:

- It helps in terms of standards but little else.
- It's been lacking around the code of conduct, scrutiny and council procedure rules.
- In my limited experience there has been some degree of flexibility in application of the constitution in this way by the two different MOs I've worked with.
- Holding to account is not sufficiently allowed for me at the moment. The Overview and Scrutiny aspect of holding to account can be more controlled in my opinion.
- As with the previous response, Constitutions underpin this objective but they can't achieve it alone. Ultimately, the public holds decision-makers to account at the ballot box. We are judged by our performance (which is largely down to public perception, which is subjective) - we aren't bench-marked against our compliance with the constitution, although it's obviously important in terms of overall governance.
- It's in black and white.
- I believe this could break stronger through improved communication/consultation processes and feedback.

8. The Constitution ensures that proposals and decisions are effectively and fairly reviewed.

21 responses

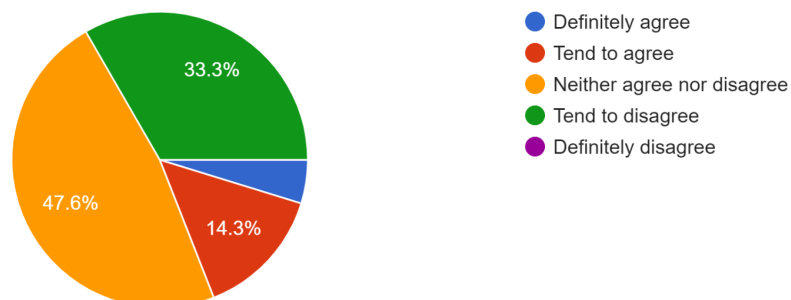


**7 Comments:**

- Dedicated committee structures provide the scrutiny and governance.
- No I don't think so
- With regards to call-ins, definitely not.
- There is a mechanism for review and accountability. The constitution makes this possible. Whether members always use these processes is a different matter.
- There is not sufficient pre-decision scrutiny via JO SC at the moment. Quite often decisions are already made and JO SC is simply reviewing something that has already happened. The Call-In process is also very rigid and in order for decisions to be called-in they will need to meet certain criteria. I also feel that there is a reluctance from some Members and Officers to open up to scrutiny.
- Yes, this is the best mechanism for review.
- Too much of this takes place behind closed doors.

9. The Constitution provides a means of improving the delivery of services to the community.

21 responses

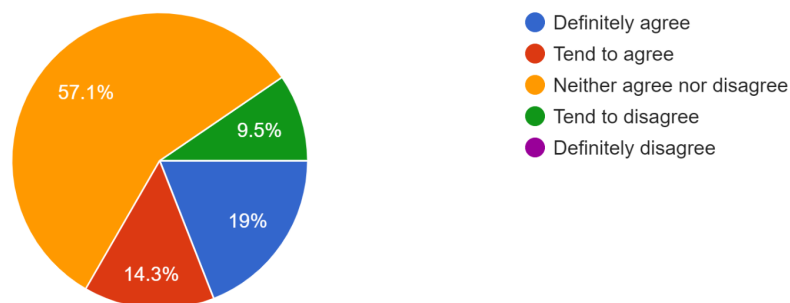


**5 Comments:**

- Only on standards, lacking elsewhere.
- Other external factors have a much more significant effect. such as the central government grant to local authorities, cost of living crisis and energy price hikes.
- Extra scrutiny and public engagement is required to improve the delivery and quality of services.
- Constitutions are more about compliance than improvement. Improvement is subjective, in many cases, and can't be monitored by a constitution unless there are clearly defined performance indicators (which are best itemised elsewhere in my opinion).
- The link between process and delivery needs to be clearer.

10. Do you have any other comments or suggestions as to how the Constitution could be improved?

21 responses



### 13 Comments:

- Time to review a dated document but there should be no political elements. It needs to be apolitical, legally approved and enforced and subject to governance.
- The work to produce a shorter and more user friendly Constitution is very welcome.
- From what I have heard, the Constitutions can be streamlined and brought into line with each other.
- Deploy editors from the wider community to sense check and content check.
- More user friendly, in a order that makes sense.
- Shorter and simpler is always a good goal.
- It needs a rewrite!
- I don't like some of the rules that give the executive ultimate power. Why for instance do full council motions go to the executive if there is no pecuniary content? Scrutiny seems ineffective and it's being misused by the majority party.
- Shorter, weblinks, better headings, new member training on how to use the constitution training.



- There needs to be some public consultation to ensure that people are engaged and understand. Public take-up is likely to be low, given the subject matter, so this could be done via a Public Participation Group that is broadly representative of our communities.
- Needs to be shortened and be more accessible and user friendly.
- Yes - made shorter, more to the point, more accessible as we are doing.
- Expand the terms and definitions.

**Adur District Council revised Constitution**

**APPENDIX 3**

**Worthing Borough Council revised Constitution**



ADUR DISTRICT  
COUNCIL

# CONSTITUTION

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## PART 1 - SUMMARY AND EXPLANATION

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### 1.0 Introduction

The District of Adur covers an area of some 41.81 km<sup>2</sup> and has a population of approximately 60,000 residents. The District includes the four main urban areas of Shoreham-By-Sea, Lancing, Southwick and Sompting. Within the District there are two Parishes; Lancing and Sompting.

The District Council of Adur was established in 1974. It provides many statutory services to the residents, businesses and visitors of the District, such as waste collection, food safety and collection of Council Tax. It also provides many other discretionary services, such as sports and leisure facilities, car parks and support for many local voluntary organisations.

The Council is made up of 29 Councillors and together with the Borough Council of Worthing, employs over 1,000 staff to ensure its aim of maintaining, and where possible, improving the quality of life for all sectors of the community.

This document is the Constitution of the Council. It sets out the roles, responsibilities and the rules of the District Council, as well as the rights of the community and individuals in relation to the Council.

This document is subject to any changes in the relevant legislation.

If you have any questions about this document, please contact the Head of Legal Services and Monitoring Officer: Borough Council of Worthing and the District Council of Adur, Town Hall, Chapel Road, Worthing, West Sussex, BN11 1HA, email: [monitoringofficer@adur-worthing.gov.uk](mailto:monitoringofficer@adur-worthing.gov.uk), website: [www.adur-worthing.gov.uk](http://www.adur-worthing.gov.uk).

### 1.01 Interpretation

Throughout this Constitution:

- (a) Unless the context otherwise requires, the singular includes the plural and the plural the singular.
- (b) Any reference to a numbered or lettered paragraph is, unless the context otherwise requires, a reference to the paragraph in this Constitution.
- (c) The following words and expressions shall have the undermentioned meanings respectively assigned to them:

‘1972 Act’ shall mean the Local Government Act 1972.

‘1989 Act’ shall mean the Local Government and Housing Act 1989.

‘2000 Act’ shall mean the Local Government Act 2000.

‘2011 Act’ shall mean the Localism Act 2011.

‘Chair’ shall mean the Chair of the Council or a Committee or, if the context permits, the person presiding at any meeting of Full Council or a Committee.

‘Chief Financial Officer’ shall mean the Officer holding the post of Chief Financial Officer of the District Council, who is also designated as the Chief Financial Officer responsible for the purposes of Section 151 Local Government Act 1972; Section 73 Local Government Act 1985 and Section 112 Local Government Act 1988 for monitoring the Council’s financial affairs.



'Clear Working Day' excludes the day on which the summons or agenda for a meeting is published, the day on which the meeting was or is to be held and shall mean a day other than a Saturday or a Sunday, or a day which is a public or bank holiday.

'Clear Calendar Day' excludes the day on which the summons or agenda for a meeting is published, the day on which the meeting was or is to be held but will include a day which is a Saturday or a Sunday, or a day which is a public or bank holiday.

'Confidential information' is defined at paragraph 10.3 of the Access to Information Rules in Part 4 of the Constitution.

'Committee' shall include any Committee, Sub-Committee, Joint Committee or Joint Sub-Committee of, or appointed by, the Council.

'Constitution' shall mean this Constitution as approved by the Council in accordance with the Local Government Act 2000.

'Council' shall mean the District Council of Adur as the legal entity.

'Executive' shall mean the Cabinet of the Council as set out in the Constitution and as defined by the 2000 Act, and shall comprise the Leader, Deputy Leader and Cabinet Members and will often act together with Worthing Borough Council's Cabinet as the Joint Strategic Committee.

'Cabinet Member' shall mean an elected Member of the Council appointed to the Cabinet by the Leader in accordance with the Council's Constitution.

'Exempt information' is defined at paragraph 10.4 of the Access to Information Rules in Part 4 of this Constitution.

'Head of Paid Service' shall mean the Officer holding the post of Chief Executive in the District Council, who is also designated as the Head of Paid Service under Section 4 of the Local Government and Housing Act 1989.

'Key Decision' is defined in Article 12.03 (b) of Part 2 of the Constitution.

'Leader' shall mean the Cabinet Leader, elected by the Council in accordance with the Constitution and the 2000 Act.

'Meeting' shall mean a meeting of the Full Council, or in relation to the Cabinet, a Committee, Sub-Committee, Joint Committee or Joint Sub-Committee, a meeting of that body.

- (a) "Member" shall mean:
- (b) in relation to a meeting of the Full Council, a Councillor;
- (c) in relation to a Committee, a Member of that Committee whether a Councillor or a person who is not a Councillor, but who is appointed to be a Member of the Committee under Section 102 of the 1972 Act; and
- (d) in relation to the Cabinet, a Cabinet Member.

'Monitoring Officer' shall be that person designated as Monitoring Officer in accordance with section 5(1) Local Government and Housing Act 1989.

'Motion' includes a recommendation contained in any report concerning an item of business for a meeting and a new motion.

'Person Presiding' shall mean the person appointed or entitled to preside at any meeting including the Chair or Vice Chair, where the context allows.

'Rule' shall mean a Procedure Rule or Standing Order, and shall include Financial Procedure Rules, Contract Procedure Rules and Council Procedure Rules.

'Sub-Committee' shall mean a Sub-Committee of a Committee of the Council and 'Joint Sub-Committee' shall mean a Sub-Committee of a Joint Committee of the Councils.

'Summons' shall mean the Summons for a meeting, or in relation to a Council Standing Order, applied to the Cabinet or a Committee shall mean the agenda for the meeting.

'Terms of Reference' shall mean the terms of reference of the Cabinet or a Committee as varied from time to time.

'Urgent' means a matter of pressing importance requiring swift action given the gravity of the situation, which was unforeseeable (in an objective sense) and is not attributable to a failing on the part of the Council (and similar expressions shall be construed accordingly).

'Vice Chair' shall mean the Vice Chair of the Council.

'Working Group' shall mean a group established by the Council consisting of Elected Members and/or Officers and/or co-opted Members and/or persons who are not Elected Members, Officers or co-opted Members, for the purpose of providing advice to any decision maker within the Council.

## 1.02 The Council's Constitution

This is the Constitution of the District Council of Adur which has been adopted by the Council. It sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

Updates to the Council's Constitution are made on an ongoing regular basis and an up-to-date version may always be accessed via the Council's website.

The Constitution is divided into nine parts. The 15 Articles in Part 2 set out the basic rules governing the Council's business, and the remaining parts provide more detailed procedures and guidance.

The Council's Monitoring Officer takes overall responsibility for ensuring that the Council maintains an up-to-date Constitution. However, Parts 6, 7 and 8 dealing with Members' Allowance Schemes, Council Management Structure and Joint Arrangements, are maintained by the Democratic Services Manager. Further, the Financial Procedure Rules and Contract Standing Orders contained in Part 4 of the Constitution, are maintained by the Chief Finance Officer.

The Constitution may be accessed on the internet at: [Constitutions - Adur & Worthing Councils \(adur-worthing.gov.uk\)](http://adur-worthing.gov.uk). Hard copies of the Constitution are available to inspect at Council offices and public libraries, and may be provided upon request to the Democratic Services Lead at a charge of £40 per copy, payable in advance, to cover the costs of photocopying.

## 1.03 What is in the Constitution?

Article 1 of the Constitution briefly describes the Constitution and commits the Council to:

- Leadership;
- Responsibility;
- Integrity;

- Transparency;
- Efficient and effective services; and
- Participation.

Articles 2—15 explain the rights of the citizens in relation to the Council and how the key parts of the Council operate. These are:

- Members of the Council (Article 2);
- The Citizen and the Council (Article 3);
- The Full Council (Article 4);
- Chairing the Council (Article 5);
- Overview and Scrutiny Committee (Article 6);
- The Executive (Article 7);
- Regulatory and other Non-Executive Decision-making Committees and Advisory Panels (Article 8);
- Governance (Article 9);
- Joint arrangements (Article 10);
- Officers (Article 11);
- Decision-making (Article 12);
- Finance, contracts and legal matters (Article 13);
- Review and revision of the Constitution (Article 14);

Suspension, interpretation and publication of the Constitution (Article 15); **1.03 How the Council**

### Operates

The Council is composed of 29 Councillors (with elections by halves), i.e. one half of Councillors are elected every two years. The District is divided into 14 Wards each of which elects 2 or 3 Councillors. The Councillors are democratically accountable to the residents of their Ward. The overriding duty of Councillors is to the whole District, but they have a special duty to their constituents, regardless of how they voted.

Councillors should undertake their duties in accordance with the high standards of conduct expected of persons in public life and, to this end, the Council has adopted a Members' Code of Conduct to which Members are obliged to adhere. The Joint Audit & Governance Committee oversees the provision of training and advice to Councillors on the Code of Conduct.

All Councillors meet together as the Full Council. Meetings of the Full Council are normally open to the public. Here Councillors decide the Council's overall policies, set the annual budget and the Council Tax. The Full Council will elect a Leader from among the elected Councillors.

Legislation provides the Leader with the Cabinet decision-making powers of the Council. The Leader must appoint between 2 and 9 other elected Councillors to the Cabinet and may delegate to the Cabinet, individual Cabinet Members and Officers many of the executive functions and powers.

The Council appoints at least one Overview & Scrutiny Committee, a Planning Committee and a Licensing Committee.

The Full Council appoints the following Joint Committees with the Borough Council of Worthing: a Joint Audit & Governance Committee; Joint Overview and Scrutiny Committee; Joint Staff Committee; Joint Senior Staff Committee and a Joint Senior Staff (Appeals) Committee. These are explained in more detail in Articles 7 to 9.

The Council appoints Members to the Greater Brighton Economic Board (Joint Committee) with other Councils.

**Commented [g1]:** Unnecessary and repetitive.

Each year, the Full Council appoints a Chair of the Council.

#### **1.04 How Decisions are made**

The Full Council agrees the Policy Framework and Budget within which any other decisions within the Council are to be made.

The Cabinet is responsible for most of the other Major Decisions. The Cabinet usually meets as a Joint Committee with the Cabinet of the Borough Council of Worthing. This Committee is known as the Joint Strategic Committee. The fact that the Cabinet is to make a Key and/or Exempt Decision is published on the Council's website not less than 28 calendar days before the decision is to be made. When such decisions are to be discussed with Council Officers at a meeting of the Cabinet this will be open for the public to attend, except where confidential information or, if determined, exempt matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the Budget or Policy Framework, this must be referred to the Full Council as a whole to decide.

Cabinet Members take individual decisions, within the remit of their portfolios. These decisions are made outside formal meetings following receipt of a written report, with recommendations and advice, from Officers. These individual Cabinet Member decisions are often taken as joint decisions following consultation with the equivalent Cabinet Member of the Borough Council of Worthing.

The Council has put in place procedures to ensure that before such decisions are taken, there is appropriate opportunity for consultation with all interested parties and that the decisions must be recorded, in writing, kept and are available to the public.

The majority of the day-to-day decisions of the Council are delegated to Officers.

#### **1.05 Overview and Scrutiny**

The Council will have at least one Overview and Scrutiny Committee ('OSC') and a Joint Overview and Scrutiny Committee ('JOOSC') with the Borough Council of Worthing which support the work of the Full Council and the Cabinet as well as scrutinising and challenging the decisions of the Cabinet and Officers when appropriate. When they are looking at policy development or reviewing decisions by the Cabinet, the OSC and JOOSC can hold public hearings to receive evidence and opinions from the public, external experts, elected Members and Officers of the Council. Details of how matters can be brought before the OSC are set out in the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution.

The majority of the work of Overview and Scrutiny is carried out by the Joint Overview and Scrutiny Committee with the Borough Council of Worthing.

#### **1.06 ~~Joint Governance Committee~~ Joint Audit & Governance Committee**

The Council has a Joint Audit & Governance Committee with Worthing Borough Council, which is responsible for:

- (a) Promoting and maintaining high standards of conduct by Elected Councillors and Co-opted Members and determining standards matters;
- (b) Overseeing the audit function, annual accounts and the work of internal auditors; and
- (c) For all non-executive functions that are not the responsibility of Full Council or any other non-executive Committee.

#### **1.07 Regulatory Committees**

The Council has the following two Regulatory Committees:

The Planning Committee, which is responsible for the Council's development control functions, determines the more complex or sensitive planning applications, and is responsible for planning enforcement and building regulations. Public involvement in this process is encouraged by the opportunity for the public (applicants and objectors) to make written and oral representations to the Committee on planning applications.

The Licensing Committee, which is responsible for all Non-Executive Licensing functions including those under the Licensing Act 2003 and the Gambling Act 2005.

### 1.08 The Council's Staff

The Council employs staff (called 'Officers') to give professional and practical advice, implement decisions of Members, make and implement delegated decisions and manage the day-to-day delivery of its services. Some Officers, namely the Chief Financial Officer (Section 151 Officer), Deputy Section 151 Officer, Monitoring Officer and Deputy Monitoring Officers, have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol in Part 5 of this Constitution governs the relationships between Officers and Members of the Council.

### 1.09 Citizens' Rights [Error! Bookmark not defined.](#)

The Council welcomes participation by its citizens in its work. Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The Local Citizens' Advice Bureau can advise on individuals' legal rights.

Where members of the public use specific Council services, they have additional rights. These are not covered in this Constitution.

#### Citizens have the right to:

- ~~(a) vote at local elections for Councillors if they are registered;~~
- ~~(b) contact the Council about any matters for which it is responsible;~~
- ~~(c) contact their local Councillor about any matters of concern to them and which are the responsibility of the Council;~~
- ~~(d) obtain a copy of the Constitution;~~
- ~~(e) attend meetings of the Full Council, the Executive and Committees, except where confidential matters are being discussed or it is determined otherwise;~~
- ~~(f) petition to request a referendum on a Mayoral form of governance;~~
- ~~(g) present petitions, ask questions and make statements at meetings of the Full Council, the Executive and Committees in accordance with the relevant rules;~~
- ~~(h) find out, from the 28 Calendar Day Notice of Key and/or Exempt Decisions, what Key Decisions are to be made by the Executive or Officers; when they are to be made and how they can make representation;~~
- ~~(i) see copies of agendas, reports, background papers in relation to Full Council, the Executive and Committees, except those relating to exempt or confidential items;~~
- ~~(j) see any record of decisions or minutes of decisions made by the Full Council, the Executive and Committees, except those relating to exempt or confidential items;~~
- ~~(k) complain to the Council in accordance with its Complaints Procedure;~~
- ~~(l) complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;~~
- ~~(m) complain to the Monitoring Officer if they have evidence which they think shows that a Councillor has not adhered to the Council's Code of Conduct, and~~
- ~~(n)(a) inspect the Council's accounts and make their views known to the external Auditor.~~

Commented [g2]: Repetitive. This is shown in Art.3.

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## PART 2 - ARTICLES OF THE CONSTITUTION

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### Article 1 – The Constitution

#### 1.01 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution. Should there be a conflict between the two, the law will prevail.

#### 1.02 The Constitution

This Constitution, and all its appendices, is the Constitution of the District Council of Adur.

#### 1.03 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations
- (b) support the active involvement of citizens and encourage all sections of the District's communities to be involved in the Council's decision-making processes;
- (c) help Elected Members represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to public account;
- (f) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (g) ensure that those responsible for decision-making are clearly identified to local people and that they explain the reasons for their decisions;
- (h) provide a means of improving the delivery of services to the community;
- (i) balance speedy and reasoned decision-making with adequate checks and balances;
- (j) place high standards of conduct and probity at the centre of decision-making.

#### 1.04 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is most appropriate given the purposes stated above. The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

### Article 2 – Members of the Council

#### 2.01 Composition

The Council comprises 29 Members, otherwise called Councillors. Councillors are elected by the voters of the 14 Wards in the District in accordance with a scheme approved by the Secretary of State.

#### 2.02 Eligibility

Only registered voters of the District or those living or working within the District are eligible to stand as a Councillor. For additional information you should refer to [Sections 79 to 81 of the Local Government Act 1972](#).

### 2.03 Election and Term of Office of Councillors

The Ordinary Election of a half of all Councillors will be held on the first Thursday in May in every second year, or such date as is determined by legislation. A Councillor's term of office is four years starting on the fourth calendar day after being elected and finishing on the fourth calendar day after the date of the local election four years later, unless they have been elected at a by-election, when the term is the remainder of the vacated office they have filled.

### 2.04 Roles and Functions of all Councillors

On accepting office, all Councillors sign a Statutory Declaration of Acceptance of Office. Acceptance of office provides an implied obligation for an Elected Member to comply with the Council's Constitution.

#### a) Key Roles

All Councillors will participate constructively and effectively in the governance of the District and their local area. Councillors will:

- (i) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) Represent their communities and bring the views of their communities into the Council's decision-making process (i.e. become the advocate of and for their communities);
- (iii) Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (iv) Balance different interests identified within their Ward and represent the Ward as a whole;
- (v) Be involved in decision-making;
- (vi) Be available to represent the Council on other bodies; and
- (vii) Maintain the highest standards of conduct, ethics and probity.

More specifically, all Councillors will:

- (i) Participate constructively in the good governance of the area;
- (ii) Develop and maintain a prominent position within the community, which reflects their position as a democratically elected representative of the people within the Ward;
- (iii) Contribute actively to the formation and scrutiny of the Council's policies, budget, strategies and service delivery;
- (iv) Develop and maintain a sound level of working knowledge of the Council's policies and practices generally and in particular in relation to services, plans and policies affecting Committees to which they are appointed or functions which are delegated to them and to their local area;
- (v) Exercise their judgement in the best interests of the Ward for which they were elected, subject to their overriding responsibility to the wider community, and deal with constituents' enquiries and representations;
- (vi) Champion the causes which best relate to the interests and sustainability of the community and campaign for the improvement of the quality of life of the community in terms of equity, economy and environment;
- (vii) Represent the Council on outside bodies as appointed by the Council or its Cabinet;
- (viii) Demonstrate awareness of their corporate parenting role and shared responsibility for understanding the impact of council decisions on, and championing the needs of, children in care and care leavers in the area.

#### b) Key Tasks

A Councillor's key tasks are to:

- (i) Fulfil the statutory requirements of an Elected Member of the Council and the locally determined requirements of the Council itself, including compliance with all relevant codes of conduct and participation in those decisions and activities reserved to the Full Council;
- (ii) Participate effectively as a Member of the Cabinet, any Committee, Sub-Committee or working group to which they are appointed, including related responsibilities for the functions falling within their terms of reference and liaison with other public bodies to promote better understanding and partnership working;
- (iii) Participate, where appointed to do so, in the scrutiny or review of services, and their effectiveness in achieving the Council's strategic objectives;
- (iv) Contribute constructively to open government and democratic renewal and actively encourage local people to participate generally in the governance of the area;
- (v) Participate in the activities of any outside body to which they are appointed, providing two-way communication between the Council and the relevant organisations;
- (vi) Report to the Council annually on the activities of any outside body to which they are appointed;
- (vii) Participate, as appointed, in consultative processes with the community and with other organisations;
- (viii) Develop and maintain a working knowledge of the organisations, services, activities and other factors that impact upon the well-being and identity of the District of Adur;
- (ix) Develop and maintain good and effective working relationships with the Cabinet, Chairs and Vice-Chairs of the Council's Committees and relevant Officers of the Council;
- (x) Represent the local community as requested under the procedures for the Community Call for Action (Local Government Act 2007).

**c) Rights and Duties**

- (i) Councillors will have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it;
- (iii) For these purposes, 'confidential' and 'exempt' information are defined in the Access to Information Rules in Part 4 of this Constitution.
- (iv) Councillors shall not request to inspect any document or have access to any information relating to any matter in which they have a disclosable pecuniary interest unless they have received a dispensation from the Monitoring Officer.
- (v) No Councillor shall have any claim by virtue of their position:
  - to enter any land or buildings occupied by the Council to which the public do not have access, or to which Members of the Council do not regularly have access, except with the permission of the Director responsible for the service of the Council for which the land or buildings are occupied, or the Chief Executive;
  - to exercise any power of the Council to enter or inspect other land or buildings, except where specifically authorised by the Council;
  - to exercise any other powers of the Council.

**2.05 Conduct**

Councillors will, at all times, observe the Members' Code of Conduct and the Member/Officer Protocol as set out in Part 5 of this Constitution.

**2.06 Allowances**

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



## 2.07 Political Groups

Councillors may belong to Political Groups (which are not necessarily the same as political parties). The groups are entitled under the Local Government (Committees and Political Groups) Regulations to nominate Councillors to fill a proportion of the seats on certain Committees of the Council. Under these Regulations, the membership of most Committees, other than the Cabinet, broadly reflect the proportion of Councillors who are Members of each Political Group on the Council. The main principles are:

- (a) That not all the seats on the Committee are allocated to the same Political Group;
- (b) That the majority of the seats on the Committee are allocated to a Political Group if the majority of Councillors on the Council belong to that group;
- (c) Subject to paragraphs (a) and (b) above, the number of seats on each Committee reflects the proportion of Councillors in the various groups.

At meetings of the Full Council, the Cabinet and Committees, individual Councillors may have regard to the views of their Political Group on policy matters, provided that they also take into account all other considerations. However, this would not apply to the determination of individual regulatory applications.

## 2.08 External Representation

The Council recognises the importance of its relationship with the communities it represents and all those who receive its services in order to provide desired outcomes. It achieves these aims in the following ways:

- (a) By recognising the opportunity for the public and external bodies to be involved in its business, through its Committee structure and engagement with the community;
- (b) By making appropriate Councillor appointments to other bodies; and
- (c) By ensuring that the Councillor representative role is meaningful and recognises the needs of the electorate.

## 2.09 Indemnity

The Council shall indemnify each and every Member, co-opted Member and Officer of the Council ('the Beneficiary') on demand from and against all liability for actions, claims, demands, costs, charges and expenses (including legal expenses on an indemnity basis) which may arise out of, or be in consequence of, any action of, or failure to act by, the Beneficiary which is:

- (a) authorised by the Council; or
- (b) forms part of, or arises from, any powers conferred or duties placed upon the Beneficiary as a consequence of any functions being carried on by that Beneficiary but excluding any action of, or failure to act by, the Beneficiary which constitutes a criminal offence or is the result of fraud, deliberate wrong doing or recklessness.

## Article 3 – The Citizen and the Council

### 3.01 Citizens' Rights

The Council welcomes participation by members of the public in its work. A strong democratic council, working collaboratively across Adur, can deliver (and advocate for) the policies and resources that all its citizens need to live a good life within the framework of a strong, creative and vibrant community.

Members of the public who grow up, study, work, live and visit the District have a number of rights in their dealings with the council, including:

- (a) vote at local elections, if they are registered
- (b) contact the Council about any matters for which it is responsible;

- (c) contact their local councillor about any matter of concern to them and which are the responsibility of the Council;
- (d) attend meetings of Council, Cabinet, Scrutiny and Regulatory committees, except where confidential or exempt information is likely to be disclosed;
- (e) find out from the Forward Plan what Major Decisions will be taken and when by Cabinet and officers and how they can make representations;
- (f) sign a petition:
  - i) requesting the establishment of a parish council or similar Community Governance Review<sup>1</sup>
  - ii) requesting a referendum to replace the council's political management model<sup>2</sup>
  - iii) on any matter for which the council's is responsible in accordance with the Council's Petition Scheme set out in Part 5 of the Constitution
- (g) inspect the following documents:
  - i) agendas, public reports, background papers and any public records of decisions made by Council, Cabinet, committees and officers, except those relating to exempt or confidential items
  - ii) the Constitution
  - iii) the Register of Members' Interests
  - iv) the Council's accounts as part of the annual audit and make their views known to the external auditor
  - v) pay and remuneration policies for chief and senior officers
- (h) access other information as set out in the Access to Information Rules
- (i) make complaints about services to:
  - i) the Council, under its customer complaints scheme
  - ii) the Ombudsman, after using the Council's complaints scheme
  - iii) the Monitoring Officer, about alleged breaches of the Member Code of Conduct
  - iv) the Information Commissioner in relation to the Council's actions under the Data Protection Act 1998 and the Freedom of Information Act 2000
- (j) ask questions or address all formal meetings of the Full Council, the Cabinet and Committees, subject to Council Procedure Rules in Part 4 of this Constitution
- (k) attend and speak as part of a deputation at full Council meetings, subject to Council Procedure Rules in Part 4 of this Constitution
- (l) contribute to the discussions investigations by the Overview and Scrutiny Committee and the Joint Overview & Scrutiny Committee at the discretion of the chair of the meeting
- (m) take part in the Council's consultation activities
- (n) initiate a Community Right to Buy, Community Right to Build, Community Right to Bid, Community Right to Challenge or participate in Neighbourhood Planning, as identified by the Localism Act 2011 (see below).

**3.02 — Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules in Part 4 of this Constitution.**

**3.03 —**

**3.04 — Voting and Petitions**

**3.05 —**

**3.06 — Citizens on the Electoral Roll for the area have the right to;**

**3.07 —**

**3.08 — i) — vote in the election of Councillors;**

**3.09 — ii) — sign a petition to request a referendum for an Elected Mayor form of Executive; and**

**3.10 — iii) — vote in referenda.**

**3.11 —**

<sup>1</sup> See the Legislative Reform (Community Governance Reviews) Order 2014

<sup>2</sup> See the Local Authorities (Referendums)(Petitions)(England) Regulations 2011. Every year, the Council will publish details of the number of electors required to instigate a referendum for a change in governance arrangements.

- ~~3.12 Every year, the Council will publish details of the number of electors required to instigate a referendum for an Elected Mayor form of Executive.~~
- ~~3.13~~
- ~~3.14 b) Anyone who lives, works or studies in the District can sign or organise a petition to request particular action. Petitions will be managed and responded to in accordance with the Council's Petition Scheme set out in Part 4 of the Constitution.~~
- ~~3.15~~
- ~~3.16 c) Information~~
- ~~3.17~~
- ~~3.18 Citizens have the right to:~~
- ~~3.19~~
- ~~3.20 i) attend meetings of the Full Council, the Executive, Committees and Sub-Committees, except where confidential or exempt information is likely to be disclosed and it is determined that the meeting is held in private;~~
- ~~3.21 ii) find out from the 28 Day Notice of Key and/or Exempt Decisions and the Full Council's website what Key Decisions will be taken by the Full Council, the Executive and Officers and when;~~
- ~~3.22 iii) see reports, background papers, minutes and any records of decisions made by the Full Council, the Executive, Committees and Sub-Committees, except those that are confidential or exempt; and~~
- ~~3.23 iv) see the decisions relating to Executive functions made by Officers, except where confidential or exempt information is likely to be disclosed;~~
- ~~3.24 v) inspect the Council's accounts and make their views known to the external Auditor (subject to statutory limitations).~~
- ~~3.25~~
- ~~3.26 d) Participation~~
- ~~3.27~~
- ~~3.28 Citizens have the right to present petitions to the Council, in accordance with the Petitions Scheme in part 4 of this Constitution.~~
- ~~3.29~~
- ~~3.30 Citizens may ask questions or address all formal meetings of the Full Council, the Executive and Committees, subject to Council Standing Orders in Part 4 of this Constitution, and can contribute to investigations by the Overview and Scrutiny Committee and the Joint Overview & Scrutiny Committee.~~
- ~~3.31~~
- ~~3.32 e) Complaints~~
- ~~3.33~~
- ~~3.34 Citizens have the right to complain to:~~
- ~~3.35~~
- ~~3.36 i) the Council itself under its complaints scheme;~~
- ~~3.37 ii) the Local Government Ombudsman or the Housing Ombudsman after using the Council's own complaints scheme;~~
- ~~3.38 iii) the Council's Monitoring Officer about an alleged breach of the Councillors' Code of Conduct (details are set out in Part 5 of this Constitution);~~
- ~~3.39 iv) the Information Commissioner in relation to the Council's actions under the Data Protection Act 1998 and the Freedom of Information Act 2000.~~
- ~~3.40~~
- 3.413.02 Citizens' Responsibilities**

Citizens have social responsibilities and the Council's Officers and Members have a legitimate expectation to be treated courteously and with respect. Citizens must not be violent, abusive or threatening to Councillors, Co-opted Members or Officers and must not wilfully harm things owned by the Council, Councillors, Co-opted Members or Officers.

Citizens are entitled to attend public meetings of the Full Council, the Cabinet and Committees, but must comply with the rulings of the Chair. They may not disrupt the meeting or cause undue disturbance or they may be removed from the meeting.

### **3.03 The Community Rights**

The Localism Act 2011 introduced rights and powers for individuals and communities to take over public services, community assets and influence planning and development.

The four community rights are a set of powers that give local people a greater say over how their community develops. They give local people the chance to decide what is built and how their area should develop. Groups of people have the chance to deliver local services and develop them into community enterprises.

**Community Right to Bid - *We want to save our local pub, shop, library, park, football ground***

The Right to Bid allows communities and parish councils to nominate buildings or land for listing by the local authority as an 'asset of community value'. An asset can be listed if its principal use furthers (or has recently furthered) the community's social well-being or social interests (which include cultural, sporting or recreational interests) and is likely to do so in the future.

The council must keep a 'List of Assets of Community Value'. The legislation outlines the definition of an asset of community value, what groups can nominate, the appeals process for land owners, timescales for groups interested in buying land or property on the list, and compensation available to the owners of land or property on the list. The council's list can be found here: [Assets of Community Value and Community Right to Bid - Adur & Worthing Councils \(adur-worthing.gov.uk\)](http://Assets of Community Value and Community Right to Bid - Adur & Worthing Councils (adur-worthing.gov.uk)). If the asset comes up for sale, the community can 'pause' the sale and take up to six months to find the funding required to buy the asset.

Several community organisations can nominate land and buildings for inclusion on the list, provided they have a local connection, which means their activities are wholly or partly concerned with the area, or with a neighbouring authority's area. These include parish councils, neighbourhood forums (as defined in Neighbourhood Planning regulations), unconstituted community groups of at least 21 members and not-for-profit organisations (e.g. charities).

**Community Right to Build - *We want to build affordable housing and other community facilities***

The Right to Build gives communities the power to build new shops, housing or community facilities without going through the normal planning process. It gives local organisations the right to bring forward small-scale community-led developments.

A Community Right to Build Order is a type of Neighbourhood Development Order and forms part of the Neighbourhood Planning provisions in the Localism Act that give parish councils or neighbourhood forums the right to develop plans for their area.

Development proposals in neighbourhood plans and Community Right to Build need to be agreed through an independent examination and have the agreement of 50% of people who vote through a community referendum. Local authorities have a duty to assist and advise community organisations, which are also free to involve partners such as developers or housing associations.

If your community wants to construct or rebuild community buildings such as a community centre or community-led housing, a Community Right to Build Order could be the best route to take.

**Community Right to Challenge - 'We can do this better – I want to deliver a local service and set up a social enterprise'**

The Right to Challenge gives local groups the opportunity to express their interest in taking over a local service where they think they can do it differently and better.

Community Right to Challenge is the right for community organisations to say that they are interested in running a particular public service and potentially get the chance to bid to do this. If a community group, charity, parish council or group of public sector staff identifies a service they would like to run, then they can submit an expression of interest to the council that runs the service. If accepted, this will trigger a procurement exercise. The interested group will then most likely need to compete with others in a competitive tendering process.

**Community Right to Reclaim Land - 'We can use this land in a better way'**

The Community Right to Reclaim Land allows communities to challenge local councils and some other public bodies to release their unused and underused land. As land is held on the behalf of the taxpayer, councils have a duty to use it effectively. This right gives communities the power to ensure that they do so.

Anyone can submit a request to the Secretary of State for Communities and Local Government requesting that the council be directed to dispose of the land so that it can be brought back into use. If it is found that the land is being held without being adequately utilized, and that the council has no plans to bring the land into use, the Secretary of State can direct the council to dispose of the land, usually on the open market.

Submitting requests is a simple and easy process, with request forms and detailed guidance available on the government website.

**Community Asset Transfer**

Community Asset Transfer is the transfer of management and/or ownership of land or buildings from a public body to a community-based organisation, at less than market value, in order to promote social, economic or environmental well-being.

The Community Right to Bid is sometimes confused with Community Asset Transfer. Although they share some of the same objectives, they are substantively different mechanisms that communities can use to acquire land and buildings. The main differences are:

- (a) Community Asset Transfer is the transfer of ownership or management of publicly owned assets, whereas the Community Right to Bid applies to some public and some privately owned assets.
- (b) Community Asset Transfer is the transfer of management or ownership at less than market value. Community Right to Bid gives a window of opportunity for a community group to compete to buy an asset on the open market.
- (c) Community Asset Transfer is a voluntary process entered into proactively by public bodies. The Community Right to Bid is a pre-emptive legal right pertaining to communities.

## **Article 4 – The Full Council**

### **4.01 The Role of the Full Council**

Full Council is the policy-making body from which the Policy Framework will be established. Council has responsibility for ensuring that the correct structures are in place for the effective implementation and delivery of its services. Once the structures are agreed and

appointments made, the Cabinet will be delegated the responsibility of policy implementation and effective service delivery. The election of the Leader and the appointment of Non-Executive Committees will be the responsibility of Full Council.

Each year the Full Council will elect a Chair, who shall not then be a Member of the Cabinet or the Overview & Scrutiny Committee. Each year the Full Council shall appoint a Vice Chair who shall not then be a Member of the Cabinet.

The Full Council shall normally meet six times per year unless a need is identified for any additional meetings.

## 4.02 Meanings

### a) Policy Framework

The Council's Policy Framework comprises the following list of plans and strategies relevant to its functions, [some of] which are required by law<sup>3</sup> to be decided by Full Council, usually on the recommendation of the Cabinet:

The Policy Framework includes the following plans and strategies:

- (a) The Council's Vision and its Key Aims and Objectives (Corporate Plan);
- (b) Plans and strategies which together comprise the Local Development Framework Plan;
- (c) Licensing Authority Policy Statement(2003-Act);
- (d) Gambling Policy: Statement of principles;
- ~~(e) Treasury Management Strategy Statement and Annual Investment Strategy;~~
- ~~(f) Revenue Budget Strategy;~~
- ~~(g) Capital Strategy;~~
- ~~(h) Medium Term Financial Plan;~~
- ~~(i) Sustainable Community Strategy;~~
- ~~(j) Community Safety Strategy;~~
- ~~(k) Housing Strategy;~~
- ~~(l) Parking Strategy;~~
- ~~(m) Cultural Strategy;~~
- ~~(n) Climate Change Strategy;~~
- ~~(o) Coastal Defence Strategy;~~
- ~~(p) Rivers Arun to Adur Flood and Erosion Management Strategy;~~
- ~~(q) Economic Development Strategy;~~
- ~~(r) Health and Safety Enforcement;~~
- ~~(s) Equality Scheme;~~
- ~~(t) E-business Strategy;~~
- ~~(u) [The Plan and Policy Strategy, which comprises the Asset Management Plan];~~
- ~~(v) Code of Corporate Governance;~~
- ~~(w) Procurement Strategy;~~
- ~~(x) Risk Management Strategy;~~

~~(w)(e)~~ Any other plan or strategy (whether statutory or non-statutory) which the Council resolves shall be adopted or approved by it.

Any proposal to amend these plans or adopt policies or take decisions that are not in accordance with them can only be decided by Full Council.

There will, however, be a number of supplementary policies, plans, strategies, operating procedures or protocols that sit under these plans, which do not need to be approved by the Council. Those supplementary documents can be approved by the relevant committee.

<sup>3</sup> Regulation 4 and Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000

**Commented [g3]:** This list of policies requiring Full Council approval appears excessively long. Suggest it be reduced to (a)-(d).

The minimum required by statute are:

- Corporate Plan
- Plans and alterations that together comprise the Local Plan
- Licensing Policy
- Gambling Policy

Plus any other plan or strategy required by law or which the Council determines should be designated as a Policy Framework document and adopted or approved by Full Council

All others can be delegated either to officers or committees to approve.

**Commented [g4]:** Section 100 of the Deregulation Act 2015 repealed section 4 of the Local Government Act 2000. The effect of this is to remove the duty for local authorities to prepare a Sustainable Community Strategy and the linked duty to consult with and seek the participation of their partner authorities and others. The repeal was made as part of the localism agenda and gives local authorities the freedom to decide whether or not a Sustainable Community Strategy is needed for their area. On 13 April 2011 the statutory guidance to local authorities on preparing a Sustainable Community Strategy was withdrawn.

**Commented [g5]:** The current Housing Strategy appears to run from 2020-23, although it is unclear when it was approved by full Council.

**Commented [g6]:** The Parking Strategy was last approved in 2018 by Joint Strategic Committee – NOT full Council.

**Commented [g7]:** It is unclear when the Cultural Strategy was approved by full Council and when it is due to be reconsidered.

**Commented [g8]:** Is it the same as the SustainableAW Framework, which was approved by JSC rather than full Council? Or was it subsumed into the Sustainability Framework, mentioned above?

**Commented [g9]:** There is reference here to a Coastal Defence Strategy having been made in March 2000. It has since been superseded by the Flood and Erosion Management Strategy.

**Commented [g10]:** The latest version of this strategy appears to run from 2010-20. It replaced the Coastal Defence Strategy. There is no later version and no plans to review or update it.

**Commented [g11]:** There is an Economic Strategy that runs from 2018-23 here. Is this the same? When was it approved by full Council?

**Commented [g12]:** Included in Corporate Strategy – remove.

**Commented [g13]:** "This was an update of an existing policy decision made in 2012 - we were in breach of our duties so undertook an update of the existing policy. It needs a complete update (and associated staff and community engagement

**Commented [g14]:** I could find no record of this strategy. Does it exist?

**Commented [g15]:** There is a Property Asset Management Plan here. It is the same. When was it approved by full Council? When is it due for review?

**Commented [g16]:** There is a Sustainable Procurement Strategy here. Is it the same? The latest version was approved by JSC but not by Full Council.

**Commented [g17]:** The Risk and Opportunity Management Strategy isn't annual – it is said to run from 2021-23. It was approved by JSC in Dec 2020, but has not been approved by full Council.

Cabinet, Cabinet Member or Officer with responsibility for the area of operations concerned.

b) **Budget**

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

**4.03 Functions of the Full Council**

The following functions must not be exercised by the Leader/Executive and, where not otherwise delegated, shall be reserved to the Full Council:

- a) ~~To adopt, amend (apart from changes to Part 3 in relation to Executive functions which will be discharged by the Leader/Executive) or suspend the Constitution, in accordance with the provisions of Article 15;~~
  - b) ~~To make proposals and fulfil any duties to change the Council's Executive arrangements, determine whether a Referendum is required and pass a resolution to make such change;~~
  - c) ~~To approve the Council's budget, as defined in Article 4.02(b) of the Constitution;~~
  - d) ~~To approve, amend, revoke or replace any plan or strategy falling within the Council's policy framework (including any decision required for submission to the Secretary of State);~~
  - e) ~~Subject to the urgency procedure contained in the Financial Procedure Rules in Part 4 of this Constitution, to make decisions about any matter in the discharge of an Executive function which is covered by the Financial Procedure Rules or included in the budget, but where the decision-maker is minded to make it in a manner which would be contrary to Financial Procedure Rules or contrary to, or not wholly in accordance with, the budget:
    - ~~where the decision is made under any procedure for the approval of urgent decisions approved by the Council;~~
    - ~~where departures from the budget:
      - i) ~~are not met from external funding, a contingency or reserve set up for the purpose;~~
      - ii) ~~are not met from proven savings elsewhere in the revenue budget and/or exceed £150,000;~~
      - iii) ~~are not met from proven savings in that financial year in the Capital Programme and/or exceed £150,000;~~
      - iv) ~~the new project (whether revenue or capital) is not fully funded by a grant or external contribution already contained in the Council budget and/or the cost of the project exceeds £150,000;~~
      - v) ~~the expenditure has the effect of changing Council policy.~~~~~~
- f) ~~To elect the Chair and appoint the Vice Chair of the Council;~~
- g) ~~To elect and remove the Executive Leader;~~
- h) ~~To approve the Schedule of Ordinary Council Meetings for the forthcoming year;~~
- i) ~~With the exception of the Executive, to appoint and dissolve Committees and determine or amend their Terms of Reference and size;~~
- j) ~~With the exception of the Executive, to determine the allocation of seats on the Council's Committees, and to make appointments to them;~~
- k) ~~To appoint representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Full Council;~~

**Commented [GW18]:** This section has been moved to Part 3, so that all Full Council functions are in one place.

- ~~l) To adopt, revise or replace the Code of Conduct for Councillors and Co-opted Members and arrange for dealing with allegations of misconduct;~~
- ~~m) To determine matters relating to the failure of a Councillor to attend meetings for a period of six months;~~
- ~~n) To make arrangements in accordance with the Officer Employment Procedure Rules in Part 4 of the Constitution for the appointment of Directors, Statutory Chief Officers, non-statutory Chief Officers, the Monitoring Officer and the Deputy Chief Officers;~~
- ~~o) To appoint and dismiss the Chief Executive (Head of Paid Service), Chief Finance Officer and Monitoring Officer;~~
- ~~p) To designate Officers as the Head of Paid Service, Monitoring Officer and Chief Finance Officer;~~
- ~~q) To determine the terms and conditions on which staff hold office, including procedures for their dismissal, unless otherwise delegated;~~
- ~~r) To make appointments to various Independent Person roles; as required by statute;~~
- ~~s) To make all necessary arrangements for the discharge of non-Executive functions through joint arrangements, including the establishment of Joint Committees, Area Committees or delegation to another Local Authority;~~
- ~~t) To authorise the contracting out of non-Executive functions to another body;~~
- ~~u) To accept any delegation of functions from another Local Authority (in relation to both Executive and non-Executive functions);~~
- ~~v) To exercise such local choice functions as may be set out in Part 3 of this Constitution which the Full Council decides should be undertaken by itself, rather than by the Executive or any Committee or Officer;~~
- ~~w) To authorise Co-opted Members to vote at meetings of Scrutiny Committees in accordance with a scheme approved by the Council;~~
- ~~x) To determine all other matters which, by law, must be reserved to the Council or which have not been delegated to any Committee or Officer;~~

#### 4.03 Full Council meetings

There are ~~four~~ **five** types of Full Council meeting:

- (a) Annual meeting
- ~~(b)~~ **(b)** Ordinary meetings
- ~~(b)~~ **(c)** **Budget Setting meeting**
- ~~(e)~~ **(d)** Extraordinary meetings
- ~~(e)~~ **(e)** Special meetings

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

#### 4.04 Responsibility for Functions

The Full Council will determine the responsibilities for the Council's functions which are not the responsibility of the Cabinet. Details are set out in Part 3 of this Constitution.

### Article 5 – Chairing the Council

#### 5.01 Role and Function of the Chair

The Chair will be elected by Council annually. The Chair, and in their absence, the Vice Chair will have the following roles, functions and responsibilities:

- (a) Chairing meetings of Full Council:



- (i) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary, having taken advice from the Head of Legal Services;
- (ii) to preside over meetings of the Full Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (iii) to ensure that the Full Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Cabinet or do not hold Committee Chairs are able to hold the Cabinet and Committee Chairs to account;
- (iv) ensure that meetings of Council are properly constituted and that a quorum is present;
- (v) preserve order in the conduct of those present;
- (vi) preside over meetings of the council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
- (vii) confine discussion within the scope of the meeting and reasonable limits to time;
- (viii) decide whether proposed motions and amendments are in order;
- ~~(ix)~~ decidedetermine the validity of points of order; and
- ~~(x)~~ determine other incidental questions that require decision;
- ~~(xi)~~ ascertain the sense of the meeting by:
  - putting relevant questions to the meeting and taking a vote thereon
  - declaring the result
- ~~(xii)~~ cause a ballot to be taken if demanded;
- ~~(xiii)~~ approve the draft minutes or other record of proceedings;
- ~~(xiv)~~ adjourn the meeting with the consent of those present where circumstances justify it;
- ~~(xv)~~ declare the meeting closed when its business is complete.

v) ~~to be the conscience of the Council.~~

(b) Civic and Ceremonial Role:

The Chair shall be the First Citizen of the District of Adur and shall have the following civic responsibilities:

- (i) to attend such civic and ceremonial functions as the Council and the Chair may determine generally or in appropriate cases;
- (ii) to promote public involvement in the Council's activities;
- (iii) to promote the Council as a whole and act as a focal point for the community;
- (iv) to host functions in order to promote the Council and its interests.

(c) Generally:

The Chair may promote a Chair's Charity Appeal for the charity or charities of their choice during their term of office and will make external arrangements for provision of all the support necessary in relation to their involvement with, or support of, that charity appeal.

## Article 6 – Overview and Scrutiny

### 6.01 Introduction

- (a) Overview and Scrutiny is an important element of the Council's Constitution. The Overview and Scrutiny Committee, Joint Overview and Scrutiny Committee, Sub-Committees and/or panels which may be established from time to time to carry out overview and scrutiny represent powerful public forums through which Councillors can

monitor the implementation of the Council's policies and the quality of its services; make recommendations on the discharge of the Council's functions and/or other matters affecting the District of Adur and hold the Cabinet to account for their decisions and actions;

- (b) Overview and Scrutiny is concerned with the overall wellbeing of the District and all factors affecting this, including not only Council services but those of other agencies and other matters. Overview and Scrutiny is an important mechanism for community Councillors to represent their Wards and are a focus for stakeholder and community involvement;
- (c) This Article outlines the basic elements of the Overview and Scrutiny function. It should be read in conjunction with the Overview and Scrutiny Procedure Rules, which appear at Part 4 of the Constitution and provide a more detailed framework for the operation of Overview and Scrutiny.

**6.02** The Council has appointed an Overview and Scrutiny Committee and jointly with the Borough Council of Worthing, a Joint Overview and Scrutiny Committee to discharge the functions conferred by Section 21 of the Local Government Act 2000 and regulations under Section 32 of the Local Government Act 2000.

### **6.03 General Role**

Within their Terms of Reference, the Overview and Scrutiny Committee and the Joint Overview and Scrutiny Committee may:

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to the Full Council, the Cabinet or any Committee in connection with the discharge of any functions;
- (c) consider and make reports or recommendations to the Full Council, the Cabinet or a Committee on any matters affecting the Council's area or its inhabitants;
- (d) exercise the right, following a Call-In, to ask for reconsideration of decisions made but not yet implemented by the Cabinet;
- (e) perform scrutiny functions relating to crime and disorder and to scrutinise the Adur & Worthing Safer Communities Partnership<sup>4</sup>

The Overview and Scrutiny Committee has 8 Members appointed by the Council and its membership will reflect the political balance on the Council.

The Joint Overview and Scrutiny Committee has 16 Members. The Council appoints 8 Members and the Borough Council of Worthing appoints 8 Members.

All councillors (except members of the Cabinet) may be members of the Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision with which they have been directly involved, or in which they have pecuniary or personal interest, or any other actual or perceived conflict of interest, e.g. a close relationship with a decision-maker.

**Commented [g19]:** Suggestion to avoid actual or apparent bias and conflicts of interest.

### **6.04 Co-opted Members**

The Overview and Scrutiny Committee and the Joint Overview and Scrutiny Committee, their Sub Committees or Working Groups, may, from time to time, co-opt up to two non-voting Members to assist them with a particular matter. A co-opted Member may not sit as a Co-opted Member on both a Cabinet and a Scrutiny Committee when considering the same matter.

<sup>4</sup> s.19 Police and Justice Act 2006 and Crime and Disorder (Overview and Scrutiny) Regulations 2009

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.

## **6.05 Specific Functions**

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

The Overview and Scrutiny Committee and the Joint Overview and Scrutiny Committee may:

- (i) assist the Council and the Cabinet on all issues, including the development of new policies and the review of existing policies and services;
- (ii) assist the Council and the Cabinet in the development of its budget and Policy Framework by in-depth analysis of policy issues;
- (iii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iv) consider all performance, resources and corporate governance issues;
- (v) question Members of the Cabinet about their views on issues and proposals affecting the area; and appoint Panels to assist it with its work;
- (vi) set and monitor the annual scrutiny work programme.

### **b) Scrutiny**

The Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee may:

- (i) review and scrutinise the decisions made by the Cabinet and Council Officers, both in relation to individual decisions and over time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question Members of the Cabinet and Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Cabinet and/or Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).

### **c) Finance**

The Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee may exercise overall responsibility for any finances made available to it.

### **d) Annual report**

The Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee must report annually to Full Council on its workings and make recommendations for future work programmes and amended working methods, if appropriate.

### **e) Officers**

The Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee may exercise overall responsibility for the work programme of any Officers employed to support their work.

## 6.06 Proceedings of the Overview and Scrutiny Committee

The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules, or jointly with the Borough Council of Worthing in accordance with the Joint Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

## 6.07 Greater Brighton Economic Board (Joint Committee) Call-in Panel

The Overview and Scrutiny Committee will appoint one of its Members to be a Member of the Greater Brighton Economic Board (Joint Committee) Call-in Panel, who is not a Member, nor a substitute Member, of the Greater Brighton Economic Board (Joint Committee). The function of this Panel will be to consider decisions made, but not yet implemented, by Greater Brighton Economic Board (Joint Committee), when challenged by a Member of the Board referring such a decision to the Panel.

## Article 7 – The Cabinet

### 7.01 Role

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

### 7.02 Form and Composition

The Cabinet will consist of the Leader, who shall act as Chair of the Cabinet, together with between 2 and 9 other Councillors appointed by the Leader, one of whom the Leader shall appoint as Deputy Leader.

### 7.03 Leader

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:

- (a) They resign from office.  
~~a) they cease to be a Councillor other than on the normal day of their retirement as Councillor; or~~
- ~~b) the next 'Selection meeting' of the Council which is the Annual meeting after the Leader's normal day of retirement as a Councillor; or~~
- (b) They are removed from office by the Council.
- (c) If the Leader in office immediately before the Council elections is re-elected as a councillor within the Political Group having an overall majority of councillors after the elections, then the Leader shall continue in office until the election of a Leader by the Council and may exercise any Executive functions under this Constitution, if necessary.
- (d) If the Leader in office immediately before the Council elections ceases to be a councillor or ceases to be within the Political Group having an overall majority of councillors after the elections, then the Leader shall not continue in office and delegated power is granted to the Chief Executive in cases of genuine urgency to exercise all Executive functions of the Council in consultation with the representative of the largest Political Group of councillors (or groups in the event of a parity of councillors).

### 7.04 Deputy Leader

The Leader shall appoint a Member of the Cabinet to be the Deputy Leader. The Deputy Leader will hold office until:

- (a) they resign from office;
- (b) they cease to be a Councillor; or
- (c) they are removed from office by the Leader, ~~such removal to be notified in writing to the Monitoring Officer and the removal will take place 3 clear working days after receipt of such notice.~~

#### 7.05 Cabinet Members

Other Cabinet Members shall be appointed by the Leader and have delegated to them specific Executive functions. They shall hold office until:

- (a) they resign from office;
- (b) they cease to be Councillors;
- (c) they are removed from office by the Leader, ~~such removal to be notified in writing to the Chief Executive (or Monitoring Officer) and the removal will take place 3 clear working days after receipt of such notice.~~

#### 7.06 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Council's Procedure Rules and the Cabinet Procedure Rules, as set out in Part 4 of this Constitution.

#### 7.07 Responsibility for Functions

The Leader, at their discretion, will determine which individual Members of the Cabinet, Committees of the Cabinet, Ward Members, Officers or joint arrangements are responsible for the exercise of particular Executive functions. The Monitoring Officer will maintain a list setting out such arrangements in Part 3 of this Constitution. The Leader will notify the Monitoring Officer of any appointments, removals or changes to Executive delegations, which shall then be circulated to all Members and take effect immediately which shall take effect 3 working days thereafter.

**Commented [GW20]:** The Local Government and Public Involvement in Health Act 2007 makes provision in section 236 for councils to delegate some of their functions to individual councillors, to allow them to make decisions at a ward level which will bring real improvements to their local areas.

#### ~~Policy Advisers~~

- ~~a) Policy Advisers may be appointed by the Leader to advise Executive Members on any area for which they are responsible.~~
- ~~b) An Executive Member may consult a Policy Adviser before making a decision.~~
- ~~c) A Policy Adviser shall not have power to take decisions on behalf of or affecting the Council.~~

### Article 8 – Non-Executive Decision-Making Committees and Advisory Panels

#### 8.01 Regulatory Committees

The Council will appoint the following Committees:

- (a) Planning Committee;
- (b) Licensing Committee.

#### 8.02 Non-Executive Decision-Making Committees

The Council will, jointly with the Borough Council of Worthing, appoint the following Non-Executive Decision-Making Committees:

- (a) Joint Audit & Governance Committee
- (b) Joint Staff Committee
- (c) Joint Senior Staff Committee
- (d) Joint Senior Staff (Appeals) Committee

#### 8.03 Advisory Panels

The Council will, jointly with the Borough Council of Worthing, appoint the following advisory panels:

- (a) Joint Independent Remuneration Panel.

#### **8.04 Terms of Reference and Procedure Rules**

The terms of reference and delegated powers of the Committees are set out in Part 3 of this Constitution.

The terms of reference of the Joint Audit & Governance Committee should be read in conjunction with the Standards Procedure Rules in Part 4. The terms of reference of the Joint Staff Committee, Joint Senior Staff Committee and Joint Senior Staff Appeals Committee should be read in conjunction with the Officer Employment Procedure Rules in Part 4. The terms of reference for the Planning Committee should be read in conjunction with the Probity in Planning document in Part 5.

The terms of reference and delegated functions of the Joint Independent Remuneration Panel can be found in the Joint Independent Remuneration Panel Procedure Rules in Part 4.

### **Article 9 – Governance**

#### **9.01 Standards**

The Council has established a Joint Audit & Governance Committee with the Borough Council of Worthing.

The Committee will carry out functions delegated to it by the Council in accordance with the Local Government Acts 1972 and 2000 and the Localism Act 2011 including the Standards functions.

#### **9.02 Composition**

##### **a) Political Balance**

The Joint Audit & Governance Committee has to comply with the political balance rules in Section 15 of the Local Government & Housing Act 1989.

##### **b) Membership**

The Joint Audit & Governance Committee is composed of the following:

- (i) Eight Worthing Borough Councillors, only one of whom can be a Cabinet Member;
- (ii) Eight Adur District Councillors, only one of whom can be a Cabinet Member;
- (iii) Up to three persons who are not Councillors nor Officers of the Council nor any other body having a Standards Committee and are appointed as Independent non-voting Co-opted Members ('Independent Persons');
- (iv) One Member of Lancing Parish Council and one Member of Sompting Parish Council (Parish Representatives) appointed as non-voting Co-opted Members to advise the Committee on standards matters relating to a Parish.

##### **c) 'Independent Persons'**

'Independent Persons' are independent non-voting Co-opted Members of the Joint Audit & Governance Committee. Their role and function is to:

- (i) advise and assist the Committee by providing an independent opinion on the matters before the Committee;

- (ii) advise the Monitoring Officer, as consultee, in respect of complaints under the Member Code of Conduct; and
- (iii) advise any Member who is the subject of a complaint under the Member Code of Conduct, (the 'Subject Member'), as a consultee.

Not more than one Independent Person shall advise the Committee in respect of standards matters at any one time.

d) **Parish Representatives**

Parish Representatives will not be entitled to vote at meetings. At least one Parish Representative should be present when matters relating to Parish Councils or their Members are being considered, although a Parish Representative must not advise in any matter affecting the Parish Council or Parish Councillors of the Parish of which they are a Parish Councillor.

e) **Local Determinations**

The Committee may appoint a Sub-Committee, comprising at least two Members of the Council, and at least two Members of Worthing Council and one Independent Person. The Members of the Sub-Committee shall be selected by the Monitoring Officer from the Members of the Joint Audit & Governance Committee.

When considering a complaint in respect of a Parish Councillor the Sub-Committee shall include a Parish Representative.

### 9.03 Role and Function of Members of the Governance Committee

- (a) Promoting and maintaining high standards of conduct by Councillors and Co-opted Members;
- (b) Assisting the Councillors and Co-opted Members to observe the Code of Members' Conduct;
- (c) Advising the Council on the adoption, or revision, or replacement of the Code of Members' Conduct;
- (d) Monitoring the operation of the Code of Members' Conduct;
- (e) Advising, training or arranging for the training of Councillors and Co-opted Members on matters relating to the Code of Members' Conduct;
- (f) Granting dispensations to Councillors and Co-opted Members from requirements relating to interests set out in the Code of Members' Conduct, which have not been dealt with by the Monitoring Officer.
- (g) Hearing and determining allegations that a Member or Co-opted Member of the District Council has failed or may have failed to comply with the Code of Members' Conduct in accordance with the provisions of the Localism Act 2011 and any relevant regulations;
- (h) To co-opt, in an advisory capacity only, any person who is an Independent Person at another Local Authority, to advise the Committee or any Sub-Committee. Such advice to be provided on such terms as the Committee may determine and agree with the person and the Local Authority concerned, and in accordance with the Localism Act 2011 and any relevant regulations;
- (i) To make arrangements for the appointment of two Parish Representatives to advise the Committee on Parish matters;
- (j) To receive an annual report from the Monitoring Officer on the local resolution and assessment of allegations of breaches of the Code of Members' Conduct;
- (k) To support the Monitoring Officer in the exercise of the Officers' Ethical Standards functions, in particular the duty to establish and maintain Registers of Interest for the Council;
- (l) Any other functions imposed by statute;

- (m) The exercise of (g), (j), (k) and (l) above in relation to Parish Councils in the area and Members of those Parish Councils.
- (n) To appoint a Sub-Committee consisting of two elected Members of the Council, two elected Members of Worthing Borough Council, one co-opted Parish Representative (for Parish Matters) and one Independent Person to determine applications for dispensation and complaints following investigations.

## **Article 10 – Joint Arrangements**

### **10.1 Joint Arrangements**

- (a) The Council has established joint arrangements with the Borough Council of Worthing to exercise Non-Executive functions, and to advise the Council. These arrangements include the appointment of Joint Committees with the Borough Council of Worthing.
- (b) The Cabinet has established joint arrangements with the Borough Council of Worthing to exercise Executive functions. These arrangements include the appointment of a Joint Strategic Committee with the Cabinet of the Borough Council of Worthing.
- (c) The Council has established joint arrangements with Brighton & Hove City Council, the Borough Council of Worthing and the District Council of Lewes in relation to the Greater Brighton Economic Region under the City Deal arrangements. These arrangements include the appointment of a Greater Brighton Economic Board (Joint Committee).
- (d) The Council may establish further joint arrangements with the one or more Local Authorities to exercise Non-Executive functions, and to advise the Council. These arrangements may include the appointment of Joint Committees with the other Local Authorities.
- (e) The Cabinet may establish further joint arrangements with one or more other Local Authorities to exercise Executive functions. These arrangements may include the appointment of a Joint Committee with the other Local Authorities.

### **10.2 Arrangements to Promote Well-Being**

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

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

### **10.3 Access to Information**

- (a) The Access to Information Procedure Rules in Part 4 of this Constitution apply.
- (b) If all the Members of a Joint Committee are Members of the Cabinet in each of the participating Authorities then its access to information regime is the same as that applied to the Cabinet.
- (c) If the Joint Committee contains Members who are not on the Cabinet of any participating Authority then the Access to Information Rules in Part V of the Local Government Act 1972 will apply.

### **10.4 Delegation to and from Other Local Authorities**

- (a) The Council may delegate Non-Executive functions to another Local Authority or, in certain circumstances, the Cabinet of another Local Authority.
- (b) The Cabinet may delegate Executive functions to another Local Authority or the Cabinet of another Local Authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another Local Authority shall be reserved to the Full Council.



- (d) The Council has accepted delegations from the South Downs National Park Authority in relation to planning matters.

## 10.5 Contracting Out

The Cabinet may contract out, to another body or organisation, functions which may be exercised by an Officer and which are subject to an Order under Section 70 of the Delegation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making. In the event of such delegation, the decision to contract out shall be reserved to Full Council.

## Article 11 – Officers

### 11.01 Management Structure

#### a) General

The Council may employ such staff (referred to as Officers) as it considers necessary to carry out its functions. The Full Council will confirm the appointment of the Chief Executive (Head of Paid Service), the Chief Finance Officer and the Monitoring Officer. All other staff will be appointed by the Chief Executive or by an individual to whom the Chief Executive has delegated authority. All appointments must be made in compliance of the Officer Employment Procedure Rules in Part 4 of the Constitution.

Adur and Worthing Councils have a Joint Officer Management Structure; some of the areas of responsibility listed in this part of the Constitution may refer only to one Council. The Joint Committee Agreement, as amended, has the definitive roles and responsibilities. Full details of the delegations to Officers can be found in the Joint Scheme of Delegations to Officers, which is included within Part 4 of this Constitution.

#### b) Corporate Leadership Team

The Council will engage persons for the following posts and they will collectively be designated as the Corporate Leadership Team ('CLT'):

- (i) Chief Executive (and Head of Paid Service);
- (ii) Director for Communities;
- (iii) Director for Digital, Sustainability and Resources; and
- (iv) Director for the Economy

#### c) Head of Paid Service, Monitoring Officer and Chief Financial Officer

The Council will designate the following statutory posts as shown:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service, Returning Officer (for Adur, Worthing and Parish elections), Deputy Returning Officer (for West Sussex County Council elections), Acting Returning Officer (for Parliamentary elections) and Electoral Registration Officer (for Police and Crime Commissioner elections).

Head of Legal Services	Monitoring Officer (Section 5 of the Local Government and Housing Act 1989).
Head of Financial Services	Chief Finance Officer (Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1982).

Such posts will have the functions described in Articles 11.02 – 11.04 below.

d) **Structure**

The Chief Executive will, from time to time, report to Full Council on the overall departmental structure of the Council, showing the management structure and deployment of Officers. This is set out at Part 7 of this Constitution and may be amended from time to time by Full Council.

e) **The Council's Pay Policy**

The Chief Executive shall produce The Council's Pay Policy to be approved by Full Council not later than 31 March in each year.

**11.02 Functions of the Head of Paid Service**

a) **Discharge of functions by the Council**

The Head of Paid Service will from time to time report to the Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.

b) **Appointment and dismissal of staff**

The Council has delegated to the Head of Paid Service responsibility for certain staffing matters as set out in the Officer Employment Procedure Rules set out in Part 4 of the Constitution.

On acceptance of appointment all Officers are obliged to comply with the provisions of the Council's Constitution.

c) **Restrictions on functions**

The Head of Paid Service cannot be the Monitoring Officer but may hold the post of Chief Finance Officer, if a qualified accountant.

**11.03 Functions of the Monitoring Officer**

a) **Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is openly available to Members, Officers and the public. The Monitoring Officer has the delegated authority to make minor and consequential amendments to the Constitution at any time.

b) **Ensuring lawfulness and fairness of decision-making**

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council, or to the Cabinet in relation to any Executive decision, if

they consider that any proposal, decision or omission would give rise, or has given rise, to unlawfulness or maladministration or service failure. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

**c) Supporting the Joint Audit & Governance Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Joint Audit & Governance Committee.

**d) Code of Conduct complaints**

The Monitoring Officer will:

- (i) carry out an initial assessment of every allegation that a Member of the Council has failed to comply with the Code of Conduct and, after consulting one of the Independent Persons if necessary, decide whether or not it should be investigated;
- (ii) appoint an Investigator if they decide that a complaint merits formal investigation;
- (iii) review the Investigator's report, in consultation with one of the Independent Persons, and decide either that no further action is required or that the matter should be referred to a Sub-Committee of the Joint Audit & Governance Committee for a hearing.

**e) Proper Officer for Access to Information**

The Monitoring Officer will ensure that all decisions, together with the reasons for those decisions, relevant Officer reports and background papers, are made publicly available as soon as possible. The Monitoring Officer will be the Proper Officer for determining whether information should be exempt.

**f) Providing advice**

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions and maladministration issues to all Members.

**g) Restrictions on posts**

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

**11.04 Functions of the Chief Finance Officer**

**a) Ensuring lawfulness and financial prudence of decision-making**

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council, or to the Cabinet in relation to a Cabinet function, and the Council's external Auditor, if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.

**b) Administration of Financial Affairs**

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

**c) Contributing to Corporate Management**

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

**d) Providing Advice**

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and Policy Framework issues to all Members and will support Council.

**e) Providing Financial Information**

The Chief Finance Officer will provide financial information to the media, members of the public and the community.

**f) Advising whether Executive decisions are within the budget and the Financial Regulations.**

The Chief Finance Officer is responsible for advising whether Executive decisions are within the Financial Regulations and whether funding for such decisions is within the budget.

**g) Restriction on Functions**

The Chief Finance Officer shall not be the Monitoring Officer, but may be the Head of Paid Service.

**11.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

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

**11.06 Conduct**

Officers will comply with the Officers' Code of Conduct set out in Part 5 of this Constitution.

**11.07 Employment**

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

## **Article 12 – Decision-Making**

**12.01 Responsibility for Decision-Making**

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

**12.02 Principles of Decision-Making**

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

- (a) there should be clarity of aims and desired outcomes;
- (b) all decisions shall be in accordance with [the Budget and Policy Framework, Finance, Contract and all other Procedure Rules, statutory requirements, guidance and codes of practice](#);
- (c) proper regard should be paid to the outcome of any internal or external consultation;

- (d) a presumption in favour of openness, accountability and transparency;
  - (e) assessing the impact on there should be respect for human rights, equality, diversity and sustainability;
  - (f) proportionality (i.e. the action must be proportionate to the desired outcome);
  - (g) there should be an explanation of the alternative options considered;
  - (h) there should be proper and documented records and reasons given for all decisions;
  - (i) take into account all relevant considerations and ignore those which are irrelevant;
  - (j) due consultation and proper advice is taken from Officers and consideration of alternative options before decisions are reached;
  - (k) impartiality and an absence of bias, pre-determination or conflicts of interest;
  - (l) any interests are properly declared;
  - (m) decisions are proportionate to the desired outcome;
  - (n) a presumption in favour of transparency and openness.
- ~~a) clarity of aims and desired outcomes.~~

In exercising discretion, the decision-maker must:

- (a) understand the law that regulates the decision-making power and gives effect to it. The decision-maker must direct itself properly in law;
- (b) take into account all relevant matters (those matters which the law requires the Authority as a matter of legal obligation to take into account);
- (c) leave out of account irrelevant considerations;
- (d) act for a proper purpose, exercising its powers for the public good;
- (e) not reach a decision which no Authority acting reasonably could reach (also known as the 'rationality' or 'taking leave of your senses' principle);
- (f) comply with the rule that Local Government finance is to be conducted on an annual basis, save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- (g) act with procedural propriety in accordance with the rules of fairness.

To be lawful, a decision:

- (a) If taken in Full Council, Cabinet, Committee, Sub-Committee or Joint Committee, must comply with the principle of being reached by a majority of Councillors present and voting, at a properly constituted meeting;
- (b) Be one which the decision-maker is empowered or obliged to take, otherwise it is ultra vires;
- (c) If intended to secure action (as opposed, for example, to a resolution merely expressing the Council's collective view on an issue), be capable of execution, or it will be of no effect; and
- (d) Not purport to undo what has already been done irrevocably (but it can rescind an earlier decision where this is feasible).

There can be no substitute for appropriate advice on a matter-by-matter basis. This guidance cannot be, and does not purport to be, comprehensive or replace that professional advice.

### 12.03 Types of decision

#### a) Decisions reserved to Full Council

Decisions relating to the functions listed in Article 4.03 will be made by the Full Council and not delegated.

#### b) Key Decisions

Certain Executive decisions are 'Key Decisions' within the terms of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000. These are decisions which are likely either:

- (i) to result in the Council incurring expenditure which is, or the making of savings which are, significant, having regard to the Council's budget for the service or function to which the decision relates, which the Council has currently determined to be:
  - A) Capital schemes, within the approved Capital Programme, in excess of £250,000; or
  - B) the letting/re-letting of contracts of value of £100,000 or more over the period of the contract, where provision has been made in the approved budget; or
  - C) expenditure in addition to the approved budget, requiring virement or a supplementary estimate in excess of £100,000;

or:

- (ii) to be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the wider area of Adur District Council and Worthing Borough Council jointly.

In interpreting after the event whether or not a decision should or should not have been classified as a Key Decision, the following will be taken into account:

- (i) The issue must be assessed on the basis of the information which could reasonably have been available to the decision-maker at the time;
- (ii) The 'de minimis' rule<sup>5</sup> will be applied;
- (iii) The level and nature of advice sought by the decision-maker. The Monitoring Officer and Chief Financial Officer will have significant roles to play in this.

A decision-maker may only make a Key Decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

No treasury management decisions, as defined by the Chief Financial Officer, shall be deemed to be Key Decisions.

**Major Decisions** are decisions which are not Key Decisions and are not Administrative Decisions.

**Administrative Decisions** are decisions that are ancillary to the delivery of the function such as the:

- (a) ordering of stationery;
- (b) publication of statutory notices; or
- (c) deployment of staff.

#### **12.04 Decision-Making by the Full Council**

Subject to Article 12.08, the Full Council will follow the Council's Procedure Rules relating to the Council in Part 4 of this Constitution when considering any matter.

#### **12.05 Decision-Making by the Cabinet**

Subject to Article 12.08, the Cabinet will follow the Cabinet Procedure Rules relating to the Cabinet in Part 4 of this Constitution when considering any matter.

#### **12.06 Decision-Making by Overview and Scrutiny**

<sup>5</sup> 'De minimis' means that (in this context) this rule does not apply to trifling, minor or insignificant variations, departures or breaches.

Subject to Article 12.08 the Overview and Scrutiny function will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.07 Decision-Making by Other Committees**

Subject to Article 12.08, other Council Committees and Sub-Committees will follow those parts of the Council's Procedure Rules set out in Part 4 of this Constitution as apply to them.

#### **12.08 Decision-Making by Council bodies acting as tribunals**

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

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

#### **13.01 Financial Management**

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

#### **13.02 Contracts**

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

#### **13.03 Legal Proceedings**

The Head of Legal Services is authorised to institute, defend, participate in, prosecute or settle any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where they consider that such action is in the Council's best interests. The Head of Legal Services may delegate this authority to a suitably qualified Officer or a suitably qualified external provider.

#### **13.04 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal Services or another person authorised by them, unless any enactment otherwise authorises or requires.

All contracts entered into on behalf of the Council in the course of the discharge of a Cabinet or Non-Executive function shall be made in writing and signed in accordance with the Contract Procedure Rules in Part 4 of this Constitution.

Any contract with a value exceeding £100,000 entered into on behalf of the Council in the course of the discharge of a Cabinet or Non-Executive function shall be made in writing and must either be signed by at least two Officers of the Council, or made under the Common Seal of the Council attested by at least one Officer, in accordance with the Contract Procedure Rules in Part 4 of this Constitution.

#### **13.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal Services or by any other person duly authorised by them, who is employed by the Council and authorised in writing. The Head of Legal Services may additionally arrange for the Chair to attest the Common Seal where this is desirable for civic or ceremonial reasons.

The Monitoring Officer may adopt such means of sealing as from time to time they consider appropriate. This may include allowing electronic sealing in accordance with section 7A(1) of the Electronic Communications Act 2000 (as may be amended from time to time). Affixing of an electronic seal approved in this way shall be of the same legal effect as affixing the Common Seal of the Council (provided that where a witness is required, the additional formalities for witnessing the electronic execution are complied with).

**Commented [GW21]:** To make provision for electronic sealing.

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

### **14.01 Duty to Monitor and Review the Constitution**

The Joint Audit & Governance Committee will monitor and review the operation of the Constitution to ensure that its aims and principles are given full effect.

### **14.02 Protocol for Monitoring and Review of the Constitution by the Monitoring Officer**

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

- (a) observe meetings of different parts of the Member and Officer structure;
- (b) undertake an audit of a sample of decisions;
- (c) record and analyse issues raised with them by Members, Officers, the public and other relevant stakeholders; and
- (d) compare practices in this Council with those in other comparable Councils, or with national examples of best practice.

### **14.03 Changes to Constitution**

#### **a) Approval**

Changes to the Constitution arising either from a review, a motion from Council or from the Monitoring Officer will only be approved by the Full Council after consideration of the proposal by the Joint Audit & Governance Committee.

#### **b) Minor or inconsequential changes**

The Monitoring Officer has delegated authority to update the Constitution arising from decisions of the Council or Cabinet or where legislation requires a change in wording or terminology, such changes to be reported to Members of the Joint Audit & Governance Committee. The Monitoring Officer also has delegated authority to make 'de minimis' changes to the Constitution, without the requiring of such reporting.

#### **c) Change in the form of Executive**

Special procedures apply to changes in the form of Executive including (but not limited to) binding referendums when the law requires.



d) **Delegations**

Where a delegation is made to an Officer by the Council, to last six months or more, that delegation may need to be reflected within the Constitution (normally Part 3 or one of the Appendices), in which case the Monitoring Officer has authority to update the Constitution to reflect that change.

e) **Changes that are predominantly managerial in their nature**

The Monitoring Officer has the authority to amend the Constitution in relation to matters that are predominantly managerial in their nature where there is agreement from the other two Statutory Officers, namely the Chief Executive (Head of Paid Service) and the Chief Financial Officer, and where the matter has been subject to consultation with the appropriate Members (normally the relevant Cabinet Member and opposition spokespersons). Any such changes will be reported subsequently to Joint Audit & Governance Committee.

f) **Changes arising from changes to Cabinet Portfolios**

The Monitoring Officer has authority to amend the Constitution to reflect decisions of the Leader in relation to the delegation of Executive functions.

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

### **15.01 Suspension or Waiver of the Constitution**

a) **Limit to Suspension**

The Articles of this Constitution may not be suspended or waived. The Standing Orders and Procedure Rules below may be suspended or waived by the Full Council or the Cabinet or any Committee, to the extent permitted within those Standing Orders and Procedure Rules, and the law.

b) **Procedure to Suspend**

A motion to suspend any Standing Order or Procedure Rule in accordance with Article 15.01 must be moved in accordance with the Standing Orders or Procedure Rules. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution as set out in Article 1.

### **15.02 Interpretation**

The person presiding at any meeting shall take into account legal advice in interpreting the Constitution. The ruling of the person presiding at any meeting as to the construction or application of this Constitution in relation to any proceedings of the meeting shall not be challenged at that meeting. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **15.03 Publication**

- (a) On first being elected to the Council, and on an individual declaring their acceptance of office, the Monitoring Officer will make available an electronic or paper copy of this Constitution to each Member.

(b) The Monitoring Officer will ensure that copies are available for inspection at Council Offices, Libraries and other appropriate locations, and that they are available for purchase by members of the local press and the public on payment of a reasonable fee.

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## PART 3 - RESPONSIBILITY FOR FUNCTIONS

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### Commentary

- 1.1 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 specify that all functions are the responsibility of the Cabinet except for:
- (a) Those specified in the legislation as not being the responsibility of the Cabinet;
  - (b) Those which are specified in the legislation as being capable of being the responsibility of the Cabinet (the 'local choice functions'); and
  - (c) Those which are specified in the legislation to be, only to some extent, the responsibility of the Cabinet.

The Cabinet arrangements contained in the Constitution make clear how these distinctions are given effect.

### Principles of Delegation

- 2.1 One of the primary purposes of the Constitution is to make it clear where responsibility for a particular function lies, and which person or body (Full Council, Committee, Sub-Committee, Cabinet (whether acting individually or collectively), Joint Committee, [Ward Member](#) or Officer) is accountable for making a particular decision or not.

Commented [GW22]: See earlier comment.

### 2.2 The Hierarchy of Decision-Making

#### The Full Council

The Full Council will exercise the functions reserved by law to Full Council as set out in Article 4 of this Constitution, and those determined locally to be functions of Full Council, as set out in Sections 3 and 4 of Part 3 of the Constitution.

#### The Cabinet

The Cabinet will exercise the functions set out in Sections 3 and 5 of Part 3 of the Constitution.

#### The Responsibility for Local Choice Functions

The responsibility for local choice functions will be exercised in accordance with Section 3 of Part 3 of the Constitution.

#### Non-Executive Committees

Non-Executive Committees will exercise the functions set out in Section 4 of Part 3 of the Constitution. Committees are able to appoint Sub-Committees. The Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee may appoint Panels or Working Groups from time to time to carry out reviews.

#### Officers

Officers will exercise delegated functions, in accordance with:

- (a) Section 2 of Part 3 of the Constitution (Principles of Delegation);
- (b) Column 4 of the table in Section 4 of Part 3 of the Constitution (Responsibility for Council functions);

- (c) Section 5 of Part 3 of the Constitution (Terms of Reference and Delegated Powers of the Cabinet and Non-Executive Committees);
  - (d) The Scheme of Delegations to Officers in Part 4 of the Constitution;
  - (e) Provisions made elsewhere in the Constitution.
- 2.3 If a function is delegated to the appropriate Director, the Chief Executive may nominate a substitute Director or exercise the delegation themselves, where this would, in the Chief Executive's opinion, be appropriate, provided that the Chief Executive or Director has the requisite professional qualification, experience and knowledge, where such is required.
- 2.4 If a decision falls within the remit of a Cabinet Member described in Section 3 of Part 3 of the Constitution, that Member may take the decision. However, if responsibility overlaps with the portfolios of other Cabinet Members, the decision must be referred to the Cabinet as a whole.
- 2.5 If a decision falls within the remit of a Cabinet Member and that Cabinet Member is unavailable to make the decision or has not made the decision, then the Leader may make the decision in their place.
- 2.6 Limitations and parameters of delegations
- (a) The exercise of a delegated power, duty or function shall be subject to:
    - (i) The Council's Policy Framework and budget; and
    - (ii) The Council's Constitution (including, but not limited to, the Council Standing Orders, Financial Regulations and Contract Procedure Rules) and any corporate standards;
  - (b) All delegated functions shall be deemed to be exercised on behalf of and/or in the name of the Council;
  - (c) An Officer to whom a power, duty or function is delegated may, unless prohibited by the delegation, authorise another Officer to exercise that power, duty or function, subject to a requirement that the seniority of the Officer exercising the power should be of an appropriate level having regard to the nature of the power in question. Such authorisation shall be in writing, copied to the Monitoring Officer, and shall include whether or not the receiving Officer can further delegate.
  - (d) References to any Act, regulation, Order or bylaw shall be construed as including any re-enactment or remaking of the same, whether or not with amendments.
  - (e) Any reference to any Act of Parliament includes reference to regulations, subordinate and EU legislation upon which either UK legislation is based (as amended or replaced from time to time), or from which powers, duties and functions of the Council are derived.
  - (f) Where the exercise of powers is subject to prior consultation with a Cabinet Member or Officer, the consultation shall be in writing, unless due to urgency that is not practicable, in which case there may be oral consultation which must be confirmed, by the Officer undertaking the consultation to the consultee in writing, as soon as reasonably practicable and, in any event, within five working days.
  - (g) Subject to any express instructions to the contrary from the delegating body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.
  - (h) All delegations are subject to:
    - (i) The right of the delegating body to decide any matter in a particular case;
    - (ii) The right of an individual delegatee, in any case, to refer the matter to the delegating body for a decision, rather than exercising their delegation; and
    - (iii) Any restrictions, conditions or directions of the delegating body and of the delegation.
  - (i) In exercising delegated powers, the delegatee shall:

- (i) Take account of the requirements of the Constitution and shall address all legal, financial and other professional safeguards as if the matter were not delegated;
  - (ii) Exercise the delegation so as to promote the efficient, effective and economic running of the Council, and in furtherance of the Council's visions and value;
  - (iii) Ensure that, except where otherwise expressly provided, either within this part of the Constitution or by resolution of the delegating body, the exercise of any delegated power, duty or function is subject to having the appropriate and necessary budgetary provision in place.
- (j) Any post specifically referred to shall be deemed to include any successor post, or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded.
  - (k) Any reference to a Committee shall be deemed to include reference to a successor Committee, provided that the subject matter of a particular delegation can be found within the terms of reference of both the earlier and the successor Committee or Sub-Committee.
  - (l) Where a power or duty is delegated, the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the delegatee in question has the power to determine whether or not those circumstances do exist, or those conditions have been fulfilled, in the name of, and with the authority of, the Council.
  - (m) If a matter is delegated, but that delegation cannot be implemented, that should be reported to the delegating body.
  - (n) Functions, matters, powers, authorisations, delegations, duties and responsibilities, shall be construed in a broad and inclusive fashion, and shall include the doing of anything which is calculated to facilitate, or is conducive, or incidental, to the discharge of anything specified.

### Local Choice Functions

- 3.1 These are functions that could be, but don't have to be, the responsibility of the Cabinet, and whether a function is Executive or Non-Executive, is down to local choice. The Council has determined the decision-maker for local choice functions to be as set out in the table below, but the decision-maker is able to further delegate to Officers in accordance with the Officer Scheme of Delegations in Part 4 of the Constitution.
- 3.2 Where it has been determined locally to be a Non-Executive Function, see Article 4 and the table below. Where it has been determined locally to be a Cabinet function, see Article 7 and the table below.

Function	Local Choice	Decision-Maker
<u>Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1.</u>	<u>Executive</u>	Executive as a whole
<u>The determination of appeals against any decision made by or on behalf of the authority (other than those reserved to a Non-Executive committee)</u>	<u>Executive</u>	Executive as a whole
Any function relating to contaminated land		
(a) to the extent that the function involves the formulation of a strategic policy	Executive	Cabinet Member for the Environment
(b) to the extent that the function does not involve the formulation of a strategic policy	Non-Executive	Governance Committee
Performing any function relating to controlling pollution or managing air quality:	Executive	Cabinet Member for the Environment

(a) to the extent that the function involves the formulation of a strategic policy		
(b) to the extent that the function does not involve the formulation of a strategic policy	Non-Executive	Governance Committee
The service of an Abatement Notice in respect of a statutory nuisance under Section 80(1) Environmental Protection Act 1990	Non-Executive	Governance Committee
The passing of a resolution that Schedule 2 Noise and Statutory Nuisance Act 1993 should apply under Section 8 of the Noise and Statutory Nuisance Act 1993:	Executive	Cabinet Member for the Environment
(a) to the extent that the function involves the formulation of a strategic policy		
(b) to the extent that the function does not involve the formulation of a strategic policy	Non-Executive	Governance Committee
Inspection of the Authority's area to detect any statutory nuisance	Executive	Cabinet Member for the Environment
(a) to the extent that the function involves the formulation of a strategic policy		
(b) to the extent that the function does not involve the formulation of a strategic policy	Non-Executive	Governance Committee
The investigation of any complaints as to the existence of a statutory nuisance	Non-Executive	Governance Committee
Obtaining information from Section 330 of the Town and Country Planning Act 1990 as to interests in land:	Executive	Cabinet Member for the Environment
(a) to the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders		
(b) to the extent that it is necessary to exercise these powers in respect of actions which are not preliminary to the exercise of powers to make compulsory purchase orders	Non-Executive	Planning Committee
Obtaining information about people interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976:	Executive	Cabinet Member for the Environment
(a) to the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders		
(b) to the extent that it is necessary to exercise these powers in respect of actions which are not preliminary to the exercise of powers to make compulsory purchase orders	Non-Executive	Governance Committee
Making agreements for highways works to be carried out	Non-Executive	Governance Committee
The appointment (and revocation of appointment) of any individual:		
(1) to any office other than an office in which they are employed by the Authority;	Executive and Non-Executive	Leader <a href="#">where the appointment relates to Executive powers.</a> The Council where the appointment relates to <a href="#">Non-Executive functions</a>
(2) to any body other than:		
(a) the Authority;		
(b) a Joint Committee of two or more Authorities; or		
(c) to any Committee or Sub-Committee of such a body.		

The making of agreements with other Local Authorities for the placing of staff at the disposal of those other Authorities: (a) to the extent that the staff are being placed at the disposal of the other Authority in relation to the discharge of functions which are the responsibility of the Authority placing the staff	Non-Executive	Governance Committee
(b) to the extent that the staff are being placed at the disposal of the other Authority in relation to the discharge of functions which are not the responsibility of the Authority placing the staff	Executive	Executive as a whole

### Responsibility for Council Functions

- 4.1 Regulation 2 and Schedule 1 Local Authorities (Functions and Responsibilities) (England) Regulations 2000 provides that the following responsibilities may not be the responsibility of the Cabinet and shall be reserved to the Full Council. These functions are therefore all Non-Executive.
- 4.2 The table below should be read in conjunction with the Committee terms of reference in Part 3 and the Officer Scheme of Delegations in Part 4 of the Constitution.

Functions	Service Area with responsibility for Function
To elect the Chair and appoint the Vice Chair of the Council Power to confer the title of honorary alderman or alderwoman (section 249 of the Local Government Act 1972)	Director for Communities
<u>To approve the Schedule of Ordinary Council meetings for the forthcoming year</u>	
<u>With the exception of the Cabinet, to appoint and dissolve Committees and determine or amend their terms of reference and size</u>	
<u>With the exception of the Cabinet, to determine the allocation of seats on the Council's Committees, and to make appointments to them</u>	
<u>To appoint representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Full Council</u>	
<u>To make all necessary arrangements for the discharge of Non-Executive functions through joint arrangements, including the establishment of Joint Committees, Area Committees or delegation to another Local Authority</u>	
<u>To authorise the contracting out of Non-Executive functions to another body</u>	
<u>To accept any delegation of functions from another Local Authority (in relation to both Executive and Non-Executive functions)</u>	
<u>Make rules of procedure, adopt, amend (apart from changes in relation to Executive functions which will be discharged by the Leader/Executive) or suspend the Constitution, in accordance with the provisions of Article 15</u>	Head of Legal Services
Appoint Proper Officers	Head of Legal Services
<u>To make arrangements in accordance with the Officer Employment Procedure Rules in Part 4 of the Constitution for the appointment of</u>	

<u>Directors, Statutory Chief Officers, non-statutory Chief Officers, the Monitoring Officer and the Deputy Chief Officers</u>	
<u>To appoint and dismiss the Chief Executive (Head of Paid Service), Chief Finance Officer and Monitoring Officer</u>	
<u>To designate Officers as the Head of Paid Service, Monitoring Officer and Chief Finance Officer</u>	
<u>To determine the terms and conditions on which staff hold office, including procedures for their dismissal, unless otherwise delegated</u>	
<u>To make appointments to various Independent Person roles; as required by statute</u>	
<u>To approve the Council's budget, as defined in Article 4.02(b) of the Constitution, and Statement of Accounts (Part 3 of the Accounts and Audit Regulations 2015)</u>	Head of Financial Services (Section 151 Officer)
<p><u>Subject to the urgency procedure contained in the Financial Procedure Rules in Part 4 of this Constitution, to make decisions about any matter in the discharge of a Cabinet function which is covered by the Financial Procedure Rules or included in the budget, but where the decision-maker is minded to make it in a manner that would be contrary to Financial Procedure Rules or contrary to, or not wholly in accordance with, the budget:</u></p> <ul style="list-style-type: none"> <li>• <u>where the decision is made under any procedure for the approval of urgent decisions approved by the Council;</u></li> <li>• <u>where departures from the budget:</u> <ol style="list-style-type: none"> <li>i) <u>are not met from external funding, a contingency or reserve set up for the purpose;</u></li> <li>ii) <u>are not met from proven savings elsewhere in the revenue budget and/or exceed £150,000;</u></li> <li>iii) <u>are not met from proven savings in that financial year in the Capital Programme and/or exceed £150,000;</u></li> <li>iv) <u>the new project (whether revenue or capital) is not fully funded by a grant or external contribution already contained in the Council budget and/or the cost of the project exceeds £150,000;</u></li> <li>v) <u>the expenditure has the effect of changing Council policy.</u></li> </ol> </li> </ul>	
<u>To approve, amend, revoke or replace any plan or strategy falling within the Council's Policy Framework (including any decision required for submission to the Secretary of State)</u>	
<u>To approve, amend, revoke or replace the Members' Allowances Scheme and to determine the levels of all allowances payable to Councillors, taking into consideration the recommendations of the Council's Joint Independent Remuneration Panel</u>	Democratic Services Manager
<u>To adopt, revise or replace the Code of Conduct for Councillors and Co-opted Members and arrange for dealing with allegations of misconduct</u>	
<u>To authorise Co-opted Members to vote at meetings of Scrutiny Committees in accordance with a scheme approved by the Council</u>	
<u>To determine matters relating to the failure of a Councillor to attend meetings for a period of six months</u>	



Adoption and revision of the Statement of Licensing Policy (Licensing Act, 2003)	Director for Customer Services
Adoption and revision of the Statement of Gambling Policy (Gambling Act 2005)	Director for Customer Services
<a href="#">To resolve not to issue casino premises licences</a>	
<a href="#">To determine late night levy requirements (Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011, regulations made thereunder and para. 1.4 of Home Office guidance)</a>	
<a href="#">To make an Order identifying a place as a designated public place for the purposes of Police powers in relation to alcohol consumption and designating a locality as an alcohol disorder zone, unless otherwise delegated</a>	
<a href="#">To determine policy in respect of the licensing of Hackney Carriages and Private Hire Vehicles and review such policy upon the recommendation of the Licensing Committee</a>	
Power to make, amend, revoke, re-enact or enforce bylaws (other than those relating to taxis and private hire vehicles)	Head of Legal Services
To promote or oppose local or personal Bills (section 239 of the Local Government Act 1972)	Head of Legal Services
Making a request for single-Member electoral areas	Returning Officer/Electoral Registration Officer
Resolving to <a href="#">consult on and change a scheme for elections and related publicity (sections 33(2), 35, 38(2), 41, 40(2) and 52 of the Local Government and Public Involvement in Health Act 2007)</a>	Returning Officer/Electoral Registration Officer
To make proposals for a change in governance arrangements or complying with a duty to make a change in governance arrangements, approving the proposals, deciding whether the change should be subject to approval and a referendum to make the change, including provision in Executive arrangements for the Cabinet Leader to be removed by resolution and passing a resolution for the removal of the Cabinet Leader (section 81 Local Government and Public Involvement in Health Act 2007)	Head of Legal Services
Making a reorganisation order implementing recommendations of a community governance review (section 81 Local Government and Public Involvement in Health Act 2007)	Head of Legal Services
<a href="#">Functions relating to Electoral Registration and the holding of elections (section 39(4) of the Representation of the People Act 1983)</a>	<a href="#">Returning Officer/Electoral Registration Officer</a>
<a href="#">To pay expenses properly incurred by Electoral Registration Officers (section 54 of the Representation of the People Act 1983)</a>	
<a href="#">The appointment of the Electoral Registration Officer (section 8(2) of the Representation of the People Act 1983) and the Returning Officer for local government elections (section 35 of the Representation of the People Act 1983)</a>	
<a href="#">Assigning officers in relation to requisitions of the Electoral Registration Officer (section 52(4) of the Representation of the People Act 1983)</a>	

<u>To fill vacancies in the event of insufficient nominations at an ordinary election of parish councillors (section 21 of the Representation of the People Act 1985)</u>	
<u>To declare vacancy in office in certain cases (section 86 of the Local Government Act 1972)</u>	
<u>To give public notice of a casual vacancy (section 87 of the Local Government Act 1972)</u>	
<u>To submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000</u>	
<u>To divide constituencies into polling districts (sections 18A to 18E of, and Schedule A1 to, the Representation of the People Act 1983)</u>	
<u>To divide electoral wards into polling districts at local government elections (section 31 of the Representation of the People Act 1983)</u>	
<u>Duties relating to notice to Electoral Commission (sections 36 and 42 of the 2007 Act)</u>	
<u>To alter years of ordinary elections of parish councillors (section 53 of the 2007 Act)</u>	
<u>To change of name of electoral area (section 59 of the 2007 Act)</u>	
<u>To approve the public consultation on any draft proposals relating to a local development plan document (Part 6 of the Town and Country Planning (Local Planning) (England) Regulations 2012)</u>	
<u>To exercise functions in relation to community governance arrangements, including those relating to Parishes and Parish Councils, and to determine any matters relating to the name and status of areas</u>	
<u>To dissolve small parish councils (section 10 of the Local Government Act 1972)</u>	
<u>To make temporary appointments to parish councils (section 91 of the Local Government Act 1972)</u>	
<u>To make orders for grouping parishes, dissolving groups and separating parishes from groups (section 11 of the Local Government Act 1972)</u>	
<u>To exercise such local choice functions as may be set out in Part 3 of this Constitution which the Full Council decides should be undertaken by itself, rather than by the Cabinet or any Committee or Officer</u>	
<u>To determine all other matters which, by law, must be reserved to the Council or which have not been delegated to any Committee or Officer</u>	

## **Terms of Reference and Delegated Powers of Executive and Non-Executive Committees**

### **Non-Executive Committees**

#### **Powers Delegated to Non-Executive Committees**

- (a) Each Committee is authorised to exercise such powers and duties as are delegated to it by the Council and shall act within the plans, policies, strategies and budgets approved by the Council.

- (b) All Committees have power to create such Sub-Committees as are necessary for the efficient conduct of their business.
- (c) The following functions may not be delegated to Non-Executive Committees:
  - (i) to approve any matter which the Council is required by statute to approve;
  - (ii) ~~to decide the major policies or objectives of the Council, and specifically to~~ approve the budget and financial strategies, and the plans and strategies listed in Article 4 under the Policy Framework;
  - (iii) the discontinuance of, or major alterations to, existing services;
  - (iv) amendment to Council Standing Orders, Financial Regulations, Contract Procedure Rules or the Terms of Reference of Committees;
  - (v) to make Major Decisions relating to District, County or other boundaries;
  - (vi) the right to dissolve a Committee or alter its membership or Terms of Reference; and
  - (vii) the appointment of Members to other organisations.

## The Cabinet

### Powers of the Cabinet

- (a) Composition: Between three and ten Elected Members of the Council, including the Leader and Deputy Leader.
- (b) Meetings: Up to twelve Ordinary meetings per year.
- (c) The Cabinet will be the Cabinet arm of the Council with the authority to action policies within the planned strategies and budget approved by the Council.
- (d) The composition of between three and ten Members does not, and is not, required to, follow the rules of proportionality relating to Political Groups.
- (e) The Cabinet Leader ('the Leader'), as elected by Council, shall chair the Cabinet meetings and may designate a portfolio role to each Member of the Cabinet.
- (f) The Leader will appoint Cabinet Members and delegate to them a portfolio as set out in the Terms of Reference to follow. ~~The Leader will notify the Monitoring Officer of any such appointments, removals or changes to the Cabinet or Executive delegations, which shall then be circulated to all Members and take effect immediately. The Leader will notify the Head of Legal Services within two working days of any such appointments, changes to the Executive, or Executive delegations. On at least an annual basis, the Head of Legal Services will advise Council of the Executive structure for its noting.~~
- (g) The Leader may also appoint ~~Policy Advisers~~Portfolio Team Members to assist Cabinet Members.
- (h) The Leader shall prepare the 28 Calendar Day Notice of Key and/or Exempt Decisions to be made by the Cabinet.
- (i) For the avoidance of doubt, any reference to partnerships contained below may not include legally binding partnerships.
- (j) The Cabinet has the power to appoint Members to other organisations, in respect of Executive functions.

### Terms of Reference of the Cabinet:

1. To exercise those Executive functions delegated to it by the Leader.
2. To establish joint arrangements with one or more Local Authorities to exercise functions which are Executive functions, including the delegation or acceptance of a delegation to or from another Local Authority or public agency. Such arrangements may involve the appointment of Joint Committees with these other Local Authorities.
3. To implement policies as determined by Council.
4. To determine Key Decisions.
5. To advise the Council on financial and economic policy, to determine the Council Tax Base and to recommend annually, as determined by statute, proposals for the

- Council Tax. To exercise overall responsibility for the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972.
6. To maintain overall control of the accounts and approved budgets and to consider virement requests in accordance with Financial Regulations.
  7. To determine an itemised asset renewal programme annually as part of the approved capital programme.
  8. To recommend to the Licensing Committee fees and charges relating to licences and registration.
  9. To determine the rent levels for District Housing.
  10. In partnership with other agencies, to review and update as required the Sustainable Community Strategy for the consideration of the Council.
  11. To submit annually to the Council a corporate plan and annual report and to monitor its effectiveness.
  12. (a) to be responsible for the production and review of the Local Plan under the Town & Country Planning Act 1990, consulting the Planning Committee as appropriate and subject to final approval by the Council of:
    - (i) issues, papers and draft policies and proposals prior to public consultation on them; and
    - (ii) the final version of the Local Plan; and
 (b) to prepare supplementary planning guidance, designate conservation areas, areas of archaeological interest and nature reserves, remove permitted development rights through Article 4 directions and undertake other Executive functions under the Town & Country Planning Act which are not carried out by the Planning Committee or otherwise delegated to Officers.
  13. To prepare or consider (new or amended) policies from the Overview and Scrutiny Committee for the consideration of Council.
  14. To exercise the Cabinet powers and duties of the Council under all statutes, regulations and codes of practice relating to the health and safety of Council staff.
  15. To let contracts on behalf of the Council in accordance with Contract Standing Orders.
  16. To oversee the Council's corporate accommodation and to ensure the provision of safe, well-maintained premises to staff and public and to recommend the acquisition and disposal of such property.
  17. To be responsible for the acquisition, management, maintenance, disposal and letting of all property of the Council and to consider the views of the Council before making a compulsory purchase order.
  18. To be responsible for the review and implementation of the Council's Asset Management Plan and Capital Strategy.
  19. To advise the Council on proposals for emergency planning and to ensure an adequate response to incidents affecting the District.
  20. To exercise general control over the information, public relations and publicity services of the Council.
  21. To prepare, approve and implement the Council's ICT Strategy.
  22. To respond on behalf of the Council to external reports and consultation papers.
  23. To authorise exceptions to approved policies only where the particular merits of individual cases justify the exceptions being made.
  24. To authorise the spend of Section 106 monies in accordance with the Financial Regulations, following consultation with the Ward Member.
  25. To appoint appropriate panels and forums to assist to advise the Cabinet in carrying out its functions.
  26. To appoint or nominate persons to outside organisations which relate to functions of the Cabinet.
  27. To review and recommend any updates to the Risk Management Strategy to the Joint Audit & Governance Committee every two years, and to receive and review the annual risk and opportunities management report.

#### Delegation of Executive functions

The Executive Leader may delegate any of its their Executive functions to:

- (a) The Cabinet
- (a)(b) A Committee of the Cabinet;
- (b)(c) An individual Cabinet Member;
- (e)(d) Officers;
- (d)(e) A Ward Member (to the extent that the function is exercisable in relation to their electoral ward); or
- (e)(f) Another body in accordance with joint working arrangements.

#### Cabinet Portfolios

<b>Cabinet Member</b>	<b>Portfolio</b>	<b>Representation on Outside Bodies</b>	<b>Powers of Delegation</b>	<b>Portfolio Team Members</b>
<b><u>Leader</u> <u>Cllr Neil</u> <u>Parkin</u></b>	<ul style="list-style-type: none"> <li>• <u>Overall policy and strategy (vision and priorities).</u></li> <li>• <u>External relations, including complaints management, marketing and promotion.</u></li> <li>• <u>Reputation management, including risk (policy).</u></li> <li>• <u>Performance management, including improvement plans.</u></li> <li>• <u>Media and communications (internal and external).</u></li> <li>• <u>Democratic Services including committee management.</u></li> <li>• <u>Electoral Services within the remit of the Cabinet.</u></li> <li>• <u>Member Services.</u></li> <li>• <u>Chair of the Council and civic matters.</u></li> <li>• <u>Partnership working (lead).</u></li> <li>• <u>Public consultation, including community engagement and citizens panels.</u></li> <li>• <u>City Deal (Strategic matters)</u></li> <li>• <u>Devolution</u></li> <li>• <u>Insurance</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Greater Brighton Economic Board;</u></li> <li>• <u>Local Government General Assembly</u></li> <li>• <u>District Councils' Network</u></li> <li>• <u>District Councils' Network</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>The Cabinet</u></li> <li>• <u>A committee of the Cabinet</u></li> <li>• <u>An individual Cabinet Member</u></li> <li>• <u>Officers</u></li> <li>• <u>A Ward Member (to the extent that the function is exercisable in relation to their electoral ward)</u></li> <li>• <u>Another body in accordance with joint working arrangements</u></li> </ul>	
<b><u>Deputy Executive Leader and Cabinet Member for Finance &amp; Resources</u></b>	<ul style="list-style-type: none"> <li>• <u>Budgets (including the overall allocation of Revenue and Capital), external funding.</u></li> <li>• <u>Capital programme.</u></li> <li>• <u>Local taxation (benefit fraud (Adur) and appeals against decisions relating to</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Court of the University of Sussex (known as the Sussex Annual Forum)</u></li> <li>• <u>Quayside Youth Centre;</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>The Cabinet as a whole (when acting in the absence of the Leader);</u></li> <li>• <u>Joint Strategic</u></li> </ul>	

<b>Cabinet Member</b>	<b><u>Portfolio</u></b>	<b><u>Representation on Outside Bodies</u></b>	<b><u>Powers of Delegation</u></b>	<b><u>Portfolio Team Members</u></b>
<b><u>Cllr Angus Dunn</u></b>	<p>National Non-Domestic Rate applications).</p> <ul style="list-style-type: none"> <li>• Treasury management, investments, loans, leasing and banking matters.</li> <li>• Property and asset management, facilities management, estates (including Southwick Square shops), property terriers, corporate property (not in other portfolios) and non-housing property repairs.</li> <li>• ICT (client side), telephony and Data Protection, Freedom of Information, information security and web team.</li> <li>• Procurement, including contracts.</li> <li>• Personnel and staffing (where Executive functions), including organisational development, occupational health and learning and development of staff.</li> <li>• Other central support services.</li> <li>• Internal Audit and audit fees.</li> <li>• Digital transformation programme.</li> <li>• In addition, and in the absence of the Leader, the Deputy Leader has overall responsibility for the portfolio of the Cabinet Leader.</li> </ul>	<p>Management Committee</p> <ul style="list-style-type: none"> <li>• South Downs National Park Authority</li> <li>• Southwick Community Association</li> </ul>	<p>Committee (when acting in the absence of the Leader):</p> <ul style="list-style-type: none"> <li>• An Individual Cabinet Member (when acting in the absence of the Leader):</li> <li>• Officers</li> </ul>	
<b><u>Cabinet Member for the Environment &amp; Leisure Cllr Emma Evans</u></b>	<ul style="list-style-type: none"> <li>• Waste collection and recycling.</li> <li>• Street cleaning.</li> <li>• Street-scene, including abandoned vehicles, bus shelters, enforcement, street names and numbering, road name plates, street furniture.</li> <li>• Environmental management and strategy.</li> <li>• Highways liaison.</li> <li>• Cemeteries and burials.</li> <li>• Parks and grounds maintenance, including allotments and dog control.</li> </ul>	<ul style="list-style-type: none"> <li>• PATROL (Parking and Traffic Regulations Outside London) Adjudication Joint Committee</li> <li>• Marlipins Museum</li> <li>• Brighton City Airport Consultative Committee (formerly Shoreham</li> </ul>	<ul style="list-style-type: none"> <li>• Officers</li> </ul>	

Cabinet Member	Portfolio	Representation on Outside Bodies	Powers of Delegation	Portfolio Team Members
	<ul style="list-style-type: none"> <li>• <u>On and off street car parking.</u></li> <li>• <u>Public conveniences.</u></li> <li>• <u>Energy management and sustainability.</u></li> <li>• <u>Transport (maintenance).</u></li> <li>• <u>Cultural Projects and/public entertainment events (not covered by the licensing functions, with a potential attendance of 500) to enhance the District's cultural offer to residents and visitors.</u></li> <li>• <u>Client for South Downs Leisure and management of Adur Leisure facilities and sites.</u></li> <li>• <u>Foreshore management, including beach huts and chalets, beach maintenance.</u></li> </ul>	<u>Airport Consultative Committee)</u>		
<b><u>Cabinet Member for Communities &amp; Wellbeing</u></b> <b><u>Cllr Kevin Boram</u></b>	<ul style="list-style-type: none"> <li>• <u>Community safety anti-social behaviour management, neighbourhood disputes, safer communities.</u></li> <li>• <u>Community development, including cohesion and planning, fuel poverty, wellbeing hubs.</u></li> <li>• <u>Public health, health protection and enforcement, including Food Safety Enforcement Plan.</u></li> <li>• <u>Cross-cutting health issues and NHS liaison.</u></li> <li>• <u>Equalities and diversity.</u></li> <li>• <u>Children and young people, including family intervention project.</u></li> <li>• <u>Partnership working, with voluntary and community organisations (including the Local Strategic Partnership, grants and commissioning).</u></li> <li>• <u>Health and safety and civil contingencies (emergency planning), including business continuity.</u></li> <li>• <u>Wellbeing and development functions for culture, leisure and sport.</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Adur and Worthing Health &amp; Wellbeing Partnership.</u></li> <li>• <u>Adur and Worthing Safer Communities Partnership.</u></li> <li>• <u>Sussex Police and Crime Panel</u></li> <li>• <u>Safeguarding Children Champion Member</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Officers</u></li> </ul>	

<b>Cabinet Member</b>	<b><u>Portfolio</u></b>	<b><u>Representation on Outside Bodies</u></b>	<b><u>Powers of Delegation</u></b>	<b><u>Portfolio Team Members</u></b>
	<p>including the cultural strategy.</p> <ul style="list-style-type: none"> <li>• <u>Police performance and intelligence liaison.</u></li> <li>• <u>Environmental protection, including noise, food hygiene, pest control, air quality.</u></li> </ul>			
<p><b>Cabinet Member for <u>Adur Homes &amp; Customer Services</u></b> <b><u>Cllr Carson Albury</u></b></p>	<ul style="list-style-type: none"> <li>• <u>Customer contacts and services, including Help Points.</u></li> <li>• <u>Housing and Council Tax benefits (Adur).</u></li> <li>• <u>Housing - Housing Revenue Account, ACF Tenants' Services, anti-social behaviour/ neighbourhood disputes in relation to tenants, sheltered housing, leasehold administration, Adur Housing Voice, Adur Talkback, Choice Based Lettings, Community Alarm, Grounds Maintenance and Building Cleaning, Adur Home Service, Temporary Accommodation Management.</u></li> <li>• <u>Housing strategy and housing enabling role; affordable housing provision; housing register need options and advice.</u></li> <li>• <u>Housing – non-Housing Revenue Account - including homelessness and advice (prevention and management), private sector housing and other housing services - choice based lettings, grants (disability and housing).</u></li> <li>• <u>Adur Homes Board</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Adur Homes Management Board</u></li> <li>• <u>Adur and Worthing Homeless Forum</u></li> <li>• <u>Local Government Association - General Assembly</u></li> <li>• <u>South Downs Leisure</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Officers</u></li> </ul>	
<p><b>Cabinet Member for <u>Regeneration &amp; Strategic Planning</u></b> <b><u>Cllr Steve Neocleous</u></b></p>	<ul style="list-style-type: none"> <li>• <u>Economic strategy and development, including regeneration (visitor economy, tourism, Adur Festival, business partnerships, concessions, events and/or projects to encourage or are likely to</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Greater Brighton Economic Board</u></li> <li>• <u>Coastal West Sussex Partnership Board</u></li> <li>• <u>Court of the University of Sussex</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Officers</u></li> </ul>	



<b>Cabinet Member</b>	<b>Portfolio</b>	<b>Representation on Outside Bodies</b>	<b>Powers of Delegation</b>	<b>Portfolio Team Members</b>
	<p>generate viable, sustainable economic gain).</p> <ul style="list-style-type: none"> <li>• <u>Education liaison.</u></li> <li>• <u>Transport planning and infrastructure.</u></li> <li>• <u>Minor amendments to planning policy; Local Development Plans, conservation areas and management plans, development briefs, infrastructure delivery plans.</u></li> <li>• <u>Building control.</u></li> <li>• <u>Coastal West Sussex.</u></li> <li>• <u>Town centre management.</u></li> <li>• <u>Flood prevention, including coastal protection, land drainage and flood protection.</u></li> <li>• <u>Adur Local Plan</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Adur and Worthing Business Partnership</u></li> <li>• <u>Brighton City Airport Consultative Committee (formerly Shoreham Airport Consultative Committee)</u></li> </ul>		

## 5.5 – Executive Leader – Cllr Neil Parkin

### Responsibility for the following functions

- a) Overall policy and strategy (vision and priorities).
- b) External relations, including complaints management, marketing and promotion.
- c) Reputation management, including risk (policy).
- d) Performance management, including improvement plans.
- e) Media and communications (internal and external).
- f) Democratic Services including committee management.
- g) Electoral Services within the remit of the Executive.
- h) Member Services.
- i) Chair of the Council and civic matters.
- j) Partnership working (lead).
- k) Public consultation, including community engagement and citizens panels.
- l) City Deal (Strategic matters)
- m) Devolution
- n) Insurance

### Onward Limits on Delegations

The Executive Leader may delegate to:

1. The Executive as a whole;
2. Joint Strategic Committee;
3. An Individual Executive Member;
4. An Officer.

### Executive Representation on Outside Bodies & Joint Committees

The Executive Leader shall be the Executive Member representative on:

- a) ~~Central Sussex (CenSus) Joint Committee;~~
- b) ~~Greater Brighton Economic Board;~~
- c) ~~Local Government General Assembly;~~
- d)

#### **5.6 Deputy Executive Leader and Executive Member for Resources – Cllr Angus Dunn**

##### **Responsibility for the following delegated functions**

- ~~Budgets (including the overall allocation of Revenue and Capital), external funding.~~
  - ~~Capital programme.~~
  - ~~Local taxation (benefit fraud (Adur) and appeals against decisions relating to National Non-Domestic Rate applications).~~
  - ~~Treasury management, investments, loans, leasing and banking matters.~~
  - ~~Property and asset management, facilities management, estates (including Southwick Square shops), property tenancies, corporate property (not in other portfolios) and non-housing property repairs.~~
  - ~~ICT (client side), telephony and Data Protection, Freedom of Information, information security and web team. Includes the CenSus IT Partnership.~~
  - ~~Procurement, including contracts.~~
  - ~~Personnel and staffing (where Executive functions), including organisational development, occupational health and learning and development of staff.~~
  - ~~Other central support services.~~
  - ~~Internal Audit and audit fees.~~
  - 1. ~~Digital transformation programme.~~
- ~~In addition, and in the absence of the Leader, the Deputy Executive Leader has overall responsibility for the portfolio of the Executive Leader.~~

##### **Executive Representation on Outside Bodies**

~~Member on the CenSus Joint Committee.~~

##### **Onwards Limits on Delegations:**

The Deputy Executive Leader may delegate to:

- a) ~~The Executive as a whole (when acting in the absence of the Leader);~~
- b) ~~Joint Strategic Committee (when acting in the absence of the Leader);~~
- c) ~~An Individual Executive Member (when acting in the absence of the Leader);~~
- d) ~~Officers.~~

#### **5.7 Executive Member for the Environment – Cllr Emma Evans**

##### **Responsibility for the following delegated functions**

- a) ~~Waste collection and recycling.~~
- b) ~~Street cleaning.~~
- c) ~~Street scene, including abandoned vehicles, bus shelters, enforcement, street names and numbering, road name plates, street furniture.~~
- d) ~~Environmental management and strategy.~~
- e) ~~Highways liaison.~~
- f) ~~Cemeteries and burials.~~
- g) ~~Parks and grounds maintenance, including allotments and dog control.~~
- h) ~~On and off street car parking.~~
- i) ~~Public conveniences.~~
- j) ~~Energy management and sustainability.~~
- k) ~~Transport (maintenance).~~

- l) — Cultural Projects and/public entertainment events (not covered by the licensing functions, with a potential attendance of 500) to enhance the District's cultural offer to residents and visitors.
- m) — Client for Adur Community Leisure Ltd and management of Adur Leisure facilities and sites.
- n) — Foreshore management, including beach huts and chalets, beach maintenance.

#### **Onward limits on delegations**

The Executive Member for the Environment may delegate to Officers.

#### **Executive Representation on Outside Bodies**

PATROL Adjudication Joint Committee

### **5.8 — Executive Member for Health & Wellbeing — Cllr Kevin Boram**

#### **Responsibility for the following delegated functions**

- a) — Community safety anti-social behaviour management, neighbourhood disputes, safer communities.
- b) — Community development, including cohesion and planning, fuel poverty, wellbeing hubs.
- c) — Public health, health protection and enforcement, including Food Safety Enforcement Plan.
- d) — Cross-cutting health issues and NHS liaison.
- e) — Equalities and diversity.
- f) — Children and young people, including family intervention project.
- g) — Partnership working, with voluntary and community organisations (including the Local Strategic Partnership, grants and commissioning).
- h) — Health and safety and civil contingencies (emergency planning), including business continuity.
- i) — Wellbeing and development functions for culture, leisure and sport, including the cultural strategy.
- j) — Police performance and intelligence liaison.
- k) — Environmental protection, including noise, food hygiene, pest control, air quality.

#### **Onward Limits on Delegations**

The Executive Member for Health & Wellbeing may delegate to Officers.

#### **Executive Representation on Outside Bodies**

- a) — Adur and Worthing Health & Wellbeing Partnership.
- b) — Adur and Worthing Safer Communities Partnership.
- c) — Waves Ahead: Adur and Worthing Local Strategic Partnership.
- d) — Sussex Police and Crime Panel

### **5.9 — Executive Member for Customer Services — Cllr Carson Albury**

#### **Responsibility for the following delegated functions**

- a) — Customer contacts and services, including Help Points.
- b) — CenSus IT partnership.
- c) — Housing and Council Tax benefits (Adur).
- d) — Housing - Housing Revenue Account, ACF Tenants' Services, anti-social behaviour/neighbourhood disputes in relation to tenants, sheltered housing,

leasehold administration, Adur Housing Voice, Adur Talkback, Choice Based Lettings, Community Alarm, Grounds Maintenance and Building Cleaning, Adur Home Service, Temporary Accommodation Management.

- e) — Housing strategy and housing enabling role; affordable housing provision; housing register need options and advice.
- f) — Housing — non-Housing Revenue Account — including homelessness and advice (prevention and management), private sector housing and other housing services — choice based lettings, grants (disability and housing).
- g) — Adur Homes Board

#### **Onward Limits on Delegations**

The Executive Member for Improved Customer Services may delegate to Officers.

#### **Executive Representation on Outside Bodies**

- a) — Adur Homes Management Board
- b) — Adur and Worthing Homeless Forum

#### **5.10 Executive Member for Regeneration — Cllr Brian Boggis**

##### **Responsibility for the following delegated functions**

- a) — Economic strategy and development, including regeneration (visitor economy, tourism, Adur Festival, business partnerships, concessions, events and/or projects to encourage or are likely to generate viable, sustainable economic gain).
- b) — Education liaison.
- e) — Transport planning and infrastructure.
- d) — Minor amendments to planning policy; Local Development Plans, conservation areas and management plans, development briefs, infrastructure delivery plans.
- e) — Building control.
- f) — Coastal West Sussex.
- g) — Town centre management.
- h) — Flood prevention, including coastal protection, land drainage and flood protection.
- i) — Adur Local Plan

#### **Onward Limits on Delegations**

The Executive Member for Regeneration may delegate to Officers.

#### **Executive Representation on Outside Bodies**

- a) — Greater Brighton Economic Board.
- b) — Coastal West Sussex Partnership Board.
- c) — Court of the University of Sussex.
- e) — Adur and Worthing Business Partnership.

#### **Portfolio Team Members**

Cabinet Members, with the agreement of the Leader, may appoint Portfolio Team Members to support them in their role. Portfolio Team Members cannot exercise Executive functions or substitute for Cabinet Members, including voting at Cabinet or Joint Strategic Committee meetings and taking decisions on behalf of a Cabinet Member. Portfolio Team Members cannot participate in the scrutiny of a decision made by their Cabinet Member.

## Planning Committee

The Planning Committee makes decisions about town planning applications.

### General:

- (a) The Committee is a Committee of the Council appointed by the Council under Section 101(2) of the Local Government Act 1972;
- (b) The Council has arranged under Section 101(1) of that Act for the discharge by the Committee of the Council's functions as are within the Committee's Terms of Reference (set out below);
- (c) Certain functions are delegated by this Committee to Officers. Full details of which may be found in the Officer Scheme of Delegations which can be found in Part 4 of this Constitution;
- (d) Where a function or matter within the Committee's competence has been delegated to an Officer, the Committee may exercise that function/matter concurrently with the Officer to whom it has been delegated;
- (e) The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Council's Constitution;
- (f) The Committee shall consist of 9 Members;
- (g) The Committee shall be quorate with 3 or more Members.

### Terms of reference:

No.	Delegation	Legislation
1.	To be consulted on the draft local development framework	Planning & Compulsory Purchase Act 2004
2.	Power to determine application for planning permission	Sections 59A(1)(b), 70(1)(a) and (b) and 72 of the Town & Country Planning Act 1990
3.	Power to decline to determine an application for planning permission	Section 70A of the Town & Country Planning Act 1990
4.	Power to determine application to develop land without compliance with conditions previously attached	Section 73 of the Town & Country Planning Act 1990
5.	Power to grant planning permission for development already carried out	Section 73A of the Town & Country Planning Act 1990
6.	Duties relating to the making of determinations of planning permissions	Sections 69, 69A, 92 and 96A of the Town and Country Planning Act 1990 and Parts 2- 6 and 8 of the Town & Country Planning (Development Management Procedure) Order 2015 and directions thereunder
7.	Power to determine application for planning permission made by a Local Authority, alone or jointly with another person	Section 316 of the Town & Country Planning Act 1990 and Town & Country Planning General Regulations 1992
8.	Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights	Town and Country Planning (General Permitted Development) Order 1995
9.	Power to enter into agreement regulating development or use of land	Sections 106, 106A and 106BA of the Town & Country Planning Act 1990
10.	Power to issue a certificate of existing or proposed lawful use or development	Sections 191, 192 and 193 of the Town & Country Planning Act 1990
11.	Power to serve a completion notice	Section 94 of the Town & Country Planning Act 1990
12.	Power to authorise entry on to land	Sections 196A, B and C of the Town & Country Planning Act 1990

13.	Power to grant consent for the display of advertisements	Section 220 of the Town & Country Planning Act 1990 and Town & Country Planning (Control of Advertisement) (England) Regulations 2007
14.	To exercise the Council powers and duties relating to advertisement control other than the grant of consent to display advertisements	Town & Country Planning Act 1990
15.	Power to require the discontinuance of a use of land	Section 102 of the Town & Country Planning Act 1990
16.	Power to serve a planning contravention notice, breach of condition notice, stop notice or temporary stop notice	Sections 171C, 171E, 187A and 183(1) of the Town & Country Planning Act 1990
17.	Power to issue an enforcement notice	Section 172 of the Town & Country Planning Act 1990
18.	Power to apply for an injunction restraining a breach of planning control	Section 187B of the Town & Country Planning Act 1990
19.	Power to determine application for hazardous substances consent and related powers	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990
20.	Power to require the proper maintenance of land	Section 215(1) of the Town & Country Planning Act 1990
21.	Power to determine application for listed building consent and related powers and duties	Sections 13, 14, 16, 17 and 33 of the Planning (Listed Buildings and Conservation Areas) Act 1990; regulations 3-6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990; and paragraphs 8, 15 and 26 of Department of the Environment, Transport and the Regions Circular 01/01
22.	Power to determine application for conservation area consent and related powers	Planning (Listed Buildings and Conservation Areas) Act 1990
23.	Duties relating to applications for listed building consent and conservation area consent	Planning (Listed Buildings and Conservation Areas) Act 1990 Arrangements for Handling Heritage Applications
24.	Power to serve a building preservation notice, and related powers	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990
25.	Power to issue a listed building enforcement notice.	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990
26.	Power to acquire a listed building in need of repair and to serve repairs notice	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990
27.	Power to apply for an injunction in relation to a listed building	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990
28.	Power to execute urgent works	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990
29.	Duty to enter land in Part 2 of the brownfield land register	Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017
30.2	The obtaining of information as to interests in land	Town & Country Planning Act 1990
31.3	Power to create footpaths bridleways or restricted byways by agreement	Highways Act 1980
32.3	Power to create footpaths bridleways or restricted byways	Highways Act 1980
33.3	Power to stop up footpaths bridleways or restricted byways (and highways in respect of s118C)	Highways Act 1980
34.3	Power to divert footpaths bridleways or restricted byways	Highways Act 1980

35.3	Power to obtain particulars of persons interested in land, where relevant to the other functions of the committee	Local Government (Miscellaneous Provisions) Act 1976
36.3	To exercise the Council's powers and duties in relation to Hedgerows	Hedgerows Regulations 1997
37.3	To exercise the Council's powers and duties in relation to the preservation of trees	Town & Country Planning Act 1990 and Town and Country Planning (Tree Preservation) (England) Regulations 2012
38.3	To exercise all powers provided under the terms of any delegation arrangements from the South Downs National Park Authority in relation to applications that fall within the South Downs National Park area, within the Borough	
39.3	To make recommendations to Council, where such is considered desirable	
40.3	To make recommendations to the Cabinet in relation to matters of planning policy reserved to the Cabinet, where such is considered desirable	
41.4	To advise the Cabinet on any matters relating to claims and payments or statutory compensation arising from decisions on planning matters	
42.4	In the event that any or all of the above Acts or Statutory Instruments are amended, repealed and re-enacted by another Act or Statutory Instrument, or any of the general functions referred to in 1-5 above become the subject of additional legislation, then all such functions as contained in the new or amending legislation shall be delegated to the Planning Committee unless otherwise determined by Full Council or the new amending legislation provides that they shall be carried out by the Cabinet.	

## Licensing Committee

[The Licensing Committee deals with various applications for licences. Sub-Committees have also been established to deal with the Council's additional licensing responsibilities under the Licensing Act 2003 and the Gambling Act 2005.](#)

### General:

- (a) The Committee is a Committee of the Council appointed by the Council under section 101(2) of the Local Government Act 1972 and under section 6 of the Licensing Act 2003 and the Gambling Act 2005;
- (b) The Council has arranged under section 101(1) of the Local Government Act 1972 and under section 9 of the Licensing Act 2003 and under the Gambling Act 2005 for the discharge by the Committee of the Council's functions as are within the Committees Terms of Reference (set out below);
- (c) Certain functions are delegated by this Committee to Officers. Full details of which may be found in the Officer Scheme of Delegations which can be found in Part 4 of this Constitution;
- (d) Where a function or matter within the Committee's competence has been delegated to an Officer, the Committee may exercise that function or matter concurrently with the Officer to whom it has been delegated;
- (e) The exercise of any function or matter within the Committee's competence is subject to any relevant requirement of the Council's Constitution;

- (f) The Committee may establish one or more Sub-Committees in accordance with the provisions of the Licensing Act 2003; any such Sub-Committees are authorised to discharge all relevant functions under the Licensing Act 2003 and to hear taxi matters.
- (g) The Committee shall consist of 11 Members;
- (h) Substitutes are permissible on the Licensing Committee, except when dealing with an application under the Licensing Act 2003 or the Gambling Act 2005;
- (i) Substitutes are not permitted on Licensing Sub-Committees, other than from the Licensing Committee;
- (j) Cabinet Members are permitted to sit on the Licensing Committee, subject to the requirement that Cabinet Members shall not form the majority of the membership of the Committee.
- (k) The quorum for Licensing Committee shall be 4 or more voting Members.
- (l) A Licensing Sub-Committee shall consist of 3 Members and the quorum for any Licensing Sub-Committee shall be 3 Members;
- (m) Procedures adopted at hearings of the Licensing Committee and its Sub-Committees should be adopted in accordance with the guidance at the Licensing Procedure Rules which can be found in Part 4 of this Constitution;
- (n) The Licensing Committee and its Sub-Committees are authorised to make exceptions to any such procedure where appropriate, subject to complying with all relevant regulations;
- (o) Where an individual exercises a right of appeal against a decision of the Licensing Committee, to the Magistrates' Court, the Council will be represented in such proceedings by their Legal Officers, or their nominated representatives, and the Chair of the Licensing Committee, or Vice Chair in their absence, is expected to attend such hearing.

**Terms of reference:**

Except for matters of policy, the determination of casino premises licences and [decisions to introduce, vary or end the requirement for a late night levy \(which are reserved to Full Council\)](#), to undertake all licensing and gambling functions, powers and duties conferred on the Council under the Licensing Act 2003 and the Gambling Act 2005, including the matters set out below:

No	Delegation	Legislation
<a href="#">1.</a>	<a href="#">Duty to comply with requirement to provide information to Gambling Commission</a>	<a href="#">Section 29 of the Gambling Act 2005</a>
<a href="#">2.</a>	<a href="#">Functions relating to exchange of information</a>	<a href="#">Section 30 of the Gambling Act 2005</a>
<a href="#">3.</a>	<a href="#">Functions relating to occasional use notices</a>	<a href="#">Section 39 of the Gambling Act 2005</a>
<a href="#">4.</a>	<a href="#">Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises</a>	<a href="#">Section 304 of the Gambling Act 2005</a>
<a href="#">5.</a>	<a href="#">Power to make order disapplying section 279 or 282(1) of the 2005 Act in relation to specified premises</a>	<a href="#">Section 284 of the Gambling Act 2005</a>
<a href="#">6.</a>	<a href="#">Power to institute criminal proceedings</a>	<a href="#">Section 346 of the Gambling Act 2005</a>
<a href="#">7.</a>	<a href="#">Power to exchange information</a>	<a href="#">Section 350 of the Gambling Act 2005</a>
<del>4.</del> <a href="#">8.</a>	Powers to license hackney carriages and private hire vehicles	(a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976; (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
<del>2.</del> <a href="#">9.</a>	Powers to license drivers of hackney carriages and private hire vehicles	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976



<del>3-10</del>	Power to license operators of private hire vehicles	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
11.	<a href="#">Power to issue entertainments licences.</a>	<a href="#">Section 12 of the Children and Young Persons Act 1933, section 52 of, and Schedule 12 to, the London Government Act 1963, section 79 of the Licensing Act 1964, sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982</a>
12.	<a href="#">Functions relating to the determination of fees for premises licences</a>	<a href="#">Gambling (Premises Licence Fees) (England and Wales) Regulations 2007</a>
13.	<a href="#">Functions relating to the registration and regulation of small society lotteries</a>	<a href="#">Part 5 of Schedule 11 to the Gambling Act 2005</a>
<del>4-14</del>	Power to fix fares for hackney carriages	Local Government (Miscellaneous Provisions) Act 1976
<del>5-15</del>	Power to license sex establishments	Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982
<del>6-16</del>	Power to license market and street trading	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982
<del>7-17</del>	Power to license and control scrap metal dealers	Scrap Metal Dealers Act 2013
<del>8-18</del>	Power to license persons to collect for charitable and other causes	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939
<del>9-19</del>	Power to make an order to designate a public place under the Criminal Justice and Police Act 2001	Criminal Justice and Police Act 2001
<del>10-21</del>	Power to license premises for acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982
<del>11-2</del>	Power to obtain particulars of persons interested in land, where relevant to the other functions of the Committee	Local Government (Miscellaneous Provisions) Act 1976
<del>12-2</del>	Power to license pleasure boats and pleasure vessels	Section 94 of the Public Health Act (as amended) 1907
<del>13-2</del>	Power to license premises for the breeding of dogs	Animal Welfare Act 2006
<del>14-2</del>	Power to authorise officers to inspect premises for the breeding of dogs	Animal Welfare Act 2006
<del>15-2</del>	Power to register and license premises for the preparation of food	Section 19 of the Food Safety Act 1990
<del>16-2</del>	Power to license land as a caravan site and attach and alter conditions to site licences	Section 3(3) of the Caravan Sites and Control of Development Act 1960
<del>17-2</del>	Power to license dangerous wild animals, power to inspect premises and power to seize and dispose of animals without compensation	Section 1 of the Dangerous Wild Animals Act 1976
<del>18-2</del>	Power to grant consent for the operation of a loudspeaker in streets or roads	Schedule 2 to the Noise Nuisance and Statutory Act 1993
<del>19-2</del>	Power to license and inspect thereafter, pet shops	Animal Welfare Act 2006
<del>20-3</del>	Power to license, and inspection of, riding establishments	Animal Welfare Act 2006

<a href="#">21.3</a>	Power to control use of moveable dwellings	Section 269(1) of the Public Health Act 1936
<a href="#">22.3</a>	Power to license zoos	Section 1 of the Zoo Licensing Act 1981
<a href="#">23.3</a>	Animal welfare powers – entry and search under warrant in connection with offence and inspection of premises and documents	Animal Welfare Act 2006 (all functions insofar as they are non-executive functions)
<a href="#">24.3</a>	Power to determine applications for personal licences.	Part 6 of the Licensing Act 2003
<a href="#">25.3</a>	Power to determine applications for premises licences and club premises certificates.	Part 3 and 4 of the Licensing Act 2003
<a href="#">26.3</a>	Power to determine applications for variation of premises licences and club premises certificates.	Part 3 and 4, Licensing Act 2003
<a href="#">27.3</a>	Power to remove designated premises supervisors.	Licensing Act 2003
<a href="#">28.3</a>	Power to determine applications for transfer of premises licences.	Licensing Act 2003
<a href="#">29.3</a>	Power to review premises licence and club premises certificates.	Licensing Act 2003
<a href="#">30.4</a>	Power to determine pre-subjections to temporary event notices.	Licensing Act 2003
<a href="#">31.4</a>	Where representations have been received and not withdrawn, to determine an application for a premises licence.	Gambling Act 2005
<a href="#">32.4</a>	Where representations have been received and not withdrawn, to determine an application for a variation to a premises licence.	Part 8, Gambling Act 2005
<a href="#">33.4</a>	Where representations have been received and not withdrawn, to determine an application for a transfer to a premises licence.	Part 8, Gambling Act 2005
<a href="#">34.4</a>	Where representations have been received and not withdrawn, to determine an application for a provisional statement.	
<a href="#">35.4</a>	Where representations have been received and not withdrawn, to determine an application for a club gaming or club machine permit.	Gambling Act 2005
<a href="#">36.4</a>	Power to cancel a club gaming or club machine permit.	Gambling Act 2005
<a href="#">37.4</a>	Power to determine to give a counter notice to a temporary use notice.	Gambling Act 2005
<a href="#">38.4</a>	Power to take action after a review has been heard under Section 201	Gambling Act 2005
<a href="#">39.4</a>	Power to issue premises licences and to receive temporary use notices.	Gambling Act 2005
<a href="#">40.5</a>	Power to dis-apply Section 279 and 282(1) of the Act.	Gambling Act 2005
<a href="#">41.5</a>	Power to revoke premises licences for non-payment of fee or dis-apply Section 193 of the Act.	Gambling Act 2005
<a href="#">42.5</a>	Power to determine prize gaming permits.	Gambling Act 2005
<a href="#">43.5</a>	Power to determine licensed premises gaming machine permits.	Gambling Act 2005

### Licensing Regulatory Sub Committee

#### Membership:

3 Members selected on each occasion by the Director for Communities from the members of the Licensing Committee, which shall normally include the Chair or Vice-Chair of that Committee.

#### Terms of reference:

Except for matters of policy, to undertake all licensing functions, powers and duties conferred on the Council (except under the Licensing Act 2003 and the Gambling Act 2005), including the matters set out below:

1. The Council's licensing and enforcement functions relating to individual licences, consents or permits for:
  - (a) hackney carriages and private hire drivers, vehicles, and private hire operators' licences (taxi licences)
  - (b) caravan sites
  - (c) animal welfare
  - (d) street trading
  - (e) public protection
  - (f) sex establishments where the Director for Communities considers the matter merits the Sub-Committee's attention.
2. In particular the Sub-Committee will consider and determine matters relating to licences, permits, approvals, orders, consents or similar authorisations under the above provisions where the Director for Communities considers that the matter merits the Sub-Committee's attention.

### **Licensing Sub Committee**

#### **Membership:**

3 Members and substitutes selected on each occasion by the Director for Communities from the members of the Licensing Committee

#### **Terms of Reference**

1. To determine the following under the Licensing Act 2003, including the imposition of appropriate conditions on Licences:
  - (a) Applications for personal licences – if a Police objection
  - (b) Applications for personal licences with unspent convictions – all cases
  - (c) Applications for Premises Licences/Club Premises Certificates – if an adverse relevant representation subsists\*
  - (d) Applications for provisional statements – if an adverse relevant representation subsists\*
  - (e) Applications to vary Premises Licences or Club Premises Certificates – if an adverse relevant representation subsists\*
  - (f) Applications to vary Designated Premises Supervisors – if a Police objection
  - (g) Applications for transfer of Premises Licences – if a Police objection
  - (h) Applications for Interim Authorities – if a Police objection
  - (i) Applications to review Premises Licences/Club Premises Certificates – if an adverse relevant representation subsists\*
  - (j) Decisions to object when Local Authority is a consultee and not the relevant authority considering the applications – all cases
  - (k) Determinations of an objection to a Temporary Event Notice – all cases

\* Most cases will be considered by a Sub Committee but the Director for Communities may refer the determination of a case to the Licensing Committee instead if they consider it merits their attention

2. To determine the following under the Gambling Act 2005, including the imposition of appropriate conditions on licences:
  - (a) Applications for premises licences – where representations have been received and not withdrawn
  - (b) Application for a variation to a licence – where representations have been received and not withdrawn
  - (c) Applications for a transfer of a licence – where representations have been received and not withdrawn

- (d) Application for a provisional Statement – where representations have been received and not withdrawn
- (e) Review of a premises licence
- (f) Application for club gaming/club machine permits – where objections have been made and not withdrawn
- (g) Cancellation of club gaming/club machine permits
- (h) Decision to give a counter notice to a temporary use notice

**Commented [g23]:** As approved by Adur Licensing Committee 20.6.22.

## Overview and Scrutiny Committee

### General

- (a) The Committee is a committee of the Council appointed by the Council under Section 102(1) of the Local Government Act 1972;
- (b) The Council has arranged under Section 101(1) of that Act for the discharge by the Committee of such of the Council's functions as are within the Committee's Terms of Reference (set out below);
- (c) Certain functions are delegated by this Committee to Officers. Full details may be found in the Officer Scheme of Delegations, which can be found in Part 4 of the Constitution;
- (d) The Committee exercises the scrutiny function of Adur District Council, only in relation to matters which have been specifically reserved to be within the remit of Adur District Council or its Cabinet, rather than being included under joint working arrangements as set out in the Joint Committee Agreement between Adur District Council and Worthing Borough Council, a copy of which can be found in Part 9 of the Constitution.
- (e) Where a functional matter within the Committee's competence has been delegated to an Officer, the Committee may exercise that function or matter concurrently with the Officer to whom it has been delegated;
- (f) The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Council's Constitution; and
- (g) The membership of the Committee is 9 Elected Members;
- (h) The quorum required for this Committee is 5 or more Members.

### Terms of Reference

No.	Power/Function	Legislation
1.	To consider Call-Ins relating to decisions of the Adur Cabinet in relation to an Adur District Council only matter; and	
2.	To exercise the functions set out in Article 6.03-6.05.	

## Joint Overview and Scrutiny Committee

The Council is required to have an overview and scrutiny function which:

- Provides 'critical friend' challenge and holds to account the Executive policy and decision makers
- Drives improvement, finds efficiencies and new ways of delivering services
- Enables the voice and concerns of the public and its communities to be heard
- Will be carried out by councillors in an apolitical and non-partisan manner.

### General

- (a) The Committee is a committee of the Council appointed by the Council under Section 102(1) of the Local Government Act 1972;
- (b) The Council has arranged under Section 101(1) of that Act for the discharge by the Committee of such of the Council's functions as are within the Committee's Terms of Reference (set out below in Article 6);

- (c) The Committee exercises the scrutiny function of both Worthing Borough Council and Adur District Council in relation to all matters other than those specifically reserved to be determined by the individual Councils or their Cabinets.
- (d) Certain functions are delegated by this Committee to Officers. Full details may be found in the Officer Scheme of Delegations which can be found in Part 4 of the Constitution;
- (e) Where a functional matter within the Committee's competence has been delegated to an Officer, the Committee may exercise that function or matter concurrently with the Officer to whom it has been delegated;
- (f) The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Council's Constitution;
- (g) The membership of the Committee is 16 Elected Members (8 appointed by the Council and 8 by the Borough Council of Worthing); and
- (h) The current Chair and Vice Chair of the Council's Joint Overview and Scrutiny Committee will automatically represent the Council on the Greater Brighton Economic Board (Joint Committee) Call-In Panel and be consultees for any Call-In of decisions by the Greater Brighton Economic Board (Joint Committee).

### **Terms of Reference**

- (a) ~~As set out in Article 6.~~

### **Joint Audit & Governance Committee**

The Committee considers internal and external audit matters and issues such as the Council's anti-fraud and risk management arrangements; and is responsible for recommendations to the Full Councils in areas such as constitutional issues, Councillors' allowances, bylaws and elections.

### **General**

- (a) This Committee is a committee of the Council appointed by the Council jointly with Worthing Borough Council under Section 101(5) of the Local Government Act 1972;
- (b) Certain functions are delegated by this Committee to Officers. Full details may be found in the Officer Scheme of Delegations found in Part 4 of the Constitution;
- (c) Where a functional matter within the Committee's competence has been delegated to an Officer, the Committee may exercise that function or matter concurrently with the Officer to whom it has been delegated;
- (d) The exercise of any functional matter within the Committee's competence is always subject to any relevant requirement of the Council's Constitution; and
- (e) The Joint Committee has 16 Elected Members (8 appointed by the Council and 8 by the Borough Council of Worthing) and up to 3 Independent Persons. The Independent Persons will be co-opted non-voting Members of the Committee. The Joint Committee shall also co-opt one Member of Lancing Parish Council and one Member of Sompting Parish Council to advise the Committee on Parish matters, when considering such matters. Parish representatives will not be entitled to vote at meetings.
- (f) The Joint Committee may establish one or more Sub-Committees in accordance with the Localism Act 2011, to determine standards matters, to make appointments of Joint Independent Remuneration Panel members, and to make recommendations to Full Council in respect of appointments of Independent Persons.
- (g) A Sub-Committee will consist of 6 Elected Members (3 appointed by the Council and 3 by the Borough Council of Worthing) and 1 Independent Person. In addition 1 Parish representative may sit on the Sub-Committee when determining a standards matter relating to a Parish Councillor; the Parish Member cannot be from the same Parish as the Subject Member complained of and should be from the other Parish within the District of Adur. The Independent Person and the Parish representative will be co-opted non-voting Members of the Sub-Committee. The quorum of any Sub-Committee shall be 4.
- (h) The Committee and any Sub-Committee should be politically balanced.

- (i) A maximum of one Member of each Council's Cabinet may sit on the Joint Audit & Governance Committee, but they shall not be appointed as Chair or Vice-Chair.
- (j) Substitutes on the Joint Audit & Governance Committee are permitted. Substitutes on any Sub-Committee are only permitted from the Joint Audit & Governance Committee.

**Commented [g24]:** As per CIPFA guidance: A non-executive chair is important in order to promote the objectivity of the committee (especially its audit functions) and to enhance its standing in the eyes of the public.

## Terms of Reference

### Standards, Ethics and Probity

No.	Function/Matter	Legislation
1.	To lead on the Council's duties to design, implement, monitor, approve and review the standards of ethics and probity of the Council and its Councillors and Co-opted Members. The Committee's powers should include responding to consultation documents and the promulgation of Codes of Conduct but the adoption and revision of the local Members' Code of Conduct shall be reserved to the Council.	Chapter 7 of the Localism Act 2011
2.	To promote a culture of openness, ready accountability and probity in order to ensure the higher standards of conduct of Councillors and Co-opted Members.	
3.	To lead on all aspects of corporate governance by promoting the values of putting people first, valuing public service and creating a norm of the higher standards of personal conduct.	
4.	To oversee and manage a programme of guidance, advice and training on ethics, standards and probity for Councillors and Co-opted Members and on the Members' Code of Conduct.	
5.	To be responsible for the Council's Register of Members' Interests and to receive reports from the Monitoring Officer on the operation of the register from time to time.	Section 29, Localism Act 2011
6.	To be responsible for written guidance and advice on the operation of the system of declarations of Members' interests and to receive reports from the Monitoring Officer on the operation of the system of declarations from time to time.	
7.	To establish, monitor, approve and issue advice and guidance to Councillors and Co-opted Members on a system of dispensations to speak on, or participate in, matters in which they have interests and give dispensation in appropriate cases. Granting dispensations to Councillors and Co-opted Members from requirements relating to interests set out in the Code of Members' Conduct and the Localism Act 2011, in circumstances where the Monitoring Officer does not exercise their discretion.	Section 33 of the Localism Act 2011.
8.	To exercise the functions of the Council in relation to the ethical framework, corporate governance and standards of conduct of joint committees and other bodies.	
9.	To establish a Standards Sub-Committee to receive reports following investigation on behalf of the Monitoring Officer into allegations of misconduct by Members and to determine appropriate action in respect of alleged breaches of the Members' Code of Conduct.	
10.	To support the Monitoring Officer and Chief Financial Officer (Section 151 Officer) in their statutory roles and the issuing of guidance on them from time to time.	
11.	To receive regular reports on the performance of the Corporate Complaints Process, Local Government Ombudsman referrals, Annual Governance Statement and Code of Corporate Governance and to recommend revisions to related policies and procedures, as appropriate.	
12.	To ensure adequate training and development for Elected Members.	
13.	To co-opt in an advisory capacity, any person who is an Independent Person at another Local Authority, to advise the Joint Audit & Governance Committee or its Sub-Committee, on such terms as the Joint Audit & Governance Committee may determine.	
14.	To receive an annual report from the Monitoring Officer on the local resolution and assessment of allegations of breach of the Member Code of Conduct, by Members of the Council, and any Parish Council in the District of Adur.	

15.	Dealing with allegations that a Member of a Parish Council within the District of Adur has failed or may have failed to comply with the relevant Parish Code and conduct, in accordance with the provisions of the Localism Act.	
16.	Any other functions imposed by statute.	

#### Audit and Accounts Activity

No.	Power/Function	Legislation
1.	To consider the Head of Internal Audit's Annual report and opinion and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.	
2.	To consider reports dealing with the management and performance of the providers of internal audit services.	
3.	To consider reports on the Internal Audit on the recommendations agreed with the Heads of Service which have not been implemented within a reasonable timescale.	
4.	To consider the External Auditor's Annual Letter, relevant reports (both financial and strategic), and the report of those charged with governance.	
5.	To consider specific reports as agreed with the External Auditor.	
6.	To comment on the scope and depth of external audit work and to ensure it gives value for money.	
7.	Power to undertake the Council's responsibilities with regard to External Auditors under Part 3 of the Local Audit and Accountability Act 2014.	
8.	To commission work from Internal and External Audit.	
9.	To review the Annual Statement of Accounts with specific emphasis on whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.	
10.	To receive Risk and Opportunity update reports three times a year.	
11.	<u>To report on internal and external audit activities in the previous fiscal year to both Adur and Worthing Full Councils on an annual basis.</u>	

#### Constitutional Framework

No.	Power/Function	Legislation
1.	To monitor and review the operation of the Council's Constitution particularly in respect of financial procedures and protocols, codes of conduct and behaviour (including the Members' Code of Conduct), procurement procedures and guidelines	
2.	To review any issue referred to it by the Chief Executive, a Director, or any Committee of the Council	
3.	To monitor the effective development and operation of risk management and corporate governance in the Council	
4.	To implement, monitor and review the Council's Whistle-Blowing Procedure, Anti-Money Laundering Policy, Anti-Fraud and Corruption Policy and the Council's complaints procedure	
5.	To oversee the production of the Council's Statement on Internal Control and to recommend its adoption	
6.	To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice	
7.	To consider the Council's compliance with its own and other published standards and controls	
8.	Considering the annual report regarding complaints about the Council referred to the Local Government Ombudsman	
9.	To appoint persons to the role of members of the Joint Independent Remuneration Panel and to make recommendations to Full Council as to the appointment of Independent Persons for Standards purposes	

## Other

No.	Power/Function	Legislation
1.	To determine matters relating to functions which are not executive functions and are not the responsibility solely of Council or any other Committee.	
2.	To receive a report from the Joint Independent Remuneration Panel and make recommendations to Council.	

## Joint Staff Committee

### General

- (a) The Committee is a committee of the Council appointed by the Council under Section 102(1) of the Local Government Act 1972;
- (b) The Council has arranged under Section 101(1) of that Act for the discharge by the Committee of such of the Council's functions as are within the Committee's Terms of Reference (set out below);
- (c) Certain functions are delegated by this Committee to Officers. Full details may be found in the Officer Scheme of Delegations which can be found in Part 4 of the Constitution;
- (d) Where a functional matter within the Committee's competence has been delegated to an Officer, the Committee may exercise that function or matter concurrently with the Officer to whom it has been delegated;
- (e) The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Council's Constitution; and
- (f) The membership of the Committee is 6 Elected Members (3 appointed by the Council and 3 appointed by the Borough Council of Worthing).

### Terms of Reference

No.	Function/Duty	Legislation
1.	Power to determine the terms and conditions on which all staff other than the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, hold office (including employment procedures).	Section 112 of the Local Government Act 1972. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
2.	The making of agreements with other Local Authorities for the placing of staff for the disposal of those other Authorities, to the extent that the staff are being placed at the disposal of the other Authority in relation to the discharge of functions which are not the responsibility of the Cabinet placing the staff.	Section 113(4) and (5), Local Government Act 1972
3.	Functions relating to Local Government pensions etc.	Regulations under Section 7, 12 and 24 of the Superannuation Act 1972

## Joint Senior Staff Committee

### General

- (a) The Committee is a committee of the Council appointed by the Council under Section 102(1) of the Local Government Act 1972;
- (b) The Council has arranged under Section 101(1) of that Act for the discharge by the Committee of such of the Council's functions as are within the Committee's Terms of Reference (set out below);



- (c) Certain functions are delegated by this Committee to Officers. Full details may be found in the Officer Scheme of Delegations which can be found in Part 4 of the Constitution;
- (d) Where a functional matter within the Committee's competence has been delegated to an Officer, the Committee may exercise that function or matter concurrently with the Officer to whom it has been delegated;
- (e) The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Council's Constitution; and
- (f) The membership of the Committee is 6 Elected Members (3 appointed by the Council and 3 appointed by the Borough Council of Worthing);
- (g) The Membership of the Committee shall include at least one Cabinet Member and at least one Non-Cabinet Member from each Council.

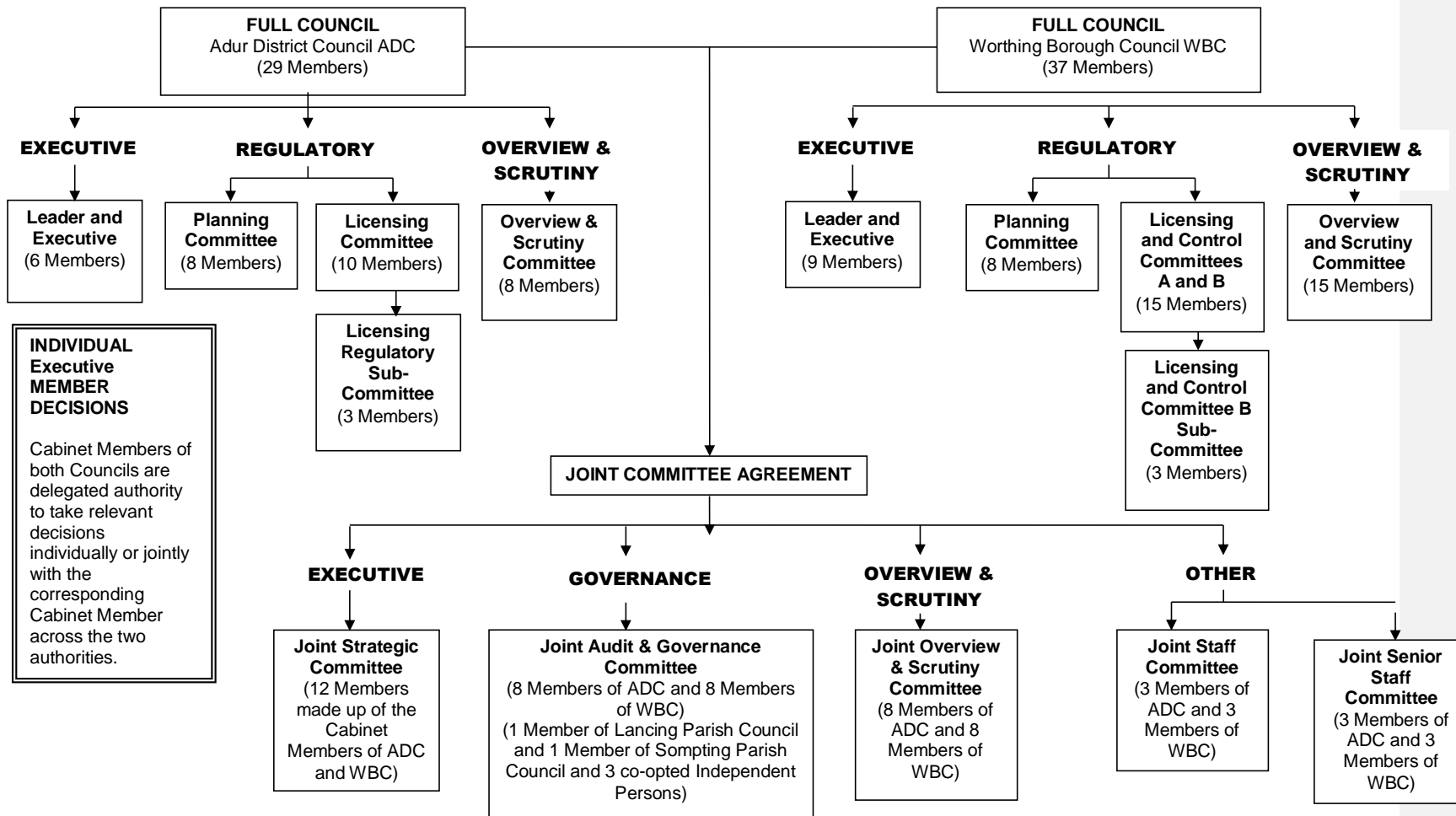
### Terms of Reference

No.	Function/Duty	Legislation
1.	To be responsible for the recruitment and terms and conditions of the Chief Executive (Head of Paid Service), Chief Finance Officer and Monitoring Officer, and make recommendations on any proposed appointment, and terms and conditions, to the Council and Worthing Borough Council.	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
2.	All matters relating to the investigation, hearing and determination of any grievance against or allegation of misconduct by the Chief Executive, Chief Finance Officer or Monitoring Officer, including the appointment of the Independent Panel, the receipt of their report and the implementation of their recommendations. Where the Panel's recommendation is to dismiss the Chief Executive, the Chief Finance Officer or the Monitoring Officer, or where the Joint Senior Staff Committee propose to dismiss, the power to approve any proposed dismissal is reserved to Full Council.	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
3.	<u>To be responsible for the function of the appointment of Non-Statutory Chief Officers and Deputy Chief Officers.</u>	<u>Local Authorities (Standing Orders) (England) Regulations 2001</u>

### Officers

#### General

- (a) Certain Officers of the Council have responsibility for decisions delegated to them in accordance with the Officer Scheme of Delegations, which can be found at Part 4 of the Constitution, and expressly delegated to them from time to time by Members, such delegations to be recorded in writing and notified to the Monitoring Officer.
- (b) The Officer Scheme of Delegations may be reviewed and varied from time to time.



**INDIVIDUAL Executive MEMBER DECISIONS**

Cabinet Members of both Councils are delegated authority to take relevant decisions individually or jointly with the corresponding Cabinet Member across the two authorities.

Illustrative A-Z of Service Areas/Cabinet Portfolios & Committees

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Cabinet Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Abandoned Vehicles	Environmental Services	Environment	Regeneration	
Accountancy (technical and strategic)	Financial Services	Resources	Resources	
South Downs Leisure Trust - client role	Director for Communities	Environment	-	
Adur Consultative Forum (ACF)	Housing	Customer Services	-	
Adur Core strategy (now the Local Plan)	Planning and Development	Regeneration		
Adur Homes (including Management Board)	Housing	Customer Services	-	
Affordable Housing Provision	Housing	Customer Services	Citizen Services	
Air Quality	Wellbeing	Health and Wellbeing	Environmental Services	
Allotments	Environmental Services	Environment	Environmental Services	
Annual statement of Accounts	Director for Digital, Sustainability and Resources/Financial Services	-	-	Joint Governance
Anti-Social Behaviour in relation to tenants	Housing	Customer Services	Citizen Services	
Assembly Hall	Culture	-	Culture & Leisure	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Cabinet Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Asset Management	Business and Technical Services	Leader	Resources	
Audit Fees	Chief Financial Services	Resources	Resources	Joint Audit & Governance Committee
Audit Management	Chief Financial Services	-	-	Joint Audit & Governance Committee
Audit Service	Chief Financial Services	-	-	Joint Audit & Governance Committee
Beach Huts and Chalets	Environmental Services	Environment	Regeneration	
Beach Maintenance	Environmental Services	Environment	Regeneration	
Benefit Administration (Worthing)	Revenues and Benefits	-	Citizen Services	
Bereavement Services (formerly cemeteries and crematoria)	Environmental Services	Environment	Environmental Services	
Branding	Communications	Leader	Leader	
Budgets (including the overall allocation of Revenue and Capital)	Chief Financial Officer	Resources	Resources	Council Tax (revenue budget approved by Full Councils)
Building/Offices Cleaning	Business and Technical Services	Resources	Resources	
Building cleaning (Adur Homes)	Housing	Customer Services	-	
Building Control	Planning and Development	Regeneration	Regeneration	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Cabinet Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Bulky Waste	Environmental Services	Environment	Environmental Services	
Burials	Environmental Services	Environment	Environmental Services	
Bus shelters	Business and Technical Services	Environment	Regeneration	
Business Engagement and Partnerships	Place and Investment	Regeneration	Regeneration	
Business Rates	Revenues and Benefits	Resources	Citizen Services	
Business Continuity	Business and Technical Services	Health and Wellbeing	Regeneration	
Business Improvement District Levy	Revenues and Benefits	Resources	Resources	
Building Management (Worthing Town Hall, Portland House,)	Business and Technical services	Resources	Resources	
Capital Programme	Business and Technical services and Chief Financial Officer	Resources	Resources	
Capital Programme (Adur Homes)	Housing and Chief Financial Officer	Customer Services	-	
Chair of the Council	Wellbeing	-	-	
Chief Financial Officer	Finance	-	-	Statutory Role
Choice Based Lettings	Housing	Customer Services	Citizen Services	
Cinema (Ritz)	Culture		Culture & Leisure	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Cabinet Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
City Deal (strategic matters)		Leader	Leader	
Cleansing (Street)	Environmental Services	Environment	Environmental Services	
Clinical waste	Environmental Services	Environment	Environmental Services	
Coastal Protection and monitoring	Business and Technical services	Regeneration	Regeneration	
Coastal West Sussex	Planning and Development	Regeneration	Regeneration	
Commercial Waste	Environmental Services	Environment	Environmental Services	
Committee Management	Wellbeing	Leader	Leader	
Community Alarm and telecare service	Housing	Customer Services	-	
Community Safety and Anti Social Behaviour	Wellbeing	Health and Wellbeing	Community Wellbeing	
Concessions	Place and Investment	Regeneration	Regeneration	
Connaught Theatre	Culture	-	Culture & Leisure	
Conservation areas	Planning and Development	Regeneration	Regeneration	
Consultation (public)	Communications	Leader	Deputy Leader	
Contact Centre Services	Customer Contact and Engagement	Customer Services	Citizen Services	
Contracts & Procurement	Financial Services	Resources	Resources	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Cabinet Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Corporate Complaints	Customer Contact and Engagement	Leader	Leader	
Corporate Information Management (GIS)	Digital and Design	Resources	Resources	
Corporate Property Terriers	Technical and Business Services	Resources	Resources	
Corporate Property (not included in other portfolios)	Planning and Development	Resources	Resources	
Council sheltered Housing Schemes (Adur)	Housing	Customer Services	-	
Council Tax	Revenues and Benefits	Resources	Resources	
Councillor Code of Conduct (including Parish)	Legal (Monitoring Officer)	-	-	Joint Audit & Governance Committee/Standards Sub Committee
Customer Insight, Customer Experience. Process and Service Improvement	Customer Contact and Engagement	Customer Services	Citizen Services	
Dangerous Structures	Development and Planning	-	-	Planning Committee
Data Protection	Digital and Design	Resources	Resources	
Debtors	Chief Financial Officer	Resources	Resources	
Democratic Services	Wellbeing	Leader	Leader	
Devolution, strategic direction		Leader	Leader	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Cabinet Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Disability Facilities Grant and other Housing Grants	Housing	Customer Services	Citizen Services	
Digital Transformation	Digital and Design	Resources	Resources	
Dog Control	Environmental Services	Environment	Environmental Services	
Great Brighton Economic Board (Joint Committee) - representative on and Strategic Direction		Leader	Leader	
Economic Development, Inward Investment & Business Retention, Growth Deal, City Region	Place and Investment	Regeneration	Regeneration	
Education Liaison, promotion etc.		Regeneration	Leader	
Elections	Returning Officer Customer Contact and Engagement	-	-	Returning Officer/some decisions reserved to Council (i.e. frequency of elections)
Emergency Planning	Business and Technical Services	Health and Wellbeing	Regeneration	
Empty Properties		Regeneration	Citizen Services	
Employee Relations	Strategic Human Resources	Resources	Resources	
Energy Management	Sustainability		Climate Emergency	
Engineering and Surveying	Business and Technical Services	Resources	Resources	



<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Cabinet Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Environmental Health (Protection)	Wellbeing	Health and Wellbeing	Environmental Services	
Events and Cultural Projects	Culture	Regeneration and/or Environment	Culture & Leisure	
Exchequer Services	Chief Financial Officer	Resources	Resources	
External Auditor's Annual Letter	Chief Financial Officer	-	-	Joint Audit & Governance Committee
EU and External Funding	Place and Investment	Resources	Resources	
Facilities Management (incl security, reprographics, porters, pool cars)	Business and Technical Services	Resources	Resources	
Fleet and Transport Maintenance	Environmental Services	Environment	Regeneration	
Flood Protection	Business and Technical Services	Regeneration	Environmental Services	
Food safety incl Enforcement Plan	Wellbeing	Health and Wellbeing	Environmental Services	
Foreshore Management	Environmental Services	Environment	Regeneration	
Fraud Investigation (Adur)	Chief Financial Officer	Resources	Resources	
Fraud Investigation (Worthing)	Chief Financial Officer	-	Resources	
Freedom of Information	Digital and Design	Resources	Resources	
Fuel Poverty	Wellbeing	Health and Wellbeing	Community Wellbeing	
Garage Management (Adur Homes properties)	Housing	Customer Services	-	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Cabinet Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Garden Waste	Environmental Services	Environment	Environmental Services	
Grounds Maintenance	Environmental Services	Environment	Environmental Services	
Grounds Maintenance (Adur Homes Properties)	Housing	Environment	-	
Hackney Carriage Licensing	Wellbeing	-	-	Licensing Committees
Health and Safety (corporate)	Business and Technical Services	Health & Wellbeing	Regeneration	
Help points/Customer services receptions	Customer Services and Engagement	Customer Services	Citizen Services	
Housing Systems support and monitoring (Adur Homes)	Housing	Customer Services	-	
Housing Voice (Adur)	Housing	Customer Services	-	
Information Security	Digital and Design	Resources	Resources	
Infrastructure delivery plans	Planning and Development	Regeneration	Regeneration	
Insurance	Chief Financial Officer	Leader	Resources	
Internal Audit	Chief Financial Officer	Resources	Resources	
Internal Audit Annual report and Opinion	Chief Financial Officer	-	-	Joint Audit & Governance Committee
Investments (treasury Management)	Chief Financial Officer	Resources	Resources	
IT Systems support	Digital and Design	Resources	Resources	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Cabinet Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Land Charges	Planning and Development	Resources	Resources	
Land Drainage	Business and Technical Services	Regeneration	Environmental Services	
Leasehold administration	Housing	Customer Services	-	
Leasehold Sheltered Scheme	Housing	Customer Services	-	
Learning and Development	Strategic Human Resources	-	-	
Legal Services	Legal	Resources	Resources	
Leisure Facilities (management of Adur sites)	Director for Communities (client)	Environment	-	
Leisure Facilities (management of Worthing sites)	Director for Communities (Client)	-	Culture & Leisure	
Licensing (Premises, personal, alcohol, gambling hackney carriages etc.)	Wellbeing	-	-	Licensing Committee
Listed Buildings	Planning and Development	-	-	Planning Committee
Local Development Plans	Planning and Development	Regeneration	Regeneration	
Local Land and Property Gazetteer	Planning and Development	Resources	Resources	
Local Strategic Partnership	Wellbeing	Health and Wellbeing	Community Wellbeing	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Cabinet Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Major Regeneration Projects	Planning and Development	Regeneration	Regeneration	
Mayoralty	Wellbeing		Leader	
Media	Communications	Leader	Leader	
Member Development & Services	Wellbeing	Leader	Leader	
Monitoring Officer	Legal	-	-	Statutory Role
Neighbour Disputes (dealing with Noise etc. via environmental health)	Wellbeing	Health and Wellbeing	Community Wellbeing	
Neighbour Disputes (dealing with Anti-Social Behaviour Team)	Wellbeing	Health and Wellbeing	Community Wellbeing	
Neighbour Disputes (dealing with Adur homes)	Housing	Customer Services	-	
Non-Domestic Rates (Adur)	Revenues and Benefits	Resources	-	
Non-Domestic Rates (Worthing)	Revenues and Benefits	-	Resources	
Non-Housing property repairs	Business and Technical Services	Resources	Resources	
Ombudsman	Customer Contact and Engagement	-	-	Joint Audit & Governance Committee
Open spaces	Environmental Services	Environment	Environmental Services	
Organisational Development	Strategic Human Resources	Resources	Resources	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Cabinet Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Parking Services	Customer Contact and engagement	Environment	Regeneration	
Parks Management	Environmental Services	Environment	Environmental Service	
Performance Management	Digital and Design	Leader	Leader	
Pest Control	Environmental Services	Health and Wellbeing	Environmental Services	
Places and Neighbourhoods	Wellbeing	Health and Wellbeing	Deputy Leader	
Place Shaping	Place and Investment	Regeneration	Deputy Leader	
Planning Policy	Planning and Development	Regeneration	Regeneration	
Private Hire Vehicle Licensing	Wellbeing	-	-	Licensing Committee
Procurement and Contracts	Finance	Resources	Resources	
Public conveniences (Including Cleaning) - contract management	Environmental Services	Environment	Environmental Services	
Recruitment and Selection of Chief Executive and Directors	Organisational Development	-	-	Joint Senior Staff Committee/Council
Recycling	Environmental Services	Environment	Environmental Services	
Refuse	Environmental Services	Environment	Environmental Services	
Remuneration (Members) - (Members Allowances)	Wellbeing			Joint Independent Remuneration Panel/Joint Audit & Governance Committee /Full Council

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Cabinet Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Rent Accounting (Adur)	Housing	Customer Services	-	
Repairs and Maintenance (Adur Homes)	Housing	Customer Services	-	
Reprographics	Business and Technical Services	Resources	Resources	
Resident's Panels	Communications	Leader	Leader	
Risk Management	Digital and Design	Leader	Leader	
Revenues and Benefits (Adur)	Revenues and Benefits	-	-	
Revenues and Benefits (Worthing)	Revenues and Benefits	-	Citizen Services	
Road Nameplates	Planning and Development	Environment	Regeneration	
Safer Communities	Wellbeing	Health and Wellbeing	Community Wellbeing	
Safeguarding	Wellbeing	Health and Wellbeing	Community Wellbeing	
Scrutiny	Digital and Design			Joint Overview and Scrutiny Committee
Section 151 Role	Chief Financial Officer	-	-	Statutory Role
Senior Information Risk Owner	Director for Digital, Sustainability and Resources	-	-	
Sex Establishments	Wellbeing	-	-	Licensing Committees

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Cabinet Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Shops owned by the Council (Adur)	Business and Technical Services	Resources	-	
Skills and Enterprise/Education liaison		Regeneration	Leader	
South Downs Leisure Trust (client role)	Director for Communities	-	Environmental Services	
Strategy, Systems and Clienting (Housing)	Housing	Customer Services	Citizen Services	
Strategic Housing and Enabling	Housing	Customer Services	Citizen Services	
Street Cleansing	Environmental Services	Environment	Environmental Services	
Street Furniture	Business and technical Services	Environment	Regeneration	
Street and House to House Collections	Wellbeing	-	-	Licensing Committees
Street naming and Numbering	Planning and Development	Environment	Regeneration	
Supported Housing - sheltered housing and community alarm	Housing	Customer Services	Citizen Services	
Systems support and Development	Digital and Design	Resources	Resources	
Taxi and Private Hire	Wellbeing	-	-	Licensing Committee
Telephony	Digital and Design	Resources	Resources	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Cabinet Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Temporary Accommodation Management	Housing	Customer Services	Citizen Services	
Tenancy Services	Housing	Customer Services	-	
Tenant Participation	Housing	Customer Services	-	
Theatres	Culture	-	Culture & Leisure	
Think Family and Early Help	Wellbeing	Health and Wellbeing	Community Wellbeing	
Third Sector and Partnerships	Wellbeing	Health and Wellbeing	Community Wellbeing	
Town Centre Management (Lancing, Shoreham, Southwick)	Place and Investment	Regeneration	-	
Trade Waste	Environmental Services	Environment	Environmental Services	
Treasury Management	Chief Financial Officer	Resources	Resources	Joint governance
Tree Management	Planning and Development	-	-	Planning Committee
Tree Preservation Orders (TPOs)	Planning and Development	-	-	Planning Committee
Urban Realm	Place and Investment	Regeneration	Regeneration	
Visitors and Events (cultural - Environment) (business - Regeneration)	Place and Investment	Regeneration/Environment	Regeneration	
Waste Education	Environmental Services	Environment	Environmental Services	
Waste Management	Environmental Services	Environment	Environmental Services	



<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Cabinet Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Waste Strategy and compliance	Environmental Services	Environment	Environmental Services	
Waste Transfer Licences	Environmental Services	Environment	Environmental Services	
Website and Online Service Development	Digital and Design	Resources	Resources	
Wellbeing Hub	Wellbeing	Health and Wellbeing	Culture & Leisure	
Whistle Blowing Procedure	Legal	-	-	Joint Governance
Worthing Foreshore Service	Environmental Services	-	Regeneration	
Worthing Museum and Art Gallery	Culture	-	Citizen Services	
Worthing Pier	Business and Technical Services	-	Regeneration	

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## PART 4 - PROCEDURE RULES

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### Council and Committee Procedure Rules

#### Introduction

##### 1.1 Interpretation

In these Council Procedure Rules the interpretation of words shall be in accordance with the definitions set out in Part 1 of the Constitution.

##### 1.2 General

- (a) Any proposal to permanently alter these Council Procedure Rules (other than minor amendments made by the Monitoring Officer), other than a motion to implement a recommendation of the Joint Audit & Governance Committee, shall be in the form of a motion instructing the Joint Audit & Governance Committee to report upon such proposals. Any such motion, upon being seconded, shall be put to the vote without discussion. The Joint Audit & Governance Committee shall report to the next Ordinary Council meeting upon any matter referred to it under this Council Procedure Rule.
- (b) These Council Procedure Rules embody the requirements of the mandatory Standing Orders, as provided for by the Local Government Act 1972, Local Government and Housing Act 1989 and the Local Government Act 2000, together with secondary legislation, where appropriate. These Council Procedure Rules, therefore, constitute the Council's statutory procedural standing orders, and should be interpreted accordingly.
- (c) Where any step or action under these Council Procedure Rules is prescribed to be performed by a Designated Officer, that Officer may nominate or authorise another Officer in their place.
- (d) In implementing and effecting these Council Procedure Rules, the Council will comply with its statutory obligations relating to the use, recording and retention of any personal data that it receives.

##### 1.3 Notices

Any Notice required under these Council Procedure Rules may be given in writing to the Director for Communities, Town Hall, Chapel Road, Worthing, BN11 1HA, or by email to: [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk). The listing of names as signatories on such documents shall be deemed to be signatures.

##### 1.4 Person Presiding's Decision Final

Any ruling of the person presiding at any meeting on any point of order, interpretation of these Council Procedure Rules, matters arising during the debate or with regard to the admissibility of an explanation, or otherwise, including any logistical arrangements for any meetings, shall be final and not open to discussion. However, in reaching their decision, the person presiding must give due consideration to the advice of professional Officers.

#### Annual Meeting

##### 2.1 Timing

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

## 2.2 Business

The Annual Council will:

- (a) Elect a ~~person~~Member, other than a Member of the Cabinet, to be the Chair of the Council;
- (b) Appoint a person, other than a Member of the Cabinet, to be the Vice Chair of the Council;
- (c) Elect the Cabinet Leader, if the term of office of the previous Leader has come to an end;
- (d) Appoint the Leader of the Main Opposition (see Procedure Rule 39);
- (e) Elect a ~~person~~Member, other than a Member of the Cabinet, to preside if the Chair is not present;
- (f) Receive apologies for absences;
- (g) Receive any declarations of disclosable pecuniary or personal interests;
- (h) Approve the Minutes of the last meeting;
- (i) Receive any announcements from the Chair and/or Head of Paid Service;
- (j) Give a vote of thanks to the retiring Chair and presentation of retiring Chair's insignia;
- (k) In an election year, receive the return of the Returning Officer;
- (l) Establish such Committees as the Full Council considers appropriate to deal with matters which are neither reserved to the Full Council nor are Executive functions, including a Committee to consider Standards issues and an Overview and Scrutiny Committee, in accordance with Council Procedure Rule 2.3 below;
- (m) Appoint Members to the Committees of the Council in accordance with Council Procedure Rules 2.3 and 2.4 below;
- (n) Adopt any changes to the Council's Constitution and ~~agree~~ the Scheme of Officer Delegations, other than those relating to Executive functions, as set out in Part 4 of this Constitution;
- (o) Approve a programme of Ordinary meetings of the Council for the year, if not already agreed;
- (p) Consider any other business set out in the summons convening the meeting; and
- (q) Consider any business that the Chair believes to be urgent, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact on the Council.

There is no opportunity for the public or Members question time at an Annual meeting of the Full Council.

## 2.3 Selection of Councillors on Committees

At the Annual meeting, the Council will:

- (a) Decide which Committees to establish for the Municipal Year;
- (b) Decide the size and Terms of Reference of those Committees;
- (c) Having received a report from the Director for Communities concerning the implementation of political balance rules, decide the allocation of the number of seats of those Committees to each Political Group.
- (d) Receive nominations of Councillors, and where appropriate co-optees, to serve on each Committee; and
- (e) Appoint Members to seats on those Committees;
- (f) Appoint the Chairs and Vice-Chairs of the Council's Committees.

In a year when there is no election, Council Procedure Rules 2.3 (a), (b) and (c) above may not apply.

## 2.4 Appointment of Substitute Members to Committees and Sub-Committees

The Full Council may appoint as many substitutes as it wishes, subject to the following:

- (a) No substitutes will be appointed for Licensing Committee or any of its Sub-Committees when dealing with Licensing Act 2003 and Gambling Act 2005 applications;

- (b) Substitutes may only substitute for Members of the same political party except where a substitution is necessary for the Committee to operate effectively, and the Political Group does not have sufficient membership to appoint a substitute, or the substitute is not able to attend. In these circumstances the Director for Communities may, having regard to the rules of political proportionality, and in consultation with the Member who is unable to attend, invite any other Member who has been designated as a substitute for that Committee, to attend the Committee or Sub-Committee;
- (c) Substitutes must be identified at the time of their appointment, but this can be by:
  - (i) appointing 'all Members' as substitutes for a particular Committee; or
  - (ii) appointing named Members as substitutes for a particular Committee.
 Any Member sitting as a substitute on a regulatory Committee or Sub-Committee must have undertaken appropriate training within the preceding two years. Any Member sitting as a substitute on any other Committee must have undertaken training as appropriate.
- (d) Cabinet Members may not be substituted on the Cabinet;
- (e) Substitute Members will have all the powers and duties of any Ordinary Member of the Committee. The Substitute Member will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting (e.g. if they substitute for the Chair, they shall not automatically have the powers of the Chair, unless voted as Chair by that Committee);
- (f) Substitute Members may attend meetings in that capacity only:
  - (i) To take the place of an Ordinary Member for whom they are the substitute;
  - (ii) Where the Ordinary Member will be absent for the whole of the meeting;
  - (iii) After notifying the Head of Legal Services, or their representative, prior to them joining the meeting of the Committee, of the intended substitution.
- (g) Where substitutions take place after the Appointed Member has been provided with documents relating to the meeting, the Appointed Member is responsible for providing the Substitute Member with access to those documents.

## Ordinary Meetings

### 3.1 Full Council

Ordinary meetings of the Full Council will take place in accordance with a programme decided by the Full Council at its Annual meeting, or at any other time.

Ordinary meetings will:

- (a) Elect a ~~person~~Member, who is not a Member of the Cabinet, to preside if the Chair and Vice Chair are not present;
- (b) Receive apologies for absence;
- (c) Receive any declarations of disclosable pecuniary or personal interests from Members;
- (d) Approve the Minutes of the last meeting;
- (e) In accordance with Council Procedure Rule 11.0, receive deputations and questions from, and provide answers to, the public;
- (f) Deal with any issues arising under the Council's Petition Scheme;
- (g) Receive any announcements from the Chair, Leader, Members of the Cabinet or the Head of Paid Service;
- (h) Receive any announcements from any Group Leader as to changes to appointment of Members on Committees;
- (i) Deal with any business from the last Council meeting;
- (j) Consider any business that the Chair believes to be urgent, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact on the Council.
- (k) Consider the business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework and reports of the Overview and Scrutiny Committee for debate;
- (l) In accordance with Council Procedure Rule 13.0, receive the Leader's report on Executive decisions and receive questions and answers on that report;

- (m) In accordance with Council Procedure Rule 12.0, receive questions from, and provide answers to, Elected Members;
- (n) Consider motions on notice in accordance with Council Procedure Rules 14 and 15.

### 3.2 Cabinet and Committees

Ordinary meetings of the Cabinet and Committees will take place in accordance with a programme of dates decided by themselves and noted by Full Council.

Ordinary meetings will:

- (a) Elect a ~~person~~Member to preside if the Chair and Vice Chair are not present;
- (b) Receive any declarations of substitute membership in accordance with Council Procedure Rule 2.4 above;
- (c) Receive any declarations of disclosable pecuniary or personal interests from Members;
- (d) Approve the Minutes of the previous meeting;
- (e) In accordance with Council Procedure Rule 11.0, receive questions from, and provide answers to, the public;
- (f) Deal with any business from the last meeting;
- (g) Consider any other business specified on the agenda for the meeting; and
- (h) Consider any business that the Chair believes to be urgent, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact on the Council.

### Extraordinary Meetings

#### 4.1 Full Council

Those listed below may require the Director for Communities to summons Members to Full Council meetings in addition to Ordinary meetings:

- (a) Full Council by resolution;
- (b) Chair of the Council;
- (c) Head of Paid Service;
- (d) Monitoring Officer;
- (e) Section 151 Officer;
- (f) Any 5 Members of the Council, if they have signed a requisition presented to the Chair of the Council who has refused to call a meeting or has failed to call a meeting within 7 calendar days of presentation of the requisition. Any such requisition will be deemed to have been presented to the Chair of the Council, if emailed to the Director for Communities at: democratic.services@adur-worthing.gov.uk.

Extraordinary meetings of Full Council will:

- (a) Elect a ~~person~~Member, who is not a Member of the Cabinet, to preside if both the Chair of the Council and Vice Chair of the Council are not present;
- (b) Receive any apologies for absence;
- (c) Receive any declarations of disclosable pecuniary or personal interests from Members;
- (d) In accordance with Council Procedure Rule 11.0, receive questions from, and provide answers to, the public;
- (e) Consider the single item of business specified in the summons to the meeting (a single item may be made up of more than one part provided they all relate to a single subject); and
- (f) Consider any business that the Chair believes to be urgent, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact on the Council.

#### 4.2 Cabinet and Committees

Those listed below may request the Director for Communities to call meetings of the Cabinet or Committees in addition to Ordinary meetings:

- (a) The Leader, in respect of Cabinet meetings, and the Chair of the Committee, in respect of their committee meetings, at any time.
- (b) If a requisition signed by at least two, or one quarter of the total number, of the voting Members of the Cabinet (whichever is the greater) has been presented to the Leader, and either they have refused to call a meeting or no such meeting has been called within 7 calendar days of the presentation of the requisition, then any two, or one quarter of the number of the voting Members of the Cabinet (whichever is the greater) may call an Extraordinary meeting of the Cabinet by notice in writing to the Director for Communities at [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk) specifying the business proposed to be transacted. The Director for Communities shall give notice to all Members of the Cabinet and all persons entitled to receive papers. Timeframes set out in the Access to Information Procedure Rules must be complied with.
- (c) If a requisition signed by at least two, or one quarter of the total number, of the voting Members of the Committee (whichever is the greater) has been presented to the Chair of the Committee, and either they have refused to call a meeting or no such meeting has been called within 7 calendar days of the presentation of the requisition, then any two, or one quarter of the number of the voting Members of the Committee (whichever is the greater) may call an Extraordinary meeting of the Committee by notice in writing to the Director for Communities at [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk) specifying the business proposed to be transacted. The Director for Communities shall give notice to all Members of the Committee and all persons entitled to receive papers. Timeframes set out in the Access to Information Procedure Rules must be complied with.

Extraordinary meetings will:

- (a) Elect a **person-Member** to preside if the Chair and Vice Chair are not present;
- (b) Receive any declaration of Substitute Members in accordance with Council Procedure Rule 2.4;
- (c) Receive any declarations of disclosable pecuniary or personal interests from Members;
- (d) In accordance with Council Procedure Rule 11.0, receive questions from, and provide answers to, the public;
- (e) Consider any other business specified in the agenda for the meeting;
- (f) Consider any business that the Chair believes to be urgent, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact on the Council.

## Special meetings

### 5.1 Full Council

A Special meeting of the Full Council is one that is required by statute, e.g. for the appointment of honorary aldermen or alderwomen, and shall only consider a single substantive item of business. The meeting shall be convened for the specific statutory purpose which shall be contained in the summons. No other business may be transacted at that meeting.

Those listed below may require the Director for Communities to call a Special meeting of the Full Council:

- (a) Full Council by resolution;
- (b) Chair of the Council; and
- (c) Head of Legal Services.

Special meetings will:

- (a) Elect a **personMember**, who is not a Member of the Cabinet, to preside if the Chair of the Council and Vice Chair are not present;
- (b) Receive any declarations of disclosable pecuniary or personal interests from Members;
- (c) In accordance with Council Procedure Rule 11.0, receive questions from, and provide answers to, the public relating to the specific single item of business on the agenda; and
- (d) Consider the specific item of business for which the meeting has been convened.

## 5.2 Cabinet and Committees

There shall be no Special meetings of the Cabinet or any Committee.

### Time and Location

#### 6.1 Full Council

- (a) Meetings will usually be held in the Shoreham Centre, Shoreham-by-Sea, commencing at 7:00 p.m. unless:
  - (i) The Full Council resolves otherwise; or
  - (ii) For some practical reason this is not possible, in which case the meeting will be held at a location decided by the Director for Communities, after consulting the Chair of the Council and the Leader.
- (b) If an emergency occurs, the Director for Communities may, after consulting with such of the Chair of the Council, the Cabinet Leader and Leaders of the Political Groups as may conveniently be contacted, vary any arrangement agreed by the Full Council for the holding of Full Council meetings.
- (c) No meeting of the Full Council shall, except in an emergency, be held on a Friday evening, Saturday, Sunday, Bank Holiday or day on which the Council shall have granted a general holiday for its employees.

#### 6.2 Cabinet and Committees

- (a) Meetings of the Cabinet and Committees will usually be held at the Shoreham Centre, Shoreham-by-Sea, unless:
  - (i) The ~~Full Council~~Cabinet or Full Council (in the case of a Committee) resolves otherwise; or
  - (ii) For some practical reason this is not possible, in which case the meeting will be held at a place decided by the Director for Communities after consulting with the Chair of the Cabinet and Committee; or
  - (iii) They are Joint Committees under a Joint Committee Agreement, in which case the time and location of the meeting is governed by that Agreement.
- (b) If an emergency occurs, the Director for Communities may, after consulting the Chair of the Cabinet or the Committee, as the case may be, and, so far as practicable, representatives of the Political Groups, vary any arrangements agreed by the Full Council, the Cabinet or the Committee, for the holding of meetings.

### Notice of and Summons to Meetings

- 7.1 At least 5 clear working days before the day of a meeting, the Director for Communities shall publish on the Council's website and make available at the Council's offices, the time and location of the intended meeting and, where the meeting is called by Members of the Council, the notice shall be signed by those Members and shall specify the purpose proposed to be transacted there.
- 7.2 At least 5 clear working days before the day of a meeting, the Director for Communities will send a summons or agenda signed by them to every Member of the Council by electronic mail, by post, or by leaving it at their usual place of residence. The summons or agenda will give the date, time and location of each meeting, specify the business to be transacted and will be accompanied by such reports or shall provide access to such reports electronically.

### Chairing

#### 8.1 Full Council

- (a) The person presiding at a meeting of Full Council may exercise any power or duty of the Chair of the Council.
- (b) If it is necessary to choose a Member of the Council (who cannot be a Member of the Cabinet) to preside in the absence of the Chair and Vice Chair of the Council, the Director for Communities or the Head of Legal Services (or their representative) shall preside and call for a motion that a Member of the Council take the Chair.
- (c) If there is any debate on this motion, then the Director for Communities or the Head of Legal Services (or their representative) shall have all the powers of the Chair of the Council for the purposes of that debate.

## **8.2 The Cabinet and Committees**

- (a) The person presiding at a meeting of the Cabinet and Committees may exercise any power or duty of the Chair.
- (b) If it is necessary to choose a Member of the Cabinet or Committee, as the case may be, to preside in the absence of the Chair or their Deputy, the Director for Communities, or the Head of Legal Services, or their representatives, shall preside and call for a motion that a Member of the Council take the Chair.
- (c) If there is any debate on this motion, then the Director for Communities, or the Head of Legal Services, or their representatives, shall have all the powers of the Chair for the purposes of that debate.

## **Quorum**

### **9.1 Full Council**

- (a) The quorum of a meeting will be 8 Members.
- (b) If during any meeting the person presiding declares that there is not a quorum present, the meeting shall stand adjourned for 15 minutes.
- (c) If, after 15 minutes, there is still no quorum present, the meeting shall end.
- (d) Notwithstanding any provision in these rules that notices of questions or motions shall lapse, the consideration of all business which is on the agenda of a meeting brought to an end under the previous paragraph, and which has not been completed before the meeting is brought to an end, shall be postponed to the next meeting, whether Ordinary or Extraordinary, insofar as is allowed by law.

### **9.2 The Cabinet and Committees**

- (a) The quorum of a meeting will be one third of the whole number of Members of the Cabinet or Committee, as the case may be, (rounded up where necessary to the next whole number), save that:
  - (i) In no case shall the quorum of a Committee be fewer than three; and
  - (ii) In no case shall the quorum of a Sub-Committee be fewer than two.
- (b) If during any meeting the person presiding declares that there is not a quorum present, the meeting shall stand adjourned for 15 minutes.
- (c) If, after 15 minutes, there is still no quorum present, the meeting shall end.
- (d) Notwithstanding any provision in these rules that notices of questions or motions shall lapse, the consideration of all business which is on the agenda of a meeting brought to an end under the previous paragraph, and which has not been completed before the meeting is brought to an end, shall be postponed to the next meeting, whether Ordinary or Extraordinary, insofar as is allowed by law.

### **9.3 Joint Committees**

The quorum of a Joint Committee shall be determined in accordance with the Joint Committee Agreement or arrangement under which it is constituted. However, if no such arrangements are set



out within the Joint Committee Agreement, or arrangement under which a Joint Committee is convened, then Council Procedure Rule 9.2 above will apply.

## Duration of meetings

### 10.1 General

- (a) Subject to (d) below, ~~where any meeting has lasted for four three hours,~~ the person presiding shall interrupt ~~the proceedings~~ where any meeting has lasted for three hours (and hourly after that), and whereupon any Member speaking shall stop speaking. The person presiding shall, without discussion, take a vote on whether or not the Members wish the meeting to continue.
- (b) If the majority of Members present do not vote to continue the meeting, then the person presiding shall, without further discussion, take a vote on the item under discussion and then the meeting shall stand adjourned. The remaining business shall be considered at a time and date fixed at that time by the person presiding and if no such date is fixed, at the next Ordinary meeting.
- (c) If the majority of Members present vote to continue the meeting, then a further vote on whether or not to continue the meeting will take place on an hourly basis thereafter.
- (d) Council Procedure Rule 10.1(a)-(c) does not apply to meetings dealing with matters arising under the Licensing Act 2003 and the Gambling Act 2005, committee meetings dealing with staff appointments or staff appeals, and Joint Governance Sub-Committee meetings dealing with code of conduct determination hearings.

**Commented [GW25]:** 4 hours seems rather long before reviewing an extension of time for a meeting. Suggest it be reduced to three hours.

Note: this applies to committees as well as Council meetings.

## Public Questions and Deputations

### 11.1 Full Council

#### 11.1.1 General

- (a) Members of the public, who live, work or own property in the District may ask questions of any Member of the Cabinet at any Ordinary Council meeting and will be allowed a maximum of 5 minutes per person. This provision is subject to a maximum of 30 minutes being available for all public questions.
- (b) No discussion will take place in respect of any question.
- (c) Where notice has been given of the question in accordance with Council Procedure Rule 11.1.3, the questioner and the Member to whom the question is put are both present, and there is sufficient time, then an oral response will be provided. If not, a written response will be provided within 3 working days.
- (d) There will be no opportunity for the public to ask questions at an Annual meeting of the Full Council.

#### 11.1.2 Order of Questions

The questions will be put in the order in which notice of them was received, except that the Chair of the Council may group similar questions together.

#### 11.1.3 Notice of Questions

To enable the Member of the Cabinet to provide the fullest and most accurate answer, notice that it is to be asked, together with a copy of it, should be given to the Director for Communities in writing by post or email to be received no later than midday ~~on the second three clear~~ working days prior to the day of the meeting. Notice should be given by post to the Director for Communities, Town Hall, Chapel Road, Worthing, BN11 1HA or by email to [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk). Notice of questions must include the questioner's name, address and contact details.

**Commented [g26]:** Deadline brought forward throughout to allow time for preparation of answers.

Where a member of the public has failed to give notice of a question in accordance with this provision, the question may still be put, but the Member of the Cabinet to whom it is addressed may either choose to give a full response or respond by undertaking to provide a written response within 3 working days.

#### 11.1.4 Number of Questions

At any one meeting, no person may submit more than a total of two questions, although each question may have more than one part, provided that each part relates to the same subject. No more than two questions can be asked on behalf of one organisation. ~~The member of the public may only ask questions for a maximum of 5 minutes, regardless of whether one or two questions are raised.~~

**Commented [GW27]:** This doesn't seem fair or reasonable. Suggest delete.

#### 11.1.5 Scope of Questions

Every question must relate to a matter for which the Council has responsibility and/or which specifically affects the District.

Where notice of a question is provided, The Director for Communities may reject a question if, in their opinion, it:

- (a) does not relate to a matter for which the Council has responsibility or does not affect the District;
- (b) is not a question for the Executive Council (in which case, it may be referred to the Cabinet or relevant Committee);
- (c) is defamatory, frivolous, vexatious or offensive;
- (d) refers to legal proceedings taken or anticipated by or against the Council;
- (e) is substantially the same as a question which has been put to a meeting of the Full Council in the past 6 months;
- (f) requires the disclosure of confidential or exempt information; or
- (g) would more appropriately be responded to by the Council under the Freedom of Information Act 2000 or the Data Protection Act 1998.

#### 11.1.6 Record of Questions

- (a) Where notice of a question is provided, the Director for Communities will as soon as possible send a copy of the question to the Member of the Cabinet to whom it is to be put. If the Director for Communities has rejected the question in accordance with 11.1.5 above, a copy of the question will still be sent to the relevant Member of the Cabinet, with reasons as to why it has been rejected.
- (b) Where notice of a question has been provided, copies of all such questions, save for those that have been rejected, will be circulated to all Members of the Council and will be made available to the public attending the meetings via the Council's website.
- (c) Where a question is asked, without notice, the Director for Communities or their representative will record a summary of the question in the minutes of the meeting.

#### 11.1.7 Asking the Question at the meeting

- (a) The Chair of the Council will invite the questioner to put the question to the relevant Cabinet Member.
- (b) If a member of the public who has submitted notice of a question is unable to be present at the meeting, they may ask the Chair of the Council to put the question on their behalf. If the Chair of the Council puts the question, they will indicate either that a written reply will be given within 3 working days, or that, in the absence of the questioner, the question will not be dealt with.
- (c) The provisions of Council Procedure Rule 11.1.5 apply and the Chair may reject a question at the meeting on those same grounds.

### 11.1.8 Supplemental Question

- (a) A member of the public who has put a question in person, may also put one supplementary question, without notice, to the Cabinet Member, who has replied to their original question. A supplementary question can be for a maximum of 2 minutes, subject to the overall 30 minutes allowed for public question time.
- (b) A supplementary question must arise directly out of the original question or the reply.
- (c) The Chair of the Council may reject a supplementary question on any of the grounds in Council Procedure Rule 11.1.5 above.

### 11.1.9 Answers

- (a) Where notice has been given of a question, an oral response will be provided with a maximum time limit of 5 minutes in total, subject to the maximum of 30 minutes available for public inspection time.
- (b) Where a supplemental question is asked, following a question on notice, an oral response will be provided, with a time limit of two minutes, subject to a maximum of 30 minutes available for public question time.
- (c) Any question which cannot be responded to during Public Question Time, either because of the non-attendance of the Member of the Cabinet to whom it was to be put, or the non-attendance of the member of the public putting the question, will be dealt with by way of a written answer, to be provided within 3 working days of the meeting.
- (d) Where notice of a question has been provided, but it cannot be responded to during Public Question Time due to lack of time, it will be dealt with by way of a written answer, to be provided within 3 working days of the meeting.

### 11.1.10 Referral to the Cabinet or a Committee

Any Member of the Council may move that a matter raised by a question, be referred to either the Cabinet or a Committee. Once seconded, such a motion will be voted on without discussion.

## 11.2 The Cabinet and Committees

### 11.2.1 General

- (a) Members of the public, who live, work or own property in the District may ask questions at any meeting of the Cabinet or a Committee on any matter which is before that meeting, or for which the Cabinet or that Committee has responsibility, subject to the matters referred to in 11.2.5.
- ~~(b)~~
- ~~(c) There will be a maximum of 30 minutes available for public questions.~~
- ~~(d)~~
- ~~(e)~~(b) A member of the public will be allowed a maximum of 5 minutes to ask ~~their each~~ question, subject to a maximum 30 minutes ~~being~~ allowed in total for public question time.
- ~~(f)~~(c) Where notice of the question has been provided in accordance with Council Procedure Rule 11.2.3, ~~both the questioner and the Member to whom the question is put are~~ present, and there is sufficient time, an oral response will be given. If the questioner, ~~or the Member, are is~~ absent the question falls. ~~or if~~ there is insufficient time, a written response will be provided within 3 working days of the meeting being held.

### 11.2.2 Order of Questions

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

### 11.2.3 Notice of Questions

- (a) To enable the Member of the Cabinet or Committee to provide the fullest and most accurate answer, notice that it is to be asked, together with a copy of it, should be given to the Director for Communities in writing by post or email to be received no later than midday ~~on the second~~three clear working days prior to the day of the meeting. Notice should be given by post to the Director for Communities, Town Hall, Chapel Road, Worthing, BN11 1HA or by email to [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk). Notice must include the name, address and contact details of the questioner.
- (b) Where a member of the public has failed to give notice of a question in accordance with this provision, the question may still be put, but the Member of the Cabinet or Committee to whom it is addressed may either choose to give a full response or respond by undertaking to provide a written response within 3 working days.

#### 11.2.4 Number of Questions

At any one meeting, no person may submit more than 2 questions, although each question may have more than one part, provided that each part relates to the same subject, and no more than 2 questions can be asked on behalf of one organisation.

#### 11.2.5 Scope of Questions

- (a) Every question must relate to a matter for which the Cabinet, or that particular Committee, has responsibility.
- (b) Where notice of a question has been provided, the Director for Communities may reject a question if, in their opinion, it:
  - (i) is not about a matter for which the Cabinet or Committee has a responsibility;
  - (ii) is defamatory, frivolous, vexatious or offensive;
  - (iii) refers to legal proceedings taken or anticipated by or against the Council;
  - (iv) is substantially the same as a question which has been put to a meeting of the Full Council, the Cabinet or the same Committee in the past 6 months;
  - (v) requires the disclosure of confidential or exempt information; or
  - (vi) would more appropriately be responded to by the Council under the Freedom of Information Act 2000 or the Data Protection Act 1998.
  - (vii) relates to a specific planning application;
  - (viii) relates to a specific application before a Licensing Committee or Sub-Committee;
  - (ix) relates to a specific staffing appointment or appeal matter;
  - (x) names or identifies individual service users, Officers or Members/staff of partner agencies;
  - (~~ix~~)(xi) makes or relates to allegations against, or comprise comments about, the conduct of individual Members or Officers;
  - (~~x~~)(xii) relates to a specific Standards determination matter.

#### 11.2.6 Record of Questions

- (a) Where notice of a question is provided, the Director for Communities will as soon as possible send a copy of the question to the Member to whom it is to be put. Where the Director for Communities has rejected a question, a copy will still be sent to the relevant Member together with reasons for the rejection.
- (b) Where notice of a question is provided, copies of all questions, save for those which have been rejected, will be circulated to all Members of the Cabinet or Committee, as the case may be, and will be made available to the public attending the meetings, and made publicly available via the Council's website.

#### 11.2.7 Asking the Question at the meeting

- (a) The person presiding will invite the questioner to put the question to the meeting.

- (b) If a member of the public who has submitted notice of a question is unable to be present, they may ask the person presiding to put the question on their behalf. If the person presiding sees fit, they may group similar questions together and summarise them. If the person presiding puts the question, they will indicate either that a written reply will be given within 3 working days or, in the absence of the questioner, that the question will not be dealt with.

#### 11.2.8 Supplemental Question

- (a) A member of the public who has put a question in person, may also be allowed a maximum of two minutes to put one supplementary question, without notice, to the Cabinet or Committee, and an oral response will be given.
- (b) A supplementary question must arise directly out of the original question or the reply.
- (c) The person presiding may reject a supplementary question on any of the grounds in Council Procedure Rule 11.2.1 or 11.2.5 above.

#### 11.2.9 Written Answers

- (a) Any question which cannot be dealt with during Public Question Time, either because of the non-attendance of the Member to whom it was to be put, or due to the non-attendance of the questioner, will be dealt with by way of a written answer from the Leader of the Cabinet, relevant Member, or Chair of the Committee, to be provided within three working days of the meeting.
- (b) Where notice of a question has been provided, but it cannot be responded to during Public Question Time due to lack of time, it will be dealt with by way of a written answer, to be provided within three working days of the meeting.

### 11.3 Deputations

- (a) Deputations may be received at full Council meetings provided that:
  - (i) notice is received in writing by Democratic Services at least eight clear days before the meeting giving the subject to be raised, the contact details of the person or organisation who will be addressing the meeting, and signed by at least five registered local government electors of the [Borough][District];
  - (ii) the subject is not related to a specific planning, licensing or other application under consideration by the Council;
  - (iii) the subject does not raise an issue of conduct by Members or officers, or names or clearly identifies any individual;
  - (iv) the subject does not relate to legal proceedings or raise an issue in the nature of a complaint;
  - (v) the subject does not relate to the appointment, promotion, dismissal, remuneration, conditions of service or conduct of officers;
  - (vi) the subject relates to a power or duty exercised by the Council or seeks the support of the Council in influencing other public bodies;
  - (vii) the subject is not, in the opinion of the Monitoring Officer, defamatory, vexatious, frivolous or offensive;
  - (viii) the subject does not require the disclosure of confidential or exempt information;
  - (ix) they are not on the same or a similar subject to a deputation heard in the last 6 months.
- (b) Requisitions for deputations shall not be accepted from, nor on behalf of, political parties, nor if bearing the name, insignia or other device of a political party.
- (c) Subject to the foregoing, Democratic Services Manager shall bring the requisition before the [Mayor][Chair], who having consulted the Leader, or in their absence the Deputy Leader, shall decide whether notice shall be given of the deputation on the agenda for a meeting of the Council. The Mayor must have regard to other business on the Council agenda in reaching such a decision; however a deputation will normally be accepted where there is an item on the Council agenda of the same subject matter.

- (d) A maximum of two deputations only will be permitted at any meeting and will be taken in the order they were received.
- (e) The number of each deputation shall not exceed five, of whom only one shall speak for no longer than five minutes, following which they may answer any questions from Members.
- (f) The relevant Cabinet Member shall be given the opportunity to respond to Council on the issues raised, and advise Council what actions will be taken as a result of the deputation. Should no response be given at the meeting to which the deputation is put, the Cabinet Member shall provide a response at the next ordinary meeting of Council together with a written response provided to the deputation spokesperson.
- (g) A maximum of 30 minutes shall be allocated to Deputations on the Council agenda.
- (h) There shall be no debate on any matter raised by the deputation, but any Member may move without notice a motion for the manner in which the Council should dispose of the item.
- (i) A deputation will fail to be presented if no one who has signed the deputation is present.

## Member Questions

### 12.1 Questions on Notice

- (a) ~~Subject to Procedure Rule 12.2 below, a Member may ask the Chair, a Cabinet Member, a Chair of any Committee, or the Council's representative on any outside body, a question at any Ordinary Council meeting, and at meetings of the Cabinet or a Committee, on any matter in relation to which the Council has power or which specifically affects the District~~  
Cabinet, except that no question may be asked:
- (b) ~~—~~
- (c) ~~on a decision of the Planning Committee on a specific planning application;~~
- (d) ~~on a decision of the Joint Governance Committee on a Standards determination;~~
- (e) ~~on a decision of a Licensing Committee on a specific application, review or similar matter;~~
- (f) ~~on a decision on a staffing appointment or appeal matter relating to an individual;~~  
~~on a matter which is substantially the same as a question which has been put to a meeting of the full Council by a Member of that Council within the previous 6 month period;~~
- (a) ~~that is defamatory, frivolous, vexatious or offensive.~~
- (b) ~~Every question shall be put and answered without discussion.~~
- (c) ~~Every question shall be put and answered without discussion. No Member may ask more than one question unless the time taken by questions has not exceeded 30 minutes, in which case second questions will be taken in the order that they are received.~~
- (g)(d) The Chair shall invite questions from Members in such an order as to ensure that each Political Group and independent Members are permitted to ask a question in rotation, starting with the Main Opposition group.

### 12.2 Notice of Questions

- (a) A Member may ask a question in accordance with Procedure Rule 12 if either:
  - (i) they have given written notice of the question to the Director for Communities, to be received by midday at least two-three clear working days prior to the day of the meeting; or
  - (ii) the question relates to an urgent matter and they have obtained the consent of the Chair and notice of, and a copy of, the question is given to the Director for Communities by midday on the day of the meeting.
- (b) The Director for Communities may reject a question if it:
  - (i) is not about a matter:
    - for which the Council, the Cabinet or Committee to which it is addressed has a responsibility; or,
    - which particularly affects the District;
  - (ii) is not submitted within the requisite timeframe;

- (iii) is a matter which is substantially the same as a question which has been put to a meeting of the full Council by a Member of that Council within the previous 6 month period.
- (iv) is defamatory, frivolous or offensive;
- (v) requires the disclosure of confidential or exempt information as defined in the Local Government Act 1972;
- (vi) relates to a day to day council function or the provision of a council service and has not been asked first of the relevant service area;
- (vii) is not related to policy or budget issues
- (viii) is a statement rather than a question;
- (ix) relates to an individual or the questioner's own particular circumstances;
- (x) is substantially the same as a question which has been put at a meeting of the Council in the past six months
- (xi) names or identifies individual service users, members of staff or members/staff of partner agencies;
- (xii) makes or relates to allegations against, or compromise comments about, the conduct of individual Members or Officers;
- (xiii) is a decision on a staffing appointment or appeal relating to an individual;
- (xiv) is a decision of the Planning Committee on a specific planning application;
- (xv) is a decision of the Joint Audit & Governance Committee on a Standards determination;
- (xvi) is a decision of a Licensing Committee on a specific application, review or similar matter.

### 12.3 Response

- (a) A written response will be prepared to the question and shall be read to the meeting. The response may take the form of:
  - (i) a direct answer; or
  - (ii) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
  - (iii) where the reply cannot conveniently be given to the meeting, a written answer circulated within 3 working days of the meeting, to the questioner and all Members of the Council.
- (b) Written replies will be given to questions by the relevant Cabinet Member or their nominee, but shall not be the subject of any further debate.
- (c) Answers should provide a full response to questions in a succinct way. If the reply cannot be given at the meeting, a written answer will be provided to the questioner within 10 working days of the meeting.

A written response will be prepared to the question and shall be read to the meeting. The response may take the form of:

- (a) a direct answer; or
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given to the meeting, a written answer circulated within 3 working days of the meeting, to the questioner and all Members of the Council.

### 12.4 Transferring the Response

- (a) The person to whom a question has been put may ask another Member to respond or may decline to answer.
- (b) Any Member may move that a matter raised by a question under Council Procedure Rule 12 be referred to the Cabinet or a Committee. Once seconded, such a motion will be voted on without discussion.

### 12.5 Supplementary Question

- (a) A Member asking a question under Council Procedure Rule 12 may ask one supplementary question without notice to the Member who replied to the original question.
- (b) The supplementary question must arise directly out of the original question or the reply.
- (c) The Chair may reject a supplementary question on any of the grounds set out in 12.2.

#### 12.6 Number and Order of Questions

- (a) A Member may submit as many questions as they wish to any meeting but may only ask one question and one supplementary question at a time.
- (b) The Chair shall invite questions from Members in such an order as to ensure that each Political Group and independent Members are permitted to ask a question in rotation, starting with the main opposition group.

#### 12.7 Duration of Question Time by Members

The period of time allotted to Members' questions under Council Procedure Rule 12 shall not exceed 30 minutes, unless the Chair exercises their discretion to extend it.

#### 12.8 Record of Questions and Answers

- (a) Questions asked on notice at Full Council under Procedure Rule 12 will be recorded in the minutes, as will any written answer provided. This includes any questions that are not answered at the meeting in the time allotted.
- (b) For the avoidance of doubt, neither supplementary questions nor answers shall be recorded.

### Leader's Report

#### 13.1 General

- (a) The Leader shall prepare a report of the business of the Cabinet for each Ordinary meeting of the Full Council. In presenting the report, the Cabinet will have 15 minutes to make any statements that they wish to make relating to the report.
- (b) Following the presentation of the Leader's report, any Member may ask a question of the Leader or Cabinet Member arising from the report, provided that the question is not one which is to be put under Council Procedure Rule 12.
- (c) This item of business shall not last longer than 15 minutes unless in the view of the Chair of the Council, or on a motion moved by a Member, seconded and approved by Full Council without discussion, it is deemed appropriate to extend the time. In this event, the Chair of the Council shall specify the duration of the extension.
- (d) Every question should be put and answered without discussion.
- (e) Following the presentation of the report and questions arising on that, the Chair of the Council shall call Members to ask questions for which due notice has been given pursuant to Council Procedure Rule 12.

#### Main Opposition Priority Motion

- (a) A Member nominated by the Main Opposition Leader may move a single Priority Motion on notice (in accordance with Procedure Rule 14).
- (b) The proposer may speak for up to five minutes, the seconder may speak for up to three minutes, and the Member responding on behalf of the Administration may speak for five minutes. No other questions or debate shall be allowed. The total time allowed for the item will be 15 minutes.

#### Motions on Notice

**Commented [g28]:** Suggested new item a Full Council for the Opposition.



## 14.1 Notice

- (a) Except for motions that can be moved without notice under Council Procedure Rule 15, written notice of every motion, signed by at least one Elected Member of the Council, must be delivered to the Director for Communities at least 10 clear working days before the date of the meeting.
- (b) If the notice of motion is sent by electronic means, an electronic signature will suffice, and it shall be received at least 10 clear working days before the day of the meeting at [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk). The Member must ensure they obtain an acknowledgement of its receipt.
- (c) The Director for Communities will date and number the motion in the order in which it is received.

## 14.2 Scope

~~(a) 14.2.1 Every motion shall be relevant to some matter in relation to which the Council has powers or duties or which specifically affects the Borough/District. Each motion must be clear and succinct, must clearly identify the matter to be debated and have a clear question to be put. Where the Councillor is aware of specific legal, regulatory or financial implications, these should be set out in the pre-amble. Motions must:~~

- ~~(i) be about matters for which the council has a responsibility; and/or~~
- ~~(ii) specifically affect the district; and~~
- ~~(iii) be about a single issue.~~

~~(b) Any amendments to motions must comply with (a)-(c) above and the procedure rule on amendments.~~

~~(a)(c)~~ Where a motion is received, the Director for Communities may reject it if, in their opinion, the motion:

- (i) is not relevant either to some matter in relation to which the Council has powers or duties or it does not affect the District; or
- (ii) is defamatory, frivolous, unlawful, vexatious or offensive; or
- (iii) refers to legal proceedings taken or anticipated by or against the Council; or
- (iv) is substantially the same as, or is to rescind, a motion which has been received and accepted in the past 6 months (see Procedure Rule 22); or
- (v) requires the disclosure of confidential or exempt information; or
- (vi) names or identifies specific service users, members of staff or members of staff of partner organisations without the Councillor demonstrating they have provided consent;
- (vii) relates to the Member's own personal circumstances; or
- ~~(viii)~~ (viii) is improper, out of order or not relevant.

~~(b)(d)~~ Where a motion is rejected by the Director for Communities, they shall return the motion to the Member of the Council who sent it, stating that it will not be inserted on the agenda and providing reasons.

~~(e)(e)~~ Where the Council is in the process of consulting with the public on a proposal, or responding to a formal consultation process, no notice of motion expressing support or objecting to the proposals shall be accepted.

~~(e)(f)~~ All accepted notices of motion shall be sent, via a report, direct to Full Council by the Director for Communities. Such report will include the procedure for consideration and determination of the motion.

~~(e)(g)~~ The decision of the Director for Communities will be final.

## 14.3 Motions set out in Agenda

- (a) Accepted motions for which notice has been given will be listed on the agenda, subject to the exception below, in the order in which notice was received by the Director for Communities, unless the Member giving notice of the motion gives advance written notice that they intend to propose to defer the motion until the next meeting, or withdraw the motion.

- (b) Such accepted motions will be placed on the agenda immediately before the consideration of exempt information items.
- (c) The maximum number of accepted motions on notice to be presented at a Council meeting shall be as follows:
  - (i) The three largest political Groups: two per Group
  - (ii) Any other Group: one per Group
- (d) If the three largest Groups cannot be determined due to equality in numbers, then each Group with a membership of 5 or more may present two motions.
- (e) Any Member not belonging to a Political Group may present not more than one motion on notice.
- (f) Where Members of a Political Group submit more than the permitted maximum number of notices of motion the Group shall decide which of these it wishes to table. In the absence of such a decision, notices of motion from Members of a Group shall be taken in the order in which they are received up to the permitted maximum number.
- (g) No more than one motion may be proposed by a Member for each meeting.
- (e)(h) A councillor may alter a motion that they have moved, in which case the amendment becomes part of the substantive motion without debate. Only alterations which could be made as an amendment may be made.

~~14.3.6 Where Members of a Political Group submit more than the permitted maximum number of notices of motion the Group shall decide which of these it wishes to table. In the absence of such a decision, notices of motion from Members of a Group shall be taken in the order in which they are received up to the permitted maximum number.~~

#### 14.4 Procedure for Consideration and Determination of a Motion

Motions shall be dealt with as set out below:

~~14.4.1 If any part of the subject matter of any motion comes within the remit of the Cabinet, upon being moved and seconded, it shall be noted by Council and referred without debate to the Cabinet for consideration and determination.~~

~~14.4.2 If any part of the subject matter of any motion comes within the remit of any Regulatory Committee (i.e. Planning and Licensing), upon being moved and seconded, it shall be noted by Council and referred without debate to such Committee for consideration and determination.~~

~~14.4.3 Subject to rules 14.4.1 and 14.4.2, if any part of the subject matter of any motion comes within the remit of any other Council committee, upon being moved and seconded, it shall be noted by Council and referred without debate to the relevant Committee for consideration and determination.~~

~~14.4.4 Where the subject matter of a motion:~~

- ~~(a) is not within the remit of the Cabinet, a Regulatory Committee or any other Council Committee; and~~
- ~~(b) does not incur any Council expenditure; and~~
- ~~(c) does not include a proposal for the Council to take any substantive action and is merely declaratory;~~

~~then it may be considered by the Full Council at the meeting at which it appears in the agenda.~~

~~14.4.5 Where the subject matter of a motion:~~

- ~~(i) is not within the remit of the Executive, a Regulatory Committee or any other Council Committee; and~~
- ~~(ii) does not incur any Council expenditure; and~~

**Commented [g29]:** What is the reason for this? Why can't a Motion propose that the Council takes action?

(iii) ~~does include a proposal for the Council to take substantive action and is more than declaratory;~~

~~then it may be considered by a future meeting of the Full Council.~~

#### **14.54 Speaking to propose a Motion**

~~14.5.1 If a motion on the agenda at Full Council is to be referred automatically to the Cabinet, a Regulatory Committee or another Council Committee in accordance with Council Procedure Rule 14.4, the proposer of the motion will confirm to the Chair their proposal of the motion as set out in the report before Council without a speech.~~

~~14.5.2 If a motion on the agenda at Full Council is to be referred automatically to the Cabinet, a Regulatory Committee or another Council Committee, in accordance with Council Procedure Rule 14.4, the seconder of the motion will confirm to the Chair their seconding of the motion as set out in the report before Council without a speech.~~

~~14.5.3 If a motion to be automatically referred has been signed by only one Member, the Chair will invite another Member present to second the motion without a speech. If the motion is not seconded it falls without debate.~~

~~14.5.4 If a motion on the agenda at Full Council is not to be referred automatically in accordance with Council Procedure Rule 14.4, it shall be proposed and seconded in accordance with the rules of debate set out at Council Procedure Rule 16.~~

~~14.5.5 If a motion on the agenda is not to be automatically referred and has been signed by only one Member, the proposer may speak for a maximum of 2 minutes without the motion being seconded. If the motion is then not seconded it shall fall.~~

~~14.5.6 If a motion set out on the agenda is not moved by a Member who gave the notice or by some other Member on their behalf, it shall be treated as withdrawn and shall not be moved without fresh notice unless postponed by the Council.~~

#### **14.56 Attendance of mover at meeting of the Cabinet or a Committee**

- (a) Where a motion has been referred by Full Council to the Cabinet or a Committee, the mover, or the seconder in the absence of the mover, shall be entitled to attend the relevant meeting of the Cabinet or Committee and to explain the motion.
- (b) The Member may answer questions from the Cabinet or Committee, for the purposes of clarification, prior to any debate and may sit with the Committee for the item in question.
- (c) The Member may not partake in the debate, nor vote upon the item.

#### ~~14.7—Motions similar to those previously rejected and Motions to rescind a decision~~

~~14.7.1 For procedures relating to Motions brought similar to those previously rejected and Motions attempting to rescind a Council decision, reference is made to Council Procedure Rule 22~~

#### **Motions and Amendments without Notice**

##### **15.1 General**

The following motions and amendments may be moved without notice:

- (a) To appoint a person to preside at the meeting at which the motion is moved;
- (b) In relation to the accuracy of the minutes;
- (c) To change the order of business in the agenda;
- (d) To refer something to an appropriate body or individual including referring any matter for consideration by the Cabinet or a Committee;

- (e) To ~~appoint~~ assign to a Committee or Member a matter arising from an item on the summons for the meeting;
- (f) To receive reports or adopt recommendations from the Cabinet, Committee or Officers, and any resolutions arising from them;
- (g) To withdraw a motion;
- (h) To extend the time limit for speeches;
- (i) To amend a motion;
- (j) To postpone consideration of a motion;
- (k) To proceed to the next business;
- (l) To take an immediate vote on a motion;
- (m) To adjourn a debate;
- (n) To adjourn a meeting;
- (o) That the meeting continues beyond 43 hours in duration;
- (p) To suspend a particular Council Procedure Rule;
- (q) To authorise the sealing of documents;
- (r) To exclude the public and press in accordance with the Access to Information Procedure Rules (see Council Procedure Rule 16.14);
- (s) To not hear further a Member named under Council Procedure Rule 32.3 or to exclude them from the meeting under Council Procedure Rule 32.4;
- (t) To invite a Member to withdraw in accordance with the Members' Code of Conduct;
- (u) To give the consent of the Council where its consent is required by this Constitution;
- (v) To carry out a statutory duty of the Council which, by reason of special circumstances, the person presiding is of the opinion should be considered at the meeting as a matter of urgency;
- (w) Motions relating to communications and announcements from the Chair, Leader, Members of the Cabinet and/or Head of Paid Service in accordance with Council Procedure Rule 3;
- (x) Motions relating to vote by way of ballot.

**Commented [GW30]:** Suggest reducing to 3 hours. See comment above.

## Rules of Debate

For rules of debate relating to the consideration and determination of the annual budget, reference is made to the Council's Budget Procedure Rules found in Part 4 of the Council's Constitution.

### 16.1 Management of debate

- (a) The person presiding shall have the control of any debate and will use their discretion to ensure the effective, efficient, fair and orderly conduct of the business.
- (b) The person presiding will normally follow the rules set out in this Procedure Rule 16 but their interpretation, application or waiver of these rules of debate will be final.

### 16.2 No speeches until motion seconded

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

### 16.3 Right to require motion in writing

Unless notice of the motion has already been given, the person presiding may require it to be written down and handed to them before it is discussed.

### 16.4 Full Council - Secunder's speech

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

### 16.5 Full Council - Content and length of speech

- (a) Speeches must be directed to the question under discussion or be a personal explanation or point of order.
- (b) Subject to (c) and (d) below, no speech shall exceed ~~53~~ minutes in length.
- (c) The speech of the proposer of a motion (but not an amendment), when proposing the motion or when exercising their right of reply at the close of debate on a motion, shall not exceed ~~105~~ minutes.
- (d) The time limits at (b) and (c) above may be extended with the consent of the Council which shall be given or refused without debate.

**Commented [GW31]:** To allow more business to be transacted and more speakers to be heard, I suggest this time be reduced to 3 minutes.

**Commented [GW32]:** Suggest reduce to 5 minutes.

#### 16.6 The Cabinet and Committees - Content of speech

- (a) Speeches must be directed to the question under discussion or be a personal explanation or point of order.
- (b) The person presiding shall exercise principles of good chairship in conducting meetings; regulating proceedings fairly, objectively and without bias. In particular, they shall ensure that the meeting has a structured debate with clear proposals moved and seconded and debated in the order moved.
- (c) The Chair shall announce the motion (as amended if appropriate) immediately before any vote and confirm the decision of the Cabinet or Committee.

#### 16.7 Full Council - When a Member may speak again

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

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

#### 16.8 The Cabinet and Committees – When a Member may not speak again

A Member who has spoken on a motion may not speak again whilst it is the subject of debate subject to the person presiding at their discretion:

- (a) determining that the Member has spoken sufficiently on the matter; or
- (b) determining that the matter has been debated sufficiently and calling for a vote.

#### 16.9 Amendments to Motions

- (a) An amendment shall be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual, including the Cabinet or a Committee, for consideration or reconsideration;
  - (ii) to give guidance to the Cabinet or a Committee on a subject determined under delegated powers;
  - (iii) to amend the wording, as long as the effect is not to negate the motion or introduce a new proposal into the debate.
- (b) If they deem it necessary, the person presiding shall read out the amended motion before the amendment is put.
- (c) Only one amendment may be moved and discussed at any one time and no further amendment shall be moved until the amendment under discussion has been disposed of, except with the agreement of the proposer and seconder of the subsisting proposed amendment, to amend that proposal with a view to achieving agreement.
- (d) A Member may give notice of their intention to move a further amendment, and its nature, before a vote is taken on the amendment under consideration.

- (e) If an amendment is lost, other amendments to the original motion may be moved, provided that no such amendment may have a similar effect to one previously determined by the meeting unless it is supported by more than 50% of Members present.
- (f) If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the substantive motion to which any further amendments may be moved.
- (g) After an amendment has been carried, the person presiding will read out the amended motion before accepting any further amendments.
- (h) After all amendments have been considered and determined there shall be an opportunity for further debate on the original motion, as amended or otherwise, as the case may be, prior to the taking of a vote.

#### **16.10 Alteration of Motion**

With the consent of their seconder and of the meeting, which shall be signified without discussion, a Member may alter:

- (a) a motion of which they have given notice, or
  - (b) a motion or an amendment which they have moved,
- provided that the alteration is one which could be made as an amendment to the motion.

#### **16.11 Withdrawals of Motions and Amendments**

- (a) A Member may withdraw a motion or amendment with the consent of their seconder and of the meeting, which shall be signified without discussion.
- (b) No Member may speak on the motion after the mover has asked permission for its withdrawal unless permission to withdraw is refused.

#### **16.12 Full Council - Right of Reply**

- (a) When Full Council debates reports and recommendations received from the Cabinet or its Committees, the appropriate Cabinet Member or Committee Chair shall have the right to sum up at the end of any debate on the report.
- (b) Subject to the above, the mover of a motion has a right of reply at the end of the debate on the motion immediately before it is put to the vote.
- (c) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (d) The mover of the amendment shall have a right of reply immediately after the reply on the amendment by the mover of the original motion.
- (e) A Member exercising a right of reply shall confine themselves to answering previous speakers and shall not introduce new matters or material. The person presiding's ruling on this shall be final and not open to discussion.

#### **16.13 Person presiding may sum up debate**

- (a) The person presiding may, if they think fit, sum up the debate before putting a motion or amendment to the vote; and
- (b) if such debate involves questions of a legal, administrative or technical nature, they may request the appropriate Officer to draw the attention of the meeting to any relevant factors.

#### **16.14 Motions which may be moved during debate**

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to postpone consideration of a motion;
- (d) to adjourn the debate;
- (e) to adjourn the meeting;

- (f) that the meeting continue beyond 43 hours in duration;
- (g) to proceed to the next business;
- (h) to take an immediate vote on the motion;
- (i) to not hear from a Member named under Council Procedure Rule 32.3 or to exclude them from the meeting under Council Procedure Rule 32.4;
- (j) to exclude the public and press in accordance with the Access to Information Rules.

#### **16.15 Closure Motions**

A Member may move, without comment, the following motions at the end of a speech of another Member:

- (a) to proceed to the next business;
- (b) to take an immediate vote on a motion;
- (c) to adjourn a debate;
- (d) to adjourn the meeting;
- (e) to exclude the public from the meeting;
- (f) that a Member be not further heard.

On the seconding of a motion referred to above, the person presiding shall proceed as follows:

- (a) On a motion to proceed to the next business, which is seconded, unless in their opinion the matter before the meeting has been insufficiently discussed, the person presiding shall give the mover of the original motion the right of reply and then put their motion to the vote. If the procedural motion is carried, then the question before the Council is dropped and no decision on it has been taken.
- (b) On a motion to take an immediate vote on a motion, which is seconded, unless in their opinion the matter before the meeting has been insufficiently discussed, the person presiding shall first put the procedural motion to the vote. If the motion is passed, the Chair will give the mover of the original motion or amendment their right of reply before putting it to the vote.
- (c) On a motion to adjourn the debate or to adjourn the meeting, which is seconded, if in the opinion of the person presiding the matter before the meeting has not been sufficiently discussed and cannot reasonably be so discussed, on that occasion, they shall put the adjournment motion to the vote without giving the mover of the original motion or amendment their right of reply. A Member moving the adjournment of the debate of the meeting must limit their observations to that question and no amendment can be proposed to that motion, unless it relates to the time of the adjournment. On resuming an adjourned debate, the Member who moved the adjournment is entitled to speak first.
- (d) On a motion to exclude the public, unless the motion appears on the agenda, the person presiding shall ascertain the grounds for the motion and seek the advice of the Monitoring Officer as to whether members of the public may lawfully be excluded. If members of the public may be lawfully excluded, the person presiding will allow the mover of the original motion a right of reply on the proposal to exclude the public and then put the motion to the vote. If it is passed, the person presiding may, at their discretion, either immediately require the public to leave the room in which the debate is being held or adjourn the debate until some convenient time later in the meeting when the public shall have been excluded.
- (e) On a motion that a named Member be not further heard, which is seconded, the person presiding shall put the motion to the vote without discussion from any Member. If it is passed, the named Member shall not be permitted to speak again during the meeting on any motion or amendment relating to the same matter.

#### **16.16 Certainty of Resolutions**

Before a vote is taken, the motion or resolution, as amended, is to be written down and read out by the Chair or their representative.

#### **16.17 Point of Order**

- (a) A point of order shall only relate to:
  - (i) an alleged breach of these Council Procedure Rules; or
  - (ii) an alleged breach of the law.
- (b) A Member may raise a point of order at any time and the person presiding shall hear them immediately, subject to Council Procedure Rule 32.2.
- (c) The Member must indicate the Council Procedure Rule or law and the way in which they consider it has been breached. The ruling of the person presiding on the matter will be final and is not open to discussion.

#### **16.18 Personal Explanation**

- (a) A personal explanation shall be confined to some material part of an earlier speech by the Member, which may appear to have been misunderstood in the present debate. The ruling of the person presiding on the admissibility of a personal explanation will be final and is not open to discussion.
- (b) A Member may indicate a desire to make a personal explanation at any time. The person presiding will hear them immediately.

#### **16.19 Council - Officers**

- (a) Other than in relation to Rule 18, no Officer other than:
  - (i) the Head of Paid Service;
  - (ii) the Head of Legal Services or their representative, in their role as adviser to the Council meeting;
  - (iii) the Monitoring Officer or Deputy Monitoring Officer;
  - (iv) the Section 151 Officer or Deputy Section 151 Officer;
  - (v) the Director for Communities or their representative, as to the recording of any part of the meeting;may be called upon to speak at a meeting of Full Council, without the consent of both the Chair of the Council and Head of Paid Service or a Director. However, with such consent, an Officer, other than those listed above, may contribute by way of advice, guidance or presentations on any report under consideration.
- (b) Officers holding statutory positions shall not be prevented from addressing the Council where they see fit to do so and so far as they act within the law.

#### **16.20 Notice of adjourned meetings**

Any motion to adjourn a debate or a meeting may specify the location, date and time at which the adjourned debate or meeting shall take place. If such specification is not given, the venue, date and time of the adjourned debate or meeting shall be determined by the Chair of the Council or Committee Chair as appropriate, or Director for Communities.

#### **16.21 Council – Committee recommendations and reports**

Any recommendations by, or reports from, a Committee at Full Council will be taken in date order, unless otherwise required, and for the purpose of any debate or amendment or other motion, each recommendation shall be treated as if it were a separate motion by the Chair of the Committee or other Member moving the report that the same be adopted by the Council.

#### **16.22 Full Council - Recommendations of the Cabinet**

Each recommendation of the Cabinet will be moved in turn by the Leader. After the recommendation has been moved and seconded the matter may be debated. The rules about motions and amendments set out above in these Council Procedure Rules will apply to each recommendation.



### **16.23 Offensive amendments or motions**

If at any meeting the person presiding is of the opinion that any motion, amendment or business proposed to be moved or transacted is of a defamatory, frivolous, vexatious or offensive nature, they may, either before or after the same has been brought forward, put to the vote a motion (upon which no discussion shall be allowed) that the motion, amendment or business in question not be entertained or further permitted. If such a motion is seconded, a vote will be taken. If such a motion is carried, the matter will be considered as disposed of at that meeting.

### **Matters Affecting Officers**

17.1 If any question arises at a meeting of Full Council, the Cabinet or a Committee at which the public are in attendance as to the appointment, promotion, dismissal, remuneration, pension matters, conditions of service or conduct of any person employed by the Council, such question shall not be the subject of discussion until Full Council, the Cabinet or the Committee, as the case may be, has decided whether or not the power of exclusion of the public under Section 100A of the Local Government Act 1972 shall be exercised.

### **Officer Reports**

18.1 Where any matter is subject to a first report to Full Council, the appropriate Officer may:

- (a) introduce the report;
- (b) answer questions for the purpose of clarification; and
- (c) provide advice during the debate.

18.2 The Officer may decline to answer a question which they perceive to be political in nature.

### **Overview and Scrutiny Reports to Full Council**

19.1 Where an Overview and Scrutiny Committee prepares a single report to Full Council, the Cabinet or a Committee, the Chair of the Overview and Scrutiny Committee shall present the report to the meeting as appropriate and shall be available to answer questions in relation to the report.

19.2 At a meeting of the Cabinet or a Committee, the Chair of the Overview and Scrutiny Committee shall be entitled to sit with Members of the Cabinet or Committee during the consideration of the report for the purposes of answering questions/clarifying matters contained within the report.

19.3 Where there is a minority report, as well as a majority report, from an Overview and Scrutiny Committee, those Members supporting the minority report shall select one of their number to present that report and/or answer questions on it.

19.4 The Member selected under (c) above shall have the same rights/privileges with regard to attendance at Full Council, the Cabinet or the relevant Committee as the Chair of the Overview and Scrutiny Committee.

19.5 If the Chair of the Overview and Scrutiny Committee is a supporter of the minority report, then the Vice Chair or another Member supporting the majority report shall have the same rights/privileges as the Chair, had they supported it.

### **Joint Audit & Governance Committee Reports to Full Council**

20.1 Full Council shall receive such reports of the Joint Audit & Governance Committee as shall be referred to it by the Committee.

20.2 When receiving such reports or minutes, the Chair or Vice Chair of the Committee, whether they are an Elected Member of the Council or co-opted Member of the Committee, shall be entitled to:

- (a) present the report or minute;
- (b) answer any questions relating to the report or minute;
- (c) propose, or agree any amendment to, the motion, proposal or recommendation.

### **Representatives on Outside Bodies**

21.1 Members who are appointed to outside bodies as representatives of the Council are encouraged to post a report of such meetings that they attend in the Members' Newsletter.

21.2 Where a Member who is a representative on an outside body is of the view that a matter to be considered by that body is of such importance as to require that they are informed as to the Council's opinion on that item, the Member shall be entitled to request the Director for Communities to place the item on the agenda of the appropriate meeting of Full Council, the Cabinet or a Committee. The Member may address Full Council, the Cabinet or a Committee as in Council Procedure Rule 14.6.

### **Previous Decisions and Motions**

#### **22.1 Motion to rescind a previous decision**

Subject to Rule 22.3 below:

- (a) Where a Motion on Notice is submitted, to rescind a decision made at a meeting of Full Council within the past 6 months, the Director for Communities shall reject it, unless the Motion is signed by at least 10 Members of the Council.
- (b) If a Motion or Amendment is raised during a debate, at Full Council, to rescind a decision made at a meeting of the Full Council within the previous 6 months, the Chair shall reject it.

#### **22.2 Motions similar to one previously rejected**

Subject to Rule 22.3 below:

- (a) **Motions on Notice**  
Where a Motion on Notice is submitted, which is substantially the same as one previously rejected by the Director for Communities within the previous 6 months, it shall again be rejected by the Director for Communities, unless it is signed by at least 10 Members of the Council, in which case it shall be accepted, subject to the provisions of Council Procedure Rule 14.
- (b) **Motions arising during debate at Full Council**  
If a Motion or amendment is raised during debate, at a meeting of the Full Council, which is similar to one rejected within the previous 6 months, the Chair shall reject it.

#### **22.3 Exceptions**

- (a) Rules 22.1 and 22.2 shall not apply:
  - (i) to motions moved in pursuance of a recommendation of the Cabinet or a Committee;
  - (ii) to motions to carry out any statutory duty of the Council which, in the opinion of the person presiding, is of an urgent nature; or
  - (iii) where a decision has been made by another body since the Council's decision, which significantly affects the decision and necessitates reconsideration of the matter.
- (b) The ruling of the person presiding as to whether any motion or amendment comes within the terms of Council Procedure Rules 22.1 and 22.2 will be final.

### **Petitions**

23.1 Petitions, other than statutory petitions such as for an elected Mayor, shall be managed in accordance with the Council's Petition Scheme set out in Part 5 of the Constitution.

## Voting

Voting at meetings of Joint Committee will be dealt with in accordance with the procedures set out in the Joint Committee Agreement.

### 24.1 Majority

- (a) Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.
- (b) The person presiding will ascertain the numbers voting for, against or abstaining on any question, shall announce those numbers, and declare the result.
- (c) The person presiding's declaration as to the result will be final.
- ~~(c)~~(d) If a Member is not present continuously for the duration of the item on the agenda, they are unable to cast a vote and if they are present when the vote is taken, must indicate that they are abstaining from the vote.

### 24.2 Casting vote

- (a) The casting vote can only be used if the person presiding has already cast their deliberative vote. So if the person presiding puts the issue to the vote, but does not vote themselves and there is a tie, then the casting vote does not apply because they have not yet exercised their deliberative vote.
- (b) If, after the person presiding has exercised their deliberative vote there is a tie, then the casting vote can be exercised.
- (c) If there are equal numbers of votes for and against, the person presiding, having cast their deliberative vote, may exercise a second or casting vote. There will be no restriction on whether or how they choose to exercise a casting vote, save that it will be exercised in accordance with the law.
- (d) If there are equal numbers of votes for and against and the person presiding chooses not to exercise their casting vote, then the matter to be determined shall fall.

### 24.3 Show of hands

Unless a ballot or recorded vote is demanded under Rules 24.4 and 24.5 or a recorded vote is required under 24.6, the person presiding will take the vote by show of hands or by the use of such electronic voting system as the Council shall determine or, if there is no dissent, by the affirmation of the meeting.

### 24.4 Ballot

- (a) A ballot is a vote whereby Members signify their vote in writing on a piece of paper issued to them individually for that purpose and the vote of individual Members is not identified as being by that Member.
- (b) The vote will take place by ballot if a majority of Members present at the meeting demands it, and there has been no valid request for a recorded vote in accordance with rule 24.5 below.
- (c) Such demand to be made by motion without notice, moved, seconded and voted on without debate.
- (d) The person presiding will announce the numerical result of the ballot immediately the result is known.

### 24.5 Recorded Vote

- (a) On the request of any Member of the Council made before the vote is taken and upon 5 other Members signifying their support by standing, the voting on any question shall be by roll-call and shall be recorded in the minutes of the meeting to show how each Member present and voting cast their vote. The name of any Member present and abstaining from voting will also be recorded.
- (b) A demand for a recorded vote will override a demand for a ballot.

#### 24.6 Recorded vote – Budget Decision meeting

Whenever the Full Council votes on the determination of the calculation of the budget and the setting of any precepts, the vote of each individual Member shall be recorded.

#### 24.7 Right to require individual vote to be recorded

~~Where immediately after a vote is taken at a meeting of the council, a committee, joint committee or sub-committee any Member so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast their vote for the question or against the question or whether they abstained from voting. Immediately after a vote is taken, and before the next agenda item has commenced, any Member may require that the minutes show whether they voted for or against the motion or whether they abstained from voting.~~

**Commented [g33]:** Mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993, Sch.2 para.1.

#### 24.8 Voting on appointments

Where there are appointments to be made (including appointments to outside bodies, to Executive Leader, or to the position of Chair or Vice Chair of the Council) and there are more nominations than positions to which appointments are to be made, the following rules will apply:

- (a) if practicable then the vote shall be by simple majority;
- (b) Where there are 3 or more candidates seeking appointment to a single position, there shall be a vote for each candidate and:
  - (i) if one of the candidates receives more than half of all the votes cast in the election, that candidate is to be appointed.
  - (ii) if no candidate receives more than half of all of the votes cast then the candidate with the fewest number of votes will be eliminated and a new vote taken. The process will continue until there is a majority of votes for one person.

#### Confidentiality of Papers

Save as provided by the Local Government Act 1972, all summonses, agendas, reports and other documents shall be treated as confidential unless and until they become public in the ordinary course of the Council's business.

#### Minutes

##### 26.1 Signing the Minutes

- (a) The person presiding will sign and initial each page of the minutes of the proceedings at the next suitable meeting.
- (b) The person presiding will move that the minutes of the previous meeting are a correct record, provided that the previous meeting took place more than 10 clear working days prior to the day of the meeting.
- (c) The only part of the minute that can be discussed is their accuracy.
- (d) Any questions as to their accuracy as a record of a meeting shall be raised by motion. If no such question is raised, or if it is raised then as soon as it has been disposed of, the person presiding shall sign the minutes.
- (e) Where there is no Ordinary meeting of a Committee or Sub-Committee expected to take place within a period of 6 months after a meeting for which draft minutes have been prepared then:
  - (i) in respect of a Committee, Full Council may agree the accuracy of the minutes;

**Commented [GW34]:** Sch.12 Pt.6 Para.41(2) Local Government Act 1972

- (ii) in respect of a Sub-Committee, the parent Committee or Full Council may agree the accuracy of the Minutes;
  - (iii) in respect of Committees or Sub-Committees which have ceased to meet and their functions have been subsumed in another Committee or Sub-Committee, the new Committee or Sub-Committee or Full Council may agree the accuracy of the minutes;
  - (iv) in respect of Joint Committees, minutes will be dealt with in accordance with the provisions of the Joint Committee Agreement.
- (f) In respect of a Committee or Sub-Committee convened to determine a specific licensing, standards or staffing matter, the Chair of that decision-making body may agree the accuracy of the record of the meeting.

#### **26.2 No requirement to sign minutes of previous meeting at Extraordinary Meeting**

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an Extraordinary meeting, then the next following meeting being an Ordinary meeting will be treated as a suitable meeting for the signing of minutes.

#### **26.3 Form of minutes – Non-Executive meetings**

- (a) The minutes will contain a summary of any debate setting out the main points that were considered by the meeting and the wording of the final decision.
- (b) Any further reports or information commissioned with the agreement of the
- (c) meeting will be recorded in the minutes.

#### **26.4 Form of Records of decisions – Cabinet meetings**

Records of decisions shall contain a:

- (a) summary of the options considered;
- (b) summary of the reasons for the decision;
- (c) the decision; and
- (d) date for Call-In.

and will comply with the requirements of the Cabinet Procedure Rules.

#### **Status of Draft Decisions and Minutes**

- 27.1 It should be noted that until such time as the Full Council, the Cabinet or a Committee whose record is set out in a draft record or minute confirm that record or minute as an accurate record of their decision, they are a working draft only.
- 27.2 Subject to Council Procedure Rule 26.1 above, only the body whose record is set out in the draft record or minute may alter or amend the record or minute.
- 27.3 If a Member wishes to propose a recommendation to Full Council that differs from that set out in a draft record or minute then it must be done by way of an amendment to the motion before the Full Council and not as an amendment to the minute or record.

#### **Recording of Meetings**

##### **28.1 Recording by the Council**

The Council may make such arrangements as it decides are appropriate for the recording, broadcasting and publication of meetings.

##### **28.2 Recording by the public**

- (a) This Council Procedure Rule should be read in conjunction with the Protocol for Public/Press Recording of Public Council meetings and Social Media Policy which can be found in Part 5 of the Constitution.
- (b) A member of the public may make sound or visual recordings at any meeting of the Council and may make such arrangements as they wish to broadcast the recordings, subject to the following:
  - (i) no visual recording should be made of persons in the public gallery;
  - (ii) no visual recording should be made of any person under 18;
  - (iii) no recording shall be made of any meeting or part of a meeting which is considering matters that the Members have agreed are exempt under the Access to Information Rules or which are confidential;
  - (iv) no recording shall be carried out in a manner that causes disruption to the meeting or distracts the attention of the public from the content of the meeting;
  - (v) no oral commentary or report shall be made during the meeting;
  - (vi) their compliance with the statutory provisions of the General Data Protection Regulations and any other legislation surrounding the recording and use of personal data and its retention.
- (c) Where a member of the public does not comply with this Rule, the person presiding shall require them to stop recording. If the member of the public fails to cease recording, then the person presiding shall consider whether or not action should be taken under Council Procedure Rule 31 below.

### **28.3 Recording by a Member**

A Member of the Council may also make sound or visual recordings provided that they comply with Council Procedure Rule 28.2 and the Protocol for Public/Press Recording of Public Council meetings and Social Media Policy in Part 5 of the Constitution. If they fail to do so, the person presiding shall require them to stop recording and if they fail to cease as requested, then the person presiding shall consider whether or not action should be taken in accordance with Council Procedure Rule 32 below.

### **Record of Attendance**

29.1 The names of all Members present during the whole or part of a meeting shall be recorded.

29.2 Any omission may be remedied at the absolute discretion of the Monitoring Officer, or by the amendment of draft minutes of a meeting prior to confirmation, at the next or subsequent meeting in accordance with Council Procedure Rule 26.

### **Exclusion of the Public**

30.1 The public shall be admitted to all meetings of the Council unless members of the public are excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Council Procedure Rule 31.

### **Disturbance by the Public**

#### **31.1 Removal of member of the public**

- (a) If a member of the public interrupts proceedings, causes a disturbance or behaves improperly, or offensively, or by wilfully obstructing the business of the Council, or fails to comply with Council Procedure Rule 28 above, the person presiding will warn the person concerned.
- (b) If the member of the public, having been warned under (a) above, continues their conduct, the person presiding will order their removal from the meeting room.

### **31.2 Clearance of part of the meeting room**

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

### **31.3 General disturbance**

If there is a general disturbance making orderly business impossible, the person presiding may adjourn the meeting for as long as they think necessary.

## **Members' Conduct**

### **32.1 Full Council - Addressing the Council**

- (a) All Members must stand and address the Chair of the Council when speaking during a Full Council meeting, unless they are physically unable to do so, or the Chair of the Council uses their discretion to waive this Rule.
- (b) If more than one Member stands, the Chair of the Council will ask one to speak and any other Members must sit.
- (c) All Members, other than the speaker, must remain seated whilst a Member is speaking unless they wish to make a point of order in accordance with Council Procedure Rule 16.17 or a point of personal explanation in accordance with Council Procedure Rule 16.18.

### **32.2 Chair standing**

When the Chair of any Council or Committee meeting stands during a debate, any Member speaking at the time must stop and sit down. The meeting is to be silent whilst the Chair of the meeting speaks.

### **32.3 Member not to be heard further**

- (a) If a Member persistently disregards the ruling of the person presiding by continued irrelevance or repetitions or by behaving improperly or offensively or by wilfully obstructing the business of the Council, the person presiding may direct the Member to stop speaking.
- (b) If following a direction from the person presiding to stop speaking, the Member continues to speak, the person presiding may move that the Member be not heard further. If seconded, the person presiding shall put the motion to the vote without discussion and if passed, the Member shall not be permitted to speak on the same matter again, during the meeting.

### **32.4 Member to leave the meeting**

- (a) If a Member persistently disregards the ruling of the person presiding by continued irrelevance or repetitions or by behaving improperly or offensively or by wilfully obstructing the business of the Council, the person presiding may request them to leave for the remainder of the meeting or for any lesser period.
- (b) If following a request to leave the meeting, the offending Member does not leave the meeting, the person presiding may move that the Member named leave the meeting.
- (c) The motion shall be put and if seconded, will be voted upon without discussion.
- (d) If carried, the person presiding shall give directions for the removal of the Member and such other directions as are necessary for restoring order to the proceedings.

### **32.5 General disturbance**

If there is a general disturbance making orderly business impossible, the person presiding may adjourn the meeting for as long as they think necessary.

### **32.6 Electronic devices**

This Council Procedure Rule should be read in conjunction with the Protocol for Public/Press Recording of Public Council meetings and Social Media Policy which can be found in Part 5 of the Constitution.

- (a) Subject to (b) below, Members may at any meeting use any device for:
  - (i) the recording of the meeting;
  - (ii) the sending or receiving of communications in relation to the meeting;
  - (iii) the publication of the contents of the meeting.
- (b) Paragraph (a) above is subject to the following restrictions, namely that:
  - (i) such device does not emit any audible warning or other disruptive signal;
  - (ii) the Member does not record or communicate any matter or information relating to the contents of any meeting or part of a meeting which is in relation to information which is confidential or which the Members have agreed to exclude the press and public in accordance with the Access to Information Procedure Rules.
  - (iii) the use of the device does not disrupt the meeting or distract members of the public or other Members from the content of the meeting;
  - (iv) it is not permissible to record an oral commentary during the course of the meeting;
  - (v) they comply with statutory provisions of General Data Protection Regulations and any other legislation relating to the recording, use of and retention of personal data.
- (c) Where a Member's use of a device does not comply with this Rule then the person presiding at the meeting shall consider whether or not action should be taken in accordance with this Rule.

### **Delegation to the Leader, Committees and Officers**

#### **33.1 Matters to be delegated**

- (a) The Council may delegate matters from time to time to the Cabinet and Committees as it sees fit or as legislation prescribes.
- (b) The Council may delegate matters from time to time to Officers as it sees fit or as legislation prescribes, in addition to those delegated by Council under the Scheme of Officer Delegations.
- (c) In relation to any matter determined by the Cabinet, a Committee or an Officer acting under delegated authority, the delegator may give guidance as to the manner in which the same or a similar matter shall be dealt with in future, provided that such guidance shall not have the effect of:
  - (i) causing the Council to breach the rules of natural justice; or
  - (ii) prejudicing the determination by the delegatee of any matter required to be judged on its individual merits; or
  - (iii) fettering the discretion of the Cabinet in respect of matters delegated to it by legislation.

### **Attendance of Members at the Cabinet or Committees of which they are not Members**

#### **34.1 Attendance by mover of motion**

A Member of the Council who has moved a motion which has been referred to the Cabinet or a Committee shall be given notice by the Director for Communities of the meeting at which it is proposed that the motion be considered. They shall have the right to attend the meeting whilst the motion is being considered, to explain the motion and answer questions.

#### **34.2 Attendance by Representative on Outside Body**

Where a Member has requested the Director for Communities to place an item on the agenda in accordance with Council Procedure Rule 21, they shall have the right to attend that meeting whilst that item is under consideration.

#### **34.3 Attendance of Members at Meetings**



- (a) A Member of the Council shall have a right to attend meetings of the Cabinet or a Committee on which they have not been appointed to serve, and be present, in the public gallery throughout the public part of the meeting.
- (b) A Member of the Council is entitled to remain in attendance, in the public gallery, during the confidential part of any meeting or where the public have been excluded from the meeting in accordance with the Access to Information Procedure Rules, provided that they have a need to know about the matter under consideration, and they do not have a disclosable pecuniary interest or other relevant interest in the matter. It is assumed that every Member will have need to know about the matter under consideration, although this presumption is rebuttable and advice should be taken from the Monitoring Officer.
- (c) A Member of the Council who is not a Member of the Cabinet or a Committee and has a disclosable pecuniary interest or other relevant interest in any item under consideration at a particular meeting is not entitled to be present in any part of the room where the meeting is taking place, during that particular part of the meeting where that item is to be discussed, unless a dispensation has been granted by the Monitoring Officer.
- (d) Council Procedure Rule 34.3 does not apply to meetings of:
  - (i) the Joint Audit & Governance Committee when it goes into closed session to determine a Member Code of Conduct matter;
  - (ii) the Licensing Committee or Sub-Committee when they go into closed session to determine an individual quasi-judicial case;
  - (iii) any Committee when it goes into closed session to determine the capability or conduct of an individual Officer under the Council's disciplinary or grievance procedures.
  - (iv) any Committee considering the appointment of a Council Officer.
- (e) No Member is entitled to attend meetings referred to in (d) above unless they are appointed as a Member of that Committee or are substituting for such a Member.

#### 34.4 Speaking by Members at meetings

- (a) Subject to (c) and (d) below, a Member of the Council shall have the right to attend meetings of the Cabinet or a Committee on which they have not been appointed to serve, and address the meeting provided that:
  - (i) the Member has, prior to the commencement of the meeting, notified the person presiding of their desire to address it; and
  - (ii) they are then invited by the person presiding to address the meeting.
- (b) The person presiding shall have total discretion as to whether or not to invite such a Member to address the meeting.
- (c) A Member who is not a Member of the Planning Committee may not address that Committee in respect of any planning application, unless a similar right is granted within the Constitution (Protocol on Public Speaking at Planning Committee in Part 5) to the applicant, any objector and any supporter.
- (d) A Member who is not sitting as a Member of the Licensing Committee or the Licensing Sub-Committee may not address that Committee or Sub-Committee unless they have a right to speak under relevant statutory regulations.
- (e) A Member who is not sitting as a Member of the Joint Audit & Governance Committee may not address that Committee or Sub-Committee when hearing a Code of Conduct determination, unless they are representing or acting as a witness for either the Monitoring Officer, Investigating Officer, or the Subject Member.

**Commented [g35]:** Extend the right of Members to address/ask questions at Executive and Committee meetings, in the same way as at full Council (subject to having a DPI or other relevant interest in the matter). It should not be a matter for the chair's discretion.

**Commented [g36]:** See comment above.

#### 34.5 Executive Leader

- (a) Subject to (b) below, the Cabinet Leader, or Deputy Leader in their absence, may attend any meeting of a Committee and speak on any item under consideration as of right, unless they have a disclosable pecuniary interest or other relevant interest in the matter.
- (b) Paragraph (a) above does not apply to meetings of:
  - (i) the Joint Audit & Governance Committee when considering an individual case relating to Member conduct;

- (ii) ii) the Licensing Committee or Sub-Committee when meeting in closed session to determine an individual case; or
- (iii) iii) the Planning Committee, when considering a planning application;
- (iv) iv) any Committee considering the conduct of an individual Officer under the Council's disciplinary or grievance procedure;
- (v) v) any Committee dealing with the appointment of a Council Officer.

#### **34.6 Voting**

A Member of the Council, attending a meeting of the Cabinet or a Committee on which they have not been appointed to serve, and is not acting as a Substitute Member, is not entitled to vote on any item under consideration.

#### **Exercise of Powers and Functions**

35.1 No individual Member, Officer or group of Members or Officers, or both, shall be entitled to exercise any power or function of the Council save as already or hereafter delegated to them by the Council, the Cabinet, a Committee or another Officer exercising a power or fulfilling a function on behalf of the Council or as detailed in this Constitution.

35.2 Whilst the Chair of a Committee and Cabinet Members can expect to be consulted on matters affecting their areas of responsibility, they shall not have power to act on behalf of, or bind, the Council, unless the Council or the Leader has given them specific delegated powers to do so.

#### **No Confidence in the Chair of a Committee**

36.1 At any meeting of a Committee, a Member of that Committee may move that 'the meeting has no confidence in the Chair'. If seconded, the motion shall, after debate, be put and, if carried by a majority of at least two thirds of the Members present, the Chair shall immediately stand down and the remainder of the meeting shall be chaired by the Vice-Chair or, in their absence, or if they were acting as the Chair and the subject of the vote, by a Member elected for that purpose by the meeting.

36.2 During the consideration of a motion under (a) above, the Chair shall cease to be Chair of the Committee and shall be an Ordinary Member of the Committee. The Director for Communities, the Head of Legal Services (or their representative) will act as Chair of the Committee during consideration of the motion.

36.3 Following a successful vote of no confidence in the Chair, they shall not officiate at any subsequent meeting of the Committee prior to the next meeting of the Full Council. At that meeting, the Council shall consider whether or not to confirm the vote of no confidence. If by a simple majority they decide to confirm the vote, the office of Chair of the relevant Committee shall be declared vacant and a new Chair shall be elected by the Council. If the Council does not confirm the vote by a simple majority, the Member remains as Chair of the Committee.

#### **Appointment and Term of Office of the Executive Leader**

##### **37.1 Election**

- (a) The Council shall elect a Leader at each Annual meeting where the term of office of the Leader has come to an end due to the fact that their term of office as a District Councillor has ended.
- (b) The Councillors present at that Annual meeting shall nominate one or more persons to be Leader from among the Elected Members. Any nomination which is not seconded, shall not be considered further.

- (c) Where there is only one Elected Member nominated and seconded, then the Chair of the Council shall provide an opportunity for a debate before calling for a vote which shall require a majority of those present and voting to determine whether the Member shall be elected as Leader.
- (d) Where there are two Elected Members nominated and seconded then, following the opportunity for debate, the Chair of the Council shall call for a vote and the Member who receives the largest number of votes shall be elected as Leader.
- (e) Where there are three or more candidates seeking appointment to a single position, there shall be a vote for each candidate and:
  - (i) if one of the candidates receives more than half of all the votes cast in the election, that candidate is to be appointed;
  - (ii) if no candidate receives more than half of all of the votes cast then the candidate with the fewest number of votes will be eliminated and a new vote taken. The process will continue until there is a majority of votes for one person.
- (f) The Motion shall be subject to the rules of debate in Council Procedure Rule 16 and voting shall be in accordance with Council Procedure Rule 24.

### **37.2 Removal**

- (a) If a Member wishes at a meeting of Full Council to move a motion to remove the Cabinet Leader, the Member must give at least 10 clear working days' notice to the Director for Communities.
- (b) The motion must be signed by the mover and seconder.
- (c) The Director for Communities shall place the motion on the agenda for the next meeting of the Council, provided that such meeting is not a Special meeting. The motion before the Council shall be considered after the receipt of any declarations of interest, approval of minutes of the last meeting and questions and statements by the public.
- (d) The motion shall be subject to the rules of debate in Council Procedure Rule 16 and voting shall be in accordance with Council Procedure Rule 24.

### **37.3 Consequence of a Motion to Remove the Executive Leader**

Where a motion to remove the Cabinet Leader is carried, then the Leader shall cease to be Executive Leader with immediate effect. The Council shall proceed to elect a new Executive Leader at that meeting or the next meeting of the Full Council, provided it is not a Special meeting.

### **37.4 Term of Office**

- (a) The Cabinet Leader shall hold the office of Leader in accordance with Article 7 of the Constitution.
- (b) Should the Cabinet Leader resign from their appointment, an Extraordinary Meeting will be called to deal with the appointment of a new Executive Leader in accordance with this Procedure Rule. The Deputy Leader will assume the role of Leader until such appointment is made.

### **~~Appointment of Emergency Liaison Member~~**

~~38.1 Where the Leader makes an appointment as Executive Member for Health and Wellbeing or a similar portfolio, that Member shall be appointed as the Emergency Liaison Member.~~

~~38.2 The position of Emergency Liaison Member attracts no Executive power, responsibility or responsibility allowance.~~

### **Leader of the Main Opposition**

38.1 Where there is a Political Group or combination of Political Groups forming the Administration, the Leader of the Main Opposition shall be the leader of the next largest Political Group;

38.2 Where the next largest Political Group does not wish to nominate a Member to be the Leader of the Main Opposition, the Council shall not appoint any Member to that office.

38.3 If there is equality in the number of Members in all opposition groups, there will be no appointment to the role of Leader of the Main Opposition, e.g. if there are two opposition groups with equal membership;

38.4 If there is no opposition group, and there is an equal number of opposition Members, there will be no appointment to the role of Leader of the Main Opposition, e.g. if there are two individual opposition Members, representing different parties.

38.5 At the Annual Council each year, the Full Council shall **appoint-note the** Leader of the Main Opposition, who shall be entitled to receive any Special Responsibility Allowance payable to that office.

## **Suspension and Amendment of Council Procedure Rules**

### **39.1 Amendment**

Any motion to add to, amend or revoke any of these Council Procedure Rules will, when proposed and seconded, stand adjourned without discussion and be referred to the Joint Audit & Governance Committee for consideration and recommendation to the following meeting of the Council, unless a report has been received, on the proposal, from the Joint Audit & Governance Committee.

### **39.2 Suspension**

- (a) Save as set out at 40.2(c) below, these Council Procedure Rules cannot be suspended.
- (b) The person presiding may, at their absolute discretion, amend the order of business of any meeting.
- (c) Only Council Procedure Rules 11.1 (as to the length of time), 11.4, 12.7, 12.8, 16.5, 16.7, and 16.19, may be suspended by motion on notice or without notice. Suspension of Council Procedure Rules shall be determined for each individual item of business, and will only be effective for the duration of that meeting.

**Commented [GW37]:** Check and insert the correct paragraph numbers.

## **Urgent Business**

40.1 Subject to (b) and (c) below, if, having consulted the Monitoring Officer and the Section 151 Officer, the Chief Executive is of the opinion that urgent action is required, in accordance with the Scheme of Officer Delegations, before a decision could be taken by Full Council, the Cabinet or a Committee having appropriate authority, they may take the decision in accordance with their urgency power as set out in the Officer Scheme of Delegations.

- 40.2 If the decision is one which would normally be taken by:
- (a) Full Council, the Chief Executive will consult with the Leader and the Leader of the Main Opposition;
  - (b) The Cabinet, the Chief Executive will consult with the Leader;
  - (c) A Committee, the Chief Executive will consult with the Leader, Leader of the Main Opposition and Chair of the Committee.

40.3 Every such decision shall be reported to the next available Ordinary meeting of Full Council, the Cabinet or the Committee that would have normally taken the decision.

## Chair of the Council

### 41.1 Appointment

- (a) The Council shall elect a Chair at each Annual Council meeting.
- (b) The existing Chair shall take the Chair for the item on the agenda, unless they are conflicted, when the Vice Chair will take the Chair for the single item of business. If the Chair and Vice Chair are both conflicted the Head of Legal Services or their representative will take the Chair for the appointment of the Chair.
- (c) The Councillors present at that Annual meeting shall propose one or more persons to be Chair from among the Elected Members. Any proposal which is not seconded, shall not be considered further.
- (d) Where there is only one Elected Member proposed and seconded, then the Chair shall provide an opportunity for a debate before calling for a vote which shall require a majority of those present and voting to determine whether the Member shall be elected as Chair.
- (e) Where there are two Elected Members proposed and seconded, then a debate on the proposals will follow, then the Chair shall call for a vote and the Member who received the largest number of votes shall be elected as Chair.
- (f) Where there are three or more Elected Members proposed and seconded, following a debate on the proposals, the Chair shall call for a vote for each Member proposed and:
  - (i) If one of the proposed Members receives more than half of all the votes cast in the election, that Member is to be appointed as Chair;
  - (ii) If no Member receives more than half of all the votes cast then the Member with the least number of votes will be eliminated and a new vote taken. The process will continue until there is a majority of votes for one person, who shall be appointed as Chair.
- (g) The voting will be in accordance with Council Procedure Rule 24.

### ~~42.2 Removal~~

~~If a Member wishes at a Meeting of Full Council to move a motion of no confidence in the at that meeting of the Council. The item of the appointment will be chaired by the Head of Legal Services or their representative.~~

**Commented [GW38]:** The Council Chair (Mayor) serves for a year and cannot be removed during their term of office other than by resignation or disqualification: s.3(2) LGA 1972.

## **Budget Procedure Rules**

### **1.0 SUMMARY**

- 1.1 The Council has a duty under Chapter III of the Local Government Finance Act 1992 to set a lawful budget in a timely manner.
- 1.2 Members have a fiduciary duty to Council Tax payers.
- 1.3 This means they have a duty to facilitate the setting of a lawful budget; a process that requires flexibility and compromise.
- 1.4 Failure to set a lawful budget in time may lead to a loss of revenue, significant additional administrative costs, as well as reputational damage.
- 1.5 Failure to set a budget may lead to intervention from the Secretary of State under section 15 Local Government Act 1999.

### **2.0 THE LEGAL DUTY**

- 2.1 Section 30(6) and 31A(11) of the Local Government Finance Act 1992 provides that the Council has to set its budget before 11 March in the financial year preceding the one in respect of which the budget is set. This means the Council has a duty to set the budget before 11 March each year.
- 2.2 If the budget is set after that date, the Act says the failure to set a budget within the deadline does not, in itself, invalidate the budget. However, such delay may have significant financial, administrative and legal implications, including potential individual liability of any Member who contributed to the failure to set a budget.
- 2.3 Section 66 of the 1992 Act provides that failure to set a Council tax (or delay in setting a Council tax) shall not be challenged except by an application for judicial review. The Secretary of State and any other person with an interest or 'standing' may apply for judicial review.

### **3.0 FINANCIAL IMPLICATIONS OF DELAY**

- 3.1 Delay in setting the Council Tax means a delay in collecting the tax due not only to the Council, but also the precepting authorities such as West Sussex County Council, the Police, and others such as Parish Council (where appropriate) on whose behalf the Council acts as a collection authority.
- 3.2 The Council has a legal duty to provide a range of statutory services (such as refuse collection, homelessness prevention, etc) and is not absolved from its duty because of the late setting of the Tax. It also has to pay the monies due to the precepting authorities whether or not it collects any Council Tax.
- 3.3 Even if the Council sets the budget before the deadline but much later than the planned Budget Council meeting, there is still likely to be some disruption to the administrative arrangements relating to the collection of Council Tax (such as printing, posting, delivery of demands) that have cost implication.

### **4.0 DUTY TO TAKE ADVICE OF THE CHIEF FINANCIAL OFFICER**

- 4.1 Sections 25 to 28 of the Local Government Act 2003 impose duties on the Council in relation to how it sets and monitors its budget. These provisions require the Council to make prudent allowance for the risk and uncertainties in its budget and regularly monitor its

finances during the year. The legislation leaves discretion to the Council about the allowances to be made and action to be taken.

- 4.2 Section 25 also requires the Council's Chief Financial Officer to make a report to Full Council when it is considering its budget and Council Tax. The report must deal with the robustness of the estimates and the adequacy of the reserves allowed for in the budget proposals, so Members will have authoritative advice available to them when they make their decisions on the Cabinet's budget proposals and any alternative proposals.
- 4.3 The section, and the Council's Constitution, requires Members to have regard to the report in making their decisions. Any decision that ignores this professional advice, including the implications of delay, is potentially challengeable.

## 5.0 THE BUDGET FRAMEWORK

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

**Commented [GW39]:** Set out procedure for budget consultation.

## 6.0 ANNUAL PROCESS FOR SETTING THE BUDGET

The process by which the budget shall be set is as follows:

- 6.1 The Budget Strategy for the forthcoming year is considered and agreed by the Council in July each year.
- 6.2 In December each year detailed financial proposals to meet that Budget Strategy for the forthcoming year are considered by Joint Strategic Committee, after having being considered by the Council's Joint Overview and Scrutiny Committee by way of consultation.
- 6.3 These proposals are fed, by the Chief Financial Officer, into the draft budget proposals for the Council and the draft Budget Strategy is updated accordingly.
- 6.4 In January each year, the Joint Strategic Committee will meet to consider the draft budget for the joint services of the Council, which it wishes to provide jointly with Worthing Borough Council. The decisions in relation to joint services are then used to produce the revenue estimates and draft budget proposals for Adur District Council which will be considered by a meeting of the Cabinet in early February.
- 6.5 The meeting of the Cabinet will recommend a draft budget to the Council, and level of Council Tax. The Director for Communities will then refer them, at the earliest opportunity, to the Council for decision.
- 6.6 The Cabinet meeting held to determine the Cabinet's budget proposals to Council must be held a minimum of 12 working days prior to the Council meeting being held to consider the budget for the Council.

## 7.0 THE BUDGET SETTING COUNCIL MEETING

- 7.1 The Cabinet's proposals will be presented to the Council under cover of a report from the Chief Financial Officer, together with a budget pack and professional financial advice upon the proposal.
- 7.2 The Council will be asked to agree to suspend Council Procedure Rules for the meeting, where they conflict with these Budget Procedure Rules, to allow these Budget Procedure Rules to prevail.

- 7.3 The agenda for the Budget Setting Council Meeting will be limited to the following substantive items:
- (a) Consideration of the Leader's recommendations for the Budget, Capital Programme, Borrowing Policy, Council Tax, and the limits defining key financial decisions
  - (b) Other items the Chair agrees be taken as urgent.
- 7.4 The Budget Setting Council meeting will be held in February each year to set the budget for the forthcoming year. At the Budget Setting Council Meeting, the Cabinet submits to the Council for its consideration in relation to the following financial year:
- (a) Estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
  - (b) Estimates of other amounts to be used for the purposes of such a calculation;
  - (c) Estimates of such a calculation; or
  - (d) Amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992.
- 7.5 The Cabinet will propose its recommendations relating to the above matters to the Council, which if seconded, will be debated by Full Council, in accordance with the provisions below and voted upon.
- 7.6 The Council may:
- (a) Adopt the Cabinet's proposals; or
  - (b) Amend them in accordance with the provisions set out below; or
  - (c) Refer them back to the Cabinet for further consideration.
- 7.7 Budget proposals can only be submitted to the Council by the Cabinet; others can propose amendments to the Cabinet's proposals. The decision, on any amendment to the budget and on the budget, (as amended, if applicable), will be made by way of a recorded vote in accordance with Council Procedure Rule 24 and statutory requirements of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014. The Leader must confirm that they accept the budget as agreed by Council or it has to be resubmitted to Council with the Cabinet's revised proposals, causing an inevitable delay.
- 7.8 If the Council accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision, and the Leader's oral confirmation will be sought at the meeting that the Leader accepts the budget as agreed by the Council.
- 7.9 The decision will be published in accordance with Article 4 and a copy shall be given to the Leader (see 7.31-7.32, below).
- 7.10 Any Elected Member may put forward amendments to the Cabinet's budget proposal, to the Council. However Members should not put forward proposals that would mean setting an unlawful budget and they must take Officer advice to ensure their proposals are in order. To this end, any proposed amendments must be evaluated by the Chief Financial Officer, or an Officer appointed by them for the purpose, to determine the service, financial and legal implications of implementing the amended proposals. The amended proposals are required to be submitted to the Chief Financial Officer, via the Democratic Services Manager by email to [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk), by no later than 12 noon 10 clear working days before the Budget Setting Council meeting, excluding the date of the meeting itself.
- 7.11 Any proposed amendment to any matter on the Council meeting Agenda, other than the budget, which would have, or would be likely to have, a significant effect on the Cabinet's



proposed budget, must also be submitted to the Chief Finance Officer by no later than 12 noon 10 clear working days before the Budget Setting Council meeting, excluding the date of the meeting itself.

- 7.12 The amended proposals, once received by the Chief Financial Officer, will be held confidentially and not shared with other political parties, by the Finance Officers involved, with the exception that any amendments received for an Elected Member who is part of a Group will be shared with the relevant Group Leader. All amended proposals will be considered by Finance Officers by no later than 12 noon 5 clear working days before the day of the Council meeting, excluding the day of the meeting itself. Finance Officers will confirm the legality and impact of all proposed amendments. Any that in the Chief Financial Officer's opinion are unlawful shall be rejected. The Chief Financial Officer will then share all amended proposals, together with Finance sign off and comments, with the Chief Executive, Monitoring Officer and Director for Digital, Sustainability and Resources, by 5pm 5 clear working days before the day of the Council meeting, excluding the day of the meeting itself.
- 7.13 All proposed amendments will be shared with all Elected Members, by email, by the Chief Financial Officer by 12 noon 3 clear working days before the Council meeting, excluding the day of the meeting itself.
- 7.14 Following a period for negotiation, any minor amendments to proposed amendments, will be allowed up to 9am on the day of the meeting, provided they do not have substantial impact and are agreed with the Chief Financial Officer. By noon on the day of the Council meeting, Democratic Services Officers will circulate copies of all remaining proposed amendments to all Members of the Council, by email, in case any have been withdrawn. At the Council meeting, the Chair will refuse to accept any proposals for amendment that have not been through the above process, and signed off as being lawful proposals by the Council's Finance Officers.
- 7.15 At the Budget Setting Council meeting, the Cabinet will propose their budget, with the Cabinet Leader having an unlimited time for their speech. The proposal will need to be seconded and the Member seconding has 5 minutes available for this purpose, or where proposed amendments have been circulated, 10 minutes. The seconder may speak at the time of seconding or reserve their speech for later on in the debate.
- 7.16 The Leader of the next largest Group on the Council will have the right to speak first on the Cabinet's proposal and may propose any amendment which has been signed off by the Chief Financial Officer, and has 15 minutes maximum for their speech. The proposal will need to be seconded and the Member seconding the amendment has 10 minutes for this purpose and may make their speech at the time of seconding or reserve it for later in the debate on this amendment.
- 7.17 The Leader of the next largest Group will have the right to speak next on the earlier proposals put before Council, and may have 15 minutes to propose their own amendment, provided it has been signed off by the Chief Financial Officer, which shall need to be seconded with the seconder having a maximum of 10 minutes for this purpose and the right to reserve their speech until later in the debate.
- 7.18 This process continues until the Leader of each Group, and any ungrouped Members who have moved amendments, have had the opportunity to speak, and the budget and all proposed amendments have been proposed and seconded.
- 7.19 The matter, being both the Cabinet's proposed and seconded budget and all amendments that have been proposed and seconded, is then open to one full debate from all Members

of the Council. Each Member may speak only once on this item, other than the Cabinet Leader, and any Group Leader or Member not in a Group who has submitted an amendment, who have a right of reply at the end of the debate. Each speaker, other than as set out above, has a maximum of 5 minutes to speak where it is only the Cabinet's proposed budget under consideration, or 10 minutes where amendments have also been proposed and seconded.

- 7.20 The debate is managed by the Chair, who has control of the debate and may use their discretion to ensure the effective, efficient, fair and orderly conduct of the business. The Chair's interpretation of these procedure rules and their application will be final.
- 7.21 At the end of the debate, if any Member seconding a proposal (the substantive proposal or a proposed amendment) has reserved their seconder's speech to later in the debate, their speeches, of a maximum of 10 minutes where there are amendments, or otherwise 5 minutes, will be taken in the reverse order in which the motions were proposed and seconded.
- 7.22 When the debate has concluded, the Cabinet Leader, as the proposer of the substantive motion, and any Group Leader or ungrouped Member who has proposed an amendment, will have a right of reply. Each speaker will be taken in the reverse order in which the motions were proposed and seconded, with the Cabinet Leader having the last right of reply on behalf of the Cabinet. Any speaker with a right of reply has up to 10 minutes to respond.
- 7.23 When the debate has concluded, the Chair will, if they think fit, sum up the debate before putting the amendments to the vote. In doing so they may request the Chief Financial Officer to draw the attention of the meeting to any relevant factors.
- 7.24 The Chair will then put the amendments to the vote in the order of the amendments proposed by the largest Opposition Group Leader first, followed by the next largest, etc. Each amendment will be voted on in turn, with a recorded vote being taken, and administered by the Democratic Services Officer, on each amendment.
- 7.25 Any vote (including procedural and on amendments) relating to budget setting and council tax decisions made by Full Council must be undertaken by a named vote.
- 7.26 Section 106 of the Local Government Finance Act 1992 bars a Councillor from voting on the Council's budget if they have an outstanding council tax debt of over two months. If a Member is present at any meeting at which relevant budgetary matters are discussed, they must disclose that s.106 applies and may not vote. Failure to comply is a criminal offence.
- 7.27 Some proposed amendments may impact on others and there may be inter dependencies between them. For example, if one amendment is lost it may result in others automatically being lost, whilst some amendments may have no impact on others and may stand alone regardless of the outcome of voting on other amendments. The Chief Financial Officer will advise accordingly and the Chair may adjourn the meeting to facilitate the provision of that advice.
- 7.28 Following the conclusion of the voting on the amendments, the Chief Financial Officer will confirm how the individual amendments that have been carried affect the Council Tax proposal as necessary.
- 7.29 There may be a need for a short adjournment to allow for the preparation of the Council Tax resolutions to reflect the budget proposals as amended/if amended to be printed and circulated prior to the substantive vote.

- 7.30 Once the amendments have each been voted upon and determined, the Chief Financial Officer will clarify any amendments that have been agreed and how they affect the budget proposal. The Chair will then put the substantive motions, as amended if they have been amended, to the Council for a vote. A recorded vote will be taken and recorded by the Democratic Services Officer present.
- 7.31 If the budget proposal is accepted without amendment by Council, the Council may make a decision which has immediate effect. If the budget proposal is amended, and is approved as amended by Full Council, the Cabinet Leader will be asked by the Chair if they accept the budget as agreed by Council.
- 7.32 (a) If the Cabinet Leader confirms that they do accept the budget proposals as amended by Council, the Council decision will have immediate effect.  
(b) If the Cabinet Leader does not accept the budget proposal as amended and agreed by the Council, the matter will be referred back to the Cabinet for further consideration and revised Cabinet proposals will need to be submitted to Council at a future meeting; this will cause an inevitable delay to the lawful setting of the budget and the Council Tax and the associated consequences of such a delay will need to be considered.

## Cabinet Procedure Rules

### Introduction

- 1.1 These Cabinet 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 Cabinet 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:
- (a) Scheme of Delegation;
  - (b) Access to Information Procedure Rules;
  - (c) Overview and Scrutiny Procedure Rules;
  - (d) Members' Code of Conduct;
  - (e) Officers' Code of Conduct;
  - (f) Protocol on Member/Officer Relations;
  - (g) Code of Corporate Governance;
  - (h) Article 12 concerning decision-making.
- 1.4 If primary or secondary legislation is introduced which supersedes these Cabinet Procedure Rules, statutory legislation will prevail.
- 1.5 These Cabinet Procedure Rules must be read in accordance with the Joint Committee Agreement.

### How the Cabinet Operates

#### 2.1 Who May Make Executive Decisions

- 2.1.1 The arrangements for the discharge of Executive functions are to be determined by the Cabinet Leader who may arrange for the discharge of any of the Cabinet functions to:
- (a) the Cabinet;
  - (b) Member of the Cabinet;
  - (c) a Committee of the Cabinet;
  - (d) an Officer of the Council;
  - (e) an Area Committee;
  - (f) another body in accordance with joint working arrangements;
  - (g) another Local Authority;
  - ~~(g)~~(h) a Ward Member to the extent that the function is exercisable in relation to their Ward.

#### 2.2 Delegation of Executive Functions

- 2.2.1 The Head of Legal Services 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 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 Cabinet;

- (b) the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- (c) the terms of reference and composition of such Cabinet Committees as may be appointed and the names of Cabinet 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 Cabinet Members appointed to any Joint Committee for the forthcoming year; and
- (e) the nature and extent of any delegation to Officers or Ward Members, with details of any limitation on that delegation and the title of the Officer or name of the Ward Member to whom the delegation is made.

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

- 2.3.1 The Leader may discharge any Executive function, or may arrange for any Executive function to be delegated to the Cabinet, an individual Cabinet Member, a Committee of the Cabinet, an Area Committee, a Ward Member or an Officer.
- 2.3.2 Where the Cabinet is responsible for a Cabinet function, it may delegate further to a Committee of the Cabinet, an Officer or another body in accordance with joint working arrangements.
- 2.3.3 Unless the Cabinet directs otherwise, a Committee of the Cabinet or Cabinet Member may delegate further to an Officer.
- 2.3.4 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**

- 2.4.1 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 a Cabinet function, this should be dealt with in accordance with the principles of the Council's Member Code of Conduct in Part 5 of this Constitution. If a dispensation is not granted, the matter should be referred to a meeting of the Cabinet as a whole, or where appropriate, another body in accordance with joint working arrangements.
- (b) If every Member of the Cabinet has a conflict of interest in exercising a Cabinet function, this should be dealt with in accordance with the Council's Member Code of Conduct 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 a Cabinet function has been delegated to a Committee of the Cabinet, an individual Cabinet Member, a Ward 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 Member Code of Conduct in Part 5 of this Constitution.

### **Forward Plan of Executive Key Decisions and/or Executive Exempt Decisions**

- 3.1 Subject to the Access to Information Procedure Rules, where a Cabinet 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 Cabinet, collectively or individually, and to Officers.

## **Cabinet meetings**

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

- 4.1.1 Subject to the Access to Information Procedure Rules, the Cabinet may not make an exempt or Key Decision unless details have been included in the Forward Plan.

### **4.2 Frequency and Location of Cabinet meetings**

- 4.2.1 The Cabinet will meet at least 8 times per year at times as determined by the [Council Leader](#) and at such other times as they shall determine. Some of these meetings will be held as the Cabinet 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 Cabinet's recommendation to Council on its budget. The Cabinet 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 Cabinet**

- 4.3.1 Subject to (a) and (b) below, meetings of the Cabinet will be held in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution.
- (a) Exempt Information – where the Cabinet 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 Cabinet 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 Cabinet breaching a legal obligation to third parties about the keeping of confidential information, the meeting should be held in private. Confidential information means:
    - (i) Information provided to the Council or Cabinet by a Government department on terms which forbid the disclosure of the information to the public; and
    - (ii) Information which is prohibited from being disclosed by any enactment or by a Court Order.

### **4.4 Quorum**

- 4.4.1 The quorum for a meeting of the Cabinet shall be 3 Members of the Cabinet or, at a meeting [held under joint arrangements](#), as provided for under joint working arrangements.

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

- (a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a Committee of the Cabinet, 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 Cabinet 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 Cabinet meetings must be made in accordance with Article 12 of the Council's Constitution.

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

- 4.6.1 The Leader, or in their absence the Deputy Leader, will preside. In the absence of both the Leader and Deputy Leader, another Member of the Cabinet will be appointed to preside.
- 4.6.2 The person presiding at a meeting held under joint arrangements is determined in accordance with the Joint Committee Agreement.

#### **4.7 Business of the Cabinet**

- 4.7.1 At each meeting of the Cabinet, 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 of the Cabinet;
  - (c) questions by the public in accordance with Council Procedure Rules;
  - (d) matters referred to the Cabinet by Overview and Scrutiny or by the Council (or under Joint Committee arrangements) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of 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 Cabinet, 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 Cabinet**

- 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 Head of Legal Services.
- 4.8.2 The Officer's report shall set out the following:
- (a) The Cabinet 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 Cabinet 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 Cabinet Members and all Members of the Council; and
- (b) make the report publicly available on the Councils' website.

#### **4.9 Decisions of Cabinet meetings**

4.9.1 Subject to the provisions of the Access to Information Procedure Rules, after a decision has been taken by the Cabinet, either draft minutes of the meeting or a Record of Decision will be prepared by the Director for Communities and published on the Councils' website, 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 5pm on the third working day, following the day of the meeting of the Cabinet, the Director for Communities shall publish the draft minutes or Record of Decision by email 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.

#### **Individual Cabinet Member Decisions**

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

Subject to the Access to Information Procedure Rules, the Individual Cabinet 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 Cabinet Member**



- (a) Details of Executive decision-making by Individual Cabinet Members under joint arrangements are contained in the Joint Committee Agreement.
- (b) All decisions made by Individual Cabinet 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 Cabinet Members must be made in accordance with Article 12 of the Council's Constitution.

### **5.3 Written reports for Individual Cabinet 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 Head of Legal Services.

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

- (a) The Cabinet 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 Cabinet 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 Cabinet Member and all Members of the Council; and
- (b) make the report publicly available on the Councils' website.

### **5.4 Timescales**

5.4.1 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 Cabinet 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.

5.4.2 The Cabinet 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**

5.5.1 Prior to taking the decision, the Cabinet 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 Cabinet Member shall disclose it by recording the interest at the beginning of their record of decision. If a disclosable pecuniary interest, the Cabinet 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 Cabinet Member**

5.6.1 The Leader can either make the decision on a report referred to them by an Individual Cabinet Member in accordance with Rule 5.5 above, or may refer the report to the next full meeting of the Cabinet for discussion and decision. The Leader will record a decision to defer an item to a meeting of the Cabinet on the Decision Notice and it will be actioned by the Director for Communities.

5.6.2 If the Leader is exercising their ability to make the decision 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**

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

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

## **5.8 Decisions of Individual Cabinet Members**

5.8.1 Subject to the provisions of the Access to Information Procedure Rules, after a decision has been taken by a Cabinet Member and the Record of Decision provided to the Director for Communities, they 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 5pm 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.

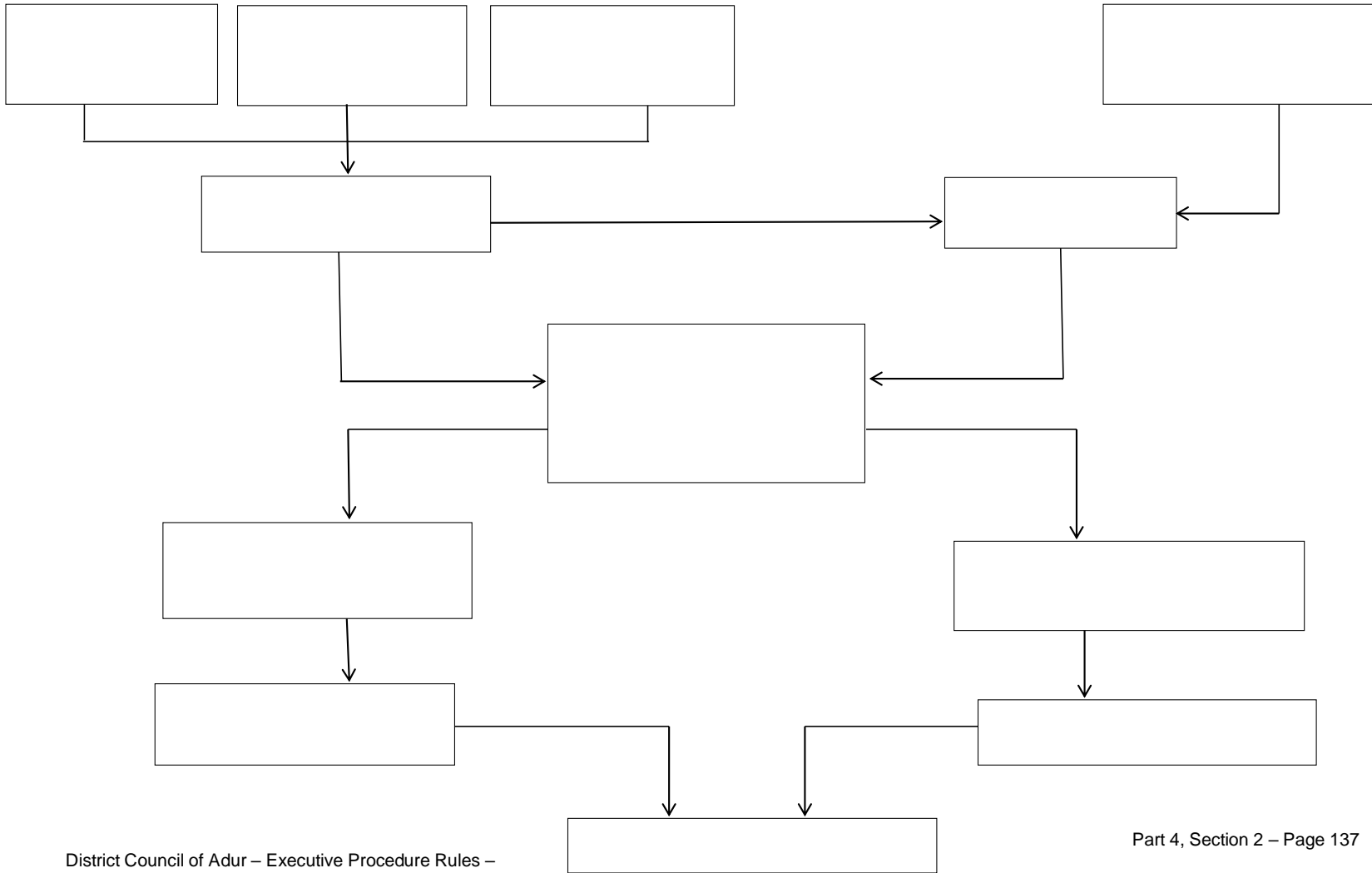
5.8.3 The Director for Communities will maintain records of all decisions made, together with associated reports and background papers, in accordance with the Council's Access to Information Procedure Rules.

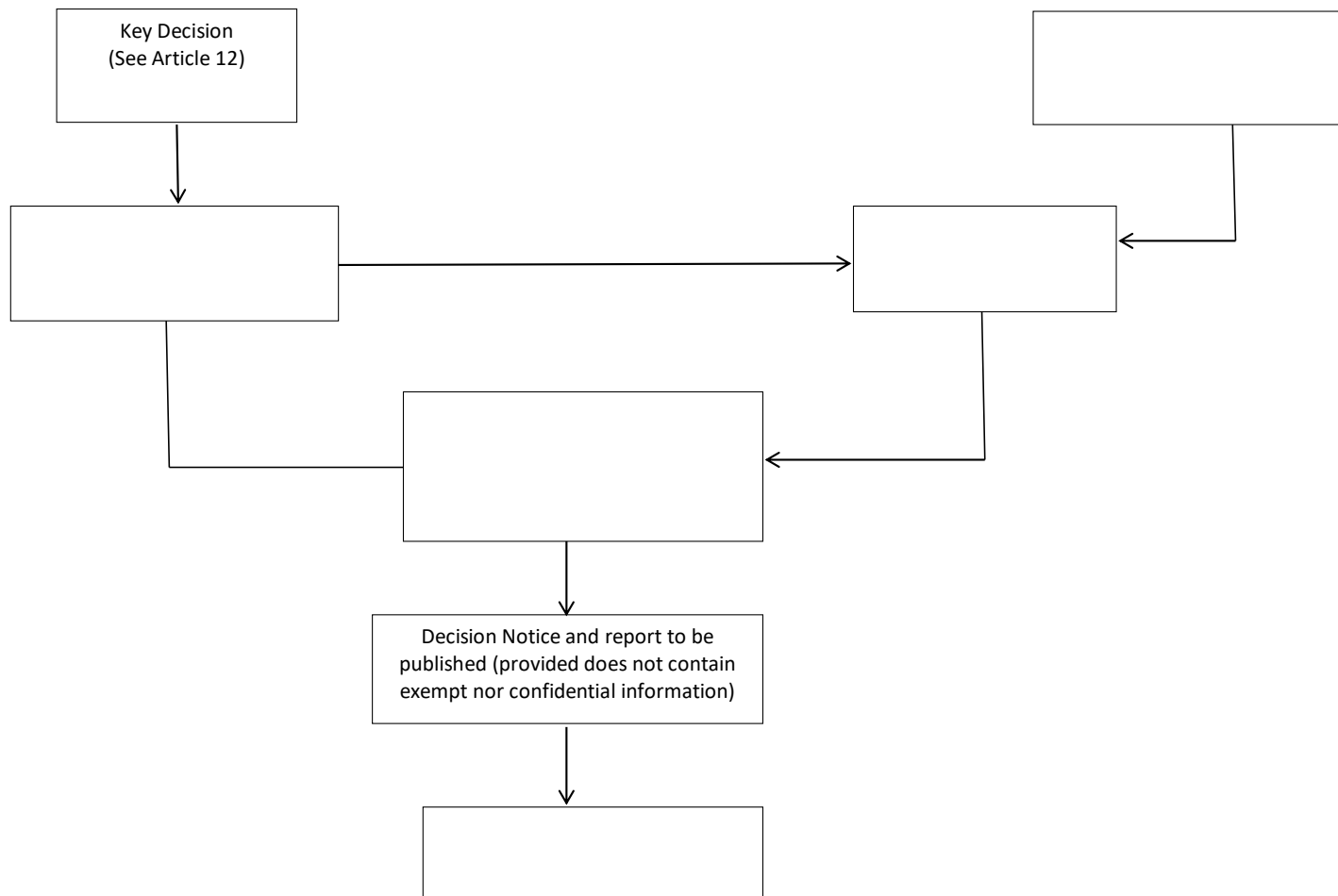
5.8.4 The report author will ensure that all background papers listed in a report are made publicly available, by at least 5 working days prior to the earliest date upon which the decision may be taken.

### **Executive Decisions taken by Officers**

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

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





## Overview and Scrutiny Procedure Rules

### Arrangements for the Adur Overview and Scrutiny Committee

- 1.1 The Council will have an 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.

### Terms of Reference

- 2.1 The general terms of reference of the Overview and Scrutiny Committee are as set out in Part 3 of the Council's Constitution. The Adur District Council Overview and Scrutiny Committee shall exercise the scrutiny functions of the Council in relation to all matters reserved to Adur District Council, as opposed to those included within the remit of the Joint Committee Agreement which are scrutinised by the Adur and Worthing Joint Overview and Scrutiny Committee.

### Membership

- 3.1 The Overview and Scrutiny Committee will comprise 8 Elected Members from Adur District Council and shall not include Members of the Cabinet. ~~Any Member (except Members of the Cabinet) may be a Member of the 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 in which they have pecuniary or personal interest, or any other actual or perceived conflict of interest, e.g. a close relationship with a decision-maker, advisor.

3.2 When selecting members to serve on scrutiny committees, consideration should be given to a member's experience, expertise, interests, ability to act impartially, ability to work as part of a group and capacity to serve. What should be considered when forming the committee is that, as a group, it possesses the requisite expertise, commitment and ability to act impartially to fulfil its functions.

- 3.3 The Chair of the Overview and Scrutiny Committee shall be appointed by the Council. In addition to consideration of experience, expertise, interests and the ability to act impartially, the Chair should have the ability to work as part of a group, to lead and build a sense of teamwork and consensus among committee members.

### Co-Opted Members

- 4.1 Co-opted Elected Members

Subject to 10.2 below, the Overview and Scrutiny Committee 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 a Cabinet and a Scrutiny Committee when considering the same matter. The Overview and Scrutiny Committee may appoint no more than two non-voting Co-opted Elected Members to any particular meeting.

- 4.2 Co-opted Unelected Members

Subject to 10.2 below, the Overview and Scrutiny Committee 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 a Cabinet and a Scrutiny Committee when considering the same matter. The Overview and Scrutiny

**Commented [g40]:** As suggested by Cllr McGregor to reflect MHCLG guidance.

**Commented [GW41]:** NOTE: Members of the Working Group were unable to agree on this paragraph, so it is deferred to the Joint Governance Committee for determination.

Alternative suggestion:

"The Chair of the Overview and Scrutiny Committee shall be appointed by the Council. The Chair will first be offered to a member of a Political Group that does not form part of the Administration or an ungrouped Member, with the Vice Chair being drawn from any other Political Group."

Chairs should guard the committee's independence but avoid the committee being, and being viewed as, a de facto opposition to the Executive. (MHCLG guidance 2019)

Legally, the Chairing and membership of overview and scrutiny committees is a matter for a council's Annual General Meeting in May. Practically, Chairing is entirely at the discretion of the majority party. Majority parties can, if they wish, reserve all committee chairships (and vice-chairships) to themselves. This is the case in about 50% of councils. Around 20% of councils allocate chairships politically proportionately. The practice of reserving all positions of responsibility to the majority party can harm perceptions of scrutiny's credibility and impartiality. (CfGS)

Committee may appoint no more than two non-voting Co-opted Elected Members to any particular meeting. A Working Group is not limited to these numbers.

**Commented [g42]:** Under Sch.A1 Para.11 of the Local Government Act 2000, a local authority may permit an elected or unelected co-opted member of an overview and scrutiny committee to vote at meetings of the committee, subject to the local authority having in place a scheme to give effect to this.

## Meetings

- 5.1 The Committee will meet to consider Call-Ins relating to decisions of the Adur Cabinet in relation to a matter reserved to the Cabinet of Adur District Council.
- 5.2 In addition, Extraordinary meetings may be called from time to time as and when appropriate. An Extraordinary meeting of the Adur Overview and Scrutiny Committee may be called by the Chair, requesting in writing that the Director for Communities call an Extraordinary meeting; or by any four Committee Members, signing a requisition, and presenting it to the Chair, 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.

## 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 Cabinet 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

Working Groups shall consist of at least four Members of the Adur Overview and Scrutiny Committee selected when establishing the Terms of Reference under paragraph 6.1 above. The overriding criteria shall be the following:

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

### 6.3 Officer Attendance at Working Groups

Working Groups may invite Officers of the Council 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 Chair.

### 6.6 Substitutes

Substitutes are not allowed, although the Working Group may invite other Members from the Adur Overview and Scrutiny Committee to assist it for a particular meeting. Any change to the permanent membership of a Working Group should be approved by the Adur Overview and Scrutiny Committee.

## Quorum

- 7.1 The quorum for the Overview and Scrutiny Committee shall be determined in accordance with Council Procedure Rule 9.

## Work Programme

- 8.1 The Overview and Scrutiny Committee will be responsible for determining its own annual work programme and in doing so they shall take into account the wishes of all Members on that Committee, regardless of Political Group. It will be reported to Council for noting at the April meeting every year, for the following municipal year.
- 8.2 When determining whether to include an item on the Overview and Scrutiny draft Work Programme, Members should be guided by:
- (a) The Council's 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).
- 8.3 During the municipal year, items may be added to the 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 Chair in accordance with the criteria set out in paragraph 9.2 above, who will make their recommendations to the next Overview and Scrutiny Committee for consideration and determination, following receipt of an 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.
- 8.4 The Director for Digital, Sustainability and Resources will consult with the Chair of the Overview and Scrutiny Committee throughout the year to monitor the Work Programme, and will report to the Committee on a regular basis.
- 8.5 After consideration of an Officer report, the Overview and Scrutiny Committee will be responsible for setting the scope of the work of any Working Group established to assist the 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.

## **Agenda Items**

- 9.1 Agendas will be published in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution by the Director for Communities, in consultation with the Chair of the Committee.
- 9.2 A Member of the 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 below. Should the Chair 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 2006 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.



- 9.3 Any Member of the Council who is not a Member of the 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 Chair of the Committee who will follow the procedure set out in paragraph 9.2 above. Should the Chair 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 or not it will be included on the Work Programme of the Overview and Scrutiny Committee. If the Committee decides not to include the item in the 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.
- 9.4 The Council, the Cabinet or any Committee may request that the Overview and Scrutiny Committee undertake scrutiny or policy development work on their behalf. The Overview and Scrutiny Committee shall respond, as soon as its Work Programme permits, to such requests. Where the 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 Overview and Scrutiny Committee at its next available (in accordance with Access to Information Procedure Rules) meeting.
- 9.5 A member of the public may request that an item be added to the agenda of the Overview and Scrutiny Committee. Any such request shall be considered by the Chair and, unless inappropriate to do so, shall be dealt with in accordance with paragraph 9.3 above.

#### **Policy Review and Development**

- 10.1 The Overview and Scrutiny Committee may make proposals to the Council, its Committees or the Cabinet for policy development, in so far as they relate to matters within that body's terms of reference.
- 10.2 The Overview and Scrutiny Committee may hold inquiries and investigate the available options for future direction in policy development and may appoint advisors 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.

#### **Reports from the Overview and Scrutiny Committee**

- 11.1 Once it has formed recommendations, the Director for Digital, Sustainability and Resources will prepare a formal report incorporating the views of the Overview and Scrutiny Committee and submit it to the relevant body.
- 11.2 The Council, the Cabinet or the Committee shall consider any report of the Director for Digital, Sustainability and Resources submitting the views of 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.
- 11.3 Alternatively, the minute from a meeting of Overview and Scrutiny Committee may be referred to the Council, its Cabinet or a Committee. In cases where the minutes of the previous meeting have not been agreed by the Overview and Scrutiny Committee a draft

minute shall be prepared by the Director for Communities in consultation with the Chair prior to the meeting of the Council, Committee or Cabinet.

### **Minority Reports**

12.1 Where the Adur Overview and Scrutiny Committee cannot agree on a single, final report to the Council, its Cabinet or a Committee, then one minority report may be submitted with the majority report. In order for a minority report to be produced, no fewer than three voting members of the Committee must support such a proposal.

12.2 In order that a minority opinion can be expressed where the Overview and Scrutiny Committee does not achieve a consensus on an issue, these rules make provision for minority reports to be produced by Members of such a committee. This means that although a majority report is issued representing the Overview and Scrutiny Committee's majority view, any Member of the Committee may propose an alternative view which may then be published in a minority report. In order for a minority report to be produced, no fewer than three voting Members of the Committee must support such a proposal.

### **Procedure for dealing with Minority Reports**

12.3 At the conclusion of an inquiry and at the point of agreeing a final report detailing the Adur Overview and Scrutiny Committee's conclusions and recommendations, Members may be unable to reach a general consensus. Members in the minority may wish to express a view different from that of the majority. In these circumstances, Members with a minority view may choose to submit a minority report.

12.4 The intention to submit a minority report must be declared within the Overview and Scrutiny Committee meeting at the time the majority report is agreed. Such an intention must be recorded in the minutes of the meeting and referred to in the final report as part of the Overview and Scrutiny Committee's resolutions. Where the Overview and Scrutiny Committee has agreed its final report and there has been no declared intention to produce a minority report, a minority report cannot then be subsequently submitted.

12.5 Where the intention to produce a minority report has been recorded in the minutes, Democratic Services will contact the appropriate Members to confirm submission dates. The minority report should be delivered to the Democratic Services within 5 working days after the Overview and Scrutiny Committee meeting.

12.6 In order that a minority report is given the opportunity to be noted in context by the Council, Cabinet or Committee, where it has been produced within the agreed timescale it will be attached as an appendix to the majority report.

12.7 The Director of Communities will determine if a minority report should be exempt from publication, in which case the usual procedures for the publication of exempt reports apply.

12.8 The drafting and submission of the minority report remains the responsibility of the Members who have proposed it and not Democratic Services. The report will include details of the Members who have submitted the minority report, as well as its issues and any alternative recommendations.

12.9 It is normally expected that the Overview and Scrutiny Committee will have taken into account all the relevant information available and as such a minority report will be based on the same evidence as a majority report.

### **Rights of Overview and Scrutiny Committee Members to Documents**

**Commented [g43]:** A means of dissenting from decisions within the Overview & Scrutiny Committee. This is available to MPs in House of Commons select committees, allowing anyone who disagrees with a majority view within a committee to put observations and objections on record.

- 13.1 In addition to their rights as Councillors, Members of the 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.

#### **Members and Officers Giving Account**

- 14.1 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 in connection to a Call-In of a decision 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.
- 14.2 When requesting Officers and Members of the Council to attend, sufficient notice of the meeting should be provided to them as referred below.
- 14.3 Where any Member or Officer is required to attend the Overview and Scrutiny Committee under this provision, the Chair of the Committee will inform the Director for Digital, Sustainability and Resources, who shall inform the Member or Officer in writing, giving at least 5 working days' notice of the meeting at which they are required to attend. The notice will state the nature of the Call-In on which they are 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.
- 14.4 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall, in consultation with the Member or Officer, arrange an alternative date for attendance.

#### **Attendance by Others**

- 15.1 The Overview and Scrutiny Committee may invite people (other than those referred to in paragraph 14 above) to address it, discuss issues of local concern and/or answer questions in connection with the Call-In relevant to the meeting. It may, for example, wish to hear from residents, stakeholders, Members and Officers in other parts of the public sector and may invite such people to attend.

#### **Party Whip**

16.1 Applying the party whip is defined as any instruction given by or on behalf of a Political Group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the council, or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should they speak or vote in any particular manner.

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

#### **Call-In of a Decision**

- 17.1 An Executive decision (if not yet implemented) is subject to Call-In when it is made by:
- (a) Adur's Cabinet as a whole body;
  - (b) an Individual Cabinet Member; or
  - (c) an Officer or Ward Member with delegated authority from the Cabinet;

and the decision has been published on the Council's 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.

- 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.

~~15.3 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.~~

- 17.3 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 of Adur District 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 detailed reasons for the Call-In.
  - (b) Upon receipt of the request, the Monitoring Officer shall consult with the Chair, or Vice-Chair 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 Chair of the 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 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 Chair, call a meeting of the 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.
- 17.4 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.

**Prevention of Exemption from Call-in Procedure**

- 17.5 A matter may not be called-in if it has already been considered by the Scrutiny Committee or if the decision is urgent and any delay would prejudice the interest of the council or the public in the opinion of the Monitoring Officer. 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 the Council incurring significant additional expenditure or loss of significant additional income; or
  - (b) be highly likely to result in significant damage to the Council's reputation; or
  - (c) prevent the Council from meeting its legal obligations.
- 17.6 The agreement of the Chair of the Overview and Scrutiny Committee must be obtained in writing in advance of making the decision, by way of completion of a Notice by the Director for Communities, that it is reasonable in all the circumstances to treat the decision to be

**Commented [GW44]:** These restrictions are unduly onerous and prevent most decisions from being called-in, which is not in keeping with the spirit or purpose of the legislation.

made as one which is urgent and therefore not subject to Call-In. In the absence of the Chair of the Overview and Scrutiny Committee, the Vice-Chair's consent shall be required. In the absence of the Chair and Vice Chair, the consent of the Chair of the Council or, in their absence the Vice Chair, shall be required.

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

17.8 Decisions taken in accordance with this Procedure Rule must be reported to the next available meeting of Full Council.

#### Call-In Procedure

17.9 Having considered the decision, the 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, or refer the matter to Full Council. 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 before making a final decision and implementing it.

17.10 Once the reconsidered decision is published following the Call-In procedure, the decision cannot be called in again and may be implemented immediately.

17.11 If the matter was referred to Full Council and the Council does not object to a decision that has been made, then no further action is necessary, and the decision will be effective in accordance with the provision below. However, if Full Council does object, it will refer the decision back to the decision-maker, together with its views on the decision. The decision-maker shall then reconsider the matter as soon as possible, amending the decision or not, before making a final decision and implementing it. If Full Council does not meet, or if it does but does not refer the decision back to the decision-maker, the decision will become effective on the date of the council meeting or expiry of the period in which the council meeting should have been held, whichever is the earlier. Once a decision-maker has reconsidered the matter following Call-In, no further Call-In of that matter will be allowed.

## Joint Overview and Scrutiny Procedure Rules

### 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.

### 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 Cabinets. (Separate arrangements are in place for the scrutiny function relating to those matters determined by the individual Cabinets and reference should be made to the Adur District Council Overview and Scrutiny Procedure Rules).

### Membership

- 3.1 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 Cabinet. No Member may be involved in scrutinising a decision in which they have been directly involved, for example as a decision-maker or advisor.

3.2 When selecting members to serve on scrutiny committees, consideration should be given to a member's experience, expertise, interests, ability to act impartially, ability to work as part of a group and capacity to serve. What should be considered when forming the committee is that, as a group, it possesses the requisite expertise, commitment and ability to act impartially to fulfil its functions.

3.3 The Adur Chair of the Joint Overview and Scrutiny Committee shall be appointed by the Council. In addition to consideration of experience, expertise, interests and the ability to act impartially, the Chair should have the ability to work as part of a group, to lead and build a sense of teamwork and consensus among committee members.

**Commented [g45]:** As suggested by Cllr McGregor to reflect MHCLG guidance.

**Commented [GW46]:** NOTE: Members of the Working Group were unable to agree on this paragraph, so it is deferred to the Joint Governance Committee for determination.

### Co-Opted Members

#### Co-opted Elected Members

- 4.1 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 Elected Member may not sit as a Co-opted Member on both a Cabinet 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 Elected Members to any particular meeting. A Working Group is not limited to these numbers.

#### Co-opted Unelected Members

- 4.2 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 Unelected Member may not sit as a Co-opted Member on both a Cabinet and a Scrutiny Committee when considering the same matter. A Committee or Sub-Committee of the Joint Overview and Scrutiny

Alternative suggestion:

"The Adur Chair of the Joint Overview and Scrutiny Committee shall be appointed by the Council. The Chair will first be offered to a member of a Political Group that does not form part of the Administration or an ungrouped Member, with the Vice Chair being drawn from any other Political Group."

Chairs should guard the committee's independence but avoid the committee being, and being viewed as, a de facto opposition to the Executive ([MHCLG guidance 2019](#)).

Legally, the chairing and membership of overview and scrutiny committees is a matter for a council's Annual General Meeting in May. Practically, chairing is entirely at the discretion of the majority party. Majority parties can, if they wish, reserve all committee chairships (and vice-chairships) to themselves. This is the case in about 50% of councils. Around 20% of councils allocate chairships politically proportionately. The practice of reserving all positions of responsibility to the majority party can harm perceptions of scrutiny's credibility and impartiality ([CiGS](#)).

Committee may appoint no more than two non-voting Co-opted Unelected 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.

**Commented [g47]:** Under Sch.A1 Para.11 of the Local Government Act 2000, a local authority may permit an elected or unelected co-opted member of an overview and scrutiny committee to vote at meetings of the committee, subject to the local authority having in place a scheme to give effect to this. Such a scheme is not currently in place.

## Meetings

- 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 Chairs, 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 Chairs, 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.

## 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 Cabinet 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 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.
- 6.3 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.

## Membership

- 6.4 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.
- 6.5 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.

## Officer Attendance at Working Groups

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

#### **Quorum**

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

#### **Chairing**

- 6.8 Each Working Group will select its own Chair.

#### **Substitutes**

- 6.9 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.

#### **Quorum**

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

#### **Chairing**

- 8.1 The Chairs and Vice-Chairs 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 meetings. In the event of a dispute, reference should be made to Council Procedure Rule 8.

#### **Work Programme**

- 9.1 The Joint Overview and Scrutiny Committee will be responsible for proposing its own draft work programme and in doing so it shall take into account the wishes of all Members on that Committee, regardless of Political Group.
- 9.2 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).
- 9.3 Approval of the Joint Overview and Scrutiny Work Programme is the responsibility of each Council. It will be considered and determined by each Council at the April meeting every year, for the following municipal year.
- 9.4 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 Chairs in accordance with the criteria set out in paragraph 9.2 above, who will make their recommendations to the next Joint Overview and Scrutiny Committee for consideration and determination, following receipt of an 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.



- 9.5 The Director for Digital, Sustainability and Resources will consult with the Joint Chairs 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.
- 9.6 After consideration of an Officer report, the Joint Overview and Scrutiny Committee will be responsible for setting the scope of the work of any 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.

#### **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 Chairs 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 Chairs of the Committee who will follow the procedure set out in paragraph 9.2 above. Should the Chairs 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 or not it will be included on the Work Programme of the Joint Overview and Scrutiny Committee. If the Committee decides not to include the item in its 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, their Cabinets or any of their Committees 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 such requests. 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 its 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 Chairs, and unless inappropriate to do so, shall be dealt with in accordance with paragraph 9.4 above.

#### **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 Cabinet 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.

### Reports from the Joint Overview and Scrutiny Committee

- 12.1 Once it has formed recommendations, the Director for Digital, Sustainability 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 Cabinet(s) or the Committee shall consider any report of the Director for Digital, Sustainability 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 Cabinet 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 Chair prior to the meeting of the Cabinet(s), Committee(s) or Council(s).

### Minority Reports

12.4 Where the Joint Overview and Scrutiny Committee cannot agree on a single, final report to the Council, its Cabinet or a Committee, then one minority report may be submitted with the majority report. In order for a minority report to be produced, no fewer than three voting members of the Joint Committee must support such a proposal.

12.5 In order that a minority opinion can be expressed where the Joint Overview and Scrutiny Committee does not achieve a consensus on an issue, these rules make provision for minority reports to be produced by Members of the Joint Committee. This means that although a majority report is issued representing the Joint Overview and Scrutiny Committee's majority view, any Member of the Joint Committee may propose an alternative view which may then be published in a minority report. In order for a minority report to be produced, no fewer than three voting Members of the Joint Committee must support such a proposal.

### Procedure for dealing with Minority Reports

12.6 At the conclusion of an inquiry and at the point of agreeing a final report detailing the Joint Overview and Scrutiny Committee's conclusions and recommendations, Members may be unable to reach a general consensus. Members in the minority may wish to express a view different from that of the majority. In these circumstances, Members with a minority view may choose to submit a minority report.

12.7 The intention to submit a minority report must be declared within the Joint Overview and Scrutiny Committee meeting at the time the majority report is agreed. Such an intention

**Commented [g48]:** A means of dissenting from decisions within the Overview & Scrutiny Committee. This is available to MPs in House of Commons select committees, allowing anyone who disagrees with a majority view within a committee to put observations and objections on record.

must be recorded in the minutes of the meeting and referred to in the final report as part of the Joint Overview and Scrutiny Committee's resolutions. Where the Joint Overview and Scrutiny Committee has agreed its final report and there has been no declared intention to produce a minority report, a minority report cannot then be subsequently submitted.

- 12.8 Where the intention to produce a minority report has been recorded in the minutes, Democratic Services will contact the appropriate Members to confirm submission dates. The minority report should be delivered to the Democratic Services within 5 working days after the Joint Overview and Scrutiny Committee meeting.
- 12.9 In order that a minority report is given the opportunity to be noted in context by the Council, Cabinet or Committee, where it has been produced within the agreed timescale it will be attached as an appendix to the majority report.
- 12.10 The Director of Communities will determine if a minority report should be exempt from publication, in which case the usual procedures for the publication of exempt reports apply.
- 12.11 The drafting and submission of the minority report remains the responsibility of the Members who have proposed it and not Democratic Services. The report will include details of the Members who have submitted the minority report, as well as its issues and any alternative recommendations.
- 12.12 It is normally expected that the Joint Overview and Scrutiny Committee will have taken into account all the relevant information available and as such a minority report will be based on the same evidence as a majority report.

#### **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.

#### **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.

#### **Members and Officers Giving Account**

- 15.1 Subject to paragraph 10.1 above, the Joint Overview and Scrutiny Committee or any 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.
- 15.2 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.

- 15.3 Where any Member or Officer is required to attend the Joint Overview and Scrutiny Committee under this provision, the Joint Chairs of the Committee will inform the Director for Digital, Sustainability and Resources, who shall inform the Member or Officer in writing, giving at least 5 working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the 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.
- 15.4 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.

#### 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 may invite such people to attend.

#### Call-In of a Decision

- 17.1 A decision is subject to Call-In when it is a:
- (a) a decision of the Joint Strategic Committee or sub-committee;
  - (b) a Joint Individual Cabinet Member decision; or
  - (c) a decision made by an Officer or Ward Member with delegated authority from the Cabinet 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, but not yet implemented.

(In respect of a decision made by:

- (a) an Individual Cabinet;
  - (b) an Individual Cabinet Member in respect of a single service; or
  - (c) an Officer with delegated authority from the Cabinet 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.~~

17.417.3 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 Chairs, or Vice-Chairs 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 Chair 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 Chairs, 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.
- (e) If the Monitoring Officer, following consultation with the Joint Chairs of the Joint Overview and Scrutiny Committee, rejects the request for Call-In, they shall provide a report to the Joint Overview and Scrutiny Committee providing details of the request for Call-In of a decision and reasons given for the request being rejected. Such report will be received by the next Joint Overview and Scrutiny Committee meeting, following the determination of the request for Call-In, or if that is impracticable, then to the following meeting.

17.517.4 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.

#### **Prevention-Exemption fromof Call-in Procedure**

- 17.5 A matter may not be called-in if it has already been considered by the Joint Scrutiny Committee or if the decision is urgent and any delay would prejudice the interest of the council or the public in the opinion of the Monitoring Officer. 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 or both Councils incurring significant additional expenditure or loss of significant additional income; or
  - (b) be highly likely to result in significant damage to either or both Councils' reputation; or
  - (c) prevent either or both Councils from meeting their legal obligations.
- 17.6 The agreement of a Chair of the Joint Overview and Scrutiny Committee must be obtained in writing in advance of making the decision, by way of completion of a Notice by the Director for Communities, 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 Chairs of the Joint Overview and Scrutiny Committee, a Vice-Chair's consent shall be required. In the absence of both Chairs and Vice Chairs, the consent of the Chair or, in their absence the Vice Chair, shall be required.
- 17.7 The Record of Decision and Notice that the decision is exempt from Call-In, shall state that in the opinion of the Joint Chairs of Joint Overview and Scrutiny Committee the decision is one which is urgent, with reasons, and therefore not subject to Call-In.
- 17.8 Decisions taken in accordance with this Procedural Rule must be reported to the next available meeting of each Full Council.

#### **Call-In Procedure**

- 17.9 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, or refer the matter to the Full Council of either or both Councils. 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 before making a final decision and implementing it.
- 17.10 Once the reconsidered decision is published following the Call-In procedure, the decision cannot be called in again and may be implemented immediately.
- 17.11 If the matter was referred to a Full Council and that Council does not object to a decision that has been made, then no further action is necessary, and the decision will be effective in accordance with the provision below. However, if the Full Council does object, it will refer the decision back to the decision-maker, together with its views on the decision. The decision-maker shall then reconsider the matter as soon as possible, amending the decision or not, before making a final decision and implementing it. If the Full Council does not meet, or if it does but does not refer the decision back to the decision-maker, the decision will become effective on the date of the council meeting or expiry of the period in which the council meeting should have been held, whichever is the earlier. Once a decision-maker has reconsidered the matter following Call-In, no further Call-In of that matter will be allowed.

#### **Procedure at 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 11.2.1;
  - (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 Cabinets 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; and
  - (c) That the meeting be conducted so as to maximise efficiency.
  - (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 Cabinet, Council or Committee as appropriate, and shall make its findings public, subject to Access to Information Procedure Rules.

#### **Communications Strategy**

- 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 Chairs 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.

## **Licensing ~~Committee~~ Sub-Committee Hearings Procedure Rules**

**Commented [g49]:** Worthing does not currently have equivalent procedure rules.

Replace with revised procedure rules.

### **1.0 GENERAL**

- 1.1 These Procedure Rules are subject to the provisions of the Licensing Act 2003 (Hearings) Regulations 2005 as amended (the 'Regulations'). Where appropriate, the provisions of the Regulations have been incorporated into these rules.
- 1.2 Adur District Council is the Licensing Authority for the purposes of the Licensing Act 2003 within the District of Adur.

### **2.0 COMPOSITION OF THE LICENSING COMMITTEE**

- 2.1 The Composition of the Licensing Committee and its Sub-Committee are set out in Part 3 of the Constitution.
- 2.2 Licensing Committee Members are bound by the Council's Procedure Rules and the Member Code of Conduct. Members must not predetermine or show bias in any matter and must declare any interests at the start of every meeting.
- 2.3 The Licensing Committee comprises Members who have been trained in the preceding two years and do not have interests in licensing matters that are likely to debar them from consideration of, or voting on, any particular issue.
- 2.4 Members are selected for Sub-Committees subject to availability in an alphabetical order and in consultation with the Chair of the Licensing Committee. Sub-Committees are chaired by the Chair or Vice-Chair of the Committee. In the absence of the Chair or Vice Chair, a Chair will be selected from amongst the Sub-Committee Members by simple majority vote.

### **3.0 NOTICE OF HEARING**

- 3.1 The Council shall notify the parties involved of the date, time and place at which the hearing is to be held (the 'Notice of Hearing') in accordance with the provisions of the Regulations.
- 3.2 The Notice of Hearing shall be accompanied by information regarding the following:
  - (a) the rights of a party provided for in paragraphs 4.1 and 8.5 below;
  - (b) the consequences if a party does not attend or is not represented at the hearing;
  - (c) the procedure to be followed at the hearing;
  - (d) any particular points on which the Licensing Committee will want clarification from a party at the hearing.

### **4.0 RIGHTS OF ATTENDANCE, ASSISTANCE AND REPRESENTATION**

- 4.1 Subject to paragraphs 6.2 and 6.4 below, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.
- 4.2 For the avoidance of doubt, a party may be assisted or represented by their Ward Councillor. Any Councillor undertaking such a role would take no part in the determination of the matter before the Committee.
- 4.3 Upon receipt of the Notice of Hearing and within the period of time prescribed by the Regulations and specified in the Notice of Hearing, each party shall advise the Council in writing:
  - (a) whether they intend to attend and/or be represented at the hearing, giving the name and contact details of the representative if applicable;
  - (b) whether they consider a hearing to be unnecessary.

4.4 In a case where a party wishes any person (other than the person they intend to represent them at the hearing) to appear at the hearing, they shall submit a written request (normally at least 5 clear working days prior to the hearing) for permission for such other person to attend at the hearing, giving their name and a brief description of the point or points on which they may be able to assist the Sub-Committee, in relation to the application.

4.5 A party who wishes to withdraw any representations they have made may do so:  
(a) by giving notice to the Licensing Section; or  
(b) orally at the hearing.

#### **5.0 RIGHT TO DISPENSE WITH A HEARING IF ALL PARTIES AGREE**

5.1 This section does not apply to Review Hearings.

5.2 Subject to paragraph 5.1 above, the Sub-Committee may dispense with holding a hearing if all persons (as required by the Act) agree that such a hearing is unnecessary, other than the Licensing Authority itself.

5.3 If the Licensing Authority agrees that a hearing is unnecessary, it shall forthwith give notice to the parties that the hearing has been dispensed with.

#### **6.0 HEARING TO BE HELD IN PUBLIC**

6.1 Subject to paragraph 6.2 below, the hearing shall take place in public.

6.2 The Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public.

6.3 For the purposes of paragraph 6.2 a party and any person assisting or representing a party, may be treated as a member of the public.

6.4 The Sub-Committee may require any person attending the hearing who is in their opinion behaving in a disruptive manner to leave the hearing and may:  
(a) refuse to permit that person to return; or  
(b) permit them to return only on such conditions as the Sub-Committee may specify; but such a person may, before the end of the hearing, submit to the Sub-Committee, in writing, any information which they would have been entitled to give orally had they not been required to leave.

#### **7.0 REPORT**

7.1 A report will be put before the Sub-Committee, prepared by the Director for Communities, a copy of which will be sent to Members, Officers and the Applicant in advance of the hearing.

7.2 The report will also be published on the Councils' website, in accordance with the Council's Access to Information Procedure Rules.

#### **8.0 PROCEDURE AT THE HEARING**

8.1 The Sub-Committee will seek to focus the hearing on the steps needed to promote the particular Licensing Objectives which have given rise to the specific representations and will avoid straying into undisputed areas.



- 8.2 The order of business shall be at the discretion of the Chair, but will normally proceed in accordance with procedures put before the meeting and sent to the Applicant prior to the meeting. The procedure will be explained at commencement of the hearing.
- 8.3 Each Party will be given a maximum of 20 minutes to make their representations; all comments should be focused, relevant and avoid repetition.
- 8.4 Cross examination shall not be permitted unless the Sub-Committee considers that cross examination is necessary for it to consider the representations, application or notice as the case may require.
- 8.5 Where there is more than one representation raising the same or similar grounds, the Sub-Committee may request that only one party addresses them on behalf of the parties who have made the representations in question.
- 8.6 In considering any representations made by a party, the Sub-Committee may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.
- 8.7 The Sub-Committee shall disregard any information given or evidence produced by a party which is not relevant to:
- (a) their application, representations or notice (as applicable); and
  - (b) the promotion of the Licensing Objectives in s.4(2) of the Licensing Act 2003; or
  - (c) in relation to a hearing to consider a notice given by a Chief Officer of Police, the crime prevention objective.
- 8.8 At the Hearing, a party may choose to amplify and to rely upon written representations or documents that form part of the published papers. Parties may not produce or rely upon further representations or documents without the permission of the Chair. The Sub-Committee will not normally allow representations or documents which are produced for the first time at the hearing or at short notice.
- 8.9 Hearsay evidence may be admitted before the Sub-Committee, but consideration will always be given to the weight, if any, to be attached to such evidence, depending upon the circumstances in which it arises.

## **9.0 ROLE OF THE LEGAL ADVISOR**

- 9.1 The Sub-Committee may seek advice or clarification of any procedural, technical or legal matter from the Legal Advisor at any time during the course of the hearing.
- 9.2 The Legal Advisor will provide the Sub-Committee with any advice it requires properly to perform its functions, whether or not the Sub-Committee requested that advice, on:
- (a) questions of law;
  - (b) questions of mixed fact and law;
  - (c) matters of practice and procedure;
  - (d) the range of options available to the Sub-Committee;
  - (e) any relevant decisions of higher Courts;
  - (f) relevant national guidance or policy;
  - (g) other issues relevant to the matter before the Sub-Committee;
  - (h) the appropriate decision-making structure to be applied in any given case.
- 9.3 The Legal Advisor will assist the Sub-Committee, where appropriate, as to the formulation of reasons and the recording of those reasons.

- 9.4 The Legal Advisor will play no part in making findings of fact but may assist the Sub-Committee by reminding it of the evidence taken from their own, or the Democratic Services Officer's, notes.
- 9.5 The Legal Advisor may ask questions of witnesses and the parties in order to clarify the evidence and any issues in the case.
- 9.6 The Legal Advisor is under a duty to ensure that every case is conducted fairly.
- 9.7 When advising the Sub-Committee the Legal Advisor should:
- (a) ensure that they are aware of the relevant facts;
  - (b) invite representations from the parties on the advice;
  - (c) provide the parties with the information necessary to enable them to make such representations.
- 9.8 The Legal Advisor may assist Members during the course of their deliberations, either when asked to do so, or if they realise there is a point of law on which they may need assistance but on which they omitted to advise them in open session.

#### **10.0 ROLE OF THE DEMOCRATIC SERVICES OFFICER**

- 10.1 The role of the Democratic Services Officer shall be to undertake the procedural arrangements to hold the meeting according to the Council's Procedure Rules, make a record of the proceedings, summarise and record decisions and to provide help and assistance to members of the public attending hearings.
- 10.2 The Democratic Services Officer will not ordinarily remain with the Members of the Sub-Committee when they retire to make their deliberations but may do so at the request of the Chair or the Legal Advisor.

#### **11.0 DETERMINATION OF APPLICATIONS**

- 11.1 The Sub-Committee will give appropriate weight to:
- (a) the representations (including supporting information) presented by all the parties;
  - (b) national guidance;
  - (c) the Adur District Council Licensing Policy;
  - (d) the steps that are necessary to promote the Licensing Objectives in s.4(2) of the Licensing Act 2003.
- 11.2 The Sub-Committee shall normally make its determination in any case at the conclusion of the hearing, or within 5 working days thereafter.
- 11.3 Where a hearing has been dispensed with in accordance with paragraph 5 of these Procedure Rules, the Sub-Committee will make its determination within the period of ten working days beginning with the day Notice is given to the parties.
- 11.4 The determination shall be sent to all parties within 5 working days of a decision being made by the Sub-Committee.

#### **12.0 FAILURE OF PARTIES TO ATTEND THE HEARING**

- 12.1 If a party has informed the Licensing Authority that they do not intend to attend, nor be represented at the hearing, the hearing may proceed in their absence.
- 12.2 If a party who has not so indicated fails to attend or be represented at a hearing the Sub-Committee may:

- (a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date; or
- (b) hold the hearing in the party's absence.

12.3 Where the Sub-Committee holds the hearing in the absence of a party, it shall consider at the hearing of the application, representations or notice made by that party.

### **13.0 ADJOURNMENTS**

13.1 Subject to the provisions of the Regulations, the Sub-Committee may:  
(a) adjourn the hearing to a specified date;  
(b) arrange for a hearing to be held on specified additional dates  
where it considers it necessary for its consideration of any representations or notice made by a party.

13.2 Where the Sub-Committee adjourns the hearing to a specified date it shall forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

13.3 Similarly, when the Sub-Committee arranges for the hearing to be held on a specified additional date, it shall notify the parties of the additional date, time and place at which the hearing is to be held.

### **14.0 RECORD OF PROCEEDINGS**

14.1 A record of the hearing (Minutes) shall be kept for 6 years from the date of determination or, where an appeal is brought against the determination, the disposal of the appeal.

14.2 A recording will be made of the open part of the hearing and will be placed on the Council's website within 10 clear working days of the hearing.

### **15.0 WAIVER OF PROCEDURE RULES**

15.1 Except where prescribed by the Regulations, the Chair may in any particular case dispense with or modify these Rules.

15.2 In particular, the Chair may extend a time limit provided for in the Regulations for a specified period where they consider this to be necessary and/or in the public interest.

15.3 Where the Chair has extended a time limit they shall forthwith give a notice to the parties stating the period of time of the extension and the reasons for it.

### **16.0 QUALIFIED PRIVILEGE**

16.1 Statements made in Sub-Committee meetings are subject to the general principles of the law of defamation. However, the Sub-Committee's proceedings are regarded in law as a 'privileged occasion' to which the doctrine of qualified privilege attaches to statements made in the Sub-Committee's proceedings (quasi-judicial in nature) providing the following criteria are met:

- (a) any opinions expressed are honestly held;
- (b) opinions/statements are based on the facts of the matter;
- (c) opinions/statements are on a matter of public interest;
- (d) a clear distinction is made between what is fact and what is opinion;
- (e) there is no malice.

### **17.0 HUMAN RIGHTS**

17.1 The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a Local Authority to act in a way which is incompatible with a Convention right. The Sub-Committee will have regard to the Human Rights Act when exercising its licensing functions, and in particular to the following provisions:

Article 1: Every person is entitled to the peaceful enjoyment of their possessions;

Article 6: In the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;

Article 8: Everyone has the right to respect for their home and private and family life.

## **18.0 EQUALITIES**

18.1 All decisions will be made in accordance with the Council's equalities duty pursuant to the Equalities Act 2010 and other legislation.

## **19.0 RIGHT OF APPEAL**

### **19.1 The Applicant**

The Applicant has a right of appeal to the Magistrates' Court against a decision, within 21 days beginning with the day on which the applicant was notified of the decision of the Licensing Authority:

- (a) to reject the Application for a premises licence; or
- (b) to impose conditions on the premises licence; or
- (c) to exclude a licensable activity; or
- (d) to refuse to specify a person as a Premises Supervisor.

### **19.2 Person making relevant representations and Chief Officer of Police**

A person who made relevant representations and the Chief Officer of Police has a right of appeal to the Magistrates' Court against a decision, within 21 days, beginning with the day on which the person was notified of the decision of the Licensing Authority:

- (a) to grant a premises licence; or
- (b) in relation to the conditions imposed; or
- (c) in relation to the licensable activities authorised; or
- (d) the person specified as Premises Supervisor.

19.3 The Chair of the Licensing Committee, or in their absence the Vice-Chair of the Committee, will be expected to attend the appeal at the Magistrates Court.

## **Member Complaints and Standards Sub-Committee** **Procedure Rules**

### **1.0 INTRODUCTION**

- 1.1 This procedure is only to be used for the assessment and investigation of complaints of alleged failures by Members to comply with the Council's Member Code of Conduct.

### **2.0 MAKING A COMPLAINT**

- 2.1 Complaints should be made in writing to the Monitoring Officer.

### **3.0 INITIAL ASSESSMENT OF COMPLAINT**

- 3.1 On receipt of a complaint, the Monitoring Officer will notify the Subject Member that a complaint has been received (unless the Monitoring Officer considers that it would be contrary to the public interest or would prejudice the consideration of the complaint to do so).
- 3.2 The Monitoring Officer will make an initial assessment of the complaint within 20 working days of receipt of all relevant information. In making an initial assessment, the Monitoring Officer may consult with an Independent Person, and inform the Group Leader.
- 3.3 Having carried out an initial assessment of a complaint, the Monitoring Officer will decide on one of the following courses of action:
- (a) Decide to take no further action
  - (b) Decide to resolve the complaint informally
  - (c) Decide to refer the complaint for investigation

### **4.0 DECISION TO TAKE NO ACTION**

- 4.1 Where the Monitoring Officer decides to take no further action in respect of the complaint, the Complainant and the Subject Member shall be advised of that decision in writing. The Monitoring Officer may decide to take no action if, for example:
- (a) The Code of Conduct was not engaged (the Member was not acting as a Member at the time of the alleged breach of Conduct took place);
  - (b) Where the matter took place more than six months ago (except in exceptional circumstances or in the public interest);
  - (c) Where the allegations are anonymous;
  - (d) The complaint appears to be malicious, vexatious, politically motivated, tit for tat, or is so minor that there is no overriding public benefit in carrying out an investigation;
  - (e) Where a challenge made to an expression of fact or opinion made during a debate at a council meeting is fundamentally a challenge to the underlying merits of a Council determination (e.g. a planning application).
- 4.2 These are just some examples, but the list is not exhaustive. The Monitoring Officer (in consultation with the Independent Person, if necessary) may decide that a complaint does not merit further consideration for any other reason which appears to them to be relevant.

### **5.0 PARISH COUNCIL MEMBERS**

5.1 If the Complainant is a Parish Council Member and the Subject Member (or one of them) is a Member of the same Parish Council, the Monitoring Officer may, in consultation with the Independent Person, refer the entire complaint to the Sussex Association of Local Councils (SALC) if appropriate. SALC will appoint a Panel to hear your complaint and decide whether it is sufficiently serious to be put through the procedure set out below or whether it should be settled in some other way within the Parish Council.

~~5.2~~ Where the Monitoring Officer has taken the decision that the complaint does not merit further consideration or is to be referred to SALC for mediation/conciliation, the Monitoring Officer will inform the Complainant of that decision and the reasons for that decision.

~~5.35.2~~ ~~In the alternative, any formal complaints about the conduct of a Parish Council Member towards a clerk should be made by the chair or by the Parish Council as a whole, rather than the clerk in all but exceptional circumstances.~~

Commented [GW50]: Unreasonable. Delete.

## 6.0 DECISION TO RESOLVE COMPLAINT INFORMALLY

6.1 Where the Monitoring Officer decides to resolve the complaint informally, the Complainant, the Subject Member and their Political Group leader (if any) shall be advised of that decision in writing. In deciding to resolve the complaint informally, the Monitoring Officer may pursue any of the following courses of action:

- (a) Provide further training and guidance to the Subject Member
- (b) Mediate between the Complainant and the Subject Member
- (c) Require the Subject Member to write a personal apology to the Complainant
- (d) Write an advisory letter to the Member or such other action agreed between the Monitoring Officer and the Independent Person.

6.2 If informal resolution is able to resolve the complaint, then no further action is required.

6.3 Where informal resolution does not resolve the complaint, the Monitoring Officer may, following consultation with the Independent Person, decide to refer the complaint for investigation.

## 7.0 DECISION TO INVESTIGATE COMPLAINT

7.1 Where the Monitoring Officer decides to refer the complaint for investigation, the Complainant and the Subject Member shall be advised of that decision in writing. The Monitoring Officer shall also advise the Chair of the Joint Audit & Governance Committee that a complaint has been referred for investigation.

7.2 Where the Monitoring Officer decides to refer the complaint for investigation, the Subject Member shall be provided with the details of an Independent Person should they require guidance on the process for investigation of the complaint. The Independent Person shall be a different Independent Person to the one that the Monitoring Officer has previously consulted with.

7.3 Within 14 days of deciding to refer the complaint for investigation, the Monitoring Officer shall appoint an Investigating Officer to investigate the complaint. The Investigating Officer may be an officer of the Council, an officer of another local authority, or an external person.

## 8.0 INVESTIGATION OF COMPLAINT

- 8.1 The Investigating Officer shall be instructed to investigate the complaint and to report to the Monitoring Officer. The purpose of the investigation is to establish the facts of the case and to form a view on whether there has been a breach of the Members Code of Conduct.
- 8.2 The Complainant and the Subject Member shall cooperate fully with the Investigating Officer, including attending any meetings or interviews and providing all relevant information and documents to the Investigating Officer.
- 8.3 The Subject Member may be accompanied by a friend or an adviser when attending any meeting or interview as part of the investigation of the complaint.
- 8.4 The Investigating Officer may pursue any of the following actions as part of the investigation:
- (a) Interviewing the Complainant
  - (b) Interviewing the Subject Member
  - (c) Interviewing other relevant witnesses
  - (d) Requesting copies of any documents relevant to the investigation
- 8.5 The Investigating Officer shall produce a draft report of their findings and send a copy to the Monitoring Officer, the Complainant and the Subject Member. The Investigating Officer shall allow 14 days for comments on the draft report and shall take any comments into consideration when producing the final report.
- 8.6 If during the course of the investigation, the Investigating Officer identifies other breaches of the Code of Conduct the Monitoring Officer shall be advised accordingly.
- 8.7 The Investigating Officer shall endeavour to complete the investigation within 2 months of appointment.
- 8.8 The Investigating Officer shall send a copy of the final report to the Monitoring Officer. The report shall include copies of any statements or documents obtained during the course of the investigation.

## **9.0 POST INVESTIGATION PROCEDURES**

- 9.1 Where the Investigating Officer concludes that there has not been a breach of the Code of Conduct, the Monitoring Officer shall take no further action and the Complainant and the Subject Member shall be advised of that decision in writing.
- 9.2 Where the Investigating Officer concludes that there has been a breach of the Code of Conduct, the Monitoring Officer shall refer the report to the Standards Sub-Committee for consideration.

## **10.0 STANDARDS SUB-COMMITTEE**

- 10.1 Where a Standards Sub-Committee is required the procedure for the hearing set out in the Appendix to this procedure shall apply.
- 10.2 The Standards Sub-Committee shall have the power to decide whether or not to impose a sanction where there has been a finding of a breach of the Member Code of Conduct.
- 10.3 The Standards Sub-Committee will have the benefit of any advice from the Independent Person.

- 10.4 The Standards Sub-Committee may decide not to impose a sanction or it may impose one or more of the following sanctions:
- (a) The Monitoring Officer to send a formal letter to the Subject Member
  - (b) The Subject Member to make a public apology at Full Council. In the event of an apology not being made, the Subject Member may be censured at a meeting of the Full Council.
  - (c) The Monitoring Officer to provide further training and guidance to the Subject Councillor.
  - (d) The Subject Member to write a personal apology to the Complainant.
  - ~~(d)~~(e) The Subject Member be excluded from the Council offices, providing them with a single point of contact.
  - ~~(e)~~(f) A recommendation to the relevant Group Leader that the Subject Member should not sit on a particular be removed from the Cabinet or a Committee (or, Sub-Committee, or Working Group or External Body) for a period of time and for the relevant Group Leader to appoint a temporary replacement to the relevant committee.
- ~~10.5 The Hearings Sub-Committee will have the benefit of any advice from the Independent Person.~~

## Appendix

### Standards Sub-Committee Procedure

#### 1. Terms of Reference

The Standards Sub-Committee is responsible for considering reports of an Investigating Officer into complaints that there has been a breach of The Council's Code of Conduct. The hearing shall be conducted in public whenever possible, unless circumstances require the hearing to be in private, such as personal details, or not in the public interest.

#### Membership

A Standards Sub-Committee shall consist of three District/Borough Councillors (who should be drawn from different Political Groups and have no connection with the subject Member). The Standards Sub-Committee shall be advised by the Monitoring Officer, who will be accompanied by the Independent Person. The Independent Person will be present to give independent advice to the Monitoring Officer, or to the Sub-Committee.

#### 2. Procedure

##### Pre-hearing process

The Monitoring Officer will liaise with Democratic Services to arrange for the Standards Sub-Committee to meet to hear the complaint within three months of receiving the Investigating Officer's report. Sufficient notice will be given to all parties to the Sub-Committee hearing regarding the date fixed for the hearing.

The Monitoring Officer will require the Subject Member to give their response to the Investigating Officer's report as to what facts are agreed or facts likely to be in contention at the Standards Sub-Committee.

If the Subject Member wishes to rely on evidence at the Standards Sub-Committee, then that information should be provided to the Monitoring Officer, in writing.

The Standards Sub-Committee will not allow new arguments or evidence to be presented at the hearing.



If there are two complaints that relate to the same Member or to the same incident/occasion, then the Monitoring Officer may decide that they be considered together.

The Subject Member should be provided with the Investigating Officer's report and any evidence which will be heard at the hearing.

The Monitoring Officer should provide the Members of the Standards Sub-Committee with a report that summarises the allegation. This should include a list of agreed facts, and disputed issues should be outlined.

### **The Standards Sub-Committee**

The Standards Sub-Committee will normally take place in public. If the Subject Member is a Parish Member, a Parish Member unconnected with the complaint, who is a Co-opted Member of the Joint Audit & Governance Committee, will attend in an advisory capacity, in addition to the three voting Members of the Sub-Committee.

One of the Independent Persons will be invited to attend the hearing and will be asked to comment on whether there has been a breach of the Code of Conduct and on appropriate sanctions.

If the Subject Member does not attend the hearing, the Standards Sub-Committee may adjourn the hearing or may continue to reach a decision on the basis of the Investigating Officer's report, and if it decides to do so, any evidence that it hears.

Whilst the Standards Sub-Committee is a meeting of the Council, it is not a court of law. It does not hear evidence under oath. The rules of natural justice should nevertheless be carefully followed and the Standards Sub-Committee will have due regard to the seriousness of the proceedings for those involved, the Council and the public, and will adhere at all times to the Equalities Act 2010.

The Standards Sub-Committee will decide disputed issues and whether the Subject Member has breached the Code of Conduct on the 'balance of probabilities'.

### **Representation**

The Subject Member may choose to be represented, at their own cost. The Standards Sub-Committee may refuse to allow any person to remain at the hearing if they are disruptive. The Standards Sub-Committee will have the discretion to hear opening or closing arguments from the Subject Member and the Investigating Officer, if they feel this will assist them in reaching a decision.

### **Evidence**

The Standards Sub-Committee will control the procedure and evidence presented at a hearing, including the number of witnesses and the way they are questioned. All matters relating to the evidence and procedure are within its discretion. However, no motion to dismiss the complaint should be made before consideration of all the facts and evidence.

Generally, the Subject Member is entitled to present their case as they see fit.

Witnesses of facts that are disputed would normally be expected to attend to be questioned. Character witnesses, if appropriate, will provide written evidence which will be read at the hearing.

Witnesses may be questioned by the Standards Sub-Committee, the Independent Person, the Investigating Officer and the Subject Member.

The onus is on the Subject Member to ensure the attendance of the witnesses on whom they rely to give evidence to assist them. The Standards Sub-Committee can limit the number of witnesses or the issues which can be covered by them.

Neither the Standards Sub-Committee nor the Subject Member will have any power to compel witnesses to give evidence.

#### **Making Findings of Fact**

- (a) The Chair introduces the Sub-Committee and any other persons present, including the Monitoring Officer, the Independent Person, the Investigating Officer and a Democratic Services Officer.
- (b) The Subject Member introduces any person who is acting as their representative and any witnesses to be called on their behalf.
- (c) The Chair shall explain the procedure that shall be followed.
- (d) The Investigating Officer is invited to present their report and to call any witnesses.
- (e) The Subject Member may ask questions of the Investigating Officer and/or any witnesses which are to be put through the Chair.
- (f) The Members of the Sub-Committee may ask questions of the Investigating Officer.
- (g) The Subject Member is invited to respond to the Investigating Officer's report and to call any witnesses.
- (h) The Investigating Officer may ask questions of the Subject Member or any witnesses which are to be put through the Chair.
- (i) The Members of the Sub-Committee may ask questions of the Subject Member.
- (j) The Chair may request advice from the Monitoring Officer, and/or the Independent Person.

#### **Decision**

- (a) The Sub-Committee shall adjourn to consider whether there has been a breach of the Members Code of Conduct. The Sub-Committee may request the presence of the Democratic Services Officer during their deliberations. The Monitoring Officer may assist in settling out the reasons for their decisions.
- (b) The Sub-Committee shall reconvene to orally deliver its decision.
- (c) If the Sub-Committee decides that there has been a breach of the Code of Conduct then the Sub-Committee shall consider whether a sanction should be imposed.

#### **Sanctions**

- (a) The Chair shall invite representations from the Investigating Officer as to whether a sanction should be imposed.
- (b) The Chair shall invite representations from the Subject Member as to whether a sanction should be imposed.
- (c) The Chair shall ask the Monitoring Officer if they wish to express an opinion as to whether a sanction should be imposed, and whether to comment on the appropriate sanctions.
- (d) The Chair shall ask the Independent Person if they wish to express an opinion as to whether a sanction should be imposed, and whether to comment on the appropriate sanctions.
- (e) The Sub-Committee shall adjourn to consider whether to impose a sanction.
- (f) The Sub-Committee may request the presence of the Democratic Services Officer during their deliberations.

#### **Sanctions- mitigating/aggravating circumstances**

- (a) The Standards Sub-Committee should consider all the mitigating and aggravating circumstances that appear to be relevant. For example, it may wish to consider:
  - (i) What were the actual and potential consequences of the breach?
  - (ii) How serious was the breach?
  - (iii) What is the attitude of the Subject Member now? Have they apologised?
  - (iv) Has the Subject Member previously been dealt with for a breach of the Code of Conduct?

- (b) The following are examples of mitigating and aggravating factors, (but these are not exhaustive):

#### **Mitigating Factors**

- (a) An honest but mistaken belief that the action was not a breach of the Code of Conduct
- (b) A previous record of good service
- (c) Evidence that they were suffering from ill health at the time of the breach

#### **Aggravating Factors**

- (a) Dishonesty
- (b) Continuing to deny the factors or blaming other people
- (c) Evidence of a failure to follow advice or warnings.

The priority of the Standards Sub-Committee should be to ensure there are no further breaches of the Code of Conduct and that public confidence is maintained.

#### **The Decision**

- (a) The Sub-Committee shall reconvene to orally deliver its decision in respect of a sanction.
- (b) The Chair will explain that written notice of the decision and the reasons for it shall be sent to all parties within 14 days of the date of the hearing, including the Parish Council, if the Subject Member is a Parish Council Member.
- (c) The Chair will formally close the hearing.

#### **Appeals**

There is no right of appeal for the Complainant or the Subject Member against a decision of the Monitoring Officer or the Standards Sub-Committee.

#### **Withdrawal of a complaint**

In the event that a Complainant withdraws a complaint at any time prior to a decision having been made by the Standards Sub-Committee, the Monitoring Officer may, following consultation with the Independent Person if necessary, decide that no further steps be taken in respect of that complaint but shall, in taking such decision, take into account any issues that may arise under paragraph 2.1 of the Code of Conduct, particularly any intimidation.

#### **Explanation of the roles**

##### **Monitoring Officer**

The Monitoring Officer is a statutory role appointed by Council under s.5 of the Local Government and Housing Act 1989, and in relation to the Member Code of Conduct, is the responsible person. The Monitoring Officer is also responsible for the operation of the Council's Constitution. When a complaint is received, it is the Monitoring Officer's responsibility to check the form is completed correctly and will decide whether the complaint can move forward or not, in accordance with this Code of Conduct Complaints procedure.

References to the Monitoring Officer should be read to include any representative of the Monitoring Officer. The Monitoring Officer has a key role in ensuring the smooth running of the pre-hearing and hearing process; who will remain neutral throughout and will provide independent advice to the Standards Sub-committee.

##### **Independent Person**

The Independent Person is a statutory role under s. 28 of the Localism Act 2011 and appointed by Council. The role of the Independent Person is to advise the Standards Sub-

Committee as to whether in their opinion there has been a breach of the Code of Conduct and whether, and what sanctions could be imposed. The Independent Person may be consulted by the Monitoring Officer at the initial assessment stage of the complaint. ~~Please note there will be a different Independent Person at the Standards Hearings Sub-Committee.~~ The role also includes giving advice to the Subject Member as to procedural points in the process.

#### **Investigating Officer**

May be a Council Officer, an officer from another council or an external investigator. Following the initial assessment, The Monitoring Officer, may appoint an Investigating Officer to carry out an investigation into the complaints made by the Complainant against the Subject Member in respect of misconduct by a Council Member.

#### **Standards Sub-Committee**

The role of the Standards Sub-Committee is to hear the Code of Conduct complaints that have been referred to them by the Monitoring Officer. Decide on whether or not there has been a breach of the Code of Conduct, and then decide on if and what sanction(s) should be imposed.

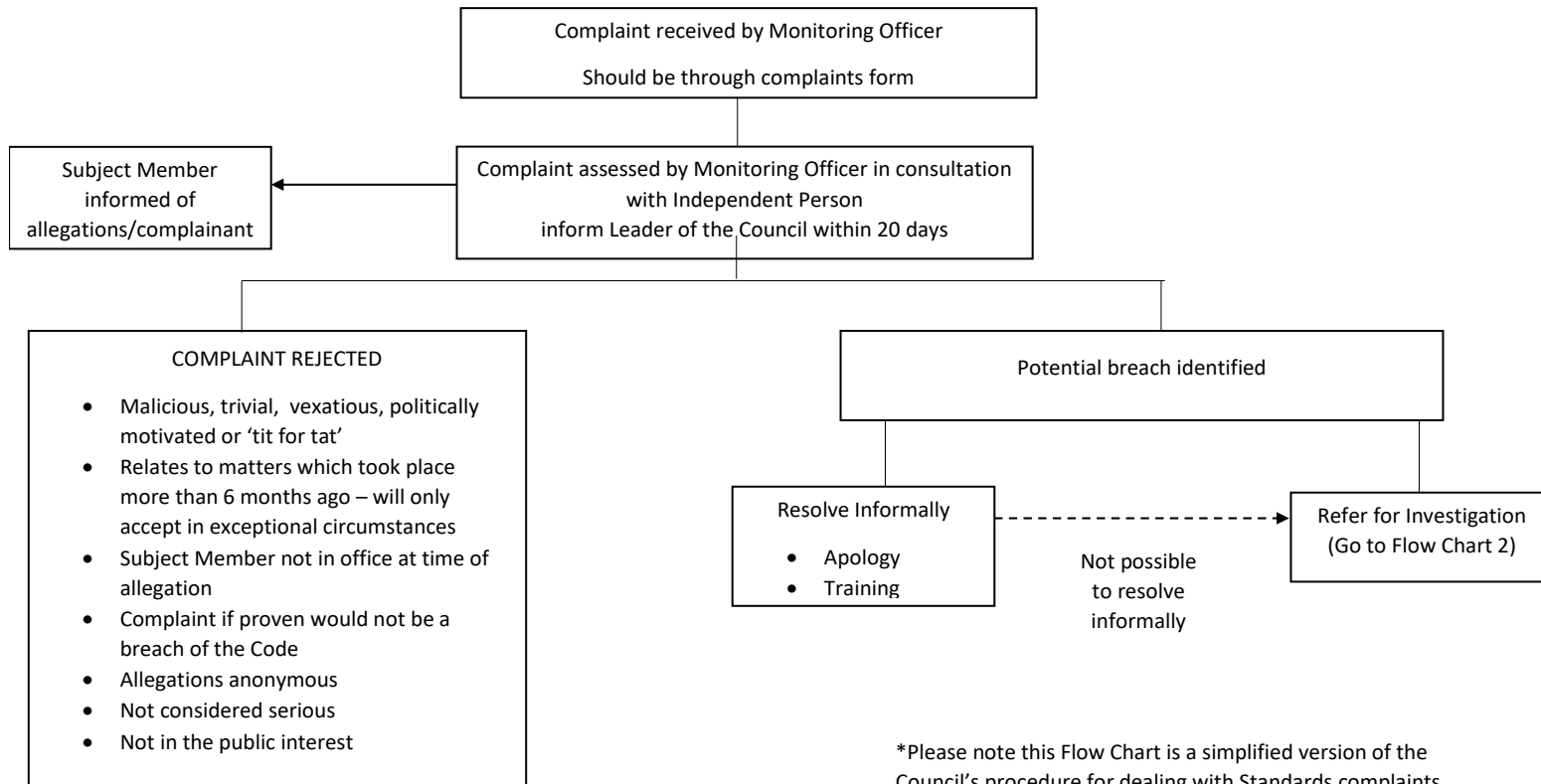
The Independent Person is invited to attend all meetings of the Standards Sub-Committee and their views are sought and taken into consideration before a decision is made by the Standards Sub-Committee as to whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of a failure to comply with the Code of Conduct.

#### **Revisions of Arrangements for dealing with breaches of the Member Code of Conduct**

The Council may by resolution agree to amend the arrangements for dealing with breaches of the Member Code of Conduct and has delegated to the Monitoring Officer the right to depart from these arrangements where they consider it is expedient to do so in order to secure the effective and fair consideration of any matter.

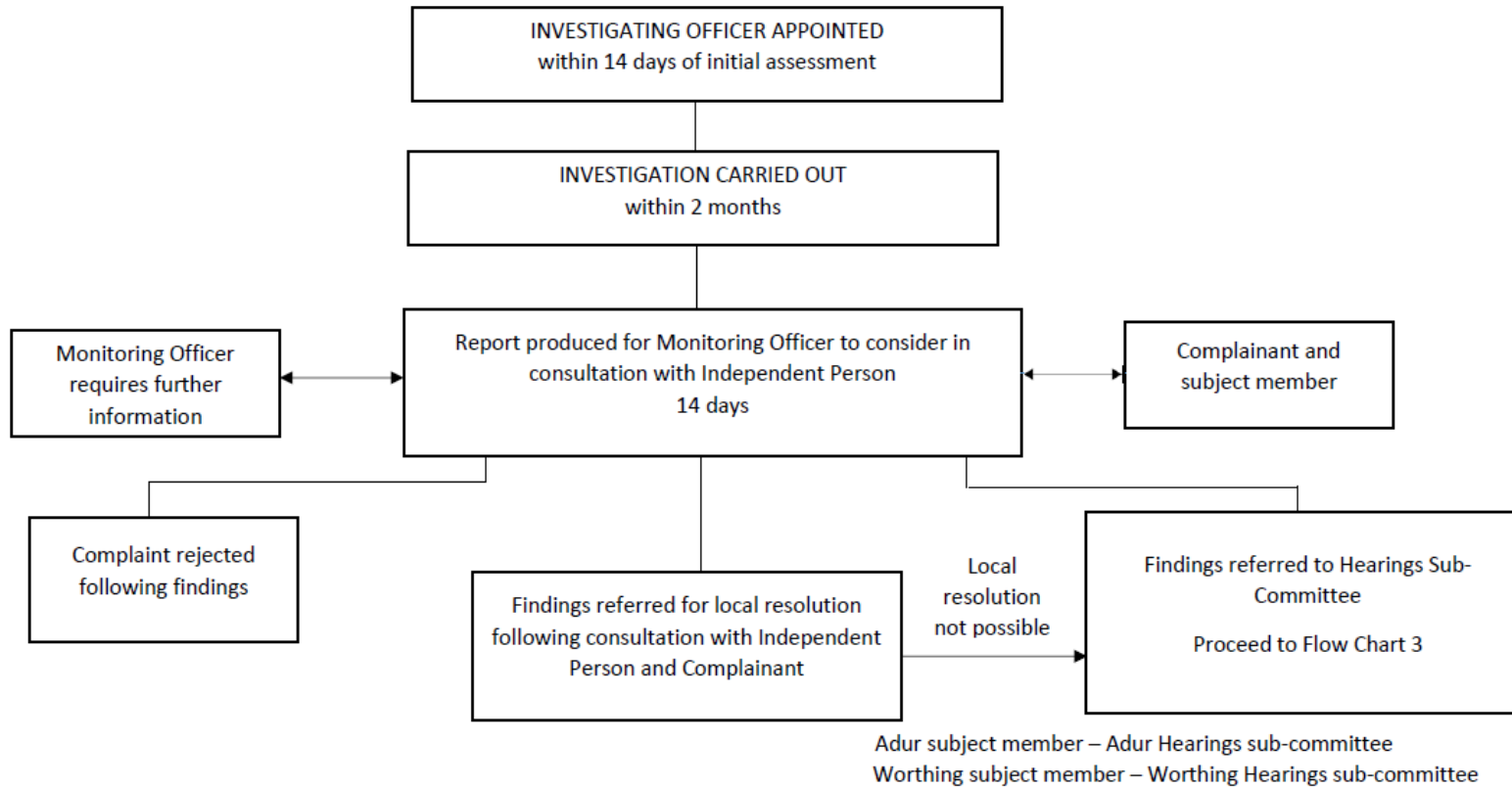
**See the flow charts for ease of reference and to show the time-line**

**FLOW CHART FOR STANDARDS COMPLAINTS – 1. ASSESSMENTS\***

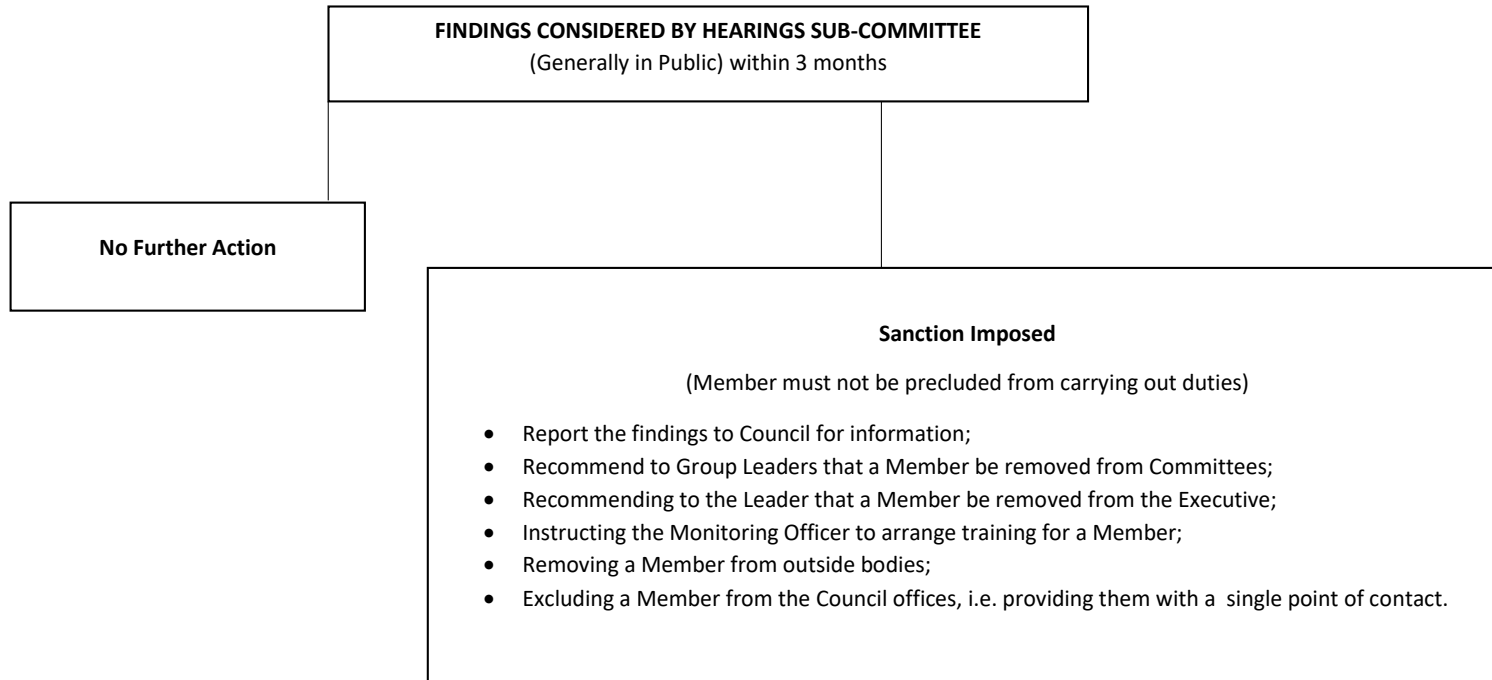


\*Please note this Flow Chart is a simplified version of the Council’s procedure for dealing with Standards complaints, the detail of which should be referred to where appropriate

**FLOW CHART FOR STANDARDS COMPLAINTS – 2. INVESTIGATION**



**FLOW CHART FOR STANDARDS COMPLAINTS – 3. HEARING**



## Joint Independent Remuneration Panel Procedure Rules

Adur District Council and Worthing Borough Council ('the Councils') have established a Joint District/Borough Independent Remuneration Panel ~~and a Joint Parish Independent Remuneration Panel~~ ('the Panel') to make recommendations on remuneration levels for District ~~and Borough and Parish~~ Councillors.

**Commented [GW51]:** This is unnecessary and has never met. Suggest delete.

### 1.0 TERMS OF REFERENCE

- 1.1 The Panel shall, ~~unless a Council has adopted a scheme under (f) below which has been in place for fewer than 4 years, by 31 January 2015 and thereafter~~ by 30 November each year ~~including 2015~~, produce a report making recommendations to each of the ~~Borough, District and Parish~~ Councils as to:
- (a) the amount of the basic allowance which should be payable to their Elected and Co-opted Members ~~for the following municipal year~~;
  - (b) the responsibilities, roles or duties where special responsibility allowance should be payable and the amount of such allowances ~~(District and Borough Councils only)~~;
  - (c) the amount of any travelling and subsistence allowance which should be payable to their Elected and Co-opted Members
  - (d) whether dependants' carers' allowance should be payable and the amount of such allowance;
  - (e) whether payment of allowances may be backdated in cases where a scheme is amended at a time which would affect allowances payable in that year;
  - (f) whether adjustments to the level of allowances may be determined according to an index, and which index and for how long before its use is reviewed (subject to a maximum of 4 years);
  - (g) those items of expenditure that Elected and Co-opted Members may reclaim as expenses; and
  - (h) any other Members' allowances or reimbursement matters reasonably falling within the remit of the Panel; this may include relevant bodies on matters of joint working and parity;
  - (i) such other functions as may be allocated to the Panels by statute, from time to time.
- 1.2 The Panel's reports shall be submitted to the Councils by way of the Joint Audit & Governance Committee.

### 2.0 PANEL MEMBERSHIP AND APPOINTMENT

- ~~2.1 The Membership of the Joint District/Borough Independent Remuneration Panel and the Joint Parish Independent Remuneration Panel shall be the same.~~
- 2.1 The Panel shall consist of ~~6 Members~~ a minimum of three persons appointed by the Joint Audit & Governance Committee or a Sub-Committee thereof.
- 2.2 The following persons cannot be appointed to the Panels, namely a person:
- (a) who is a Member or Co-opted Member of either of the Councils ~~or a Parish Council in respect of which the Panel makes recommendations~~; or
  - (b) is disqualified from being or becoming a Member of either of the Councils ~~or a Parish Council in respect of which the Panel makes recommendations~~;
- 2.3 Appointment to the Panel shall be for a period of not more than 4 years.
- 2.4 A Member of the Panel may be reappointed following the end of their term of appointment provided that the Councils carry out a recruitment process involving public advertisement.



2.5 The Members of the Panel shall receive the following allowances, to be reviewed every 4 years:

Chair: £100 per meeting attended  
Panel Member: £75 per meeting attended

In the absence of the Chair, another Panel Member chairing the meeting should receive the payment of £100, in place of their usual £75 payment.

2.6 Wherever possible, the Panel Members shall be treated as separate and individual consultants who are responsible for their own tax, National Insurance, etc.

2.7 A person specification shall be drawn up and agreed by the Joint Audit & Governance Committee to ensure that the candidates who are appointed:

- (a) are able to demonstrate a high degree of personal integrity;
- (b) are not Members of any local authority and are not disqualified from being or becoming a Member of a local authority;
- (c) have the appropriate level of skill, knowledge and understanding of setting remunerations;
- (d) have the necessary time and commitment for the role;
- (e) will disclose the extent of their connections to any political party or other group and whether these are such as to risk the effective discharge of the Panel's functions were the candidate to be appointed.

2.8 Terms of appointment shall include a provision that a Member of the Panel may be removed from office by a resolution of the Joint Audit & Governance Committee, or a Sub-Committee thereof following a finding by that Committee or Sub-Committee that the Member of the Panel:

- (a) is disqualified from being a Member of the Panels or is guilty of conduct which brings the office into disrepute (e.g. being found guilty of a criminal offence, an act of dishonesty or other serious misconduct);
- (b) is guilty of a lack of diligence or incompetence; or
- (c) becomes an Elected or Co-opted Member or an employee of a local authority.

### **3.0 PANEL OPERATING RULES**

3.1 The Panel shall:

- (a) appoint its own Chair at the first meeting and, thereafter, at the first meeting in each municipal year;
- (b) require a quorum of 3 at all meetings;
- (c) meet a minimum of once in each municipal year, with such additional meetings as are necessary to fully discharge the functions of the Panel; and
- (d) otherwise devise its own rules for the conduct of meetings, providing that such rules are consistent with legislative requirements and good governance practice.

### **4.0 DELEGATED FUNCTIONS**

4.1 The Panels shall have the following delegated functions:

- (a) To research Members' Allowances schemes in other relevant Authorities;
- (b) To gather evidence from interested persons and relevant organisations;
- (c) To conduct interviews with relevant persons; and
- (d) To produce the Annual report to the Councils, via the Joint Audit & Governance Committee, in line with the Terms of Reference of the Panels.

4.2 Note

- (a) A copy of the relevant report shall be provided to each Council;

~~(b) once having received the report, the Council shall, as soon as reasonably practicable, ensure that copies of that report are available for inspection by members of the public at the principal office of the Authority, at all reasonable hours; and~~

~~(e)(b) e) Once having received the report, each Council shall publish in one or more newspapers circulating in its area, a notice which:~~

- ~~(i) states that it has received recommendations from an Independent Remuneration Panel in respect of its scheme;~~
- ~~(ii) describes the main features of that Panel's recommendations;~~
- ~~(iii) specifies the recommended amounts of each allowance mentioned in the report in respect of that Authority;~~
- ~~(iv) states that copies of the Panel's report are available at the principal office of the Council for inspection by members of the public at such times as may be specified by the Council in the notice; and~~
- ~~(v) specifies the address of the principal office of the Council at which such copies are made available.~~

~~(c) (c) Each Council shall supply a copy of any report made by the Panels, where possible electronically, to any person who requests a copy. Where a hard copy is provided, the Council may charge such reasonable copying and postage fees, as may be determined from time to time.~~

## **Access to Information Procedure Rules**

### **1.0 SCOPE**

These Procedure Rules apply to all meetings of the Council, its Committees, Joint Committees and Sub-Committees and formal meetings of the Cabinet (together called 'Meetings').

### **2.0 PRINCIPLES**

#### **2.1 Interpretation**

These Rules will be interpreted, where possible, in accordance with the following guiding principles:

- (a) Openness: the right of the public to gain access to meetings and documents;
- (b) Transparency: the provision of information so that the public know who is responsible for making a particular decision, when and where, and have an explanation or justification for a decision;
- (c) Accountability: the public can measure the actions taken against policies and plans on which those responsible were elected to office.

### **3.0 RIGHT OF THE PUBLIC TO ATTEND MEETINGS**

Members of the public may attend all meetings subject only to the exceptions in these rules and in any statutory provisions.

### **4.0 NOTICES OF MEETINGS**

The Council will give at least 5 clear days' notice of any meeting by posting details of the meeting at the designated office and on the website. Except where there is a Key Decision and/or Confidential/Exempt Decision, in which case the 28 day Notice provisions in Access to Procedure Rule 13 shall apply.

### **5.0 RIGHT OF THE PUBLIC TO DOCUMENTS**

The Council will make copies of the agenda and reports available to the public for inspection at the designated office and on the Council's website at least 5 clear days before any scheduled meeting.

### **6.0 SUPPLY OF DOCUMENTS & CHARGING**

#### **6.1 Supply of Documents**

The Council will supply, usually in electronic form, copies of:

- (a) any Agenda or report which is available for public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the Agenda; and
- (c) if the Director for Communities thinks fit, copies of any other non-exempt documents supplied to Councillors in readiness for a meeting.

Such documents will be made available to the public by the Council publishing them on their website.

#### **6.2 Charging**

The Council reserves the right to make a reasonable charge for postage and copying of hard copy documents to members of the public.

## **7.0 ACCESS TO DOCUMENTS FOLLOWING A MEETING**

### **7.1 Agendas, reports and Minutes**

The Council will make available copies of the following for 6 years from the date of a meeting:

- (a) the Minutes of the meeting or Records of Decisions taken, (together with reasons), for all meetings of the Cabinet, excluding any part of the Minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information, unless the reason for the exemption or confidentiality has ceased to apply;
- (b) a summary of any proceedings not open to the public where the Minutes open to inspection would not provide a reasonably fair and coherent record;
- (d) the Agenda for the meeting; and
- (e) Reports relating to items when the meeting was open to the public but excluding any part of such a report which disclosed exempt or confidential information, unless the reason for the exemption or confidentiality has ceased to apply.

### **7.2 Background Papers**

The report Author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Access to Information Rule 9), unless the exemption no longer applies.

The Council will make available for public inspection for four years after the date of the meeting a copy of each of the documents on the list of background papers.

## **8.0 SUMMARY OF THE PUBLIC'S RIGHTS**

These Access to Information Procedure Rules are a written summary of the public's rights to attend meetings and to inspect and obtain copy documents. These form part of the Council's Constitution and are available at the Council's designated offices and on the Councils' website.

## **9.0 EXCLUSION OF THE PUBLIC FROM THE WHOLE OR PART OF A MEETING**

### **9.1 Confidential information**

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

The public must be excluded from meetings or parts of meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed. The Committee or Sub-Committee will be required to pass a resolution to exclude the public where confidential information will be disclosed.

### **9.2 Exempt information**

Exempt information means information falling within one or more of the following 7 categories (subject to any condition):

	<b>CATEGORY</b>	<b>CONDITION</b>
1.	Information relating to any individual.	In accordance with the Data Protection Act 1998.

2.	Information which is likely to reveal the identity of an individual.	In accordance with the Data Protection Act 1998.
3.	Information relating to the financial or business affairs of any particular person (including the Authority holding that information).	Includes information relating to the Authority's own financial or business affairs. It does not include information which is required to be registered under the Companies Act 1985, the Friendly Society Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965-1978, the Building Societies Act 1986 or the Charities Act 1993 as such information will be in the public domain in any event.  The 'financial affairs or business affairs' include past, present and contemplated activities.
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Authority or a Minister of the Crown and employees of, or office holders under, the Authority.	'Employee' means a person employed under a contract of service with the Council and would not therefore include a consultant or a temporary member of staff employed through an agency or a company. Information about such a person, however, may well be covered under the exemptions in paragraphs 1, 2 and 3 but it will depend on the individual matter.  'Labour relations matter' means matters which may be the subject of a trade dispute within the meaning of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 or any dispute about such a trade dispute. This is therefore fairly narrow and does not appear to include normal staff negotiations which are not part of a dispute.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6.	Information which reveals that the Authority proposes (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person, or (b) to make an order or direction under any enactment.	
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

The public may be excluded from meetings or parts of meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information will be disclosed. The Committee or Sub-Committee will be required to determine whether or not to pass a resolution to exclude the public where exempt information will be disclosed.

### 9.3 Human Rights Act 1998

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting

will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6, as follows:

- (a) It is in the interests of morals, public order or national security in a democratic society, to hear the matter in private; or
- (b) Where the interests of juveniles or the protection of the private life of the parties requires that the matter should be heard in private; or
- (c) Where in the opinion of the meeting, due to special circumstances, publicity would prejudice the interests of justice.

#### **9.4 Town and Country Planning (General) Regulations 1992**

Information cannot be deemed exempt if it relates to proposed development for which the Local Planning Authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning (General) Regulations 1992.

#### **9.5 Public Interest Test**

Paragraphs 1-7 of the exemptions (Access to Information Rule 9.2) are subject to the public interest test. In determining whether this information should remain exempt, the report writer and the decision-maker will have to decide whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In respect of all Council, Cabinet, Committee, Joint Committee and Sub-Committee reports, writers will, therefore, need to give consideration to exempt information and the public interest test, and if they determine that the document should not be published, they will need to explain why they consider the public interest test is best served by the information remaining exempt. The fact that a document is exempt, together with reasons, will appear in the report and the agenda relating to that item. The Monitoring Officer will ultimately determine whether reports and related documents are exempt or not and their decision will be final.

Where the public may be excluded from a meeting or part of a meeting due to an exempt report being considered, the Members of the meeting will need to consider the public interest test, having given due consideration to any legal advice provided.

There is no legal definition of 'public interest', but the following should be considered relevant considerations in favour of disclosure:

- (a) The information would assist public understanding of an issue that is subject to current public debate.
- (b) Proper debate cannot take place without wide availability of all the relevant information.
- (c) The issue affects a wide range of individuals or companies.
- (d) Facts, analysis and costings behind major policy decisions.
- (e) Allowing individuals to understand decisions made by public authorities affecting their lives and, in some cases, assisting individuals in challenging those decisions.
- (f) Accountability for proceeds of sale of assets in public ownership.
- (g) Openness and accountability for tender processes and prices.
- (h) Public interest in public bodies obtaining value for money.
- (i) Public health or public safety.
- (j) Damage to the environment.
- (k) Contingency plans in an emergency.
- (l) Promoting accountability and transparency for decisions taken by public authorities and the spending of public money.

A practice of applying 'Exempt' status to a report without reasons being set out and consideration of the public interest is not acceptable.

## **10.0 NON-DISCLOSURE OF REPORTS TO THE PUBLIC**

### **10.1 Reports containing Confidential Information**

Reports containing confidential information will not be disclosed to the public.

### **10.2 Reports containing Exempt Information**

If the Monitoring Officer determines that a report contains exempt information in accordance with Access to Information Rule 9, having applied the public interest test, they may refuse to disclose to the public any reports which in their opinion relate to items during which, in accordance with Rule 9, the meeting is likely to exclude the public. Such reports will be marked 'Not for publication' together with the category of information likely to be disclosed.

## **11.0 THE EXECUTIVE**

Access to Information Rules 12 to 22 inclusive apply to the Cabinet only.

If the Cabinet meets to take a Key Decision then it must also comply with Access to Information Rules 1 to 10 inclusive above, unless Rule 14 (general exception) or Rule 15 (special urgency) apply. A Key Decision is as defined in Article 12.03 of Part 3 of the Council's Constitution.

If the Cabinet, or any Member of the Cabinet, meets with an Officer to determine a Key Decision, within 28 clear days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Access to Information Rules 1 to 10 inclusive above, unless Rule 14 (general exception) or Rule 15 (special urgency) apply. This requirement does not apply to Officer/Member briefings or any non-decision making meetings.

## **12.0 EXECUTIVE KEY DECISIONS**

Subject to Access to Information Rule 14 (general exception) and Access to Information Rule 15 (special urgency), a Key Decision may not be taken unless:

- (a) a Notice (known as the 28 Day Notice of Key and/or Confidential/Exempt Decisions which will be taken in private) has been published in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the Notice in which the decision was first included; and
- (c) where the decision is to be taken at a meeting of the Cabinet, notice of the meeting has been given in accordance with Access to Information Rule 4.

## **13.0 THE 28 DAY NOTICE OF EXECUTIVE KEY AND/OR CONFIDENTIAL/EXEMPT DECISIONS**

### **13.1 Period Covered**

A 28 Day Notice of Key and/or Confidential/Exempt Decisions (which will be taken in private) will be prepared by the Director for Communities and updated when a new Notice is made and published, which will be at least 28 clear days prior to any regular scheduled meeting of the Cabinet.

At least 5 clear working days prior to the day of any private meeting of the Cabinet, the Director for Communities shall publish a further Notice on the Agenda for the meeting and the Council's website confirming the Cabinet's intention to hold all or part of the meeting in private, a statement of the reasons for privacy and details of any representations received by the Council as to why the meeting should be held in public and the Cabinet's response to those representations.

### **13.2 Notice**

The Notice will contain matters which the Director for Communities considers will be the subject of a Key Decision and/or a private decision (Confidential/Exempt) to be taken by the Cabinet, individual Members of the Cabinet, an Officer, or under joint arrangements in the course of the discharge of a Cabinet function during the period covered by the Notice. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a Key Decision/private decision is to be made;
- (b) where the decision-maker is an individual, their name and title, and where the decision-maker is a body, its name and details of Membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) a list of the documents submitted to the decision-maker for consideration in relation to the matter;
- (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (f) the identity of the principal groups whom the decision-maker proposes to consult before taking the decision;
- (g) the means by which any such consultation is proposed to be undertaken;
- (h) the steps any person might take who wishes to make representations to the Cabinet or decision-maker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (i) the reasons why the matter will be confidential/exempt.

The Notice must be produced and published at least 28 clear days before the day upon which the decision is to be taken, whether by a meeting or an individual Member of the Cabinet.

#### **14.0 EXCEPTIONS**

If a matter which is likely to be a Key Decision/private decision has not been included in the 28 Day Notice of Key and/or Confidential/Exempt Decisions, then subject to Access to Information Rule 15 (special urgency), the decision may still be taken if:

- (a) the decision needs to be taken by such a date that it is impracticable to defer the decision until 28 clear days' notice has been given by Notice;
- (b) the Director for Communities has, in writing, informed the Chair of the Overview and Scrutiny Committee (or both Chairs where a matter is being dealt with under the Joint Committee Agreement), or if there is no such person, each member of the Overview and Scrutiny Committee, by Notice, of the matter to which the decision is to be made;
- (c) the Director for Communities has made copies of that Notice available to the public, on the Councils' website or at the offices of the Council; and
- (d) at least 5 clear working days have elapsed since the Director for Communities complied with (b) and (c).

Where such a decision is taken by the Cabinet, it must be taken in public, subject to the provisions of Access to Information Rules 9 and 13.

#### **15.0 URGENT ITEMS**

##### **15.1 Executive Key and/or Confidential/Exempt Decisions which are urgent**

If by virtue of the urgency of a matter, Access to Information Rule 14 cannot be complied with, then the decision can only be taken if the Director for Communities, on behalf of the decision-maker, obtains the agreement, in writing, of the Chair of the Overview and Scrutiny Committee (or both Chairs where a matter is being dealt with under the Joint Committee Agreement), that the taking of the decision cannot be reasonably deferred. Electronic confirmation, via email, will suffice and will be sufficient authority for Democratic Services Officers to complete the signature



requirement to the appropriate notice. If the Chairs are unable to act, then in their absence, the agreement of the Vice-Chairs of the Overview and Scrutiny Committee will be sought. If neither the Chairs nor Vice-Chairs are available, in their absence, the agreement of the Chair of the Council will suffice (and if not available, the Vice Chair of the Council).

## **15.2 Other Decisions which are urgent**

Only items on an Agenda which has been published 5 clear days before the day of a meeting can be considered at that meeting. However, the Chair of the meeting is able to add urgent items to the Agenda at the meeting. Urgent items are narrowly defined as being those items that by reason of special circumstance have arisen since the despatch of the Agenda and which were not known of at the time the Agenda was published, provided that 15.1 above is complied with.

Urgent items cannot be dealt with as 'any other business' or 'matters arising' items.

## **16.0 REPORT TO FULL COUNCIL**

### **16.1 Joint Overview and Scrutiny Committee**

The Council's Joint Overview and Scrutiny Committee can require that the Cabinet submit a report to Full Council, within such reasonable time period as the Committee specifies, if they consider that a Key Decision has been taken which was not:

- (a) included in the 28 Day Notice of Key and/or Confidential/Exempt Decisions; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement under Access to Information Rule 15.

When directed to do so by either of the Chairs of the Joint Overview and Scrutiny Committee, or by any 5 Members of that Committee, the Director for Communities will serve notice in writing upon the Leader requiring such a report, on behalf of the Joint Overview and Scrutiny Committee, or the Cabinet, to be submitted to Full Council. Alternatively, the Joint Overview and Scrutiny Committee may pass a resolution at their meeting to require such a report of the Cabinet to Full Council within a specified time period.

### **16.2 Cabinet's report to Full Council**

The Cabinet will prepare a report for submission to the next available meeting of the Council, when required to do so in accordance with Access to Information Rule 16.1. However, if the next meeting of the Council is within 7 days of receipt of the written Notice, or the resolution of the Committee, requiring the report, then the report may be submitted to the meeting after that.

The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a Key Decision, the reasons for that opinion.

### **16.3 Reports on Special Urgency Decisions**

The Leader shall include in their report to Full Council, in accordance with Council Procedure Rule 13, a summary of any Executive decisions taken in the circumstances set out in Access to Information Rule 15 (special urgency) taken since the previous meeting of Full Council.

## **17.0 RECORD OF DECISIONS**

After any meeting of the Cabinet, whether held in public or private, a record of every decision taken at that meeting will be produced as soon as is practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, in accordance with the Cabinet Procedure Rules.

## **18.0 ATTENDANCE AT PRIVATE MEETINGS OF THE EXECUTIVE**

All Members of the Cabinet will be served Notice of all private meetings of the Cabinet, and all such Members are entitled to attend such a meeting.

Members are entitled to attend meetings in accordance with Council Procedure Rules.

The Head of the Paid Service, the Chief Financial Officer, the Monitoring Officer and their representatives are entitled to attend any meeting of the Cabinet.

The Cabinet may not meet unless the Director for Communities has been given reasonable notice that a meeting is to take place. A private Cabinet meeting may only take place in the presence of the Director for Communities or their representative with responsibility for recording and publishing the decisions.

## **19.0 DECISIONS BY INDIVIDUAL MEMBERS OF THE EXECUTIVE**

### **19.1 Decision reports**

Where an individual Member of the Cabinet receives a report which they must consider prior to making any decision, then they will not make the decision until at least 5 working days after the day of receipt of that report.

Except that if the decision is a Key Decision and/or Confidential/Exempt Decision, the 28 day Notice provisions in Access to Information Rule 13 shall apply.

### **19.2 Provision of Copies of reports to Overview and Scrutiny Committees**

When providing such a report to an individual Member of the Cabinet, the Director for Communities will provide a copy of it to the Chairs and Vice Chairs of the Overview and Scrutiny Committee and the Joint Overview and Scrutiny Committee as soon as reasonably practicable. At the same time the Director for Communities will make the report publicly available, by publishing on the Councils' website, unless deemed confidential or exempt in accordance with Access to Information Rule 9 above.

### **19.3 Record of Individual Cabinet Member Decision**

As soon as reasonably practicable after a Cabinet decision has been taken by an individual Member of the Cabinet, or a Key Decision has been taken by an Officer, the Director for Communities will prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Access to Information Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Members of the Cabinet, subject to Access to Information Rule 9.

## **20.0 OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS**

### **20.1 Right to Documents**

Subject to Access to Information Rule 20.2, Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee (and their Sub-Committees and Working Groups) will be entitled to copies of any documents which are in the possession or control of the Cabinet (or its Committees) and which contain material relating to:

- (a) any business transacted at a public or private meeting of the Cabinet or its Committees;  
or
- (b) any decision taken by an individual Member of the Cabinet; or
- (c) any decision taken by an Officer of the Authority exercising a Cabinet function.

Copies of documents requested under this Rule must be supplied within 10 working days of receipt of the request.

## **20.2 Limitation**

Subject to Access to Information Rule 21, the Overview and Scrutiny Committee and the Joint Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise, or is accessible in accordance with Access to Information Rule 21.4 below.

## **21.0 ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS BY MEMBERS**

### **21.1 Documents Relating to Business to be Transacted at a Public meeting**

All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its Committees which contains material relating to any business to be transacted at a public meeting. Any document must be available for inspection at least 5 clear days before the day of the meeting except:

- (a) where the meeting is convened at shorter notice, the document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the Agenda at shorter notice, a document that would be required to be available must be available for inspection when the item is added on the Agenda.

All such documents will be made available by publishing on the Councils' website.

### **21.2 Documents Relating to Business to be Transacted at a Private meeting**

Any document which is in the possession or under control of the Cabinet and contains material relating to any business transacted at a private meeting will be available for Members to inspect at the offices of the Democratic Services section, subject to Access to Information Rule 21.4 below. This Rule does not provide a right to copy such documents.

Where access is restricted to a document under this provision, the restriction is determined by the Director for Communities, having taken account of the advice of the Monitoring Officer.

### **21.3 Disclosure of Documents after the Decision**

Any document which is in the possession or under control of the Cabinet and contains material relating to:

- (a) any business transacted at a public meeting;
- (b) any decision made by an individual Member of the Cabinet in accordance with Executive Arrangements;
- (c) any decision made by an Officer in accordance with Executive Arrangements;

must be available for inspection by a Member immediately after the meeting concludes, or where a Cabinet decision is made by an Officer, immediately after the decision has been made (and in any event, within 24 hours).

### **21.4 Access to Confidential and Exempt Information**

The entitlement to access to, or inspection of, documents does not extend to a document that contains confidential or exempt information unless the exemption solely relates to paragraphs 3 or

6 of the exemptions in Access to Information Rule 9.2 (except where the information relates to any terms proposed by or to the Authority in the course of negotiations of contract).

Nothing in these Rules requires the disclosure of confidential information that breaches the obligation of confidence.

Nothing in these Rules requires the disclosure of a document, or part of a document where advice had been provided by a political adviser or assistant.

Members will therefore often be able to access reports which are exempt, but there may be occasions when information:

- (a) is highly sensitive and involves complex negotiations;
- (b) relates to a significant litigation risk;
- (c) relates to sensitive personal information where the data subject would reasonably expect such information to be restricted only to decision-makers.

## **22.0 CONFIDENTIALITY OF COUNCIL BUSINESS**

### **22.1 Confidential Information**

Any item of business at Full Council, a Committee or Sub-Committee which is deemed to be confidential shall require that the relevant body's discussion in relation to the item be kept confidential and may only be disclosed to, and discussed by, the following:

- (a) Elected Members of the Council;
- (b) other persons appointed under Section 102 of the 1972 Act as Members of Committees or Sub-Committees;
- (c) such Officers of the Council as are concerned with the matter in the course of their duties including the Monitoring Officer and the Chief Financial Officer;
- (d) such other persons to whom in the opinion of the Monitoring Officer, the item of business or report ought to be disclosed in order to comply with the Human Rights Act 1998 or any rule of law or to avoid maladministration by the Council;

and there shall be no further disclosure of such report, item of Council business or discussion thereof to any other person whatsoever.

The business referred to in this Rule consists of any item of Council business which has been agreed as being confidential by the Council, its Committees or Sub-Committees, or by the Monitoring Officer in accordance with the Local Government Act 1972.

Information which has been deemed to be confidential may at some point in the future cease to be confidential and may be disclosed. Advice should be sought from the Monitoring Officer in respect of confidential information.

### **22.2 Working Party**

Subject to the Council Procedure Rules, a member of a working party set up by the Council shall not disclose a matter dealt with by or brought before the working party, without its permission until the proceedings of that working party have been reported to the Council or to the Committee or Sub-Committee which set it up, or the working party shall otherwise have concluded action on that matter.

## **23.0 ADDITIONAL RIGHTS TO INFORMATION**

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

## Officer Employment Procedure Rules

### 1.0 INTRODUCTION

#### 1.1 Definitions

In these Rules:

- 1.1.1 'The 2001 Regulations' means the Local Authorities (Standing Orders) (England) Regulations 2001; 'The 2015 Regulations' means the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 1.1.2 'Appointor' means, in relation to the appointment of a person as an Officer of the Authority, the Authority or, where a Committee, Sub-Committee or Officer is discharging the function of appointment on behalf of the Authority, that Committee, Sub-Committee or Officer, as the case may be;
- 1.1.3 'Disciplinary Action' in relation to an Officer of the Council means any action occasioned by alleged misconduct which, if proven, would, according to the Council's usual practice, be recorded on the member of staff's personal file. This includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Authority has undertaken to renew such a contract;
- 1.1.4 'Dismissor' means, in relation to the dismissal of an Officer of the Authority, the Authority or, where a Committee, Sub-Committee or another Officer is discharging the function of dismissal on behalf of the Authority, that Committee, Sub-Committee or other Officer, as the case may be;
- 1.1.5 'Head of Paid Service' means the Officer designated under Section 4(1) of the Local Government and Housing Act 1989;
- 1.1.6 'Chief Finance Officer' means the Officer having responsibility, for the purposes of Section 151 of the Local Government Act 1972, for the administration of the Council's financial affairs;
- 1.1.7 'Monitoring Officer' means the Officer designated under Section 5(1) of the Local Government and Housing Act 1989;
- 1.1.8 'Directors' means those Officers who shall report directly to the Chief Executive and shall have managerial responsibility for a directorate consisting of not less than 4 services;
- 1.1.9 'Statutory Chief Officer' means, for the purposes of these provisions, the Chief Finance Officer;
- 1.1.10 'Non-Statutory Chief Officer' means a person for whom the Head of Paid Service is directly responsible or a person who, with respect to all or most of the duties of their post, is required to report directly or is directly accountable to either the Head of Paid Service or to the Council itself or any Committee or Sub-Committee of the Council; except a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services;
- 1.1.11 'Deputy Chief Officer' means a person who, with respect to all or most of the duties of their post, is required to report directly or is directly accountable to one or more of the Statutory or Non-Statutory Chief Officers; except a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services;

1.1.12 'Joint Senior Staff Committee' means a Committee set up in accordance with the Adur District Council and Worthing Borough Council Joint Committee Agreement dated 27th July 2007, as amended from time to time. For the purposes of these Procedure Rules, at least one Member of the Cabinet of each Council must be a Member of this Committee.

## 1.2 General

Other than as set out elsewhere in these Officer Employment Procedure Rules, the function of recruitment, appointment, disciplinary action and dismissal in respect of all staff other than the Head of Paid Service, the Chief Finance Officer, and the Monitoring Officer, will be discharged, on behalf of the Council, by the Head of Paid Service or an Officer nominated by the Head of Paid Service. Such functions will be carried out in accordance with the Council's Staffing Policies, as adopted from time to time.

## 1.3 Posts

For ease of reference, the posts which fall under the relevant definitions in these Officer Employment Procedure Rules, at the time of writing, are as follows:

Definition	Relevant Post
Head of Paid Service	Chief Executive
Statutory Chief Officer	Chief Finance Officer
Monitoring Officer	Head of Legal Services
Non-Statutory Chief Officers	Directors Head of Communications Head of Policy
Deputy Chief Officers	All staff, other than clerical, who are direct reports of: Directors Chief Finance Officer Head of Communications Head of Policy

## 2.0 RECRUITMENT

### 2.1 Declarations

A candidate for any employment with the Council, or a staff member involved in a transfer, promotion or disciplinary matter, shall disclose whether they are related to, or cohabits with, any Member or other Officer who may have an influence on the decision. Failure to make such a disclosure may result in any appointment being rescinded and, in the case of an employee, disciplinary action.

The requirements of any Code of Conduct relating to Members' interests shall apply to the appointment, transfer, promotion, discipline and other matters relating to staff.

### 2.2 Support for Appointment

Canvassing of any Member of the Council, or any person appointed to discharge any function in relation to a Committee or Officer of the Council shall disqualify the candidate concerned in such canvassing for that appointment. The purport of this paragraph shall be included in any form of application issued in relation to any proposed appointment.

A Member of the Council shall not solicit for any person any appointment under the Council and shall not provide any written testimonial of a candidate's ability, experience or character for submission to the Authority.

All vacancies on the Council's staffing establishment that are to be filled shall be advertised internally.

### **2.3 Confidentiality**

The Council, the Cabinet, a Committee, a Sub-Committee or a Panel shall, unless there are exceptional circumstances which dictate otherwise, resolve to exclude the press and public under Section 100A of the 1972 Act where matters relating to the appointment, promotion, dismissal or discipline, severance, salary or conditions of an individual member of staff are to be discussed.

### **2.4 Recruitment of Head of Paid Service, Statutory Chief Officer, Non-Statutory Chief Officers, Deputy Chief Officers and Monitoring Officer.**

2.4.1 Where the Council proposes to appoint a Head of Paid Service, Monitoring Officer, Statutory Chief Officer, Non-Statutory Chief Officer or Deputy Chief Officer, and it is not proposed that the appointment will be made exclusively from among their existing Officers, the Head of Paid Service or their delegate will:

- (a) draw up a statement specifying:
  - (i) the duties of the Officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) advertise the post in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) send a copy of the statement mentioned in paragraph (a) above to any person on request.

2.4.2 Where a post has been advertised as provided in paragraph 2.4.1, the Joint Senior Staff Committee or Head of Paid Service, or their delegate, in accordance with paragraph 3 below, will:

- (a) interview all qualified applicants for the post; or
- (b) select a short list of such qualified applicants and interview those included on the short list; or
- (c) if no qualified person has applied, the Council will make further arrangements for advertisement in accordance with paragraph 2.4.1(b).

## **3.0 APPOINTMENT**

### **3.1 Power to Appoint**

3.1.1 Subject to paragraph 3.1.2 and 3.2 below, the Joint Senior Staff Committee will be responsible for the function of [recommending to Full Council](#) the appointment of the Head of Paid Service, Chief Finance Officer and Monitoring Officer.

3.1.2 The power to approve the appointment of the Head of Paid Service, Chief Finance Officer and Monitoring Officer shall be exercised by Full Council, subject to the consultation required under paragraph 3.2.2 where, for the purposes of this paragraph, 'the Committee' is to be read as 'Full Council'.

3.1.3 The Head of Paid Service, or their nominated representative, shall be responsible for the function of the appointment of Non-Statutory Chief Officers and Deputy Chief Officers. The Head of Paid Service's nominated representative may include an Officer of the Council of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence.

### **3.2 Consultation Procedure for Appointment**

- 3.2.1 Except as provided for in paragraph 3.1.2, paragraph 3.2.2 applies to the appointment of Non-Statutory Chief Officers and Deputy Chief Officers.
- 3.2.2 An offer of appointment to any of those Officers must not be made by the Appointor until:
- (a) The Appointor has notified the Monitoring Officer of the name of the person to whom the Appointor wishes to make the offer and any other particulars which the Appointor considers are relevant to the appointment, including evidence and reasons for the choice of preferred candidate;
  - (b) The Monitoring Officer has notified every Member of the Cabinet of the Council of:
    - (i) the name of the person to whom the Appointor wishes to make the offer, and the reasons why they are the Appointor's preferred candidate, including evidence;
    - (ii) any other particulars relevant to the appointment which the Appointor has notified to the Monitoring Officer; and
    - (iii) the period within which any objection to the making of the offer is to be made by the Cabinet Leader on behalf of the Cabinet to the Monitoring Officer; and
  - (c) either:
    - (i) the Cabinet Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the Monitoring Officer that neither they nor any other Member of the Cabinet has any objection to the making of the offer; or
    - (ii) the Monitoring Officer has notified the Appointor that no objection was received by them within that period from the Cabinet Leader; or
    - (iii) the Appointor is satisfied that any objection received from the Cabinet Leader within that period is not material or is not well-founded.

### 3.3 Appointment of Senior Officers

Post	Appointment	Conditions
Head of Paid Service	Joint Senior Staff Committee	Requires approval of Full Council
Chief Finance Officer	Joint Senior Staff Committee	Requires approval of Full Council
Monitoring Officer	Joint Senior Staff Committee	Requires approval of Full Council
Non-Statutory Chief Officers	Head of Paid Service or nominee	Requires consultation with the Cabinet
Deputy Chief Officers	Head of Paid Service or nominee	Requires consultation with the Cabinet

## 4.0 DISCIPLINARY ACTION

### 4.1 Investigation of alleged misconduct

- 4.1.1 This paragraph applies to Disciplinary Action in respect of the Head of Paid Service, Statutory Chief Officer, Monitoring Officer, Non-Statutory Chief Officers and Deputy Chief Officers, subject to the express provisions in paragraph 4.2 relating to the Head of Paid Service, Monitoring Officer and Statutory Chief Officer.
- 4.1.2 Subject to paragraph 4.2 the Joint Senior Staff Committee will investigate and consider any alleged misconduct in respect of the Head of Paid Service, Chief Finance Officer and Monitoring Officer, and decide, following receipt of the report of the Independent Panel, upon any Disciplinary Action to be taken, as necessary, in accordance with any Council Staffing Policies which have been adopted by the Council from time to time.
- 4.1.3 Subject to paragraphs 4.1.2 and 4.2, the Head of Paid Service or their nominated representative, will investigate any alleged misconduct in respect of Non-Statutory Chief Officers and Deputy Chief Officers, as necessary, in accordance with any Council Staffing Policies which have been adopted by the Council from time to time. The Head of Paid Service's nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence,



knowledge, expertise and competence. Pending the outcome of such investigation the Non-Statutory Chief Officer or Deputy Chief Officer may be suspended by the Head of Paid Service or their nomination representative. Such suspension will be for no longer than is necessary to investigate the allegations and will be on full pay, other than in exceptional circumstances.

#### **4.2 Head of Paid Service, Monitoring Officer and Chief Finance Officer**

- 4.2.1 The Council's Head of Paid Service, Monitoring Officer and Chief Finance Officer cannot be dismissed by the Authority unless the procedure set out in paragraph 4.2 is complied with.
- 4.2.2 Where an allegation of misconduct in respect of the Head of Paid Service, Monitoring Officer or Chief Finance Officer requires an investigation, an Independent Panel will be formed for this purpose.
- 4.2.3 Pending the report of such an Independent Panel the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer may be suspended by the Joint Senior Staff Committee whilst the alleged misconduct by the Officer is investigated. Any such suspension will be for a maximum period of two calendar months and will be on full pay.
- 4.2.4 In consulting an Independent Panel to deal with such allegations of misconduct, the Joint Senior Staff Committee will invite Independent Persons who have been appointed for the purposes of the Members' Conduct Regime under Section 28(7) of the Localism Act 2011 to form an Independent Panel. An Independent Panel will be formed if two or more Independent Persons accept the invitation. If it has not been possible to appoint such a Panel following invitations to the Council's appointed Independent Persons, then further invitation may be made to Independent Persons appointed by another Council.
- 4.2.5 The role of the Independent Panel is to:
- (a) Investigate the alleged misconduct;
  - (b) Prepare a report setting out the conclusions of their investigation, and any advice, views or recommendations as to any proposed disciplinary or other action, including dismissal.
- 4.2.6 In carrying out its investigation the Panel may:
- (a) Inspect any documents relating to the conduct of the relevant Officer which are in the possession of the Council, or which the Council has the power to authorise them to inspect; and
  - (b) Require any Officer or Elected Member to answer questions concerning the conduct of the relevant Officer.
- 4.2.7 If the recommendation of the Independent Panel is disciplinary action, other than dismissal, the Panel will report back to the Joint Senior Staff Committee, which will consider the report and may impose disciplinary action other than dismissal.
- 4.2.8 Where the Independent Panel or the Joint Senior Staff Committee recommends dismissal, the matter must be dealt with by a meeting of the Full Council. At least 20 working days after the Independent Panel has been appointed, a meeting of each Full Council (Adur District Council and Worthing Borough Council) will be held.
- 4.2.9 The Council meeting must receive the report of the Independent Panel. Before taking a vote at such a Council meeting on whether or not to approve such a proposed dismissal, the Council must take into account:
- (a) Any advice, views or recommendations of the Panel;
  - (b) The conclusions of any investigation into the alleged misconduct;
  - (c) Any representations from the relevant Officer or their representative.

4.2.10 A Head of Paid Service, Chief Finance Officer or Monitoring Officer attending a Council meeting where proposed disciplinary action against them is being considered, is entitled to make both oral and written representations to Council, as is their representative, who may be a colleague, a Union representative, a companion or a lawyer.

### 4.3 Disciplinary Action of Senior Officers

Post	Investigation	Notes	Appeal
Head of Paid Service, Chief Finance Officer and Monitoring Officer	Independent Panel who presents findings to Joint Senior Staff Committee who have the power to impose disciplinary action other than dismissal.	Decision to dismiss must be taken by Council	None
Non-Statutory Chief Officers and Deputy Chief Officers	Head of Paid Service or their representative	Decision to dismiss may only be taken <u>by the Joint Senior Staff Committee</u> following consultation with the Cabinet.	Head of Paid Service or their representative

## 5.0 DISMISSAL

### 5.1 Power to Dismiss

5.1.1 Full Council will be responsible for the function of dismissal of the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.

5.1.2 Subject to paragraph 5.2, the Head of Paid Service, or a representative nominated by them, shall decide upon any disciplinary action to be taken, following a disciplinary hearing, and shall be responsible for the function of dismissal of Non-Statutory Chief Officers and Deputy Chief Officers. The Head of Paid Service's nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence. Such nominated representative may not be the same individual responsible for the investigation into alleged misconduct as identified at paragraph 4.1.3 and must be wholly independent from that individual.

### 5.2 Consultation Procedure for Dismissal

5.2.1 Paragraph 5.2.2 applies to the dismissal of the Non-Statutory Chief Officers and Deputy Chief Officers.

5.2.2 Notice of the dismissal of any of those Officers in paragraph 5.2.1 must not be given by the Dismissor until:

- (a) the Dismissor has notified the Monitoring Officer of the name of the person whom the Dismissor wishes to dismiss and any other particulars which the Dismissor considers are relevant to the dismissal, including a summary of the evidence heard at the disciplinary hearing and the reasons for the proposed decision;
- (b) the Monitoring Officer has notified every Member of the Cabinet of the Council of:
  - (i) the name of the person whom the Dismissor wishes to dismiss and the reasons for the decision;
  - (ii) any other particulars relevant to the dismissal which the Dismissor has notified to the Monitoring Officer; and
  - (iii) the period within which any objection to the dismissal is to be made by the Cabinet Leader on behalf of the Cabinet to the Monitoring Officer; and
- (c) either:

- (i) the Cabinet Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the Monitoring Officer that neither they nor any other Member of the Cabinet has any objection to the dismissal;
- (ii) the Monitoring Officer has notified the Dismissor that no objection was received by them within that period from the Cabinet Leader; or
- (iii) the Dismissor is satisfied that any objection received from the Cabinet Leader within that period is not material or is not well-founded.

### 5.3 Appeals

5.3.1 Non-Statutory Chief Officers and Deputy Chief Officers who feel that the outcome of Disciplinary Action against them is wrong or unjust may appeal in accordance with any relevant Council Staffing Policies to the Head of Paid Service or their nominated representative. The Head of Paid Service's nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence. Such nominated representative must not be the same individual responsible for the disciplinary action or the dismissal, identified at paragraph 5.1.2, and nor may they be the same individual responsible for the investigation of alleged misconduct identified at paragraph 4.1.3 and must be wholly independent from those individuals.

5.3.2 The Head of Paid Service, Chief Finance Officer and Monitoring Officer shall have no right of appeal against disciplinary action within the Councils.

### 6.0 SPECIAL SEVERANCE PAYMENTS

6.1 In deciding whether it is good value to make any payments on termination of employment that are additional, discretionary sums paid on top of statutory and contractual redundancy or severance terms, e.g. under the terms of a settlement agreement, enhancement of standard pension benefits, PILON payments, etc ('Special Severance Payments'), the Council must demonstrate the economic rationale (including the availability of budgetary resources) and seek legal advice on the prospects of successfully defending an Employment Tribunal claim.

6.2 Special Severance Payments must be approved as follows:

- (a) £100,000 and over (and in all cases for the Head of Paid Service) - Full Council;
- (b) £20,000-£100,000 - the Head of Paid Service with the Leader's approval;
- (c) Under £20,000 - according to the Scheme of Officer Delegation.

6.3 The Council will include in its annual accounts all severance payments and pension strain costs made in connection with termination of employment or loss of office.

## **Officer Scheme of Delegations**

### **1. GENERAL PRINCIPLES**

#### **Introduction**

- 1.1 These delegations are made under the powers contained in the Local Government Act 1972 (as amended), Section 101 and by reference to section 100G and the Local Government Act 2000, Sections 14,19 and 20, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and all other enabling powers.
- 1.2 An officer or other person is authorised to exercise such powers as are shown in the Scheme of Delegations including those reasonably applied or incidental to the matters specified in respect of the functions of the Council.

#### **When a Post is Vacant or a Post-holder is Absent**

- 1.3 For the purposes of this Scheme, if the post of an officer to whom a function is delegated (or which they have been appointed as a Proper Officer) is vacant or if the post-holder is absent on leave (of whatever type), unless the function is exercisable by an officer who has the appropriate sub-delegation or the Council otherwise decides the following shall apply:
- 1.4 In the case of the Chief Executive, the delegation shall be exercisable by an Acting Chief Executive (to include an Interim Chief Executive) or any one of the Directors, provided that the Acting Chief Executive or Director has the requisite professional qualification, experience and knowledge, where such is required.
- 1.5 In the case of a Director, the delegation shall be exercisable by the Chief Executive or another Director, provided that the Chief Executive or Director has the requisite professional qualification, experience and knowledge, where such is required.
- 1.6 In the case of the Section 151 Officer, the delegation shall be exercisable by a Deputy Section 151 Officer in relation to matters which are the responsibility of the Section 151 Officer.
- 1.7 In the case of the Monitoring Officer, the delegation shall be exercisable by a Deputy Monitoring Officer in relation to matters which are the responsibility of the Monitoring Officer.
- 1.8 In the case of Heads of Service, the delegation shall be exercisable by the Chief Executive or a Director, provided that the Chief Executive or Director has the requisite professional qualification, experience and knowledge, where such is required.
- 1.9 Any post specifically referred to shall be deemed to include any successor post, or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded.

#### **All Decisions made by Officers**

- 1.10 Where decisions are taken by officers under delegated powers the following conditions and rules shall apply:
- 1.11 All delegations shall be exercised in accordance with the Constitution, all relevant policies and procedures of the Council and all relevant legislative provisions, subject to paragraph 4 below.
- 1.12 Any officer exercising a delegation shall only do so where provision has been made for any expenditure within the relevant budget or otherwise in accordance with the Financial

#### Procedure Rules.

- 1.13 Any officer exercising a delegation shall not do so in a manner which is contrary to any resolution of Full Council, Cabinet, an Individual Cabinet Member or a Committee.
- 1.14 Any officer exercising a delegation shall do so having regard to Health & Safety requirements.
- 1.15 Any officer exercising a delegation shall do so having regard to Equalities requirements.
- 1.16 Any officer exercising a delegation shall do so having regard to Data Protection requirements.
- 1.17 Any officer exercising a delegation is responsible for carrying out any consultation necessary under this Scheme. Such consultation shall be in writing, unless due to urgency that is not practicable, in which case there may be oral consultation which may be confirmed, by the Officer undertaking the consultation to the consultee in writing, as soon as reasonably practicable and, in any event, within 5 working days.
- 1.18 Any officer to whom a delegation is given may waive their right to exercise the delegation and refer the matter to the original delegate for a decision or to Full Council, Cabinet, an Individual Cabinet Member or relevant Committee, as appropriate.
- 1.19 Where an officer has the authority to take decisions, any action taken to implement such decisions may be taken in the name of (but not necessarily personally by) that officer, or any other officer authorised by that officer in accordance with paragraph 6 below.
- 1.20 Any decision which could subject the Council to legal liability shall be taken in consultation with the Head of Legal Services.
- 1.21 Any decision which has financial implications other than those budgeted for shall be taken in consultation with the Chief Financial Officer.
- 1.22 Unless specifically stated, no delegation authorises the taking of decisions as to whether or not legal action should be taken by or on behalf of the Council.
- 1.23 Officers shall not have the power to exercise any delegation where an individual officer is required by law to hold a relevant qualification and they do not hold that qualification.
- 1.24 Officers shall not have the power to exercise any delegations which fall outside the individual's actual authority as determined by their post.
- 1.25 Officers shall not have the power to exercise any delegations in a situation where an individual officer is prevented, for whatever proper reason, from exercising such power.
- 1.26 Subject to any express instructions to the contrary from the delegated body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.
- 1.27 Functions, matters, powers, authorisations, delegations, duties and responsibilities, shall be construed in a broad and inclusive fashion, and shall include the doing of anything which is calculated to facilitate, or is conducive, or incidental, to the discharge of anything specified.

#### Emergency Powers

- 1.28 For the purposes of this Scheme, an emergency is defined as a situation which poses an immediate risk to Council services or the wellbeing of residents, for which urgent action is needed and which cannot be dealt with using the Councils usual processes and

~~procedures, where immediate action is necessary and where inaction may lead to loss of life, serious injury to a person or animal, or significant damage to or significant loss of property.~~

**Commented [g52]:** Changed to be consistent with other references in the Constitution.

1.29 In cases of emergency ~~an officer~~ **the Chief Executive (or their nominee)** may, if justified by all of the circumstances, exercise delegations **to take urgent action on behalf of the Council** in a manner which is not in accordance with **usual** Council policies or procedures and/or where provision has not been made in any budget, in order to prevent or mitigate the emergency **(see 2.1.2 below).**

**Commented [g53]:** Changed to be consistent with other references in the Constitution.

1.30 A written record of the reasons for exercising emergency powers and deviating from the policies and procedure and/or causing expenditure without a relevant budget shall then be provided as soon as practicably possible to the Monitoring Officer and the Section 151 Officer by the relevant officer.

### **Sub-Delegations**

1.31 Where an Officer is authorised to act, either under this Scheme or by a specific resolution of Full Council, Cabinet, an Individual Cabinet Member or a Committee, they may further delegate the authority to exercise a specific power to another Officer, whilst still retaining the delegation themselves.

1.32 Before making a sub-delegation, the delegating officer must give consideration to and be satisfied that the officer to whom they are sub-delegating is of an appropriate level bearing in mind the nature of the delegation.

1.33 Any such sub-delegation is subject to the existing consultation and limitation requirements, and further consultation or limitation can be applied when sub delegating.

1.34 All sub-delegations must be made in writing and a copy provided to the Monitoring Officer within five working days. The Monitoring Officer shall maintain a central register of sub-delegations which shall be available on the intranet.

1.35 No sub-delegations may be further delegated, unless there is express permission from the original delegating officer that the specific power can be delegated further. Such permission should be included in the written record of the sub-delegation provided under paragraph 1.5.4. When deciding whether to permit further sub-delegation, the same consideration should be given as outlined in paragraph 1.5.2.

1.36 In the event that a post to which a delegation or function is given ceases to exist and its responsibilities are transferred to another post temporarily or permanently then the delegations given under this scheme shall be exercisable by the post to which the responsibilities have been transferred. There should be written confirmation of the change in responsibilities from the line manager, which shall be provided to the Head of Legal Services to be retained with the central copy of the scheme of delegations.

1.37 Where an officer is authorised to act, either under this Scheme or by a specific resolution of Full Council, Cabinet, an Individual Cabinet Member or a Committee, they may further delegate the authority to exercise a specific power on behalf of this Council to an Officer of another Council, whilst still retaining the delegation themselves. All other provisions of paragraph 1.5 of this Scheme must be complied with when exercising this provision.

### **Proper Officers/Authorised Officers**

1.38 Those officers designated as Proper Officers, authorised officers, appropriate person or any other statutory description of officer listed in this Scheme shall exercise the powers, and have the responsibilities, attributed to them by legislation.

1.39 The Chief Executive and any other officer expressly authorised by this Scheme may appoint any appropriate officer to be a Proper Officer, authorised officer, appropriate person or any other statutory description of officer (unless legislation requires the appointment to be made by Full Council) and written confirmation of such appointment shall be provided to the Monitoring Officer within five working days and made available on the intranet.

### Interpretation

1.40 Any reference to an Act, Order or other legal provision shall include a reference to any modification or re-enactment thereof and any reference to any Directive, Act, Order or other legal provision shall include any Regulations, Orders, Rules, Instruments, Directions, Statutory Guidance or other legal provision made thereunder.

1.41 'Appropriate Director' shall mean the Director responsible for the function to which the particular exercise of the delegation applies.

1.42 'Appropriate Head of Service' shall mean the Head of Service responsible for the function/service to which the particular exercise of the delegation applies.

1.43 'Consultation' shall mean seeking the comments of the person(s) to be consulted. Consultation shall not mean obtaining the consent of the person(s) to be consulted. A written record of the consultation shall be retained by the officer.

1.44 'The Council' shall mean The Borough Council of Worthing or the District Council of Adur, as appropriate.

## 2. DELEGATIONS: GENERAL FUNCTIONS – CHIEF EXECUTIVE, DIRECTORS & HEADS OF SERVICE

Subject to the foregoing, there are delegated to the Chief Executive, Directors and/or Heads of Service those matters detailed in column 2 subject to the consultation requirements set out in column 3 and the limitations in column 4 below.

2.1 Chief Executive			
No	Delegation	Consultation	Limitations
2.1.1	The taking of any action required in connection with the organisation or holding of neighbourhood, parish, district, county, Parliamentary, police commissioner elections or referenda.		
2.1.2	To take Urgent action on behalf of the Council.  'Urgent' means a matter of pressing importance requiring swift action given the gravity of the situation, to prevent damage (or further damage) to life, limb, infrastructure or the financial integrity of the Councils.	The relevant Leader, or in their absence, the relevant Deputy Leader or the Leaders, or in their absence the Deputy Leaders, where appropriate.	A report on the use of urgency powers to be taken to the first available Council meeting. So far as applicable, any decisions/ actions taken shall only take effect on a temporary basis until a Committee/ Member decision has been made.

2.1.3	<u>The approval of Special Severance Payments between £20,000-£100,000</u>	<u>Consultation with and approval of the Leader</u>	<u>Subject to demonstrating the economic rationale (including the availability of budgetary resources) and seeking legal advice on the prospects of successfully defending an Employment Tribunal claim</u>
<b>2.2</b>	<b>Chief Executive and all Directors</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
2.2.1	Grant, review, renew and cancel authorisations under the Regulation of Investigatory Powers Act, 2000 in accordance with the Council's surveillance policy.		
2.2.2	Incur expenditure on the reception and entertainment by way of official courtesy of persons representative of or connected with local government or other public services whether inside or outside the United Kingdom.		In accordance with the Financial Procedure Rules.
<b>2.3</b>	<b>Director for Communities</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
2.3.1	The taking of a decision as to whether or not the Council will tolerate unlawful encampments for a specified period and purpose, and to keep that decision under constant review.		
2.3.2	To determine matters relating to the failure of a Member to attend meetings for a period in excess of 6 months		
2.3.3	To be the Councils' lead Officer responsible for Safeguarding matters		
<b>2.4</b>	<b>Director for Digital, Sustainability and Resources</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
2.4.1	To respond to requests under Data Protection and Freedom of Information legislation		With the exception of requests for review and appeals
2.4.2	To act as the Senior Information Risk Owner for both Councils in respect of the function of Information Security.		
2.4.3	To be the Councils' Senior Responsible Officer for matters related to the Regulation of Investigatory Powers Act 2000.		
2.4.4	To be the link officer with the Commissioner for Local Administration in England ('Local Government Ombudsman')	Monitoring Officer (to reflect the statutory role of the Monitoring Officer in respect of maladministration) and the appropriate	



		Head of Service	
2.4.5	To authorise payments or the provision of other benefits under s.92 Local Government Act, 2000 (payments in cases of maladministration) or by way of local settlement in relation to Local Government Ombudsman complaints.	Appropriate Head of Service, Monitoring Officer and, if over £1000, Chief Financial Officer	
<b>2.5</b>	<b>Director for Economy</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
2.5.1	To manage the relationship between Worthing Borough Council and Worthing Theatres Trust		
2.5.2	To manage the relationship between Worthing Borough Council and South Downs Leisure Trust		
2.5.3	To manage the relationship between Adur District Council and South Downs Leisure Trust		
<b>2.6</b>	<b>Chief Executive, all Directors and all Heads of Service</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
	<b>General</b>		
2.6.1	To manage the functions for which they are responsible.		
2.6.2	To make minor amendments to any Policy, Strategy, Consultation or similar document and sign notices, other than legal notices, arising from any decision of the Council.		
2.6.3	To respond to consultations.	<a href="#">The Leader and relevant Cabinet Member (in respect of Executive matters) or the relevant committee (in respect of non-Executive matters)</a>	
2.6.4	To dispose of lost or uncollected property	Head of Legal Services	
2.6.5	To procure goods and services	Head of Business & Technical Services (Procurement)	<a href="#">In accordance with Contract Standing Orders</a>
2.6.6	To exercise powers and determine all matters relating to the supply of goods and services to other local authorities and public bodies in respect of the functions for which they are responsible.	Head of Legal Services Chief Financial Officer	
2.6.7	To carry out minor development for which planning permission is not required.	Head of Growth (Planning)	
	<b>Contracts</b>		

2.6.8	To do all matters in relation to procurement and the letting of contracts.	Where specified in Contract Standing Orders, Head of Business & Technical Services (Procurement) Head of Legal Services	In accordance with Contract Standing Orders
<b>Financial</b>			
2.6.9	To take any action authorised by Financial Standing Orders.		
2.6.10	To manage budgets allocated to the functions for which they are responsible, including authority to incur expenditure on items included in the approved Revenue Estimates or Capital Programme, except where the Council has placed a reservation on any such item.		In accordance with Financial Standing Orders
2.6.11	To write off amounts as irrecoverable	Where specified in Financial Standing Orders, Chief Financial Officer Cabinet Member for Resources	In accordance with Financial Standing Orders
2.6.12	To determine grant applications in relation to the functions for which they are responsible, other than award of grants to voluntary sector organisations.	Head of Legal Services	
2.6.13	To vary, in exceptional circumstances, fixed fees and charges.	Relevant Cabinet Member	
2.6.14	To determine charges for the use of relevant services and events not covered by the annual review of fees and charges	Relevant Cabinet Member	
2.6.15	To submit bids to outside bodies for grant funding.	Chief Financial Officer Head of Legal Services	
<b>Assets</b>			
2.6.16	To dispose of surplus assets (other than land and buildings), which are not of historical significance, interest or value.	<u>In consultation with the relevant Cabinet Member</u>	<u>In accordance with the Financial Procedure Rules</u>
<b>Land</b>			
2.6.17	To manage land, property (including rent reviews) and other assets allocated to the functions for which they are responsible.		
2.6.18	To vary the terms and conditions of leases and licences or negotiate the surrender of leases and licences.		
2.6.19	To give landlord's consent for uses, subject to planning permission.		
<b>Legal</b>			

2.6.20	To make application for warrants of entry to land or property under the provisions of any legislation, other than warrants for possession of land or property, in relation to functions for which they are responsible.	Where practicable, with the Head of Legal Services	
2.6.21	To sign, issue and serve all notices required by statute or otherwise to be given by the Council and all necessary advertisements, in relation to functions for which they are responsible.		
2.6.22	To issue fixed penalty notices and community penalty notices where permitted by statute in relation to the functions for which they are responsible.		
	<b>Licences, notices etc.</b>		
2.6.23	The determination of any application for permissions, consents or licences or for registration within the functions for which they are responsible.		Except where they are reserved to Council, Cabinet, Cabinet Member or Committee
2.6.24	The issue and service of any notice or requisition for information concerned with matters within the functions for which they are responsible.		
2.6.25	The carrying out of works in default following non-compliance with any notice concerned with matters within the functions for which they are responsible.		
2.6.26	The management of any internal appeal, challenge or objection process against or in support of any of the Council's decisions, other than before a court or tribunal.	Head of Legal Services	
	<b>Planning</b>		
2.6.27	To make application for all consents required in relation to planning permission in respect of Council land or property in relation to the functions for which they are responsible.		
2.6.28	To make application for all consents required in relation to Building Regulation Approval in respect of Council land or property in relation to the functions for which they are responsible.		
	<b>Cultural Facilities &amp; Activities</b>		
2.6.29	To exercise the Council's functions relating to the provision and management of cultural facilities and activities.		
	<b>Staffing matters</b>		
2.6.30	To determine and take action in relation to all staff matters in accordance with the Officer Procedure Rules.	Where specified in the Officer Procedure Rules, Head of Legal Services Head of Human Resources	In accordance with Officer Procedure Rules and all Council policies and procedures.  To exclude the determination of redundancies (voluntary or otherwise) and the

		determination of termination of contracts of employment on the grounds of efficiency of the service.
2.6.31	<u>The approval of Special Severance Payments under £20,000</u>	<u>Subject to demonstrating the economic rationale (including the availability of budgetary resources) and seeking legal advice on the prospects of successfully defending an Employment Tribunal claim</u>

### 3. DELEGATIONS: SPECIFIC FUNCTIONS – HEADS OF SERVICE

Subject to the foregoing, there are delegated to the Officer(s) listed below those matters detailed in column 2 subject to the consultation requirements in column 3 and limitations in column 4 below.

3.1 No	Head of Housing Delegation	Consultation	Limitations
3.1.1	To determine and take all action in relation to the management and maintenance of the Council's housing accommodation including the letting, transfer, exchange and repossession of dwellings, garages, open spaces and parking spaces.		
3.1.2	To exercise the Council's functions relating to homeless persons.		With the exception of requests for reviews under s202 Housing Act 1996.
3.1.3	To determine applications for Housing Grants (not Social Housing Grants) and the taking of all steps concerned with certification of payment of the same.		
3.1.4	To devise, manage and maintain the Housing Register maintained by the Council under the relevant statutory provisions in accordance with the Council's Housing Allocations Policy.		
3.1.5	To nominate people on the Council's Housing Register to properties managed by Adur Homes and the Registered Social Landlords in accordance with the Council's Housing Allocations Policy.		

3.1.6	To exercise the Council's regulatory functions in relation to Caravan sites, Fitness and Standards of Housing and Houses in Multiple Occupation.		
3.1.7	To determine and where appropriate give consent for alterations or extensions to former Council houses and flats.		
3.1.8	To lease property or land in connection with the Council's housing function, for the purpose of providing emergency and temporary accommodation.	To be exercised only after consultation with the relevant Leader, the Cabinet Member for Resources and the Chief Financial Officer.	
<b>3.2</b>	<b>Head of Wellbeing</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.2.1	To implement the Council's policies regarding Community Safety and the redirection of crime and disorder.		
3.2.2	To take any action to combat anti-social behaviour including the issue of fixed penalty notices and community protection notices.		
3.2.3	To exercise the Council's regulatory functions relating to: Amenities on the highway Environmental protection Food Safety and Hygiene Gambling Gaming permits Hackney Carriages and Drivers Health and Safety at Work House to house collections Highway management * Licensable activities under the Licensing Act 2003 Lotteries Leisure Boats Private Hire Vehicles drivers and operators Public Health (including airports and port health) Public Safety Registration Plates Scrap metal dealers Shops and Sunday trading Street Collections Street Trading ** Drainage, Water and Sewerage Animal Boarding Licenses Pet Shops The Breeding of Dogs Sex Establishments Hypnosis Electrolysis Acupuncture Semi-permanent skin colouring	* Adur DC in relation to Highways Maintenance - the relevant Cabinet Member  ** Adur DC in relation to Street Trading - the relevant Cabinet Member	

	Tattooing Cosmetic piercing		
3.2.4	To determine whether or not a simple caution should be administered following an investigation into an alleged criminal offence	Head of Legal Services	There must be a full admission It must be a minor matter It must be in the public interest It must be a first offence Copy to be sent with reasons to the Head of Legal Services To exclude the administration of the caution.
3.2.5	All matters relating to the investigation of matters under the Health & Safety at Work legislation.	Head of Legal Services	Duly appointed inspectors
3.2.6	To convene meetings of Full Council, Cabinet, Cabinet Members, Committees and other bodies.	Mayor, Leader, Cabinet Member or Chair as appropriate	
3.2.7	To cancel meetings of Full Council, Cabinet, Cabinet Members, Committees and other bodies.	Mayor, Leader, Cabinet Member or Chair as appropriate	
3.2.8	To exercise the Councils' regulatory functions relating to Animal Welfare.		
<del>3.2.9</del>	<del>To exercise the Councils' regulatory functions relating to burials, issuing exclusive rights of burial, rights to erect memorials, cremations and the maintenance of churchyards.</del>		
<del>3.2.10</del>	<del>To manage (including the authority to agree usage) and maintain burial grounds and crematoria within the Council's control.</del>		
<del>3.2.11</del>	<del>To charge fees for medical referees</del>		
<b>3.3</b>	<b>Head of Environmental Services</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.3.1	To exercise the Council's functions relating to the provision and management of recreational facilities.		
3.3.2	To manage (including the authority to agree usage) and maintain all the parks, pleasure grounds, gardens, open spaces, commons, recreational facilities, <del>burial grounds, crematorium</del> and nature reserves within the Council's control.	Adur DC the relevant Cabinet member in cases where the authority is required to agree usage	
<del>3.3.3</del>	<del>To charge fees for medical referees</del>		
<del>3.3.4</del>	<del>To exercise the Council's regulatory functions relating to Pest Control</del>		
<del>3.3.5</del>	<del>All matters related to the Council's powers and duties in relation to the coast, rivers and harbours.</del>		
<del>3.3.6</del>	<del>All matters relating to pleasure boats, boatman's licences, fisherman's agreements.</del>		
<del>3.3.7</del>	<del>To determine as landowner or landlord applications for licences, consents and</del>	<del>Cabinet Members for Resources and Cabinet</del>	

Commented [g54]: Post deleted. Who is to replace?

	permissions in respect of the Council's parks and foreshore buildings or land.	Members for Environment	
3.3.83	To collect, remove, recycle and dispose of waste.		
3.3.93	To collect, remove, recycle and dispose of litter.		
3.3.10	To collect, remove, recycle and dispose of abandoned or unauthorised vehicles.		
3.3.11	To determine and communicate the Council's position relating to Goods Vehicle Operators licences.		
3.3.12	To authorise the waiving or reduction of charges for special refuse collections, commercial waste collections, green waste collections and clinical waste collections.		
3.3.13	To undertake vehicle testing and issue Ministry of Transport Certificates and to make appropriate charges, and to waive and reduce such charges.		
3.3.14	To take any action to combat anti-social behaviour including the issue of fixed penalty notices or community penalty notices for littering, fly tipping, breach of public space protection orders, unlawful camping and dog fouling		
3.3.15	To issue fixed penalty notices upon commercial traders for unlawful management of commercial waste		
3.3.16	To exercise the Council's regulatory functions in respect of street trading		
3.3.17	To undertake all matters related to the inspection and maintenance of Council owned trees	Where a tree is subject to a Tree Preservation Order, only to be exercised in consultation with the Head of Planning and Development	
3.3.18	To undertake all matters relating to the design, installation, inspection and maintenance of all Council owned play areas	In respect of design and installation to be exercised only in consultation with the Head of Business and Technical Services	
3.3.19	To act on behalf of Worthing Borough Council as Trustee of Highdown Gardens Trust and Chalk Pit Charity Trust		Limited to being exercised in respect of day to day management activities and administrative matters only.
3.3.20	To act on behalf of Adur District Council as Trustee of Adur Recreation Ground and The Green		Limited to being exercised in respect of day to day management activities and administrative matters only.
<b>3.4</b>	<b>Head of Revenues &amp; Benefits</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.4.1	To determine any applications for Housing Benefit, Council Tax Support		

	or similar benefits.		
3.4.2	To make payments of Housing Benefit and Council Tax Support or similar benefits		
3.4.3	To take all necessary actions relating to the demand, collection and the recovery of Council Tax Rates, National Non-Domestic Rates and any other local levy or collected taxes.		
3.4.4	To determine entitlement to mandatory, discretionary and other rate relief applications, including National Non-Domestic Rate relief.		
3.4.5	To serve on the Valuation Officer notice of objection to any proposals for alteration of the Valuation List.		
3.4.6	To make proposals for the alteration of the Valuation List or for inclusion of particular properties in the Valuation List.		
3.4.7	To sign off Valuation Agreements.		
<b>3.5</b>	<b>Head of Customer and Digital Services</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.5.1	All matters relating to on and off street parking	In respect of Adur District Council, consultation with the relevant Cabinet Member	
<b>3.6</b>	<b>Head of Planning and Development</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.6.1	All matters relating to the naming and numbering of streets.	Relevant Planning Committee Adur DC - relevant Cabinet Member, Ward member and where practicable the Planning Committee	
3.6.2	To issue and serve notices pursuant to the Building Act 1984 and Building Regulations and to carry out works in default.		
3.6.3	To decide all Building Regulations applications in accordance with Building Regulations current at time of deposit.		
3.6.4	To determine all relevant charges in accordance with the Building (Prescribed Fees) Regulations 2010 as amended		
3.6.5	To determine applications for Planning permission, listed building consent, conservation area consent, express consent to display advertisements, hazardous substances consent pursuant to the Planning Acts, including:  a. development specified in the GPDO		The delegation shall not be exercised in relation to:  a. applications requiring the Secretary of State to be notified under the Town and Country (Development Plans and Consultations) (Departures) Direction 2009;



<p>where expressed planning permission is required by reason of limitations or conditions by that order; and</p> <p>b. determinations in connection with prior notification procedure under T&amp;CP (General Permitted Development) Order.</p>	<p>b. applications for development requiring an environmental impact assessment but excluding applications for a screening or scoping opinion in connection with an environmental impact assessment;</p> <p>c. applications comprising 'major' development within the meaning of the T&amp;CP (General Permitted Development) Order, other than applications for amendments to major developments where those amendments are either minor or non-material. Members will be notified when such minor or non-material amendments to major applications have been approved;</p> <p>d. applications for development which conflicts materially with the Local Plan;</p> <p>e. applications materially affecting ancient monuments, and sites of special scientific interest;</p> <p>f. applications made by on behalf of jointly with or promoted by the Council, a parish Council, West Sussex County Council any other local authority;</p> <p>g. <u>where the application has been made by a Member of Adur District Council or Worthing Borough Council, or by an Officer of either Council who is either the Chief Executive, a Chief Officer, Deputy Chief Officer, Planning Services Manager or Planning Policy Manager, or who works within the Planning and Development Section</u>  <del>where the application has been made by a member or</del></p>
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			<p>an officer who is either the Chief Executive, a Chief Officer, Deputy Chief Officer, Planning Services Manager or Planning Policy Manager or works within the Planning and Development Department;</p> <p>h. where a member of the Council not more than 28 days after validation of an application requests otherwise, subject to providing valid planning reasons.</p>
3.6.6	To determine applications for consent pursuant to the conditions and limitations under the Planning Acts.		
3.6.7	To determine the Council's stance in respect of and respond to consultation opinions concerning matters including, but not limited to, Neighbourhood Plans and WSCC planning applications, unless they are for 'major' development within the meaning of the T&CP (General Development Procedure) Order <u>(other than those where the proposed amendment is minor or non-material)</u> .	In respect of Neighbourhood Plans, in consultation with Relevant Cabinet Member.  <u>Members will be notified when minor amendments to 'major' applications have been approved.</u>	
3.6.8	To determine applications for lawful development certificates (Town and Country Planning Acts Sections 191 and 192).	Head of Legal Services where necessary.	
3.6.9	To give, make and confirm any Order or Direction under the Planning Acts		
3.6.10	To issue, serve, modify and withdraw any Notice under the Planning Acts and to carry out works in default including ruins and dilapidated buildings and neglected sites (Building Act 1984, Section 79).		
3.6.11	To determine applications and to take any action under Anti-Social Behaviour Act (2003) Part 8 (High Hedges).		
3.6.12	Subject to the limitations imposed above to determine the Council's stance in respect of and respond to consultations and opinions concerning matters referred to above.		
3.6.13	All matters relating to the Planning (Hazardous Substances) Act, 1990.		
3.6.14	To issue and serve notices in relation to breaches of conditions in relation to planning permissions.		
3.6.15	To negotiate and enter into planning or other agreements regulating or	Head of Legal Services	Not where the determining body for any associated

	controlling the use of development of land.		planning application is a committee.
3.6.16	To make minor amendments in planning or other agreements regulating or controlling the use or development of land where the determining body for any associated planning application is a committee.	Head of Legal Services	
3.6.17	To issue serve modify or withdraw any enforcement action or notices under the Planning Acts, etc.	Head of Legal Services	
<b>3.7</b>	<b>Chief Financial Officer</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.7.1	To take any action relating to borrowing in accordance with the Council's borrowing strategy.		
3.7.2	To borrow by way of bank overdraft from the Council's current bankers subject to annual review by the bank and the Cabinet Member for Resources.	Cabinet Member for Resources	£1,000,000
3.7.3	To make payments into the insurance fund.		
3.7.4	To make payments in respect of any claims where the Council's insurers may be involved.		
3.7.5	To invest available funds on appropriate terms and in accordance with the Council's investment strategy.		
3.7.6	To make payment of any sums due from the Council.		
3.7.7	To make repayments to the West Sussex County Council Pension Fund from those reserves earmarked for pensions contributions.		
3.7.8	To write off debts.		In accordance with the Financial Procedure Rules
3.7.9	To investigate allegations of housing benefit or council tax benefit fraud.		Not exercisable in respect of ADC.
3.7.10	To investigate and report upon any allegations of fraud or dishonesty.		
3.7.11	In respect of housing benefit and council tax fraud, to determine whether or not a simple caution or administrative penalty should be administered following an investigation into an alleged criminal offence.	Head of Legal Services	Not exercisable in respect of ADC. There must be a full admission It must be a 1st offence It must be for sums less than £500 It must be in the public interest It must not be a complex fraud or attempted fraud Copy to be sent with reasons to EHC&CS
3.7.12	In respect of housing benefit and council tax fraud, to administer simple cautions and administrative penalties.		Not exercisable in respect of ADC.

3.7.13	To settle any claims where the Council's Insurers may be involved.	Head of Legal Services and any other relevant Officer.	
3.7.14	<u>To approve the recommended scale of Returning Officer's Expenditure for Local Government Elections, Polls and Referendums in West Sussex, as proposed by the Returning Officer for West Sussex County Council.</u>		
<b>3.8</b>	<b>Head of Human Resources</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.8.1	To confirm the appointment of staff on the satisfactory completion of probationary period.	Appropriate Head of Service	
3.8.2	To implement decisions arising from the Council's pay and grading procedure.		
3.8.3	To implement any nationally agreed pay settlements.	Chief Financial Officer	
3.8.4	To maintain a register of politically restricted posts and ancillary matters.		
3.8.5	To comply with all legislation and government guidance on transparency in pay within the Council, including taking the annual Pay Policy Statement to Council		
3.8.6	To execute settlement agreements between the Council and its employees or former employees in circumstances where redundancy or termination of contract on the grounds of efficiency of the service have been approved.	Head of Legal Services	
3.8.7	To make minor, consequential and administrative amendments to the Councils' Human Resources Policies	Chairs of the Joint Staff Committee	
<b>3.9</b>	<b>Head of Legal Services and Monitoring Officer</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.9.1	Legal Proceedings: a. To determine what, if any legal action should be taken following any investigation into a criminal matter (except in relation to Health & Safety at Work). b. To institute, prosecute or terminate any proceedings which the Council is empowered to undertake in or before any Court, Tribunal, Inquiry or by way of Fixed Penalty Notice or Community Penalty Notice (except in relation to Health & Safety at Work). c. To defend or settle any proceedings brought against the Council (except in relation to Health & Safety at Work).		In respect of settling legal proceedings a confidentiality clause may not be included unless the prior written agreement has been obtained from the Cabinet Leader (or Deputy in their absence) and the Leader of the Main Opposition (or Deputy in their absence).

	d. To take any action incidental or inclusive to or which would facilitate any action under this paragraph. e. To administer simple cautions. f. To determine whether or not any legal proceedings should be taken in any particular case or set of circumstances.		
3.9.2	To appoint and instruct legal service providers including external Solicitors and Barristers.		
3.9.3	To determine whether or not a simple caution or other alternative to prosecution should be administered following an investigation into an alleged criminal offence.		
3.9.4	To settle any claims where the Council's Insurers may be involved.	Chief Financial Officer	
3.9.5	To negotiate and enter into planning or other agreements regulating or controlling the use of development of land.	Head of Planning & Development	Not where the determining body for any associated planning application is a committee.
3.9.6	To make minor amendments to planning or other agreements regulating or controlling the use or development of land where the determining body for any associated planning application is a committee.	Head of Planning & Development	
3.9.7	To issue, serve, modify or withdraw any enforcement action or notices under the Planning Acts, etc.	Head of Planning & Development	
3.9.8	To carry out or authorise the carrying out of works in default under any statutory provisions (including Notices concerning ruinous and dilapidated or dangerous buildings and neglected sites).		
3.9.9	To determine applications under the Local Government (Miscellaneous Provisions) Acts 1982 Section 37 in respect of Temporary Markets.		
3.9.10	To give, make and confirm any Order or Direction under the Planning Acts including Tree Preservation Orders (and associated applications for consent for works) and notification of works to trees in conservation areas.	Head of Planning & Development	Not to confirm if there are any objections
3.9.11	To exercise the Council's powers relating to temporary road closures.		
3.9.12	To seal any document on behalf of the Council.		
3.9.13	To negotiate and agree the terms of any contract.		In accordance with the Contract Procedure Rules.
3.9.14	To sign any contract on behalf of the Council.		In accordance with the Contract Procedure Rules.
3.9.15	To authorise the attendance of officers at Court under any statutory provision.		

3.9.16	To authorise service of any statutory requisition for information as to interests in land.		
3.9.17	To execute any legal document on behalf of the Council.		
3.9.18	All matters relating to consultations with Sussex Police and other bodies in relation to Anti-Social Behaviour.		
3.9.19	All matters relating to the consecration of land.		
3.9.20	To issue, serve, suspend or withdraw any notices in respect of any matter for which the Council has power to act.		
3.9.21	To respond to requests for review under Data Protection and Freedom of Information legislation.		
3.9.22	All matters relating to the investigation of matters under the Health & Safety at Work legislation.		
3.9.23	To make minor or consequential amendments to the Council's Constitution.		
3.9.24	To make orders relating to Public Spaces Protection Order in accordance with the Anti-social Behaviour, Crime and Policing Act 2014.		
3.9.25	To grant dispensations in respect of Disclosable Pecuniary Interests in accordance with the Localism Act 2011.		
3.9.26	To determine the approval of the Adur District Council and Worthing Borough Council Crest/Coat of Arms in appropriate circumstances.	In consultation with the Leader.	
3.9.27	To act as the Councils' Co-ordinator in respect of all Regulation of Investigatory Powers Act 2000 matters	In accordance with the Councils' Surveillance Policy	
<b>3.10</b>	<b>Head of Business &amp; Technical Services</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.10.1	To take any action necessary with regard to the Council's Emergency Planning functions.		
3.10.2	To manage the improvement, refurbishment, maintenance and new build provision of the Council's non-housing property portfolio not specifically the responsibility of other officers.		
3.10.3	To exercise the Council's powers in respect of water supply, sewerage and drainage.		
3.10.4	To exercise the Council's powers in respect of land drainage.	Adur DC - relevant Cabinet Member	
3.10.5	To exercise the Council's powers affecting the design or maintenance of		

	highways		
3.10.6	All matters relating to coastal and dredging licence applications		Such development must be permitted in a General Permitted Development Order or have been granted planning permission
3.10.7	All matters related to the Council's powers and duties in relation to the coast, rivers and harbours		
<b>3.11</b>	<b>Head of Place &amp; Economy</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.11.1	To approve and grant seasonal concession licence agreements on behalf of the Councils	In consultation with the relevant Cabinet Member, the Solicitor for the Council and the Head of Planning & Development	
3.11.2	To approve non animal related Circuses	In consultation with Head of Environmental Services and the relevant Cabinet Member	To be limited to a maximum of 3 per year in Adur District Council.  To be limited to a maximum of 3 per year in Worthing Borough Council
3.11.3	To exercise the Councils' regulatory functions relating to markets, <a href="#">filming permits</a> , <a href="#">public art and bus shelter advertising</a>	Head of Legal Services	
3.11.4	To manage the function of Events Management	In consultation with the Council's Head of Communications and Emergency Planning Officer, and where the event is expected to be attended by 500 people or more, the Leader of the relevant Council.	
		<b>Cabinet Member</b>	
<b>3.11.5</b>	<b>Overseeing the successful delivery of Public Realm projects</b>	<b>In consultation with the relevant Cabinet Member</b>	
<b>3.12</b>	<b>Head of Major Projects &amp; Investment</b>		
3.12.1	To manage the improvement, refurbishment, maintenance and new build provision of the Council's non-housing property portfolio not specifically the responsibility of other officers.		
3.12.2	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 functions.	Where acquisition of land is purchased through the Strategic Investment Fund, the delegation is to be exercised in consultation with the Leader, Cabinet Member for Resources and the Chief Financial Officer	
3.12.3	To dispose of land in connection with		Disposal of land is only

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	the Council's functions and to grant leases, easements, licences and wayleaves of, in, or over buildings or land in connection with the Council's functions.		authorised where the value is £50,000 or less
3.12.4	To determine as landowner or landlord applications for licences, consents and permissions in respect of the Council's buildings or land.	Cabinet Member for Resources	
3.12.5	To acquire property or land in connection with the Council's housing function, for the purpose of providing emergency and temporary accommodation.	To be exercised only after consultation with the relevant Leader, Cabinet Member for Resources, Chief Financial Officer and Head of Housing.	
<b>3.13</b>	<b>Head of Communications</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>

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## Proper Officer and Authorised Officer Functions

The Council designates Proper Officers to carry out functions allocated by law. Power to appoint Proper Officers is delegated to the Chief Executive, following consultation with the Monitoring Officer, unless legislation requires the appointment to be made by Full Council.

The following Proper Officer and/or authorised officer functions listed in column 3 are assigned to the officers and deputies in columns 4 and 5.

Functions relating to Officers			
Act	Function	Officer	Deputy
s.2(4) Local Government and Housing Act 1989	To maintain a list of politically restricted posts	Head of Human Resources	
s.3A Local Government and Housing Act 1989	To determine applications for exemption from the list of politically restricted posts	Chief Executive in consultation with the Monitoring Officer	Head of Legal Services
s.4 Local Government and Housing Act 1989	Head of Paid Service	Chief Executive	Nominated Director
s.5 Local Government and Housing Act 1989	Monitoring Officer	Head of Legal Services	Senior Solicitors
Sch.1, Part II, Paras.5-6 Local Authorities (Standing Orders) (England) Regulations 2001	Notification to Cabinet and objections to be considered concerning appointment or dismissal of Head of Paid Service, Chief Officers or Deputy Chief Officers	Monitoring Officer	Deputy Monitoring Officer(s)
	<u>Any reference to the Clerk of a council which, by virtue of the Local Government Act 1972, is to be construed as a reference to the Proper Officer of the Council</u>	<u>Monitoring Officer</u>	<u>Deputy Monitoring Officer(s)</u>
	<u>Any reference to the Treasurer of a council which, by virtue of the Local Government Act 1972, is to be construed as reference to the Proper Officer of the Council</u>	<u>Chief Financial Officer</u>	

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Functions relating to Democratic Process			
Act	Function	Officer	Deputy
s.8 Representation of the People Act 1983	Electoral Registration Officer	Chief Executive	Director for Digital, Sustainability and Resources
s.35 Representation of the People Act 1983	Returning Officer	Chief Executive	Officer(s) appointed in writing by the Returning Officer
s.52 Representation of the People Act 1983	Deputy Electoral Registration Officer	Director for Digital, Sustainability and Resources	Head of Customer and Digital Services
<u>s.67(7)(b)</u>	<u>Receive declarations and give</u>	<u>Director for Digital,</u>	<u>Head of Customer</u>

<a href="#">Representation of the People Act 1983</a>	<a href="#">public notice of election agents' appointments</a>	<a href="#">Sustainability and Resources</a>	<a href="#">and Digital Services</a>
ss.81, 82 and 89 Representation of the People Act 1983	To receive, <a href="#">inspect and publish returns and declarations of election expenses</a>	Director for Digital, Sustainability and Resources	Head of Customer and Digital Services
<a href="#">Sch.29 Para.4 Representation of the People Act 1983</a>	<a href="#">Undertake duties at council elections which are required to be undertaken not by the Returning Officer but by the Proper Officer</a>	<a href="#">Chief Executive</a>	<a href="#">Director for Digital, Sustainability and Resources</a>
<a href="#">s.131 Representation of the People Act 1983</a>	<a href="#">Providing accommodation for holding election count</a>	<a href="#">Chief Executive</a>	<a href="#">Director for Digital, Sustainability and Resources</a>
s.83 Local Government Act 1972	Declarations of acceptance of office	Chief Executive	Director for Communities
s.84 Local Government Act 1972	Receipt of resignations	Chief Executive	Director for Communities
s.86 Local Government Act 1972	To declare any vacancy in office	Chief Executive	Director for Communities
s.88(2) Local Government Act 1972	Convene a meeting to fill a vacancy of a chair	Director for Communities	Head of Wellbeing
s.89(1) Local Government Act 1972	Receive from two electors notices of casual vacancies of Councillors	Chief Executive	Director for Digital, Sustainability and Resources
s.100B(2), (7)(c) and 100H Local Government Act 1972	Excluding from the public reports which are not likely to be considered in open session; and provision to the press/public of other documents provided to members where the Proper Officer thinks fit	Monitoring Officer	Deputy Monitoring Officer(s)
s.100C(2) Local Government Act 1972	Where part or the whole of the report has been exempt the Proper Officer shall make a written summary of the proceedings or a part to provide a record without disclosing the exempt information.	Director for Communities	Head of Wellbeing
s.100D(1)(a) and (5)(a) Local Government Act 1972	Compilation of list of background documents relied upon to a material extent in producing the report or disclosing important facts	Author of report	
s.100F(2) Local Government Act 1972	Deciding whether documents for inspection in connection with Committees contain exempt information under a paragraph of Schedule 12A	Monitoring Officer	Deputy Monitoring Officer(s)
<a href="#">Sch.29 Para.4(1)(b) Local</a>	<a href="#">Adaptation, modification and amendment of enactments</a>	<a href="#">Monitoring Officer</a>	<a href="#">Deputy Monitoring Officer(s)</a>

<a href="#">Government Act 1972</a>			
s.41 Local Government Miscellaneous Provisions Act 1976	To certify copies of Resolutions Orders reports or Minutes of the Council or any Predecessor Authority	Director for Communities	Head of Wellbeing
<a href="#">ss.15-17 Local Government and Housing Act 1989</a>	<a href="#">Undertake all matters relating to the formal establishment of Political Groups, and give effect to the wishes of Political Groups in making appointments of members to committees</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
Regs.8-10, 13-15 and 17 Local Government (Committees and Political Groups) Regulations 1990	Receipt of notice re Political Groups; <a href="#">give effect to the wishes of Political Groups in making appointments of members to committees</a>	Director for Communities	Head of Wellbeing
Reg.10 Local Government (Committees and Political Groups) Regulations 1990	Receipt of Notice of Cessation of Membership of Political Group	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
Reg.13 Local Government (Committees and Political Groups) Regulations 1990	To accept wishes of Political Groups in respect of proportionality	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
Reg.14 Local Government (Committees and Political Groups) Regulations 1990	To notify Political Groups of allocations	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
Part 3 Local Government Act 1974	Local Government Ombudsman functions, including giving public notice of reports	Director for Digital, Sustainability and Resources in consultation with Monitoring Officer	Head of Customer and Digital Services
<a href="#">Sch.2 Para.54 Local Elections (Principal Areas)(England and Wales) Rules 2006</a>	<a href="#">Registration officer for the retention and destruction of documents following an election</a>	<a href="#">Chief Executive</a>	<a href="#">Director for Digital, Sustainability and Resources</a>
Local Authorities (Referendum) (Petitions) (England) Regulations 2011	<a href="#">Publish the verification number of local government electors for the purpose of petitions under s.34 Local Government Act 2000</a>	Director for Digital, Sustainability and Resources	Head of Customer and Digital Services
Local Authorities (Conduct of Referendums) (England) Regulations 2012	Proper Officer function	Director for Digital, Sustainability and Resources	Head of Customer and Digital Services
s.29 Localism Act 2011	Establish and maintain a register of members' and co-opted members' interests	Monitoring Officer	Deputy Monitoring Officer(s)

s.30-31 Localism Act 2011	Receipt of members' and co-opted members' declarations of interests and changes to those interest within 28 days	Monitoring Officer	Deputy Monitoring Officer(s)
s.32 Localism Act 2011	Sensitive interests	Monitoring Officer	Deputy Monitoring Officer(s)
s.33 Localism Act 2011	Dispensations from restrictions under s.31(4)	Monitoring Officer	Deputy Monitoring Officer(s)
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012	<a href="#">Functions relating to the recording and publication of information relating to Executive decisions; Access to information, recording executive decisions and the Forward Plan, inform the relevant Overview and Scrutiny Committee Chairs or the Committee Members of decisions to be made where it has been impracticable to comply with the publicity requirements (in the Forward Plan) and publish notices relating to this; publish a written statement of Executive decisions and background papers; determine whether certain documents contain exempt or confidential information; grant dispensations in respect of conflicts of interest declared by a Cabinet member making a decision, or declared by a Cabinet member consulted by a member or officer taking such a decision</a>	Director for Communities	Head of Wellbeing
s. 21A Local Government Act 2000 (as amended)	Decision making in respect of Councillor Call for Action	Director for Communities	Head of Wellbeing
<b>Functions relating to Finance</b>			
<b>Act</b>	<b>Function</b>	<b>Officer</b>	<b>Deputy</b>
All legislation prior to 1 April 1972; s.151 Local Government Act 1972; and ss.114-116 Local Government Finance Act 1988	Proper Officer in relation to references to Treasurer or District Treasurer; the officer responsible for the proper management of the Council's financial affairs and for making reports to Cabinet/Council	Chief Financial Officer	Deputy s.151 Officer(s)
All legislation prior to 1 April 1972	Proper Officer in relation to declarations and certificates with regard to securities	Chief Financial Officer	Deputy s.151 Officer(s)
s.115(2) Local Government Act 1972	For receipt of monies due to the Council from Officers	Chief Financial Officer	Deputy s.151 Officer(s)
<a href="#">s.146(1) Local Government Act</a>	<a href="#">Sign the statutory declaration to enable the transfer of securities</a>	<a href="#">Chief Financial Officer</a>	<a href="#">Deputy s.151 Officer(s)</a>

<a href="#">1972</a>	<a href="#">in the event of a change in the name or status of the council</a>		
<b>Functions relating to Legal Processes</b>			
<b>Act</b>	<b>Function</b>	<b>Officer</b>	<b>Deputy</b>
s.229 Local Government Act 1972	To certify photographic copies of documents to be a true copy (other than those under Public Records Act 1958)	Head of Legal Services	Senior Solicitor(s)
s.234 Local Government Act 1972	To sign Notices Orders or other documents authorised or required by or under any Enactment	Head of Legal Services	Senior Solicitor(s)
s.236 Local Government Act 1972	To send copies of Byelaws to Parish and Community Councils to which they apply.	Head of Legal Services	Senior Solicitor(s)
s.238 Local Government Act 1972	Certification of printed copies of bylaws	Head of Legal Services	Senior Solicitor(s)
s.36 Freedom of Information Act 2000	Non-disclosure where potential to prejudice the effective conduct of public affairs	Head of Legal Services	Senior Solicitor(s)
Sch.12 Para.4(2)(b) Local Government Act 1972	Signing and serving summonses to attend meetings of the council	Director for Communities	Head of Wellbeing
<a href="#">Sch.12 Para.4(3) Local Government Act 1972</a>	<a href="#">Receive written notice from a Member of the address to which a summons to the meeting is to be sent</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Sch.12 Para.25 Local Government Act 1972</a>	<a href="#">Certifying copy resolutions of the council passed before 1975 disapplying public health statutes</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<b>Court Representation</b>			
Every Solicitor, Barrister or Chartered Legal Executive employed or engaged by the Council (irrespective of their job title) shall be authorised to appear on its behalf before any Court, Tribunal or other hearing before which they have a Right of Audience and to exercise the powers given by the relevant professional body.			
In addition to the powers delegated in Section 3 above and the rights to appear in Court detailed in paragraphs 4.4.7, the following Officers in column 4 are authorised to appear on behalf of the Council and to conduct proceedings in Court in relation to the functions mentioned in column 3.			
There may be Officers other than those listed in 4.7 who are authorised to appear in Court on behalf of the Council by virtue of the Monitoring Officer's delegation at 3.8.16 to provide such authorisation. Any authorisations made under delegation 3.8.16 will be recorded in writing and shall be provided to the Monitoring Officer within five working days and made available on the intranet.			
<b>Act</b>	<b>Function</b>	<b>Officer</b>	<b>Deputy</b>
s.223 Local Government Act 1972 and s.60 County Courts Act 1984	In respect of possession matters and for any purpose for which the Council is empowered to authorise Officers to appear on its behalf	Legal Assistants Trainee Solicitors	

s.223 Local Government Act 1972	In respect of National Non-Domestic Rating or Council Tax matters	Head of Revenues and Benefits	<a href="#">Revenues &amp; Benefits Operations Manager, Revenues and Recovery Team Leader, Court Officer</a>
Part 9 Insolvency Rules 1986	Examination of persons concerning company and individual insolvency	Head of Revenues and Benefits (in consultation with Monitoring Officer)	
Part I Health and Safety at Work etc. 1974		Head of Wellbeing (in consultation with Monitoring Officer)	
<b>Functions in relation to Public Health</b>			
<b>Act</b>	<b>Function</b>	<b>Officer</b>	<b>Deputy</b>
s.79 Public Health Act 1936 & Schedule 29 Part 1 Local Government Act 1972	Removal of Noxious Matter	Director for Communities	Head of Wellbeing
s.84 Public Health Act 1936 & Schedule 29 Part 1 Local Government Act 1972	Verminous Articles	Director for Communities	Head of Wellbeing
s.85 Public Health Act 1936 & Schedule 29 Part 1 Local Government Act 1972	Verminous People	Director for Communities	Head of Wellbeing
Part XI Local Government Miscellaneous Provisions Act 1982	Public Health	Director for Communities	Head of Wellbeing
Part 1 Section 46 Care Act 2014	Removal of people in need	Director for Communities	Officers of Health Authority etc. authorised under Section 113 (1A) of the Local Government Act 1972
s.37 Public Health Act 1961	Verminous Articles	Director for Communities	Head of Wellbeing
ss.48 and 59 Public Health (Control of Disease) Act 1984 (as amended)	Infectious diseases and dead bodies; <a href="#">preparation of certificate to Justice of Peace for removal of body to mortuary and for burial; authentication of documents</a>	Director for Communities	Head of Wellbeing
Sch.14 Paragraph 25(7) Local Government Act 1972	To certify copies of Resolutions applying or disapplying provisions of the Public Health Act 1875 to 1925	Director for Communities	Head of Wellbeing
Food Safety Act 1990 (as	Food Safety and authentication of documents	Director for Communities	Head of Wellbeing

amended)			
s.40 Anti-Social Behaviour Act 2003	Closure order in respect of noisy premises where public nuisance	Chief Executive	Director for Communities
s.78 Building Act 1984	Authorise action in relation to dangerous structures	Appropriate Director	Appropriate Head of Service
European Communities Act 1972	Food Safety	Director for Communities	Head of Wellbeing
Animal Welfare Act 2006 (as amended) & Pet Animals Act 1983		Director for Communities	Head of Wellbeing
Caravan Sites and Control of Development Act 1960		Director for Communities	Head of Wellbeing
Animal Boarding Establishments Act 1963		Director for Communities	Head of Wellbeing
Riding Establishments Act 1964 and 1970		Director for Communities	Head of Wellbeing
Scrap Metal Dealers Act 2013		Director for Communities	Head of Wellbeing
Animal Welfare Act 2006 and 1991 & Breeding and Sale of Dogs (Welfare) Act 1999		Director for Communities	Head of Wellbeing
s.41 Local Government (Miscellaneous Provisions) Act 1976	<a href="#">Certifying copy resolutions and minutes of proceedings</a>	Director for Communities	Head of Wellbeing
Zoo Licensing Act 1981		Director for Communities	Head of Wellbeing
Parts II, III VII, VIII and XI Local Government (Miscellaneous Provisions) Act 1982		Director for Communities	Head of Wellbeing
<a href="#">Part VII, Part VIII &amp; Part XI Local Government (Miscellaneous Provisions) Act 1982</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
Public Health (Control of Disease) Act 1984 and regulations made thereunder		Director for Communities	Head of Wellbeing
Control of Pollution (Amendment) Act 1989		Director for Communities	Head of Wellbeing

Clean Neighbourhoods and Environment Act 2005		Director for Communities	Head of Wellbeing
Health Act 2006 Chapter 1		Director for Communities	Head of Wellbeing
Part 4 Anti-social Behaviour, Crime and Policing Act 2014		Director for Communities	Head of Wellbeing
Parts 1, 2, 2A and 3 Environmental Protection Act 1990		Director for Communities	Head of Wellbeing
Part 4 Environment Act 1995		Director for Communities	Head of Wellbeing
s.108 Environment Act 1995		Director for Communities	Head of Wellbeing
Part 1 & Part 3 Prevention of Damage by Pests Act 1949		Director for Communities	Head of Wellbeing
Control of Pollution Act 1974		Director for Communities	Head of Wellbeing
Dangerous Wild Animals Act 1976		Director for Communities	Head of Wellbeing
Refuse Disposal (Amenity) Act 1978		Director for Communities	Head of Wellbeing
Town Police Clauses Act 1847		Director for Communities	Head of Wellbeing
Housing Act 1985, 1989 and 2004		Director for Communities	Head of Wellbeing
Clean Air Act 1993		Director for Communities	Head of Wellbeing
Pollution Prevention and Control Act 1999		Director for Communities	Head of Wellbeing
Environmental Damage (Prevention and Remediation) Regulations 2015		Director for Communities	Head of Wellbeing
Health and Safety at Work 1974		Director for Communities	Head of Wellbeing
Animal Welfare Act 2006		Director for Communities	Head of Wellbeing
s.59 Building Act 1984		Director for Communities	Head of Wellbeing
House to House Collections Act 1939		Director for Communities	Head of Wellbeing
Police, Factories, etc. (Miscellaneous Provisions) Act 1916		Director for Communities	Head of Wellbeing
Hypnotism Act 1952		Director for Communities	Head of Wellbeing
<b>Miscellaneous Functions</b>			



<b>Act</b>	<b>Function</b>	<b>Officer</b>	<b>Deputy</b>
s.100G Local Government Act 1972	Maintain a list of members	Director for Communities	Head of Wellbeing
s.100G Local Government Act 1972	Maintain a list of delegations to officers and the like	Monitoring Officer	Deputy Monitoring Officer(s)
s.146(1)(a) Local Government Act 1972	Statutory Declaration re Change of Name of the Authority in connection with Companies	Monitoring Officer	Senior Solicitor(s)
s.191(2) Local Government Act 1972	<a href="#">Receive applications from Ordnance Survey for assistance in surveying disputed boundaries</a> <a href="#">Applications under the Ordnance Survey Act 1841</a>	Director for Economy	
s.210 Local Government Act 1972	In respect of powers with regard to charities	Director for Communities	Head of Wellbeing
s.225 Local Government Act 1972	Deposit of documents in accordance with Standing Orders of either House of Parliament, Enactment or Statutory Instrument	Monitoring Officer	Senior Solicitor(s)
s.248 Local Government Act 1972	To keep the roll of Freeman of City or Town in District	Chief Executive	Director for Communities
<a href="#">ss.69, 70-71 Data Protection Act 2018</a>	<a href="#">Designated Data Protection Officer</a>	Senior Information Governance Officer	
Any other provisions for which arrangements are not specifically made under this Scheme of Delegation	Any other legislation whether made before or after this list was approved and requiring a Proper Officer or authorised officer where not otherwise stated in the Council's approved scheme of delegations from time to time	Chief Executive	
<b>Functions in relation to Entry of Land/Premises</b>			
The Chief Executive, Directors, Head of Legal Services, Senior Solicitors, Solicitors, Senior Legal Executives, Legal Executives and Emergency Planning Officer shall be authorised to enter land or premises in relation to any function of the Council, subject to any applicable statutory constraints.			
In addition to the powers delegated in Section 3 above, the following Officers in column 4 are authorised to enter land or premises for or in connection with their duties and pursuant to the functions mentioned in column 3, subject to any applicable statutory constraints.			
An Officer authorised to enter land is also authorised to seek a warrant to enter.			
An Officer authorised to enter land may take with them such other persons and equipment as may be necessary.			
The right to enter given by paragraph 4.7 shall extend to the exercise of the power to make inspections, to provide samples and to examine and seize goods.			
<b>Environmental Health, Housing etc.</b>			
<b>Act</b>	<b>Function</b>	<b>Officer</b>	<b>Deputy</b>
	Animal Welfare Caravan Sites Environmental Protection Food Safety and Hygiene Health and Safety at Work Housing	Director for Communities and such others as shall be delegated in writing by them from time to time	Head of Wellbeing

	Licensing Act 2003 Pest Control Public Health Public Safety Scrap Metal Dealers Shop Acts Street Trading Sunday Trading Gambling Act 2005 Animal Boarding Licences Pet Shops The Breeding of Dogs Zoo Licensing Sex Establishments Hypnosis Dangerous Wild Animals Act 1976 Riding Establishments Act 1964 and 1970 Drainage including s.59 Building Act 1984		
<b>Planning</b>			
ss.178, 196A, 196B, 324 & 325 Town and Country Planning Act 1990		Director for Economy/Director for Communities, as appropriate Planning Services Manager	
s.88 Planning (Listed Buildings and Conservation Areas) Act 1990		Development Control Manager Principal Planning Officers Senior Planning Officers	
s.36 Planning (Hazardous Substances) Act 1990		Planning assistants Senior Enforcement Officer Enforcement Assistant	
Part 8 Anti-Social Behaviour Act 2003		Director for Communities Planning Services Manager Development Control Manager Principal Planning Officers Senior Planning Officers Planning assistants Senior Enforcement Officer Enforcement Assistant Senior Technical Officer (Parks)	
<b>Building Control</b>			
s.95 Building Act 1984	General power of entry in relation to building regulations	Head of Building Control and Land Charges Principal Building control Surveyor Senior Building control surveyor Building control surveyor Fire Safety Officer	
<b>Local Taxation</b>			
	Collection of Local Taxes	Director for Digital, Sustainability and	

		Resources, Head of Revenues and Benefits, Revenues and Recovery Inspector/Collectors	
<b>Land Drainage and Sewerage Undertaking</b>			
Water Industry Act 1991		Principal Engineer Senior Engineer	
Land Drainage Act 1991			

## Joint Councils Contract Standing Orders

### 1. Standing Order 1

#### 1.1. Introduction and Purpose

These Contract Standing Orders (CSO) are applicable to all the Council's Officers (and its appointed consultants) when procuring contracts for works, services and goods. They provide a legal framework to ensure a uniform and transparent approach to procurement, and enable the Council to achieve best value for money.

#### 1.2. Creating a Contract

A contract is created where there is an offer, acceptance, consideration and a legal intention between the parties; where these criteria exist a contract can be created orally or in writing. Officers entering into pre-contract negotiations with a Supplier, should declare all communications whether by telephone or by email to be 'subject to executed contract'. For the form of contract see CSO 12.1.

#### 1.3. Pre-procurement considerations

##### 1.3.1 Request for Quote or Tender

A request for quotation (RFQ) is the process used by Officers who know what they want and are seeking pricing information to achieve best value, for a defined scope of work, services, or goods. An RFQ can be used providing the value is below £100,000 (inclusive of VAT) and the processes set out at CSOs 8, 9 and 10 are followed.

An invitation to tender (ITT) is used when the Council wants to invite suppliers to bid on the delivery of works, services or goods and enables the Council to evaluate additional criteria such as the supplier's technical solutions, delivery methodology, skill sets, as well as quality and price. See CSOs 8.3 and 8.4.

##### 1.3.2 Assessing the total Contract Value

Prior to procuring, Officers must assess the total contract value of their contract. The Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2021 and [PPN 10/21](#), require the total value of all public contracts to be calculated including VAT, although the Council is generally able to recover the VAT element of a contract payment.

The total contract value includes the whole life-cycle cost, including any recurring revenue or capital expense, as well as all one-time charges including professional service fees, onboarding and exit fees.

Where the Council is procuring on behalf of other public bodies as well as itself, then the contract value shall be determined as the combined sum for all public bodies even if our Council is only paying one part of the overall cost.

Where the contract is procured in "lots", e.g. based on geographical area or by particular type of requirements, then the contract value shall be the total value of all the combined lots.

##### 1.3.3 Budget

Officers must ensure that they have a sufficient and approved budget in place prior to commencing the procurement project. If the contract involves the supply of assets under lease finance arrangements, the Lease must be signed off by the Chief Financial Officer or their appointed deputy.

#### **1.3.4 Authority**

Officers must have Member Authority to enter into the contract (see CSO 2). The type of Member authority required will depend upon the value of the contract, and whether or not budget is already in place. If in doubt, Officers should take advice from the Council's Legal, Finance, or Procurement Services.

#### **1.3.5 Decisions Pathway**

In addition to the requirement for budget and authority, Officers must consider good governance and the decision making process and always make sure that they have taken advice from Democratic or Legal Services. A Member or Officer Decision notice will need to be published prior to your contract, and any delay in following the decisions pathway will delay the execution of the contract.

Some decisions will also be a [Key Decision](#) and will require additional information to be placed on the forward plan for a minimum of 28 days prior to the publication of a decision notice.

#### **1.3.6 TUPE Transfers**

Where the Council outsources services and re-procures for those services, TUPE may apply to that procurement with eligible staff being able to transfer from the outgoing service provider to the incoming service provider. Sufficient information (compliant with data protection legislation) will need to be included in the procurement process with an assessment of the cost impact on the incoming supplier. If in doubt, always contact Legal Services and Human Resources for advice.

#### **1.3.7 Council Policies**

Depending upon the nature of the procurement, the Council may require the contractor to adopt or mirror certain policies during contract performance. Specific provisions may need to be built into the contract documents e.g. additional clauses, Health and Safety, Safeguarding, or Data Protection where personal data may be transferred.

#### **1.3.8 Reserving below threshold procurement by Location, SME, VCSEs**

Below threshold procurements can be reserved by supplier location, or for suppliers that are Small and Medium sized Enterprises (SMEs); or for Voluntary, Community and Social Enterprises (VCSEs) as enabled by the Cabinet Office [PPN 11/20](#), for the benefit of local businesses and communities.

These options should be considered on a case-by-case basis, and can be exercised on their own or together. For example, Officers may wish to reserve a procurement for suppliers based in a particular location as well as for SMEs and VCSEs, or may choose to reserve to location only or to SMEs only.

Reserving by location could also be UK-wide to support domestic supply chains and promote resilience and capacity, or where appropriate, by county to tackle economic inequality and support local recruitment, training, skills and investment. Where a county reservation is to be applied, only a single county (or borough for London) may be reserved. Supplier location should be described by reference to where the supplier is based or established and has substantive business operations and not by location of corporate ownership.

Any requirement to reserve the procurement under this CSO must follow up to date Cabinet Office guidance, and must be clearly set out in the tender documents, using the standardised definitions of SME/VCSE and supplier location outlined in the associated guidance.

#### **1.3.9 Financial Thresholds (inclusive of VAT)**

**All figures referred to in these CSO are inclusive of VAT.**

The following table provides VAT exclusive figures for the financial thresholds within these CSOs.

Thresholds inclusive VAT	Thresholds exclusive VAT	VAT
£5,000.00	<b>£4,166.67</b>	£333.33
£10,000.00	<b>£8,333.33</b>	£1,666.67
£25,000.00	<b>£20,8333.33</b>	£4,166.67
£100,000.00	<b>£83,333,33</b>	£16,666.67
£250,000.00	<b>£208,333.33</b>	£41,666.67

Public Procurement Thresholds as of 1<sup>st</sup> January 2022 (always check the thresholds as they are subject to change).

Category	Thresholds inclusive VAT	Thresholds exclusive VAT	VAT
Goods and Services	£213,477.00	<b>£177,897.50</b>	£35,579
Works	£5,336,937.00	<b>£4,447,447.50</b>	£889,489.50

How to calculate a figure inclusive of VAT – (for a VAT rate of 20%) Divide the VAT inclusive figure by 1.2% to find the figure less VAT

### 1.3.10 Procurement Procedures Chart

Total Value (inclusive of VAT)	Procurement Route	Receipt of Quotes/Tenders	Delegated Authority for Contract Approval and Award	Method of Contract Completion	Transparency Code Obligations
Up to £25,000 (unless CSO 5.2 applies)	Two written quotations or if impractical one quote with evidence of value for money	Via post or email to department by Head of Service or appointed deputy	Head of Service	Signature and/or purchase order raised	Publish details of all contracts over £5,000 in Council's Contracts Register
From £25,000 up to but not including £100,000	Three written quotations or tenders. Opportunity (open) to be published on Contracts Finder	Quotes/Tenders submitted via portal and electronically opened after closed date and time has passed. Evaluated by a minimum of two officers	Head of Service	Signed by one Council officer with Authority	Advertise an opportunity on Contracts Finder. Publish details of the Contract Award on Contracts Finder. Complete the Council's Contracts Register
From £100,000 up to but not including the public procurement thresholds	Advertise Open invitation to tender (ITT) on the Council's portal and Contracts Finder. Other media can also	Tenders submitted via portal and electronically opened once closing date and time has passed. Evaluated by a	Where provision has been made in the approved budget. For contracts below	Below £250,000 signed under hand by one authorised Officer; £250,000 or greater	Advertise the opportunity on Contracts Finder. Publish details of the Contract Award on Contracts

	be used. Unless the exemption to the Open process in CSO 5.5 applies	minimum of two officers	£250,000, in consultation with Executive Members. For contracts of £250,000 or more, with Executive Member authority pursuant to delivery of an Executive Member Report	sealed and signed by one authorised Officer (witnessed as required) or signed by two authorised Officers	Finder. Complete the Council's Contract Register
From the Public Procurement Threshold and above	Advertise relevant Procurement Procedure by on the Council's portal. Advertise on Contracts Finder and Find a Tender system. Other media may also be used	Tenders submitted via Council's portal and electronically opened once closing date and time has passed. Evaluated by a minimum of two officers	Executive Member, Executive, or relevant Committee	Sealed and signed by one authorised Officer (witnessed as required) or signed under hand by two authorised Officers	Advertise all tenders on FTS and then Contracts Finder. Publish details of Contract Award on Find a Tender. Complete the Council's Contracts Register

#### 1.4. Incorporating Social Value in all procurement procedures

- 1.4.1. For all above threshold contracts, social value and the ability to improve the economic, environmental and social wellbeing of the Council's area is mandatory and must be given not less than 10% of the total evaluation score.
- 1.4.2. For below threshold procurements social value must be considered, and incorporated, where the social value requirements are related and proportionate to the subject matter of the contract.
- 1.4.3. Examples of what can be incorporated as social value are set out in the table below.

##### 1.4.4. Social Value Themes and Outcomes examples

1.4.5. (Procurement Policy Note – Taking Account of Social Value in the Award of Central Government Contracts Action Note [PPN 06/20](#) September 2020)

Themes (for social value)	Policy Outcomes (what can be achieved)	Delivery objectives - what good looks like (consider for evaluation criteria)
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COVID-19 recovery	Help local communities to manage and recover from the impact of COVID-19	<p>Activities that, in the delivery of the contract:</p> <ul style="list-style-type: none"> <li>- Create employment, re-training and other return to work opportunities for those left unemployed by COVID-19, particularly new opportunities in high growth sectors.</li> <li>- Support people and communities to manage and recover from the impacts of COVID-19, including those worst affected or who are shielding.</li> <li>- Support organisations and businesses to manage and recover from the impacts of COVID-19, including where new ways of working are needed to deliver services.</li> <li>- Support the physical and mental health of people affected by COVID-19, including reducing the demand on health and care services.</li> <li>- Improve workplace conditions that support the COVID-19 recovery effort including effective social distancing, remote working, and sustainable travel solutions.</li> </ul>
Tackling economic inequality	Create new businesses, new jobs and new skills	<p>Activities that, in the delivery of the contract:</p> <ul style="list-style-type: none"> <li>- Create opportunities for entrepreneurship and help new, small organisations to grow, supporting economic growth and business creation.</li> <li>- Create employment opportunities particularly for those who face barriers to employment and/or who are located in deprived areas.</li> <li>- Create employment and training opportunities, particularly for people in industries with known skills shortages or in high growth sectors.</li> <li>- Support educational attainment relevant to the contract, including training schemes that address skills gaps and result in recognised qualifications.</li> <li>- Influence staff, suppliers, customers and communities through the delivery of the contract to support employment and skills opportunities in high growth sectors.</li> </ul>
	Increase supply chain resilience and capacity	<p>Activities that:</p> <ul style="list-style-type: none"> <li>- Create a diverse supply chain to deliver the contract including new businesses and entrepreneurs, start-ups, SMEs, VCSEs and mutuals.</li> <li>- Support innovation and disruptive technologies throughout the supply chain to deliver lower cost and/or higher quality goods and services.</li> <li>- Support the development of scalable and future-proofed new methods to modernise delivery and increase productivity.</li> <li>- Demonstrate collaboration throughout the supply chain, and a fair and responsible approach to working with supply chain partners in delivery of the contract.</li> <li>- Demonstrate action to identify and manage cyber security risks in the delivery of the contract including in the supply chain.</li> <li>- Influence staff, suppliers, customers and communities through the delivery of the contract to support resilience and capacity in the supply chain</li> </ul>
Fighting climate change	Effective stewardship of the environment	<p>Activities that:</p> <ul style="list-style-type: none"> <li>- Deliver additional environmental benefits in the performance of the contract including working towards net zero greenhouse gas emissions.</li> <li>- Influence staff, suppliers, customers and communities through the delivery of the contract to support environmental protection and improvement.</li> </ul>



Equal opportunity	Reduce the disability employment gap	Activities that: - Demonstrate action to increase the representation of disabled people in the contract workforce. - Support disabled people in developing new skills relevant to the contract, including through training schemes that result in recognised qualifications. - Influence staff, suppliers, customers and communities through the delivery of the contract to support disabled people.
	Tackle workforce inequality	Activities that: - Demonstrate action to identify and tackle inequality in employment, skills and pay in the contract workforce. - Support in-work progression to help people, including those from disadvantaged or minority groups, to move into higher paid work by developing new skills relevant to the contract. - Demonstrate action to identify and manage the risks of modern slavery in the delivery of the contract, including in the supply chain.
Wellbeing	Improve health and wellbeing	Activities that: - Demonstrate action to support the health and wellbeing, including physical and mental health, in the contract workforce. - Influence staff, suppliers, customers and communities through the delivery of the contract to support health and wellbeing, including physical and mental health.
	Improve community integration	Activities that: - Demonstrate collaboration with users and communities in the co-design and delivery of the contract to support strong integrated communities. - Influence staff, suppliers, customers and communities through the delivery of the contract to support strong, integrated communities.

## 2. Standing Order 2: Authorisation to Contract

- 2.1.1 The Director, Heads of Service or their delegated nominee shall have authority to enter into contracts provided that:
- 2.1.2 There is sufficient approved revenue or capital budget to fund the proposed contract throughout its duration (see CSO 1.3.2 and 1.3.3);
- 2.1.3 That the processes under these CSO have been followed correctly;
- 2.1.4 That the Procurement Department has been consulted in advance for contracts over £25,000 (inclusive of VAT);
- 2.1.5 That Member authority has been obtained (this may be from the Joint Strategic Committee; Executive Members for the particular service; or under a delegated authority).
- 2.1.6 The contract formalities have been compiled with at CSO 12;
- 2.1.7 That the Decisions Pathway has been followed (see CSO 1.3.5).

## 3. Standing Order 3: Special Circumstances and Emergencies

- 3.1 This CSO cannot be used for a contract that is over the public procurement threshold. For urgent contracts over the threshold Officers would need to consult with the Monitoring Officer and the Chief Executive Officer.

- 3.2** A 'Special Circumstance' or 'Emergency' is defined as a situation which poses an immediate risk to Council services or the wellbeing of residents, for which urgent action is needed and which cannot be dealt with using the Councils usual processes and procedures.
- 3.3** Exemption from any of the provisions of these Standing Orders may only be made as follows:
- 3.3.1** For contracts under £100,000 (inclusive of VAT) approval must be sought from the Monitoring Officer and the s151 Finance Officer and the Director for Service should publish an Officer Decision Notice;
- 3.3.2** For contracts over £100,000 (inclusive of VAT) and below the Public Procurement Threshold the Monitoring Officer, the s151 Finance Officer must approve the award and the Director for Service (or their delegated nominee) must consult with appropriate Executive Members or their Leader, (or the Joint Strategic Committee) who must be satisfied that the matter is Urgent or is a Special Circumstance having regard to the above definition, and if so satisfied, a direct award under this CSO exemption will be authorised.
- 3.3.3** Where the exemption at 3.3.2 is so authorised, the Director for Service or their delegated nominee must ensure that:
- a) An Officer Decision awarding the contract is recorded by Democratic Services on the Decisions Pathway and/or in the minutes of the Committee giving the approval and the rules relating to Key Decisions in the Access to Information Rules are followed; and
  - b) Unless committee approval is already obtained, the use of this CSO is to be reported as soon as practicable to the next Joint Strategic Committee following the consultation with the Executive Members and the publication of the Officer Decision.
  - c) If it is impracticable for the Director or their delegated nominee to consult with the relevant Members, then the Director shall, when submitting the report to the next Joint Strategic Committee to explain the emergency, additionally give reasons as to why the Director was not able to consult with the relevant Members at the time.
- 3.4** Advice should always be taken from the Monitoring Officer and Democratic Services as to the requirement to make any public notice in the Forward Plan of Key Decisions/28 Day Notice.
- 3.5** For the avoidance of doubt, recruitment of temporary or agency staff to cover sickness or vacancies is included under this CSO.

#### **4. Standing Order 4: Publishing Contract Notices**

##### **4.1 Publishing a Contract Opportunity Notice**

- 4.1.1.** The Council advertises a contract opportunity when it carries out an open invitation to tender (ITT) or open request for quotation (RFQ) for a contract with a value of, or greater than £25,000 (inclusive of VAT).  
**Open** means that the opportunity is advertised to all suppliers whether nationally or within a geographic location and in these circumstances the contract must be published on the UK's National Contracts Finder website.

Where the Council advertises a contract opportunity it shall publish the information on the UK National Contracts Finder website within 24 hours of the time when it first advertises the

contract opportunity on the Council's portal, see Regulation 110 (3) Public Contract Regulations 2015.

- 4.1.2. The Council does not advertise an opportunity (and shall not be required to publish an opportunity on UK National Contracts Finder) where it carries out a closed ITT or closed RFQ process and only makes the opportunity available to a number of particular suppliers who have been selected for that purpose (whether ad hoc or by virtue of their membership of some closed category such as a framework agreement or DPS) and regardless of how it draws that opportunity to the attention of those suppliers.
- 4.1.3. A regular report presenting information from the Contracts Register shall be presented to the Council's Procurement Working Group by the Director for Service or their nominated representative identifying all those contracts due to expire and the proposed action to be taken. The report identifying these contracts should be presented in a timely fashion to allow for sufficient time to re-procure, if necessary.

If you need guidance on publishing a contract opportunity, always seek advice from the Procurement Department or Legal Services.

## 4.2 Publishing a Contract Award Notice

- 4.2.1. UK National Contracts Finder - Cabinet Office [PPN09/21](#) requires Officers to publish a Contract Award Notice for all contracts with a value of, or greater than, £25,000 (inclusive of VAT) regardless of how the contract was procured and whether or not a contract opportunity was advertised. The Notice must be published within 90 calendar days from the date of completion.
- 4.2.2. Officers are responsible for notifying the Procurement Department when a Contract Award Notice is to be published and must provide all information required for the award notice to the Procurement Department.
- 4.2.3. The Council's Contracts Register - in addition to the requirement to publish on UK National Contracts Finder, a Council Contract Register for all contracts of, or greater than, £5,000 (inclusive of VAT) shall be kept and maintained by the Council's Procurement Department on behalf of the Director for Digital, Sustainability and Resources. The Register shall be open to inspection by any Member of the Council or public.
- 4.2.4. All Officers completing contracts over £5,000 (inclusive of VAT) are responsible for providing the following information (as appropriate) to the Council's Procurement Department to ensure the Contracts Register is kept up to date:
  - a) Contract Reference Number
  - b) Title of Agreement
  - c) Department Responsible
  - d) Description of Contract
  - e) Contract Start Date
  - f) Contract End Date
  - g) Contract Extension period (if applicable)
  - h) Contract Review Date
  - i) Contract Value
  - j) Irrecoverable VAT
  - k) Supplier Name
  - l) Supplier Type (legal standing of the organisation)
  - m) Procurement process used

## **5. Standing Order 5: Financial Limits and Procedures**

### **5.1 Contracts for a value up to but not including £25,000 (inclusive of VAT)**

- 5.1.1. For purchases up to (but not including) £25,000 (inclusive of VAT), two written quotes are to be obtained. Where it is impracticable to obtain two written quotes due to the specialist nature of supply, one quote can be obtained providing there is written record that value for money has been considered, and the quote represents value for money.
- 5.1.2. A written contract is required (see CSO 12). Any Finance Lease or Finance arrangement, must also be checked in advance by Financial Services.
- 5.1.3. Contracts under CSO 5.1 do not need to be signed by Legal Services and can be signed by an Officer with sufficient budget, authority and has followed the Decisions Pathway (see CSO 1.3.5).

### **5.2 Exemption from Obtaining Two Written Quotes**

- 5.2.1. Where the proposed purchase is for works, goods or services is below £5,000 (inclusive of VAT) and the purchase is for reactive maintenance and minor works to Council buildings or structures within the Council's ownership and responsibility, the procuring officer need only obtain one written or oral quote.
- 5.2.2. Use of the exemption at clause 5.2.1 is to be monitored. Where the aggregate value of the contracts reactive maintenance and minor works with any one supplier reaches £25,000 (inclusive of VAT) in the aggregate or in any four year period, then the procuring officer will obtain two quotes prior to any further instruction to the same supplier to ensure value for money.
- 5.2.3. In the event the aggregate spend has reached £25,000 (inclusive of VAT) and the procuring officer has obtained two quotes to ensure value for money as required by CSO 5.2.2, if the same supplier has provided the most economically advantageous quote, the procuring officer may re-apply the procedure at clause 5.2.1 up to a further spend of £25,000 (inclusive of VAT) for reactive maintenance and repairs.

### **5.3 Contracts for a value of £25,000 (inclusive of VAT) up to but not including £100,000 (inclusive of VAT)**

- 5.3.1. Where the estimated value of a contract is from and including £25,000 (inclusive of VAT) but below £100,000 (inclusive of VAT), the Director or their delegated nominee is to obtain three written quotes or carry out a tender process. The Procurement Department can advise on the most appropriate route.
- 5.3.2. Unless the exemption at CSO 5.4 applies to this CSO, all quotations and tenders must be published on the Council's e-portal.
- 5.3.3. All quotes or tenders pursuant to this CSO shall be invited and received through the e-portal in accordance with CSO 9.
- 5.3.4. Quotes or tenders should only be evaluated in accordance with the criteria stated by the Council in the original RFQ or ITT documentation. The evaluation process and reasons for the evaluation decision should be clearly documented and retained on file. If in doubt, seek

advice from the Procurement Department.

#### **5.4 Exemption to Obtaining Three Quotes or Tenders**

**5.4.1** Where in the opinion of the relevant Director, Head of Service, or their delegated nominee, it is impracticable to follow the procedure set out at CSO 5.3, due to the specialist nature of supply or the nature of any warranty that exists, then an exemption to obtaining three quotes will apply providing the reasoning for reaching the decision to use the exemption is recorded by the relevant Officer and approved by Legal, Finance, and Procurement Services in advance of the contract.

#### **5.5 Contracts for a value of £100,000 (inclusive of VAT) up to but not including the Public Procurement Threshold**

**5.5.1** Where the estimated value of the contract is from £100,000 (inclusive of VAT) but below the procurement threshold, the Director for Service or their delegated nominee shall follow an open tender process unless the exemption to **the open** process at 5.6 applies.

**5.5.2** For below threshold contracts, an open process can be reserved by supplier location; small and medium sized enterprises (SMEs); voluntary and community groups and Social Enterprises (VCSEs). See CSO 1.3.8.

**5.5.3** An open procedure under this CSO requires the publication of:

- a. A notice on the Council's Portal;
- b. A contract opportunity notice on Contracts Finder within 24 hours of the publication on the Portal. The contract opportunity notice will be automatically created through the Portal using the information provided.

**5.5.4** In addition to the mandatory notices, Officers may consider giving notice of the procurement in a local publication, trade journal and/or on the Council's web site.

**5.5.5** Instead of an open procurement a Framework Agreement may be used see CSO 7.1 and 7.2. When using a framework or a dynamic purchasing system there is no need to publish a contract opportunity notice on National Contracts Finder.

#### **5.6 Exemption to the Open Process**

**5.6.1** This exemption is only to be used in limited circumstances where approval is obtained from the Chief Financial Officer and the Head of Legal Services.

**5.6.2** An Open Process need not be followed, nor will a contract opportunity notice need to be published on National Contracts Finder, if it has been agreed by the Chief Financial Officer and Head of Legal Services that the invitation to tender is to be made available to only a limited number of suppliers who have been selected for the purpose. In such circumstances, the tender process should invite a minimum of five tenderers unless the Chief Financial Officer and Head of Legal Services agree that it is impractical to do so.

### **6. Standing Order 6: Above Threshold Procurements**

#### **6.1 Tendering Procedures**

**6.1.1.** When awarding public contracts, the Council shall apply one of the following procedures, always contact the Procurement Department for advice on the appropriate procedure:

### 6.1.2. Open Procedure

In which all interested suppliers may respond to the advertisement published on the Council's Portal and the UK Find a Tender website by submitting a tender for the contract.

### 6.1.3. Restricted Procedure

The Council will publish a qualitative selection questionnaire and only those tenderers that pass the selection are invited to submit a tender for the contract.

### 6.1.4. Competitive Dialogue Procedure (for developing solutions in dialogue)

A qualitative selection is made of those who respond to the advertisement and the contracting authority enters into dialogue with potential bidders, to develop one or more suitable solutions for its requirements and on which chosen bidders will be invited to tender.

### 6.1.5. Competitive Procedure with Negotiation (for improving bidders' offers)

A qualitative selection is made of those who respond to the advertisement. The Council may then open negotiations with the tenderers to seek improved offers and evaluate modified tender responses.

### 6.1.6. Innovation Partnership Procedure (for developing innovative solutions)

A qualitative selection is made of those who respond to the advertisement and the contracting authority uses a negotiated approach to invite suppliers to submit ideas to develop innovative works, supplies or services aimed at meeting a need for which there is no suitable existing 'product' on the market. The contracting authority is allowed to award partnerships to more than one supplier.

## 6.2 Maintaining a Record of the Procurement Process

6.2.1. Whichever above threshold procedure is to be used the procuring Officer must keep a Regulation 84 Report detailing each step of the procurement. The Report should be ongoing and specify:

- a) What process was used;
- b) Which stage has been reached;
- c) The names of selected and rejected tenderers;
- d) how the tenderers were evaluated and why;
- e) reasons for selection and rejection;
- f) details of any known subcontractors;
- g) circumstances justifying the use of the tender procedure chosen;
- h) conflicts of interest identified and action taken;
- i) all details specific to negotiation or dialogue with the supplier.

6.2.2. The Procurement Department will provide a template for the Report and it is the Officer's responsibility to ensure the Report is kept up to date.

6.2.3. These mandatory Regulation 84 Reports may be fully disclosable in any procurement challenge, or may also be requested by a Cabinet Office Minister. Officers should not disclose any information from the Report, without first obtaining legal advice.

6.2.4. The Report is not required for contracts under a framework agreement.

6.2.5. For contracts below threshold the Regulation 84 Report is not mandatory, but it is deemed good practice for Officers to keep a Report for reasons of transparency.

## **7. Standing Order 7: Frameworks, Dynamic Purchasing Systems and Consortia Organisations**

### **7.1 Framework Agreements**

A Framework Agreement is a collective of suppliers that have already tendered through a compliant procurement process, and have been selected (on quality and cost criteria) for their ability to provide either works, goods or services to the Council. The Framework will enable the Council to hold a mini-competition to obtain best value, or it will enable a direct call-off to a single supplier.

The Framework Agreement has established call-off contract terms to be used between the Council and the Supplier, and there will be Framework rules and guidance on how to use the Framework and what amendments if any can be made to the call-off terms.

### **7.2 Dynamic Purchasing Systems (DPS)**

The DPS is similar to a Framework Agreement but new suppliers can apply to join at any time providing they meet the DPS criteria. A mini competition must always be held with the DPS.

### **7.3 Consortia Procurements**

Consortia bidding is the term used to describe the situation where a number of economic operators come together to submit a bid for a contract in a procurement process and could be a useful process for major projects requiring a mix of professional skills.

## **8. Standing Order 8: Preparation of the Procurement Documents**

### **8.1 Request for Quotation and Specification Documents**

- 8.1.1.** The Request for Quotation (RFQ) - Officers must ensure that they are using the most current version of the RFQ document which has been approved by the Procurement Department as it contains necessary protections to the Council during the RFQ process.

The RFQ document can be varied from being 100% price based or can be reviewed on a combined price and quality assessment. The Procurement Department can give a guidance on using and completing the RFQ.

- 8.1.2.** The Specification accompanies the RFQ and must clearly and concisely set out the Officer's needs, having regard to the nature of the works goods or services to be procured.
- 8.1.3.** Contract Terms and Conditions - it is preferable for each RFQ to attach the Council's terms and conditions of contract which are appropriate to the nature of the works, goods or services being procured. Officers will need to contact legal services in advance of publishing the RFQ for advice on contract terms and conditions.

### **8.2 Invitation to Tender and Specification Documents**

- 8.2.1. The Invitation to Tender (ITT)** - Officers must ensure that they are using the most current version of the ITT document which has been approved by the Procurement Department as it contains necessary protections to the Council during the tender process. The Procurement Department can give a guidance on completing the ITT.

In all cases, every invitation to tender shall include the following:

- a) A statement that the tendering process will be conducted through the Council's Portal;
- b) Full instructions on how to submit a tender to this system;

- c) The deadline for submission of tenders to this system;
- d) A Tender submission schedule which contains:
  - FOI Exemption Form
  - Form of Tender
  - Collusive Tendering Certificate
  - Mandatory and Discretionary Exclusion Grounds
  - Supplier's selection questionnaire
- e) The ITT shall also include the evaluation criteria against which the tenderers will be scored and the weighting (or score) to be applied to each criterion with an explanation of the scoring mechanism. All criteria must be capable of being objectively assessed, clear and concise. Criteria will include price (which usually carries a score of not less than 30%) and Social Value (with a score of 10%). The remaining criteria (60%) usually address the quality of the goods works or services to be delivered. Please see CSO 8.3 for example evaluation criteria.

- 8.2.2.** Fully detailed Specification - Officers must ensure that they have a fully detailed specification setting out exactly what it is the Council wants to purchase which provides all specific and technical requirements.
- 8.2.3.** Contract Terms and Conditions - Each ITT is to attach an appropriate form of contract as approved by Legal Services.

### **8.3 Establishing the Most Economically Advantageous Tender (MEAT) or other approved Assessment**

- 8.3.1.** The criteria for considering MEAT must:
  - a) Be agreed in advance and applied equally to all tenders;
  - b) Be relevant and appropriate to the subject matter of the tender;
  - c) Be objectively identifiable capable of being objectively scored;
  - d) Not be anti-competitive or capable of distorting competition;
  - e) Be listed in a decreasing order of importance having regard to the weightings attributed to them starting with the highest scoring criteria first.
- 8.3.2.** Weighting must be given to each criterion used, which reflects the importance of each element of the contract.
- 8.3.3.** Where any weighted criterion has sub-criteria to be considered this must be disclosed in advance in the ITT and relevant sub-weightings attributed to the sub-criteria.
- 8.3.4.** Price must be a criterion and normally must have a weighting of not less than 30%. Where the award requires adopting a price weighting of less than 30%, this will need to be justified to, and agreed with, the Procurement Department.
- 8.3.5.** Social value is to be given a weighting of not less than 10% unless the Procurement Department agrees otherwise.
- 8.3.6.** The remaining criteria used must reflect the quality and available social value of the purchase, and be broken down appropriately to consider all aspects of required quality appropriate for the tender.

*An example evaluation scoring could be 30% price, 60% quality and 10% social value totalling 100%. Quality and Social Value would most likely have sub-criteria with their total weightings not exceeding 60% and 10% respectively.*



#### **8.4 Examples of criteria for establishing MEAT:**

- 8.4.1.** Costs - the whole lifecycle cost should be evaluated - see CSO 1.3.2
- 8.4.2.** Social value - for Social Value criteria - see CSO 1.4
- 8.4.3.** Quality - Examples include: technical and professional merit, aesthetic and functional characteristics, environmental characteristics, service delivery, after-sales service and technical assistance, customer service and support, contract mobilisation, implementation and management, experience, and risk management.

#### **9. Standing Order 9: Using e-Procurement Portal**

##### **9.1 Publishing and Accepting Quotations and Tenders on the Portal**

- 9.1.1.** Unless the exemption at paragraph 9.2 below applies, all requests for quotations (RFQ) and invitations to tenders (ITT) are to be published and accepted on the Council's portal.
- 9.1.2.** All quotations and tenders will be stored electronically by the portal in a secure inbox until opened after the deadline.
- 9.1.3.** Officers must ensure bids received are compliant by checking that the appropriate information detailed in the RFQ/ITT documents is completed and submitted by suppliers as requested in those documents.
- 9.1.4.** Bidders must return their submissions on or before the deadline set out in the RFQ/ITT documents. Submissions returned after the time and date must be rejected by the Council, although the Council may extend the deadline for a late submission if there is evidence available to demonstrate that the bidder has made an attempt to submit to the portal before the expiration of the deadline, or if an extension is afforded to all those bidding. All information regarding quotations or tenders received, their submission date, time and their opened date and time will be stored by the system.

##### **9.2 Exemption to publishing on the Council's Portal**

- 9.2.1.** For below-threshold procurements, where the Head of Legal Services and the Chief Financial Officer agree that due to the specialist nature of the supply it is impractical for potential suppliers to be asked to quote or tender using the portal (i.e. due to a lack of technical knowledge and experience or availability) then the quotes or tenders can be obtained as set out below:
  - a) The Director or their delegated nominee shall obtain at least three **sealed** written quotes or **sealed** tenders from persons or bodies who in the opinion of the Director or their delegated nominee are capable of performing the contract.
  - b) An agreed form of standard contract should be used and Legal Services should be instructed in advance of the procurement.
  - c) All quotes and tenders received pursuant to this CSO shall either be opened by electronic means or if written sealed quotes or sealed tenders in the presence of the Director for Service and a Procurement Officer.
  - d) The Head of Service or their delegated nominee shall then have delegated authority to accept such a quote or tender, but in the case of a quote other than the lowest, then the Head of Service must establish MEAT as set out in CSO 8.3.
  - e) Details of the quotes or tenders received and how the successful contractor was chosen should be submitted to the Procurement Department for approval for all

contracts.

- 9.2.2.** Where this exemption applies the procuring officer must still comply with any requirement to publish the contract award notice on Contracts Finder and on the Council's contracts register.

## **10. Standing Order 10: Evaluation and Notifications to Bidders**

### **10.1 Evaluation of Quotations and Tenders**

- 10.1.1.** The members of an evaluation panel should be carefully considered and all members must declare any conflicts of interests in the procurement and its outcome prior to commencing any evaluation.
- 10.1.2.** Members of the evaluation panel should only receive that part of the tender response which they are required to score. This prevents undue influence on the scoring of their specified section.
- 10.1.3.** Submissions must be evaluated objectively and strictly in accordance with the criteria stated in the original request for quotation (RFQ) or invitation to tender (ITT) and in compliance with the Public Contract Regulations 2015 or other relevant legislation.
- 10.1.4.** The evaluating panel members must clearly document and record the reasons for their decision and any other relevant matter arising during the evaluation. Where the tender process is above threshold, panel members must continue to keep this information up to date see CSO 6.2 (Maintaining a Record of the Procurement Process).
- 10.1.5.** Unless seeking an RFQ based on price only, the award must be based on the most economically advantageous tender (MEAT) which uses a cost-effective approach for price/quality ratio, offering best price (which will not necessarily be the lowest price). Or, if approved by the Procurement Department, another recognised evaluation assessment method (see CSO 8.3 MEAT or other Approved Assessment).
- 10.1.6.** A tenderer's submission may not be altered after the time and date specified for the return of tenders. If an error in the submission is discovered, the tenderer shall be given the opportunity to confirm or withdraw the tender as it is submitted. If, in the opinion of the Head of Finance, there are exceptional circumstances, a tenderer may be allowed to correct any arithmetical error in the tender or clarify its tender, but not add to or enhance it.

### **10.2 Notification to Unsuccessful Bidders**

- 10.2.1.** Following an evaluation of a request for quotation or an invitation to tender, the procuring officer will ensure that they liaise with the Procurement Department to ensure that all bidders are simultaneously notified in writing through the Council's portal with the evaluation outcome by providing the information below. Supplying the following information is mandatory for above-threshold tenders and for below-threshold tenders is good transparent practice:
- a) The tender evaluation criteria;
  - b) The reasons for the decision, including the characteristics and relative advantages of the successful tender;
  - c) The evaluation scores of the tenderer receiving the notice and the scores of the successful tenderer;

- d) The reasons (if any) why the tenderer did not meet the technical specification and/or the areas where the tenderers submission was weaker than that of the successful tenderer;
- e) The name of the tenderer(s) to be awarded the contract
- f) A statement on the date the standstill period is expected to end (see 10.6 Standstill Period).

### **10.3 Notification to Successful Bidders**

**10.3.1.** Successful tenderers will be sent a Notification of an Intention to Award Letter, which will usually be subject to a ten day standstill period (see 10.4). Officers must ensure that they do not create a binding contract with the supplier until the contract has been finalised and executed. This is in keeping with the request for quotation or invitation to tender, which confirms the Council will not be bound until the contract is executed.

### **10.4 Standstill Period**

**10.4.1. Above Threshold** - The standstill period must run for a minimum of 10 calendar days commencing the day after the notice was emailed to the tenderer and expires at midnight on the 10<sup>th</sup> day. If the expiry date of the standstill period falls on a weekend or public holiday then the expiry date shall be midnight on the next working day.

**10.4.2.** Should a Tenderer request further information or debrief during the standstill period, the Officer should immediately consult with the Procurement Department and Head of Legal Services for advice. The Council may extend the standstill period for further days until the tenderer has received and considered the information.

**10.4.3.** If the Council receives notification from a tenderer that it intends to challenge a contract award decision, then the Head of Legal Services must be notified immediately and the Council must automatically refrain from entering into the contract until legal advice has been received (failure to comply with this CSO may result in the court making a declaration of ineffectiveness with damages payable by the Council). Inform the Council's Freedom of Information Officer if a challenge is received to ensure that commercially sensitive information is not released without prior consideration and authority.

**10.4.4.** Upon satisfactory conclusion of the standstill period the Officer may advise the successful tenderer(s) that the standstill period has passed and instruct the Head of Legal Services to draw up a formal contract with the successful tenderer(s).

**10.4.5.** Once the standstill period has concluded a Contract Award Notice should be placed in the Find a Tender (FTS) by the Procurement Department within 30 days of the contract award.

**10.4.6. Below Threshold** - tenders below the public procurement threshold are not covered by the full requirements laid out in Section 10.2 (Notification to Unsuccessful Bidders). However, it is best practice to follow the same principles of notifying unsuccessful tenderers and, if requested by the tenderer, providing feedback on the outcome of the procurement exercise.

**10.4.7.** It is not necessary to have a standstill period for a below threshold contract, but it is good practice to apply one and only in limited circumstances will the Procurement Department agree to reduce the standstill period.

## **11. Standing Order 11: Subcontracting**

**11.1** Where it is anticipated that the successful tenderer will want to subcontract out an element of delivery to a third party the Director for Service must ensure that:

**11.1.1.** The subcontractor is not a supplier that would have been excluded in the tender process;

**11.1.2.** The main supplier has carried a best value exercise in line with these CSO and that best value for the subcontractor has been approved by the Procurement Department; and

**11.1.3.** Any subcontractor is paid on the same payment terms as the supplier in the main contract and on terms no less favourable than those agreed with the supplier, i.e. on payment terms within 30 days;

**11.2** Consideration must be given as to whether or not a collateral warranty between the subcontractor and the Council is required. A collateral warranty is most often required where there is no direct contractual relationship between the Council and the subcontractor.

**11.3** There shall be inserted in every contract a clause detailing the subcontracting arrangements.

## **12. Standing Order 12: Contract Formalities**

### **12.1 The Form of Contract**

**12.1.1.** All contracts should be made in writing and on the Council's standard written terms unless Legal Services approves otherwise. Contracts made on the supplier's written terms must be reviewed and approved by Legal Services. In advance of the tender process, the procuring Officer must seek advice from Legal Services on the form of contract to be used.

**12.1.2.** Advice from the Finance Department must be obtained where the contract involves a finance leasing arrangement.

**12.1.3.** Every contract shall specify the goods, materials or services to be supplied and the work to be executed; the price to be paid together with a statement as to the amount of any discount(s) or other deduction(s); the period(s) within which the contract is to be performed and such other conditions and terms as may be agreed between the parties and are required by law.

**12.1.4.** Consideration must be given as to whether or not a performance bond, parent company guarantee, or other form of security (see 12.2.2 below Liquidated Damages) acceptable to the S151 officer and the Legal Services, is required from the supplier.

### **12.2 Required Terms**

**12.2.1 Boilerplate Clauses** - The Council is required to include statutory terms which include non-exhaustively: Anti Bribery; Anti-Money Laundering; Freedom of Information; Data Protection; Safeguarding of Vulnerable Adults and Children; Transparency; Prevention of Terrorism; Audit; Anti-Discrimination Equality and Diversity; Payment of Subcontractors; Termination and Exit of Above Threshold Contracts; Compliance with Anti-Slavery and Human Trafficking laws; Force Majeure; Health and Safety.

If Officers consider one of the above clauses is more appropriate to their contract, they must notify Legal Services when asking them to consider the contract terms. For example, where personal data is being controlled or processed by a third party on the Council's behalf, an additional data sharing agreement may be required.

**12.2.2 Liquidated Damages** - Officers must consider the effect on the Council of any delay in performance of the contract, and whether that delay is likely to cause the Council financial loss which requires protection. If so, the Officer must estimate the reasonable and genuine loss that the Council is likely to suffer as a result of the delay and provide to Legal Services a figure which would fairly compensate the Council, usually at a daily or weekly rate for that loss.

**12.2.3 Standards** - Where an appropriate British Standard or code of practice (or other applicable standard) applies to the procurement, the procuring Officers are required to notify Legal Services so the relevant standard is included in the contract.

### **12.3 Execution of Contracts**

**12.3.1.** Where any contract is required as a result of any legal procedure or legal proceedings on behalf of the Council, it will be signed by the Head of Legal Services or another person authorised by them, unless any enactment otherwise authorises.

**12.3.2.** Contracts with a value of less than £25,000 (inclusive of VAT) can be executed by the Head of Service or their delegated nominee. Contracts of £25,000 (inclusive of VAT) or above, are to be executed in Legal Services, unless Legal Services approves otherwise.

**12.3.3.** Any contract for an amount of or greater than £250,000 (inclusive of VAT) is to be executed as a deed using the common seal of the Council, signed by an authorised signatory and witnessed as formality requires.

### **12.4 Electronic Signatures**

**12.4.1.** For all contracts below £250,000 (inclusive of VAT), the Council may execute the contract via a method of e-signature which has been pre-approved by Legal Services. Any contract with a value of £25,000 (inclusive of VAT) or above, must be authorised, signed and completed by Legal Services.

**12.4.2.** For contracts that require a seal, the Monitoring Officer may adopt such means of sealing as from time to time they consider appropriate. This may include allowing electronic sealing in accordance with section 7A(1) of the Electronic Communications Act 2000 (or other subsequent legislation). Affixing of an electronic seal approved in this way shall be of the same legal effect as affixing the common seal of the Council. Any additional formality relating to the witnessing of such contracts are complied with.

## **13. Standing Order 13: Engagement of Consultants**

**13.1** The financial limits in these CSOs apply to the engagement of consultants, the appointment must be based on MEAT or other approved evaluation (see CSO 8.3). If a consultant is to provide services over the lifetime of a project then the whole lifetime cost should be taken into account when procuring the consultant.

**13.2** External legal consultants must be appointed through Legal Services in accordance with the Council's constitution.

**13.3** Prior to the engagement of the consultant the Officer must:

- a) Prepare a business case in advance of the appointment which as a minimum, should detail the reason for seeking external expertise, for example, lack of internal capacity or capability due to the specialist nature of services;
- b) This business case should be approved by either the Director or the Head of Service or their delegated nominee;
- c) Financial checks of lead consultants' financial stability and professional indemnity insurance should be made (which should also include any sub-consultants);
- d) Insurance expiry date should be monitored by project managers except in those cases where the insurance Section is directly responsible for such insurance. Ongoing checks of valid insurance renewals should be undertaken during the lifetime of contracts;
- e) Where the consultant is an individual, check with Payroll and Procurement to find out if the consultant is acting in the capacity of an employee and therefore subject to IR35 (tax and national insurance payments at source)

**13.4** It shall be a condition that the consultancy contract shall require the consultant to:

- a) Comply with these CSO in consultation with the relevant Head of Service or Director if the consultant is procuring goods works or services on the Council's behalf.
- b) Produce to the Head of Service or Director on request, all the records maintained by them in relation to the contract; and
- c) On completion of the contract, transmit all such records to the Head of Service or Director or to any other Head of Service duly authorised by the Council for this purpose.
- d) Consider and deal with ownership of intellectual property rights created by the instruction of the consultant.

**13.5** The terms of engagement of a consultant (not being an Officer of the Council) shall be set down in a form approved by Legal Service.

**13.6** Previous employees should not be engaged as consultants until a period of at least 6 months has elapsed since they ended their employment with the Council.

#### **14. Standing Order 14: Contract Performance Monitoring**

**14.1** The procuring Officer should ensure that the contractor's performance is monitored against the contractually agreed terms, by an appropriate Officer responsible for contract management in their department. The extent of the monitoring should be proportionate to the nature, duration and associated cost of the contract.

**14.2** Heads of Service and managers are required to ensure Officers carry out proper contract management and that any issues in contract performance are brought to their attention. For higher value contracts, Members may also require an updating report on contract performance.

**14.3** Contract managers are to periodically revise how delivery and processes under ongoing contracts might be improved and to ensure that those improvements are implemented by the supplier and monitored by the contract manager.

**14.4** Where further goods, works, or services will be required at the end of an existing contract term, contract managers must consult with the Procurement Department prior to the expiration of the existing contract in sufficient time to plan the re-procurement to avoid disruption to Council services.

## **15. Standing Order 15: Extensions to Contracts**

**15.1** This Standing Order is only to be used in the following circumstances:

- a) The extension is required to undertake an evaluation of the future requirement of the existing contract/service/service delivery;
- b) There has been no previous extension of the original contract (other than an extension, or option to extend, which was agreed as a term of the original contract);
- c) There is approved budget;
- d) The proposed extension has been approved by Procurement and Legal Services having consideration to these CSO and the public procurement rules;

**15.2** Where the Director for Service or Officer acting with delegated authority on their behalf proposes to extend a fixed-term contract to include additional works, services, goods they shall only do so in accordance with this CSO and CSO 2.1 (Authorisation to Contract).

**15.3** For above-threshold contracts, the terms of the contract extension must not breach the requirements of Regulation 72 of the Public Contract Regulations 2015 (Modification of Contracts).

**15.4** In addition:

- a) The extension must be on the same terms as the original contract including terms as to price, although an increase in the price payable for the goods, services or works, which reflects an RPI increase is acceptable;
- b) The original contractor has agreed the additional goods, services or works will be supplied on the same terms;
- c) The extension is necessary and a legitimate business case for it has been approved and recorded in writing by the Director for Service or Officer with delegated authority to extend the contract;
- d) The extension must be made during the term of the original contract or continue immediately following the expiration of the original contract without any break in continuity between the expiration of the original contract and the extension of it;
- e) In the case of construction works, the proposed additional works are on the same site as the original contract or of a similar nature;
- f) The procurement for the original contract complied with these CSOs;
- g) The extension is for no more than 24 months;
- h) The decisions pathway has been followed prior to awarding the extension.

**15.5** In all cases, consideration should be given as to whether approval should be obtained from the relevant Executive Member(s) before any extensions are granted.

## **16. Standing Order 16: Variations to Contracts**

**16.1** The effect of the proposed variation on the contract value must be fully assessed and recorded in writing prior to the variation being made. Officers must ensure that there is an authorised budget sufficient to meet the value of the variation in place, and the decisions pathway must be followed.

**16.2** Officers must consult Procurement, Financial and Legal Services for advice on the proposed variation prior to making the variation. Any contract variation with a value of £25,000 (inclusive of VAT) or above, is to be signed by Legal Services.

- 16.3** For above-threshold contracts, the terms of the contract variation must not breach any rule under Public Contract Regulations 2015 or other updating legislation.
- 16.4** All of the following clauses shall apply to a contract variation.
- 16.4.1.** All contract variations must be within the scope of the original contract. The variation will be in scope if it is within a similar range of goods, services or works supplied under the original contract and the variation is required in order to complete an aim or purpose of the original contract.
- 16.4.2.** In all cases, there should be a clear statement recorded in writing setting out the business justification, the cost, the benefits and the duration of the variation (whether temporary or for the remaining term of the contract) which is to be shared with Procurement Financial and Legal Services, as well as to inform the audit trail.
- 16.4.3.** All contract variations must be authorised by the Director for Service or have relevant Member approval having regard to the business case and any comments made by the Procurement, Financial and Legal Departments. The variation must be in writing and signed by both the Council and the contractor. Where the value of the contract variation exceeds £25,000 it must be executed by Legal Services.
- 16.4.4.** In all circumstances at the time the variation is proposed, Officers must follow the decisions pathway and if required to do so by that pathway, seek authorisation from (or consult with) Executive Member(s).
- 17. Standing Order 17: Termination of Contracts**
- 17.1** No contract with a value greater than £250,000 (inclusive of VAT) which has been entered into under the authority of the Council's Executive or appropriate Executive Members, shall be terminated either by agreement or by unilateral action without the approval of the Chief Financial Officer and the Head of Legal Services, and consultation with Executive Members in advance of terminating the contract.
- 17.2** Where in the opinion of the Chief Financial Officer and the Head of Legal Services, the termination will have a significant financial impact on the Council or will cause a significant disruption to Council services, then the Director for Service is to provide a full report to Executive Members or the Joint Strategic Committee (as advised by the Head of Legal Services) and obtain Member authority to terminate the contract in advance of the termination.
- 17.3** Where, in the opinion of the Director for Service, termination of the contract is urgent and delay would have an adverse impact on services, assets, or the public; and there is insufficient time to take a report to Members (as required by paragraph 17.2), then providing the Chief Financial Officer and Head of Legal Services agree, the Director may terminate the contract and report as soon as possible after the termination providing full details of the circumstances, financial effect and/or disruption to services.
- 17.4** For all contracts below £100,000 (inclusive of VAT), the Director for Service can terminate the contract without Member consultation providing that the Chief Financial Officer and Head of Legal Services agree there is no significant financial impact or disruption to Council services.
- 17.5** Legal advice shall be sought before terminating any contract.



## **Joint Councils Financial Regulations**

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## **1. INTRODUCTION**

- 1.1 Financial Regulations provide the internal framework for managing the Councils' financial affairs. These regulations apply to every Member and Officer of Adur District Council and Worthing Borough Council and anyone in the public or private sector who acts on behalf of the Councils. It is imperative that the Councils have a strong and usable set of Financial Regulations that are accessible to all who are dealing with its financial matters.
- 1.2 Under Section 151 of the Local Government Act 1972, each local authority is required to make arrangements for the proper administration of its financial affairs and arrange for one of their Officers to be responsible for the administration of those affairs. For Adur District Council and Worthing Borough Council this officer is the Chief Financial Officer.
- 1.3 Throughout these Financial Regulations, the title Chief Financial Officer will be used to denote the designated Section 151 Officer of the Councils; in the case of absence or non-availability, the Chief Accountant will be the Deputy Section 151 Officer.
- 1.4 The Chief Financial Officer is responsible for maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to the Councils for approval. They are also responsible, where appropriate, for reporting breaches of the Financial Regulations to the Joint Audit & Governance Committee.
- 1.5 It is the responsibility of the Corporate Leadership Team (CLT)/Heads of Service to ensure that all Officers in their service are familiar with the content of the Councils' Financial Regulations, as well as other internal regulatory documents, and also to confirm that they comply with them.
- 1.6 It is the responsibility of the Chief Financial Officer to provide advice and guidance regarding the Financial Regulations that Members, Officers and others acting on behalf of the Councils are required to follow.

### **STATUTORY REFERENCES**

- Local Government Act 1972
- Local Government Act 1999
- Local Government Act 2003
- Local Audit and Accountability Act 2014
- Accounts and Audit Regulations 2015

### **CODES OF PRACTICE**

- Code of Practice on Local Authority Accounting in the United Kingdom
- Prudential Code for Capital Finance in Local Authorities
- Service reporting Code of Practice for Local Authorities (CIPFA)
- Treasury Management Code of Practice (CIPFA)
- United Kingdom Public Sector Internal Audit Standards (PSIAS) as interpreted by CIPFA's Local Government Application Note

## **2. FINANCIAL PLANNING**

### **2.1 FORMAT OF THE BUDGET**

#### **2.1.1 Why is this important?**

The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate,

the operation of cash limits and sets the level at which funds may be reallocated within budgets.

#### **2.1.2 Responsibilities of the Chief Financial Officer**

To advise the Cabinets on the format of the budget that is approved by their Council.

#### **2.1.3 Responsibilities of CLT/Heads of Service**

To comply with accounting guidance provided by the Chief Financial Officer.

#### **2.1.4 Key controls**

The key controls for the budget format are:

- (a) That the format complies with all legal requirements;
- (b) That the format reflects the accountabilities of service delivery;
- (c) That the format reflects the statutory reporting requirements for government returns; and
- (d) That, in published statements where it is required, the format complies with CIPFA's Service reporting Code of Practice for Local Authorities.

## **2.2 BUDGETS AND MEDIUM-TERM PLANNING**

### **2.2.1 Why is this important?**

The Councils need to plan effectively and develop systems to enable limited resources to be allocated in accordance with priorities. The budget is the financial statement of the Councils' plans and policies.

The revenue and capital budgets must be constructed to ensure that resource allocation properly reflects the service plans and corporate priorities of the Councils. Budgets are needed so that the Councils can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for the Councils to budget for a deficit.

CLT/Heads of Service shall prepare annually in accordance with an agreed timetable (normally in preparation for submission to the Cabinets each January/February), draft estimates of income and expenditure in a form agreed with the Chief Financial Officer together with any necessary explanations.

### **2.2.2 Responsibilities of the Chief Financial Officer**

To prepare and submit reports on the budget prospects for the Councils, including information about any resource constraints determined by the Government. Reports should consider the medium-term financial prospects which will be updated as appropriate.

To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by each Council, and following consultation with the relevant Cabinet Member for Resources and CLT/ Heads of Service.

To prepare and submit reports to the Joint Strategic Committee on the overall position; and to each Cabinet on the aggregate spending plans of the individual portfolios (analysed by departments) and the resources available, identifying, where appropriate, the implications for the level of Council Tax to be levied.

To advise on the medium-term implications of spending decisions.

To encourage the best use of resources and value for money by working with CLT/ Heads of Service to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.

To advise the Council on the Cabinet's proposals on the robustness of the budget set and the adequacy of reserves in accordance with the Local Government Act 2003.

### **2.2.3 Responsibilities of CLT/Heads of Service**

To prepare estimates of income and expenditure, in consultation with the Chief Financial Officer, to be submitted to the Joint Strategic Committee and the Cabinet.

To prepare budgets consistent with any relevant cash limits, with the Council's annual budget cycle and with guidelines issued by the Joint Strategic Committee. The format will be prescribed by the Chief Financial Officer in accordance with the Joint Strategic Committee's general directions.

To integrate financial and budget plans into service planning.

To ensure that budget proposals underpin the Councils' strategic priorities and objectives.

To utilise the Councils project management framework when delivering projects funded by the revenue budget.

### **2.2.4 Key controls**

The key controls for budgets and medium-term planning are: -

- (a) specific budget approval is given for all expenditure;
- (b) budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Cabinet for their budgets and the level of service to be delivered; and
- (c) a monitoring process is in place to regularly review the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

## **2.3 CAPITAL PROGRAMME**

### **2.3.1 Why is this important?**

Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles.

Capital assets can shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs. Capital expenditure can also result in the creation of an intangible asset, for items such as software licenses which have no physical substance.

The Council is required to set its Capital Programme having regard to the Prudential Code, ensuring that it is affordable, prudent and sustainable. This means that capital expenditure forms part of a capital strategy that is carefully prioritised in order to maximise the benefit of limited resources. The Council must also approve its Prudential Indicators which are used to monitor performance throughout the year.

### **2.3.2 Responsibilities of the Chief Financial Officer**

To prepare a capital strategy which outlines the Councils approach to developing a Capital Programme which meets the Councils' priorities;

To prepare a Capital Programme covering at least two future financial years. If an urgent and unforeseen need arises to undertake a project in excess of the current approved Capital Programme or to accelerate the preparation, commencement or completion of a scheme, the proposal will be considered by the Corporate Leadership Team and if supported will then be reported to Joint Strategic Committee (and Full Council if a supplementary estimate is required) for final approval.

To prepare and submit regular reports to the Joint Strategic Committee on the projected income, expenditure and resources compared with the approved estimates. Also, to inform the Cabinet where estimated expenditure on any scheme exceeds the Capital Programme provision by more than 10% or £50,000 whichever is lower, unless the amount is not material.

The definition of 'capital' will be determined by the Chief Financial Officer, having regard to government regulations and accounting requirements.

### 2.3.3 Responsibilities of CLT/Heads of Service

To comply with guidance concerning the development of the Capital Programme, capital schemes and controls issued by the Chief Financial Officer.

To utilise the Councils project management framework when delivering projects.

To ensure that all estimates and programmes prepared in connection with capital expenditure shall include reference to the estimated revenue implications in each of the development years and in a full cost year as agreed with the Chief Financial Officer.

To review the Capital Programme provisions for their services and the estimated final costs of schemes in the approved Capital Programme.

To ensure that adequate records are maintained for all capital contracts.

To proceed with projects/contracts only when there is adequate provision in the Capital Programme and guarantees of any external funding are in place.

To notify the Chief Financial Officer immediately if the total value of a contract or its annual sum is likely to be different from the original figure by more than the approved limits (the lower of more than 10% or £50,000 subject to materiality).

### 2.3.4 Key controls

The key controls for Capital Programmes are:

- (a) specific recommendation by the Joint Strategic Committee and resolution of the relevant Council for the planned programme of capital expenditure;
- (b) Prior to any expenditure being incurred, each capital project must have a project initiation document (PID) as detailed in the capital strategy which is subject to approval by the relevant Director and Cabinet Member;
- (c) Projects with a value in excess of £250,000 are Key Decisions (as defined in Article 12 of the Council's Constitution) and therefore must be included in the Council's Forward Plan to provided 28 days of any decision to be made, and a report taken to the relevant Cabinet Members detailing the following:
  - (i) details of the scheme including the options considered;
  - (ii) the procurement strategy;

- (iii) the capital and revenue implications of the proposed scheme over the medium term; and
- (iv) requesting any further delegations as appropriate
- (d) proposals for minor improvements and alterations to buildings and land must be approved by the appropriate Director/ Head of Service;
- (e) monitoring of progress of the programme in conjunction with expected expenditure and comparison with approved budget; and
- (f) monitoring of Prudential Indicators throughout the year.

## **2.4 MAINTENANCE OF RESERVES**

### **2.4.1 Why are these important?**

The Council holds reserves for one of three purposes:

- (a) working balance to help cushion the impact of uneven cash flows, to manage budget risk and to avoid unnecessary temporary borrowing (general reserve);
- (b) a contingency to cushion the impact of unexpected events or emergencies (general reserve); and
- (c) a means of building up funds (earmarked reserves) to meet planned one-off expenditure, and to meet known or predicted liabilities.

It is the responsibility of the Section 151 Officer to advise the Council as to the level of general reserves.

### **2.4.2 Responsibilities of the Chief Financial Officer**

To advise the Cabinet and/or the Council on prudent levels of reserves for the Council, having regard to advice from the External Auditor.

### **2.4.3 Responsibilities of CLT/Heads of Service**

To ensure that reserves are used only for the purposes for which they were intended.

### **2.4.4 Key controls**

The key controls for the maintenance of the reserves are:

- (a) To maintain reserves in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom and agreed accounting policies.
- (b) For each earmarked reserve established, the following must be provided:
  - (i) The reason for/purpose of the reserve
  - (ii) How and when the reserve can be used
  - (iii) Procedures for the reserve management and control
  - (iv) A regular review of the reserve to ensure continuing relevance and adequacy.
- (c) Expenditure from the reserves of in excess of £25,000 can only be approved by the Joint Strategic Committee unless a specific delegation exists (see guidance on virement limits at paragraph 3.2.4).

## **3. FINANCIAL MANAGEMENT**

### **3.1 BUDGETARY CONTROL**

#### **3.1.1 Why is this important?**

Budgetary control is the means by which the Council manages its finances and ensures their effective use in accordance with the approved budget. It is a continuous process,

enabling the Council to monitor and review its financial performance during the financial year.

By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity.

To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.

For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre.

### **3.1.2 Responsibilities of the Chief Financial Officer**

To administer an appropriate framework of budgetary management and control that ensures:

- (a) Budget management is exercised within annual cash limits
- (b) Each Director has available timely information on receipts and payments on each budget;
- (c) Expenditure is only committed against an approved budget
- (d) All Officers responsible for committing expenditure comply with relevant guidance, and these Financial Regulations
- (e) Each budget heading has a single named Manager, determined by the relevant Director/ Head of Service. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commit expenditure
- (f) Significant variances of more than 10% or £25,000 (was £5,000) whichever is the higher from approved budgets are investigated and reported by budget managers regularly.

To administer the Council's Scheme of Virement (see 3.2).

To submit reports to the Joint Strategic Committee and to the Council, in consultation with the relevant Director/Head of Service, where it is not possible to balance expenditure and resources within existing approved budgets under their control (see 3.2.5 supplementary estimates).

To prepare and submit regular monitoring reports to Joint Strategic Committee on the Council's projected income and expenditure compared with the budget.

### **3.1.3 Responsibilities of CLT/Heads of Service**

To maintain budgetary control within their departments and to ensure that all income and expenditure is recorded and accounted for properly.

To ensure that an accountable Budget Manager is identified for each item of income and expenditure.

To ensure that spending remains within the service's overall budget limit, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.

To prepare and submit to the Joint Strategic Committee, reports on the service's projected expenditure compared with its budget as part of the regular budget monitoring reports, in consultation with the Chief Financial Officer.

To ensure compliance with the Scheme of Virement (see 3.2).

To agree with the relevant Director/Head of Service where it appears that a budget proposal, including a virement proposal, may impact materially on another service area.

#### 3.1.4 Key controls

The key controls for managing and controlling the revenue budget are: -

- (a) Budget Managers should be responsible only for income and expenditure that they can influence;
- (b) there is a nominated Budget Manager for each budget heading;
- (c) Budget Managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities;
- (d) all budgets are appropriately profiled through the financial year;
- (e) Budget Managers follow an approved certification process for all expenditure;
- (f) income and expenditure items are recorded and accounted for properly.

### 3.2 SCHEME OF VIREMENT

A summary of the limits relating to virement as set out in the sections below is provided in Appendix 1 to these Rules.

#### 3.2.1. General Virement

##### a) Why is this important?

Virement is the transfer of budget from one specific area to another. This can either be a transfer within revenue budgets or a transfer within capital budgets. Restrictions may apply to transfers between capital and revenue budgets and you cannot vire between a capital budget and a revenue budget. Virement can be a temporary (in-year) or permanent transfer of budget.

The Scheme of Virement is intended to enable Cabinet Members together with CLT/ Heads of Service and their staff to manage budgets with a degree of flexibility within the overall Policy Framework determined by the Council, and, therefore, to optimise the use of resources. Budget variation requests requiring Committee approval will be included on Joint Strategic Committee agendas.

##### b) Responsibilities of the Chief Financial Officer

To submit a report to the Corporate Leadership Team and Cabinet where virements are proposed between Directorate areas or Member Portfolios;

To approve all virements in excess of £50,000 and up to but not including £100,000;

To ensure that all virements of £100,000 (Key Decision limit as defined by Article 12 of the Constitution) and up to and including £250,000 are approved by the relevant Cabinet Member;

To ensure that all virements in excess of £250,000 are approved by the Joint Strategic Committee.

##### c) Responsibilities of CLT/Heads of Service

CLT/Heads of Service may exercise virement on budgets under their control of up to and including a maximum of £50,000, provided the Chief Financial Officer has been consulted.



To submit a report to the relevant Cabinet Member or the Joint Strategic Committee for virements over £100,000, provided that the Chief Financial Officer has been consulted.

Salary budgets represent the Council's approved establishment. As such the salary budgets cannot be vired to other areas of the budget without the approval of the Chief Financial Officer. A favourable salary budget variance may be used to cover the additional temporary staffing costs incurred due to the vacant post, subject to the corporate vacancy target.

To ensure, where external funding has been successfully applied for, that a budget virement is undertaken to adjust the revenue budget for the confirmed funding and the related expenditure.

Virements against future anticipated fees and charges or other uncertain sources of income will not be allowed unless approved by the relevant Cabinet Member.

Savings of a non-recurring nature (temporary) cannot be used to justify the incurring of expenditure with a continuing commitment into later years (permanent).

Virement that is likely to impact on the level of service activity of another department should be implemented only after agreement with the relevant Director/Head of Service.

#### **d) Key controls**

Key controls for the Scheme of Virement are:

- (a) It is administered by the Chief Financial Officer within guidelines set by the Council. Any variation requires the approval of the Council;
- (b) The overall budget is recommended by the Cabinet and approved by the Council. CLT/Heads of Service are authorised to incur expenditure in accordance with the estimates that make up the budget.
- (c) Virement does not create a net increase in budget. CLT/Heads of Service are expected to exercise their discretion in managing their budgets responsibly and prudently.

### **3.2.2 Virements Relating To Section 106 Contributions and Community Infrastructure Levy (CIL)**

#### **a) Why is this important?**

Section 106 agreements are negotiated as part of a condition of planning consent. CIL levy is payable on certain developments. They provide an important source of additional funding towards a range of infrastructure and services such as community facilities, public open spaces, transport improvements and or affordable housing.

#### **b) Responsibilities of the Chief Financial Officer**

To ensure that virements relating to s.106 and CIL funding in excess of £25,000 and up to and including a maximum of £100,000 are approved by the relevant Cabinet Member and that virements in excess of £100,000 are approved by the Joint Strategic Committee.

To be responsible for the proper accounting of s.106 and CIL receipts.

#### **c) Responsibility of the Head of Planning and Development**

To keep a record of all s.106 and CIL receipts due to each Council.

To be responsible for the collection of any s.106 and CIL receipts due.

#### **d) Responsibilities of CLT/Heads of Service**

CLT/Heads of Service may exercise virements relating to s106/CIL funded expenditure under their control up to and including a maximum of £25,000 provided that the Chief Financial Officer has been notified and authorised the use of the receipts and the proposed use is in accordance with any legal agreement or Council policy governing their use.

To submit a report to the relevant Cabinet Members for expenditure in excess of £25,000 and up to and including £100,000 and to the Joint Strategic Committee for expenditure in excess of £100,000 and above at the earliest opportunity with details of how the funding is to be applied.

#### **e) Key controls**

Key controls for s.106 funded expenditure are:

- (a) It is administered by the Chief Financial Officer within guidelines set by the Council; and
- (b) Virement does not create a net increase in budget. CLT/Heads of Service are expected to ensure that funds are spent within the terms of the agreement including any time limits that may apply.

### **3.2.3 Virements Relating To Contingency Budgets**

#### **a) Why is this important?**

The Contingencies and Special Items budget is assessed annually as a provision for known possible service changes that have not been sufficiently developed to fully cost into the budget.

#### **b) Responsibilities of the Chief Financial Officer**

To ensure that virements relating to contingency budgets have been fully costed before budget are vired to service areas. Virements are noted in budget monitoring reports.

#### **c) Responsibilities of CLT/Heads of Service**

To submit fully developed spending plans to the Chief Financial Officer at the earliest opportunity.

#### **d) Key controls**

Key controls for virements from Contingency budgets:

- (a) It is administered by the Chief Financial Officer within guidelines set by the Council;
- (b) Virement does not create a net increase in budget; and
- (c) CLT/Heads of Service are expected to ensure that the use of these budgets follow the Council's priorities.

### **3.2.4 Virements Relating To Reserves**

#### **a) Why is this important?**

Earmarked reserves should only be used for the purpose that they are intended. Unrequired earmarked reserves should be returned to the General Fund. Capital reserves should only be applied in line with statutory approvals.

#### **b) Responsibilities of the Chief Financial Officer**

To ensure that all virements from Earmarked Reserves up to and including £25,000 are approved by the relevant member of CLT or the Head of Service.

To ensure that all virements relating to the use of Earmarked Reserves in excess of £25,000 and up to and including £250,000 are approved by Joint Strategic Committee or the relevant Individual Cabinet Members where a delegation to that Cabinet Member is in force.

To ensure that all virements in excess of £250,000 are approved by the Joint Strategic Committee.

To ensure that all proposals for the use of capital receipts complies with statutory guidance, the Capital Strategy and have a viable business case.

### **c) Responsibilities of CLT/Heads of Service**

To ensure that earmarked reserves are used only for the purpose for which they were intended.

That unrequired earmarked reserves are returned to the General Fund.

To submit proposals to the Chief Financial Officer as soon as practicable for the use of any earmarked reserve.

### **d) Key controls**

Key controls for virements from reserves:

- (a) It is administered by the Chief Financial Officer within guidelines set by the Council.
- (b) Virement does not create a net increase in budget. CLT/Heads of Service are expected to ensure that the use of these budgets follow the Council's priorities.

## **3.3 ACCOUNTING POLICIES**

### **3.3.1 Why are these important?**

The Council is required to follow proper practices in preparing its Statement of Accounts. The Council's Accounting Policies are a key part in ensuring that this is done and these are detailed in the Statement of Accounts.

### **3.3.2 Responsibilities of the Chief Financial Officer**

To establish suitable accounting policies and to ensure that they are applied consistently.

To ensure that the accounting policies are consistent with proper practices as set out in the *Code of Practice on Local Authority Accounting in the United Kingdom*, for each financial year.

### **3.3.3 Responsibilities of CLT/Heads of Service**

To adhere to the accounting policies and guidelines approved by the Chief Financial Officer.

### **3.3.4 Key controls**

The key controls for accounting policies are:

- (a) Systems of internal control are in place to ensure that financial transactions are lawful;
- (b) Suitable accounting policies are established and applied consistently;

- (c) Proper accounting records are maintained;
- (d) Financial statements are prepared which present fairly the financial position of the Council and its expenditure and income; and
- (e) Accounting policies are set out in the Statement of Accounts and are subject to external audit.

### **3.4 ACCOUNTING RECORDS AND RETURNS**

#### **3.4.1 Why are these important?**

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

#### **3.4.2 Responsibilities of the Chief Financial Officer**

To determine the accounting policies, procedures and the method for recording transactions for the Council.

To arrange for the compilation of all accounts and accounting records under their direction.

To comply with the following principles when allocating accounting duties: -

- (a) Officers responsible for the calculation, checking and recording of income and expenditure should not be responsible for the collection and disbursement of such income and expenditure; and
- (b) Officers with the duty of examining or checking the accounts of cash transactions must not be engaged in those transactions.

To make proper arrangements for the audit of the Council's annual accounts in accordance with the Accounts and Audit Regulations 2015.

To ensure that all claims for funds (including grants) are made accurately and by the due date.

To prepare and publish the audited annual accounts of the Council for each financial year, in accordance with the statutory timetable.

To ensure the proper security and retention of financial documents in accordance with the requirements set out in the Council's Document Retention Policy.

To ensure that an asset register is maintained and assets are appropriately revalued and categorised in accordance with *Code of Practice on Local Authority Accounting in the United Kingdom*.

#### **3.4.3 Responsibilities of CLT/Heads of Service**

To ensure that a copy of any approved funding from a third party, including Government grant, is immediately passed to the Chief Financial Officer.

To ensure that all necessary service related information is available to support all claims for funds, including Government grants.

To maintain adequate records to provide a management/audit trail leading from the source of income/expenditure through to the accounting statements.

To supply information required to enable the statement of accounts to be completed and published in accordance with the timetable and guidelines issued by the Chief Financial Officer.

#### **3.4.4 Key controls**

The key controls for accounting records and returns are:

- (a) All Cabinet Members, finance Officers and Budget Managers operate within the required accounting standards and timetables;
- (b) All the Council's transactions, material commitments, contracts and other essential accounting information are recorded completely, accurately and on a timely basis;
- (c) Procedures are in place to enable accounting records to be reconstituted in the event of systems failure;
- (d) Reconciliation procedures are carried out to ensure transactions are correctly recorded;
- (e) Prime documents are retained in accordance with legislative and other requirements, as set out in the Councils' Document Retention Policy; and
- (f) The central accounting system of the Council, administered by the Chief Financial Officer, is the prime system upon which the financial position of the Council, or any part of the Council, will be assessed.

### **3.5 THE ANNUAL STATEMENT OF ACCOUNTS**

#### **3.5.1 Why is this important?**

The Council has a statutory responsibility to prepare its own accounts to present its operations during the financial year in a fair manner. The Council is responsible for approving the statutory annual statement of accounts, through delegation to the Joint Audit & Governance Committee.

#### **3.5.2 Responsibilities of the Chief Financial Officer**

To establish suitable accounting policies and to apply them consistently.

To make judgements and estimates that are reasonable and prudent.

To comply with the *Code of Practice on Local Authority Accounting in the United Kingdom*.

To sign and date the statement of accounts, stating that it presents fairly the financial position of the Council at the accounting date and its income and expenditure for the financial year.

To draw up the timetable and requirements for final accounts preparation and to advise Officers and the External Auditor accordingly.

#### **3.5.3 Responsibilities of CLT/Heads of Service**

To comply with accounting guidance provided by the Chief Financial Officer and to supply the Chief Financial Officer with information when required.

#### **3.5.4 Key controls**

The key controls for the annual statement of accounts are:

- (a) The Council is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the

- administration of these affairs. In this Council, that officer is the Chief Financial Officer;  
and  
(b) The Council's statement of accounts must be prepared in accordance with proper practices as set out in the Code of Practice on Local Authority Accounting in the United Kingdom.

## **4. RISK MANAGEMENT AND CONTROL OF RESOURCES**

### **4.1 RISK MANAGEMENT AND INSURANCE**

#### **4.1.1 Why is this important?**

Risk management is a planned and systematic approach to identifying, evaluating and controlling risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational wellbeing of the Council. It is, therefore, an integral and essential part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action needed to control these risks effectively.

It is the overall responsibility of the Joint Audit & Governance Committee to approve the Council's Risk Management Strategy, and to promote a culture of risk management awareness throughout the Council.

#### **4.1.2 Responsibilities of the Director of Digital, Sustainability and Resources**

To prepare and promote the Council's Risk Management Strategy.

To report regularly to the Joint Audit & Governance Committee on risk management matters.

#### **4.1.3 Responsibilities of the Chief Financial Officer**

To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims, in consultation with other Officers where necessary.

#### **4.1.4 Responsibilities of CLT/Heads of Service**

To notify the Chief Financial Officer immediately of any injury, loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the Chief Financial Officer or the Council's insurers.

To notify the Head of Legal of any injury, loss or liability that might result in legal action against the Council

To take responsibility for risk management and minimising exposure to loss, having regard to advice from the Chief Financial Officer and other specialist advisers (e.g. health and safety, emergency planning).

To ensure that there are regular reviews of Corporate and Departmental risk registers to identify and evaluate risk and to determine the ways risk can be managed. The risks and the mitigating actions should be recorded and monitored.

To notify the Director of Digital, Sustainability and Resources promptly of all new risks

To notify the Chief Financial Officer of any properties or vehicles that require insurance and of any alterations affecting existing insurances.

To consult the Chief Financial Officer and Head of Legal on the terms of any indemnity that the Council is requested to give.

#### **4.1.5 Key controls**

The key controls for risk management are:

- (a) Procedures are in place to identify risks, to evaluate their likely impact and probability of occurring, and to determine suitable risk reduction strategies. The risk management process operates continually to ensure that changes in circumstances and new risks are identified, evaluated and managed;
- (b) Corporate and Departmental Risk Registers are produced and are regularly reviewed and action taken when appropriate;
- (c) Risk management procedures are communicated effectively throughout the Council. Managers know that they are responsible for managing risks in their areas and are provided with relevant information on risk management initiatives;
- (d) Acceptable levels of risk are determined and insured against where appropriate; and provision is made through balances or reserves for losses where insurance is not appropriate;
- (e) The Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

## **4.2 AUDIT REQUIREMENTS**

### **4.2.1 Internal Audit**

#### **a) Why is this important?**

The requirement for an internal audit function is implied by the Accounts & Audit Regulations 2015 which requires that the Council must each financial year conduct a review of the effectiveness of the system of internal control and prepare an annual governance statement.

Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

It will act in accordance with the internal audit charter and UK Public Sector Internal Audit Standards (PSIAS) and will undertake reviews that focus on areas of greatest risk to the Council, as agreed annually in consultation with CLT and approved by the Joint Audit & Governance Committee. However, it is the responsibility of every manager to establish and maintain an effective system of internal control.

Internal audit shall have the authority to have unrestricted access to all records, assets, personnel and premises deemed necessary to review the activities of the Council and (where appropriate, subject to contractual arrangements) its contractors and operating partners. It also has authority to obtain from all Officers and Members such information and explanations as are considered necessary and direct access and freedom to report to CLT, the Council and its committees (although its primary responsibility is to the Joint Audit & Governance Committee).

#### **b) Key controls**

The key controls for Internal Audit are:

- (a) That it is independent in its planning and operation;
- (b) The Head of Internal Auditor has direct access to the Chief Executive, all levels of management and directly to Elected Members; and

- (c) The internal Auditors comply with the United Kingdom Internal Audit Standards as interpreted by CIPFA's Local Government Application Note.

#### **4.2.2 External Audit**

##### **a) Why is this important?**

It is a statutory requirement for the Council to publish an audited Statement of Accounts.

The Accounts and Audit (England) Regulation 2015 sets out the requirements of signing, approval and publication of the statement of accounts.

The arrangements for the appointment of external auditors are included in the Local Audit and Accountability Act 2014 which give the Councils two options:

- i) to either opt in to the Appointing Person regime; or
- ii) to establish an auditor panel and conduct their own procurement exercise.

##### **b) Responsibilities of the Chief Financial Officer**

Make arrangements to let the contract for the provision of external audit services.

To ensure that the appointed External Auditor is given access at all times to premises, personnel, documents and assets that they consider necessary for the purposes of their work.

To ensure there is effective liaison between external and internal audit.

##### **c) Key controls**

The key controls for External Audit are:

- (a) That it is independent in its planning and operation;
- (b) The External auditor has direct access to the Chief Executive, all levels of management and directly to Elected Members; and
- (c) The External auditor reports to the Governance and Audit Committee and that all reports of the auditor are publicly available.

#### **4.3 PREVENTING FRAUD AND CORRUPTION**

The Council takes the prevention of fraud, corruption and maladministration very seriously and has the following policies in place, which aim to prevent or deal with such occurrences:

- Anti-Fraud, Corruption & Bribery Policy
- Whistleblowing Policy (in respect of the Public Interest Disclosure Act 1998)
- Anti-money laundering procedures
- HR policies regarding discipline of staff
- Registers of Interests for Members and staff
- Robust processes for the procurement of goods and services

The Council expects all Members and Officers to act with propriety and accountability and also expects that individuals and organisations with whom the Council comes into contact (for example, suppliers, contractors and service providers) will act towards the Council with integrity and without thought or actions involving fraud and corruption.



Where financial or other impropriety is discovered or suspected it must immediately be reported to the Chief Financial Officer and the Head of Legal and/or the Head of Internal Audit for appropriate investigation and action.

#### **4.4 ASSETS – LAND, BUILDINGS, FURNITURE, EQUIPMENT, ETC.**

##### **4.4.1 Acquisitions**

###### **Why are these important?**

The Council is publicly accountable for the way that it spends its money. Value for money must be demonstrated and the Council has a statutory duty to achieve best value in everything it does. Therefore, the Council has to exercise control over its purchasing activity, including asset acquisition (e.g. property, vehicles, plant and equipment, furniture).

###### **Responsibilities of the Chief Financial Officer**

To issue guidelines on the best practice in respect of asset acquisition.  
To periodically review all guidelines to ensure that they still reflect best practice.  
To ensure that all expenditure is properly recorded in the Council's accounts and records.

###### **Responsibilities of CLT/Heads of Service**

To ensure that the Council's policies and procedures are complied with.  
To ensure that the necessary separation of duties is observed.  
To ensure that assets purchased are necessary.

###### **Key controls**

The key controls for asset acquisition are:

- (a) Council policies, including the Governance arrangements and Officer Decision Making Procedure Rules, in respect of the acquisition of assets are complied with at all times. This includes compliance with Contract Standing Orders for all relevant asset acquisitions.
- (b) There are at least two Officers involved in the process of acquisition, with a separation of duties between Officers involved in the different parts of the process.
- (c) Procedures protect Officers involved in the acquisition of assets from accusations of impropriety.

##### **4.4.2 Asset disposal and transfer**

###### **Why is this important?**

It would be uneconomic and inefficient for the cost of maintaining assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the Council's policies and procedures.

Assets are sometimes used by or transferred to an external party, for example as part of an outsourced contract or partnership arrangement. It is important that the legal and financial basis for the transfer is determined and properly documented, so that the interests of the Council are protected.

###### **Responsibilities of the Chief Financial Officer**

To issue guidelines representing best practice for disposal of assets.

To ensure appropriate accounting entries are made to remove the value of disposed or transferred assets from the Council's records and to include the sale proceeds, if appropriate.

###### **Responsibilities of CLT/Heads of Service**

To seek advice from the Chief Financial Officer on the disposal of surplus or obsolete materials, equipment and vehicles.

To seek advice from the Chief Financial Officer where assets are to be transferred or predominantly used by an external party.

To ensure that income received for the disposal of an asset is properly banked and coded.

To authorise the write off and disposal of obsolete or surplus materials and equipment.

To ensure that the disposal of obsolete or surplus materials and equipment, is by competitive quotation or auction, unless, following consultation with the Chief Financial Officer, the Cabinet decides otherwise.

**Specifically relating to the disposal or acquisition of land and buildings:**

To ensure that all disposals of land and buildings are in accordance with the Council's asset management strategy current at the time. Where disposal of land and buildings is allowed, it shall be conducted in accordance with the scheme of delegations and the provisions detailed in (a) (i) – (vi) below.

- (a) Approved methods of disposal shall be by:
  - (i) Private Treaty;
  - (ii) Auction;
  - (iii) Tender
  - (iv) Sealed Offer;
  - (v) Exchanges of land; or
  - (vi) Compulsory Purchase Order
- (b) To ensure that where land is to be disposed of by the Council, the Chief Financial Officer shall ensure compliance with Financial Regulations and S123 of the Local Government Act 1972.
- (c) Prior to any disposal of land, a valuation of the asset to be sold should be obtained from an appropriately qualified valuer.

**Key controls**

- (a) assets for disposal or transfer are identified and are disposed of or transferred at the most appropriate time, and only when it is in the best interests of the Council, and the best price or contract terms are obtained, bearing in mind other factors, such as environmental issues or the delivery of strategic objectives.
- (b) Prior to the disposal of any land or buildings, a formal valuation is obtained
- (c) for items of significant value, disposal should be by competitive tender or public auction; and
- (d) procedures protect Officers involved in the disposal of assets from accusations of personal gain.

**4.4.3 Security (Including Inventories)**

**Why is this important?**

The Council holds assets in the form of property, vehicles, equipment and other items worth many millions of pounds. Information held by the Council is also a key asset. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of assets. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

**Responsibilities of the Chief Financial Officer**

To ensure that an asset register is maintained in accordance with good practice for all assets with a value in excess of £10,000. The function of the asset register is to provide the Council with information about fixed assets so that they are:

- safeguarded;
- used efficiently and effectively;
- adequately maintained; and
- accounted for.

To receive the information required for asset accounting and associated financial records from each director/group head.

To ensure that assets are valued in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom*.

**Responsibilities of the Head of Customer Services:**

To maintain a central register of all IT and telephony equipment.

**Responsibilities of the Head of Environmental Services:**

To maintain a central register of all vehicles.

**Responsibilities of CLT/Heads of Service**

To ensure the proper security of all Officers, buildings and other assets under their control.

To pass title deeds and contract documentation to the Head of Legal Services who is responsible for custody of all title deeds.

To ensure the safe custody of vehicles, equipment, furniture, and other property belonging to the Council.

To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.

To ensure cash holdings on premises are kept to a minimum and that maximum limits are agreed by the Chief Financial Officer.

To ensure that keys to safes and similar secure containers/cupboards are carried on the person of those responsible at all times; loss of any such keys must be reported to the Chief Financial Officer as soon as possible.

To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Chief Financial Officer.

To carry out an annual check of all items on the inventory in order to verify location, to review condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly.

To make sure that property is only used in the course of the Council's business, unless the Director/Head of Service concerned has given permission otherwise.

**Key controls**

- (a) assets registers are accurately maintained and all assets are accounted for; and
- (b) assets are valued in accordance with approved policies and appropriate values included in the Council's Annual Accounts.

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## 4.5 TREASURY MANAGEMENT

### Why is this important?

Many millions of pounds pass through the Councils' accounts each year. The scale of the local authority treasury activity and issues such as the Icelandic banking collapse has led to the development of CIPFA's *Code of Practice on Treasury Management and Prudential Code for Capital Finance in Local Authorities (Prudential Code)*. These aim to provide assurances that the Councils' money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Councils' financial resources.

### Responsibilities of Chief Financial Officer

To arrange the borrowing and investments of the Councils, including bank overdrafts, in such a manner as to comply with the CIPFA *Code of Practice on Treasury Management, the Prudential Code*, the Councils' Treasury Management Strategy and the Councils' Treasury Management Practices.

To report on treasury activities to the Joint Audit & Governance Committee, with recommendations (including adoption of the Treasury Management Strategy Statement & Annual Investment Strategy) referred for approval by Full Council.

To operate bank accounts as are considered necessary. All arrangements with the Councils' approved bankers regarding the Councils' bank accounts, and the terms on which they are conducted, shall be made by the Chief Financial Officer.

To ensure that detailed arrangements are made regarding the Councils' bank accounts and for the issue of cheques and cards. All cheques or cards shall be ordered only on the authority of the Chief Financial Officer who shall advise on proper arrangements for their safe custody.

All of the Councils' bank accounts must be in the name of 'Adur District Council' or 'Worthing Borough Council'.

To ensure that all investments or utilisation of monies and other accumulations and the sale or realisation of investments are made in the name of the relevant Council or in the name of nominees approved by the Cabinet.

To effect all borrowings in the name of the Councils.

To act as the Councils' registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money and investment by the relevant Council.

To ensure that in circumstances where a Council has decided to finance capital expenditure by way of leasing, deferred purchase, or similar arrangements, the Chief Financial Officer or their authorised representative shall so far as possible, obtain competitive quotations from relevant funding sources and such arrangements shall be subject to approval by the relevant Cabinet Member.

### Responsibilities of CLT/Heads of Service

To follow the instructions on banking issued by the Chief Financial Officer.

To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Cabinet, following consultation with the Chief Financial Officer and if appropriate Council.

To ensure that CLT/Heads of Service advise the Chief Financial Officer of the disposal of any vehicle or item of equipment that is subject to a lease.

#### **Key controls**

- (a) the Treasury Management Strategy Statement & Annual Investment Strategy must be approved by Full Council by 31st March for the next financial year;
- (b) Council investments are only placed with approved institutions in line with the agreed strategies;
- (c) investment performance is monitored and reported to Officers and Members;
- (d) funds transfers (e.g. by CHAPS) require dual authorisation by designated officers; and
- (e) investment and borrowing requirements are identified and planned for in short-term cash flow forecasting and longer-term financial strategies.

### **4.6 STRATEGIC PROPERTY INVESTMENT FUND**

#### **Why is this important?**

The Councils are investing millions of pounds in commercial property to produce a sustainable income stream to support the Councils' activities for the future. The scale of this investment activity and associated risks mean that such investments should be properly managed, a point reinforced by the recently revised *Prudential Code for Capital Finance in Local Authorities (Prudential Code)*. This aims to provide assurances that the Councils' property investment activity is properly managed in a way that balances risk with return, but with the overriding consideration being given to the long-term security of the Councils' property investments.

#### **Responsibilities of Head of Major Projects and Investment**

To ensure that Key Decision notices are published for any potential purchase;

To ensure that the approval of any purchases complies with the governance arrangements detailed within the Commercial Property Investment Strategy.

To ensure sufficient resources are allocated to the long term management of Strategic Property Investment Fund assets to maintain their long term value is maintained.

To ensure that effective asset management plans, processes and procedures are in place to ensure that these assets are managed appropriately.

To report on property investment activities to the Joint Audit & Governance Committee, with recommendations (including adoption of the Annual Commercial Property Investment Strategy) referred for approval by Full Council.

To effect all purchases in the name of the relevant Council.

#### **Responsibilities of Chief Financial Officer**

To arrange the financing of any purchases (including borrowing) of the Council, in such a manner as to comply with the CIPFA *Prudential Code*, the Councils' Treasury Management Strategy and the Councils' Treasury Management Practices.

#### **Key controls**

- (a) the Commercial Property Investment Strategy must be approved by Full Council by 31st March for the next financial year;
- (b) Council will only invest in line with the agreed strategy;
- (c) The performance of the Strategic Property Investment Fund is monitored and reported to Officers and Members;
- (d) An annual report is prepared for both the Joint Strategic Committee and the Joint Audit & Governance Committee detailing the value, outstanding borrowings and rental performance of the fund
- (e) All property purchases are subject to extensive due diligence and conveyancing is managed by appropriately qualified legal resources.

#### **4.7 WORKFORCE**

##### **Why is this important?**

The Council sees its Officers as a valuable asset to running its business to provide the highest level of service, it is essential that the Council recruits and retains high calibre, knowledgeable Officers, who are qualified to an appropriate level.

##### **Responsibilities of the Chief Financial Officer**

To ensure that CLT/Heads of Service have identified budget provision for all existing and new employees.

To act as an advisor to CLT/Heads of Service on areas such as National Insurance and pension contributions, as appropriate.

##### **Responsibilities of the Director of Digital, Sustainability and Resources**

To develop a workforce strategy, policy and procedures and ensure they are disseminated and enforced.

##### **Responsibilities of CLT/Heads of Service**

To produce an annual workforce budget.

To ensure that the workforce budget is an accurate forecast of workforce levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).

To ensure that the workforce budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.

To comply with, and ensure Officers comply with, the Council's Human Resource policies (for example: recruitment, training and flexible working policies).

##### **Key controls**

The key controls for employees are:

- (a) an appropriate workforce strategy and policy exists, in which Officer requirements and budget allocation are matched;
- (b) procedures are in place for forecasting workforce requirements and cost;
- (c) controls are implemented that ensure that Officer time is used efficiently and to the benefit of the Council; and
- (d) checks are undertaken prior to appointing new Officers to ensure that they are appropriately qualified, experienced and trustworthy.

#### **5. FINANCIAL SYSTEMS AND PROCEDURES**

##### **5.1 GENERAL**

## **Introduction**

The Council is governed by laws requiring that it makes proper arrangements for the administration, reporting and safeguarding of those funds and act in a way that is open and accountable as to how those funds are used.

Whilst all Council Officers and Members have a general financial responsibility, Section 151 of the Local Government Act 1972 requires that a suitably qualified Officer must be responsible for the financial administration of the organisation. This Officer is the Chief Financial Officer.

## **Chief Financial Officer**

The Chief Financial Officer is responsible for the proper administration of the Council's financial affairs, prescribes appropriate financial systems, protocols, procedures and policies, maintains an internal audit service and reports to the Council in the event of any decision or action leading to, or may lead to, unlawful expenditure, loss, deficiency or accounting entry and:

- (a) will be responsible for ensuring the final accounts are completed and published in accordance with statute and accepted public sector accounting requirements and the reporting to Members of any material amendments specified by external audit,
- (b) will have unrestricted access to all Council assets, systems, documents, information, data, employees and Members held by the Council,
- (c) issue guidance, advice or instruction on the application of these financial systems and procedures as appropriate,
- (d) recommend to the Council the addition, alteration or deletion of any financial regulation.

## **CLT/Heads of Service**

CLT and Heads of Service are the senior management of the organisation and:

- (a) will manage budgets and financial activity within their area of responsibility including the planning and control of budgets and prevention of fraud and corruption to ensure efficient and effective use of resources,
- (b) shall consult with the Chief Financial Officer and obtain approval on any matter that may have a material effect, advantageous or detrimental, on the Council's financial position or financial strategy,
- (c) Comply with any instruction given by the Chief Financial Officer regarding the form and method of financial record keeping or the operation of any financial procedures.

## **Cabinet, Committees and Sub-Committees**

All Members of the Council including those appointed to the Cabinet, any Committee or Sub-Committee will ensure that decisions taken are within their remit and relevant budgets, are compliant with adopted policies, and consistent with achievement of the Council's service or corporate plans

## **Council**

The Council will;

- Determine the Medium Term Financial Strategy (MTFS)
- Approve and the annual revenue and capital budgets and determine the level of local taxation and other statutory charges
- Approve the Treasury Management Strategy (TMS) and prudential indicators
- Approve the capital strategy

- Approve changes to these financial procedures (following consideration by the Joint Audit & Governance Committee)

### **Officers and Members**

All Officers and Members will contribute to the general stewardship of the Council's financial affairs in compliance with these rules and any systems, procedures, policies prescribed by law or the Chief Financial Officer relating to the Council's financial management. They will bring to the attention of the Chief Financial Officer and the Head of Legal any matter that is contrary to the provisions of this code or the high standard of financial probity expected of the Council or may bring the Council into disrepute or legal challenge.

## **5.2 INCOME**

All Officers receiving money or cashable instruments (including cash, cheques, credit/debit card payments, direct credits, etc.) or making arrangements for the collection of income must comply with the relevant procedures and instructions issued by the Chief Financial Officer to ensure that sums are properly recorded, receipted, and banked, and correct accounting entries made.

Cash, in coin or bank note, is only to be accepted in agreed circumstances and every effort should be made to promote cashless payments.

### **Budget Holders**

All Officers with budget management responsibility are required to ensure that:

- invoices and credit notes are raised promptly,
- all enquiries relating to invoices raised and answered promptly,
- any matters that may affect recovery of an invoiced debt is made known to Accounts Receivable,
- any debts considered appropriate for write-off are notified to the Chief Financial Officer,
- income is regularly monitored and any irregularities are promptly notified to the Chief Financial Officer,
- a review of fees, charges and other income is undertaken at least annually and also as part of the budget setting cycle.

### **Write-off of irrecoverable debt**

Once levied, debt may not be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt must only be issued to correct a factual inaccuracy or administrative error in the calculation or billing of the original debt.

The Chief Financial Officer is:

- approved to write-off a debt (or combination of debts) due from any individual debtor in any one financial year of not more than £2,500 in aggregate.
- authorised to delegate the write off of small debts of less than £250.00 to nominated Officers

Debts greater than £2,500 may only be written-off with relevant Cabinet Member approval.

### **Sale of Assets**



CLT or Heads of Service will notify the Chief Financial Officer of any proposal to sell any surplus assets within their control or responsibility. The Chief Financial Officer will assess in consultation with the Director or Heads of Service the value of the asset(s) and determine the most appropriate route for sale. The prior approval of the Cabinet Member for Resources is to be sought for the sale of any individual asset with a current value of more than £50,000 in the Asset Register.

### **5.3 EXPENDITURE**

#### **General**

All purchases of goods and services are to be made in compliance with procedures in the Contract Standing Orders, as set out at Part 4 of this Constitution, or as otherwise instructed by the Chief Financial Officer. All Council purchases (other than those made by credit card) must be made and authorised by raising an Official Order in the Council's financial management system or repairs management system.

Purchases made using a Council credit card must be supported by a Payment Requisition signed by the purchasing Officer and counter-signed by an authorised Officer and forwarded promptly to the Chief Financial Officer.

The Chief Financial Officer will determine the authorised purchasing limits for all Officers in consultation with the relevant Director or Head of Service.

All purchases of goods and services must be supported by a valid invoice (in electronic or hard copy) that meets the requirements of the HM Revenue & Customs to support VAT recovery where appropriate.

Payments for goods and services will only be made where it can be referenced to an Official Order and will be by bank automated clearing system (BACS) or such other alternative method as may be approved by the Chief Financial Officer.

#### **Acquisition of Assets**

Assets purchased at a cost of more than £25,000 must be notified to the Chief Financial Officer for inclusion in a register of assets maintained to comply with public sector accounting requirements and best practice.

#### **Officers and Members**

All payments to Officers and Members will be made through the Council's payroll or as otherwise authorised by the Chief Financial Officer in order that all statutory and regulatory requirements are met.

No payment will be made unless approved by a duly authorised Officer. The Chief Financial Officer will determine the limit of authority for any Officer in consultation with the relevant Director or Head of Service.

### **5.4 TAXATION**

The Council has a statutory duty for the proper administration of its tax affairs in pursuance of various United Kingdom and European Union legislation and directives.

All Officers and Members will comply promptly with any request made by the Chief Financial Officer for information or documentation in relation to any direct or indirect tax matters that may impact upon the proper administration of such matters including;

- Pay As You Earn income tax (PAYE)
- National Insurance Contributions (NIC)
- Value Added Tax (VAT)
- Construction Industry Tax (CIS)
- Corporation Tax

## 5.5 INSURANCE

### Responsibilities of the Chief Financial Officer

The Chief Financial Officer will arrange for all insurance covers and negotiate settlement of all claims made through such insurances in consultation with relevant officers of the Council.

### Responsibilities of CLT/Heads of Service

CLT and Heads of Service will ensure prompt notification to the officer responsible for insurances:

- of any incidents that may give rise to a claim against the Council the costs of which may be indemnified by the Council's insurances,
- of loss of or damage to any Council property or asset under its ownership, responsibility, custody or control,
- of any change in risk or ownership of or responsibility for any asset or property.

## 6. EXTERNAL ARRANGEMENTS

### 6.1 EXTERNAL FUNDING

#### Why is this important?

External funding is a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies provide additional resources to enable the Council to deliver services to the local community. However, in some instances, such funding may not link to the Council's aims and objectives, is linked to tight specifications and conditions and may impose risk and liability upon the Council.

### Responsibilities of the Chief Financial Officer

- To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements or an exit strategy is agreed.
- To ensure that audit requirements are met.
- To ensure that all claims are submitted by the due date.
- To ensure all virements in relation to approved bids are appropriately approved and actioned.
- To include progress updates on significant approved bids as part of the regular reporting process as and when required.

### Responsibilities of CLT/Heads of Service

#### *Bid Approvals*

- (a) To ensure that the Chief Executive, Director of Digital, Sustainability and Resources, the Chief Financial Officer and the Head of Place and Economy are advised, at the earliest possible time, of all opportunities and applications for external funding.
- (b) To ensure that any match funding is identified and in place prior to bidding for any external funding.
- (c) To ensure all bids up to £100,000 are approved by the relevant Director prior to submitting the bid.
- (d) To ensure all bids over £100,000 are subject to consultation with all of the relevant Cabinet Members prior to submission of any bid

#### *Spend approvals*

- (a) To update the Forward Plan for any new contracts or spend items which are over the Key Decision limits (currently £100,000);
- (b) If successful in bidding, to submit reports to:
  - (i) the relevant Cabinet Member for bids that are over £100,000 and up to £250,000
  - (ii) the Joint Strategic Committee for bids that are over £250,001which are sufficiently developed to enable the use of the funds without any further reporting requirement. This will include seeking approval for budget virements and any procurement activity.

#### *Delivery*

- (a) To give the Chief Financial Officer a copy of all approvals received from government departments or other sources of external funds.
- (b) To ensure that all supporting information is kept to support claims for funds.
- (c) To ensure that the project progresses in accordance with the agreed conditions and that all expenditure is properly incurred and recorded.
- (d) To complete all grant monitoring information and claims in accordance with the agreed timescales.

#### **Key controls**

The key controls for external funding are:

- (a) To ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood;
- (b) To ensure that funds are acquired only to meet the priorities approved in the Policy Framework by the Council;
- (c) To ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements or an exit strategy is agreed;
- (d) To ensure risks are identified, within acceptable limits and are capable of being managed;
- (e) To ensure monitoring and reporting frameworks are established and followed; and
- (f) To ensure adequate controls and governance arrangements are in place and are followed.

## **6.2 GRANTS TO EXTERNAL ORGANISATIONS (INCLUDING RATE RELIEF)**

### **Why is this important**

Local groups and organisations make a significant contribution to the local community. However, this contribution is difficult to quantify in financial terms and it is therefore particularly important that any financial support the Council provides to these groups follows a clear and transparent process.

### **Responsibility of CLT/Heads of Service**

To ensure that any grant payments and any awards of discretionary business rate relief are made in accordance with the agreed policies of the Council, and can be met from within existing budgetary provision.

**APPENDIX 1: SCHEME OF VIREMENT AT A GLANCE (SECTION 3.2)**

Type of Virement Delegation Limit	General (3.2.1)	S106 (3.2.2)	Contingency (3.2.3)	Reserves (3.2.4)
CLT	£50k	£25k	n/a	£25k
Chief Financial Officer (s.151 Officer)	£100k	n/a	Technical virement (s.151 Officer) allowed when fully costed and compliance with policy	
Cabinet Member	£100k+	£25k+	n/a	£25k+ If a delegation is in place
Joint Strategic Committee/Cabinet	£250+	£100k+	n/a	£250k+

**Note:**

It is essential that these limits are read in conjunction with the Financial Rules as contained in Part 4 of the Constitution as there are certain circumstances where virement is restricted or not permitted.

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## PART 5 - CODES AND PROTOCOLS

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### Member Code of Conduct

#### Joint statement

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

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

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

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

#### Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Member Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and Members on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

#### Definitions

For the purposes of this Code of Conduct, a 'Member' means a member or co-opted member of a local authority or a directly elected mayor. A 'co-opted member' is defined in the Localism Act 2011 Section 27(4) as 'a person who is not a member of the authority but who

- (a) is a member of any committee or sub-committee of the authority, or;
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee'.

For the purposes of this Code of Conduct, 'local authority' includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

### **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a Member, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Members, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Members and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of Member and local government.

### **General principles of Member conduct**

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

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

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

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

In undertaking my role:

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

### **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Member or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Member.

This Code of Conduct applies to you when you are acting in your capacity as a Member which may include when:

- you misuse your position as a Member
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Member;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in oral communication
- in non-oral communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Member.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish Members are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

### **Standards of Member Conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a Member. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

#### **General Conduct**

##### **1. Respect**

###### **As a Member:**

**1.1. I treat other Members and members of the public with respect.**

**1.2. I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Member, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Members.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Members, where action could then be taken under the Member Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Member-Officer protocol.

##### **2. Bullying, harassment and discrimination**

###### **As a Member:**

**2.1. I do not bully any person.**

**2.2. I do not harass any person.**

### **2.3. I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Members have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the council**

**As a Member:**

#### **3.1. I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a Member:**

#### **4.1. I do not disclose information:**

- a. **given to me in confidence by anyone**
- b. **acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:**
  - i. **I have received the consent of a person authorised to give it;**
  - ii. **I am required by law to do so;**
  - iii. **the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. **the disclosure is:**
    1. **reasonable and in the public interest; and**
    2. **made in good faith and in compliance with the reasonable requirements of the local authority; and**



**3. I have consulted the Monitoring Officer prior to its release.**

**4.2. I do not improperly use knowledge gained solely as a result of my role as a Member for the advancement of myself, my friends, my family members, my employer or my business interests.**

**4.3. I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

**As a Member:**

**5.1. I do not bring my role or local authority into disrepute.**

As a Member, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Members and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/it's functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow Members to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a Member:**

**6.1. I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a Member:**

**7.1. I do not misuse council resources.**

**7.2. I will, when using the resources of the local or authorising their use by others:**

- a. **act in accordance with the local authority's requirements; and**
- b. **ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Member.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a Member more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8 . Complying with the Code of Conduct**

**As a Member:**

- 8.1. I undertake Code of Conduct training provided by my local authority.**
- 8.2. I cooperate with any Code of Conduct investigation and/or determination.**
- 8.3. I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4. I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a Member to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### **Protecting your reputation and the reputation of the local authority**

## **9 . Interests**

**As a Member:**

- 9.1. I register and disclose my interests.**

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

You need to register your interests so that the public, local authority employees and fellow Members know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Members when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

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

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## 10. Gifts and hospitality

### As a Member:

- 10.1. I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.
- 10.2. I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.
- 10.3. I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Member. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Member, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Member. If you are unsure, do contact your Monitoring Officer for guidance.

### Appendix A – The Seven Principles of Public Life

The principles are:

#### Selflessness

Holders of public office should act solely in terms of the public interest.

#### Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

## Honesty

Holders of public office should be truthful.

## Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012'. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

'**Disclosable pecuniary interest**' means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

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

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the Member, or a person connected with the Member, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

### Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting

but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

6.7. Otherwise, if you disclose an Other Registrable Interest at a meeting regarding a matter that may engage but **not directly relate** to your interest, you may speak and vote on that particular item, provided you take account of any actual or perceived conflict of interest, bias or pre-determination, which a reasonable member of the public knowing all the facts might believe would affect your view of the wider public interest.

### Disclosure of Non-Registerable Interests

7.8. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative<sup>6</sup> or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8.9. Where a matter arises at a meeting which **affects** –

- a. your own financial interest or well-being;
- b. a financial interest or well-being of a friend, relative, close associate; or
- c. a body included in those you need to disclose under Disclosable Pecuniary Interests as set out in **Table 1**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9.10. Where a matter **affects your ~~the~~** financial interest or well-being of yourself, a friend, relative or close associate:

- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
- b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

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

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

### Table 1: Disclosable Pecuniary Interests

<sup>6</sup> 'Relative' is defined in s.28(10) of the Localism Act 2011 as:

- (a) the other person's spouse or civil partner,
- (b) living with the other person as husband and wife or as if they were civil partners,
- (c) a grandparent of the other person,
- (d) a lineal descendant of a grandparent of the other person,
- (e) a parent, sibling or child of a person within paragraph (a) or (b),
- (f) the spouse or civil partner of a person within paragraph (c), (d) or (e), or
- (a)(g) living with a person within paragraph (c), (d) or (e) as husband and wife or as if they were civil partners.

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

<b>Subject</b>	<b>Description</b>
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the Member during the previous 12-month period for expenses incurred by them in carrying out their duties as a Member, or towards their election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the Member or their spouse or civil partner or the person with whom the Member is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the Member or their spouse or civil partner or the person with whom the Member is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the Member's knowledge)— the landlord is the council; and the tenant is a body that the Member, or their spouse or civil partner or the person with whom the Member is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the Member's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Member, or their spouse or civil partner or the person with whom the Member is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

#### **Table 2: Other Registerable Interests**

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

- (a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- (b) any body
  - (i) exercising functions of a public nature
  - (ii) any body directed to charitable purposes (including Freemasons) or
  - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

### **Appendix C**

#### **The Committee on Standards in Public Life**

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring Members to comply with any formal standards investigation and prohibiting trivial or malicious allegations by Members.

**Best practice 3:** The Council will review this Code of Conduct every two years unless an earlier review is requested by the Monitoring Officer.

**Best practice 4:** An authority's code should be readily accessible to both Members and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish Member towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with Political Group leaders or group whips to discuss standards issues.



## **Officer Code of Conduct**

### **1.0 INTRODUCTION**

- 1.1 Section 82 of the Local Government Act 2000 makes provision for a Code of Conduct for all Local Government Employees. The Officer Code of Conduct aims to set out fundamental values that underpin standards of conduct in Local Government.

### **2.0 SCOPE**

- 2.1 This Code applies to all Council Officers, regardless of whether or not they are employees of the Council or employees of another body seconded to act as Officer of this Council. It applies to all Officers, regardless of whether they are part time, full time, permanent, temporary or casual. It sets out the minimum standards of conduct that apply.
- 2.2 The Code forms part of all Employees' terms and conditions of employment.

### **3.0 STATEMENT**

- 3.1 All employees and/or Officers of the Council must perform their duties with honesty, integrity, impartiality and objectivity. All employees and Officers are accountable to the Council for their actions. The public is entitled to demand of a Local Government Officer conduct of the highest standard and public confidence in an Officer's integrity would be damaged were the least suspicion, however ill-founded, to arise that an Officer could be influenced by improper motives.
- 3.2 All Officers must treat other employees, Members and Co-opted Members of the Council with dignity and respect and must not discriminate unlawfully against any person.
- 3.3 The Officer Code of Conduct is not intended to simply be a list of prohibitions, but should benefit all Officers because the Code will clarify conduct which is permissible and appropriate.

### **4.0 CONDUCT EXPECTED OF COUNCIL OFFICERS**

- 4.1 This Officer Code of Conduct sets out the minimum standards that are to be expected.
- 4.2 An Officer of the Council must be aware of and positively promote the Council's vision and corporate priorities as set out on the Council's website.
- 4.3 An Officer of the Council must be committed to treating other Officers and Members with dignity and respect in accordance with the Councils' dignity at work provisions incorporated into the Grievance Policy.
- 4.4 A Council Officer must abide by all policies and procedures of the Councils, relevant to their area of work.
- 4.5 All Council Officers must be aware of their responsibility to the community served by the Councils and must ensure that they provide a courteous, efficient and impartial service delivery, in accordance with the Council's Customer Care Standards. Specifically all staff need to be proactive in providing great service to customers, ensuring we get things right first time, we listen to our customers and we are proactive in our communication.
- 4.6 A Council Officer must not allow their personal interests to conflict with the Council's requirements or objectives and nor may they use their position improperly to confer an advantage or disadvantage on any individual, or organisation.

- 4.7 If a Council Officer who engages or supervises contractors, has a previous or current personal relationship with that contractor, it should be declared to their Head of Service.
- 4.8 If a Council Officer has access to confidential information relating to tenders or costs for contractors, they may not disclose that information to any unauthorised individual, or organisation.
- 4.9 A Council Officer must not use any public funds entrusted to them in an irresponsible, reckless or unlawful manner and may not make personal use of property or facilities of the Council, unless properly authorised to do so.
- 4.10 An Officer of the Council will not be precluded from undertaking additional employment provided that any such employment does not, in the view of the Council, conflict with or react detrimentally to the Council's interests, or in any way weaken public confidence in the conduct of the Council's business. Any Officer of the Council must declare any such additional employment to their Head of Service for inclusion in the Register of Additional Employment maintained by the Head of Human Resources.
- 4.11 If a Council Officer is aware that a contract in which they, or their spouse or partner, has any financial interest, either directly or indirectly, has been or is proposed to be entered into by the Councils, they must as soon as practicable give notice in writing to their Head of Service who shall inform the Head of Legal Services.
- 4.12 Officers of the Council are employed to serve the Council as a whole and must provide a service to all Members, not just those of the controlling party, and ensure that the individual rights of all Members are respected. All Officers, whether in a politically restricted post or not, must follow all policies of the Councils and not allow their own personal or political opinions to interfere with their work.
- 4.13 To preserve public confidence, Council Officers are strongly encouraged not to accept any gifts from customers or contractors. It may constitute a serious criminal offence for an Officer to corruptly receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything, or showing favour or disfavour to any person, in their official capacity.
- 4.14 If a Council Officer does accept any gift, they must comply with the Council's requirements to register or declare interests, and to declare hospitality, benefits, gifts received as a consequence of employment. Any such gift received must be registered, regardless of its value, within 28 days of receipt. Such declaration must be made to the Officer's Head of Service for inclusion in the register held by the Head of Human Resources. It is also good practice for Council Officers to declare any offers of gifts.
- 4.15 A Council Officer must report to the appropriate Manager, any impropriety or breach of procedure. Further guidance is contained within the Councils' Whistleblowing Policy. A Council Officer must not treat another Officer less favourably, because that Officer has, intends to, or is suspected of, reporting misconduct.
- 4.16 A Council Officer must not disclose information given to them in confidence, or information acquired which is believed to be of a confidential nature, without the consent of the person involved or the proper authorisation. A Council Officer must not prevent another person from gaining access to information to which that person is entitled by law. Further guidance can be obtained from the Councils' Security of Information Officer.
- 4.17 Close personal associations, either between Officers and Members, or between Officers, can be perceived as leading to less independence and impartiality of individuals, and therefore Officers involved in such relationships should declare them to their Head of Service, to be transparent about the nature of the relationship and not put themselves nor the Council in any potential position of conflict. Further information can be found in the

Councils' Equalities Policy and Grievance Policy, which are also part of an Officer's terms and conditions of employment.

- 4.18 A Council Officer must not be involved in the recruitment, discipline, promotion or pay adjustment or conditions of service of another Officer, or potential Officer, who is a relative or someone well known to them. Further guidance can be found in the Councils' Recruitment and Selection Policy.
- 4.19 A Council Officer must declare to their Head of Service, for inclusion in the Register of Interests held by the Head of Human Resources, membership of any organisation which is not open to the public without formal membership and commitment of allegiance and which has secrecy around rules of membership or conduct.
- 4.20 A Council Officer should be aware that there may be exceptional circumstances where their behaviour, out of hours and off-duty, may impact on the Councils and their reputations. In particular, reference is made to the Councils' Social Media Policy. The Councils reserve the right to consider such actions in relation to its position.
- 4.21 A Council Officer must at all times act in accordance with the trust that the public is entitled to place in them. Therefore both at work and in private life a Council Officer should do nothing to bring the Councils into disrepute. The public need to be assured that public duties are not subordinated to private interests, and that conflicts between private life and duty do not arise.

4.22 Any expenditure incurred by Council Officers on non-work related or social events will be personal and not paid from Council budgets.

## **5.0 BREACH OF OFFICER CODE OF CONDUCT**

- 5.1 Failure of a Council Officer to comply with any part of this Code of Conduct may result in disciplinary action, which could include summary dismissal. Further guidance may be found in the Councils' Disciplinary Policy.

## Member/Officer Working Arrangements Protocol

### 1.0 INTRODUCTION

1.1 Mutual trust and respect between Members and Officers is at the heart of a Council's good governance. They are essential if the partnership necessary for the effective running of a local authority is to succeed. At the heart of the Members' and Officers' Codes of Conduct and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way.

1.2 This protocol is intended to assist Members and Officers in maintaining the highest standards of integrity and propriety and ensuring that all they do is ~~as seen~~ perceived by others to be done properly, fairly and, where possible, openly.

1.3 This Protocol addresses the need for a written guide to the basic elements of the relationship between Members and Officers. It is a protocol designed to:

- (a) promote trust, openness, fairness and honesty by establishing some ground rules;
- (b) define roles so as to:
  - (i) clarify responsibilities
  - (ii) avoid conflict and
  - (iii) prevent duplication or omission
- (c) secure compliance with the law, codes of conduct and the Council's own practices; and
- (d) lay down procedures for dealing with concerns by Members or Officers.

### 2.0 DEFINITIONS

2.1 Unless the context indicates otherwise, references to the term Council includes the Cabinet, Overview and Scrutiny Committees, and other Committees and Sub-Committees.

2.2 Unless the context indicates otherwise, the terms Member and Members include non-elected (i.e. co-opted) Members as well as elected Councillors.

2.3 Officers means all persons employed by the Council, or employed by another Council for the purpose of providing a service to this Council.

2.4 Senior Officer means Chief Officer, Deputy Chief Officer, Director and Heads of Service.

2.5 Designated Finance Officer means the Officer exercising the duties prescribed by law for the financial administration of the Council and is the Chief Finance Officer, Head of Financial Services and Section 151 Officer.

2.6 Monitoring Officer means the Officer appointed to and exercising their role under the Local Government and Housing Act 1989 and is the Head of Legal Services.

### 3.0 PRINCIPLES

3.1 Members and Officers must at all times observe this protocol.

3.2 This Protocol has been approved by the Council and the Joint Audit & Governance Committee will monitor its operation.

3.3 Members and Officers must always respect the roles and duties of each other. They must be courteous in all their dealings, and not seek to take unfair advantage by virtue of their position. They must maintain a professional working relationship at all times.

- 3.4 Whilst Members and Officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to Members (individually and collectively) and to carry out the Council's work under the direction of the Head of Paid Service.
- 3.5 Officers are bound by the Council's Officer Code of Conduct and, in some cases, by the codes of their professional associations.
- 3.6 Elected Members are bound by the Council's Member Code of Conduct.
- 3.7 Breaches of this Protocol by a Member may result in a complaint to the Monitoring Officer if it appears that the Members' Code of Conduct has also been breached. Breaches of this Protocol by an Officer may lead to disciplinary action, as may a breach of the Officer Code of Conduct.

#### **4.0 THE ROLE OF MEMBERS**

- 4.1 Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the Authority's Policy Framework, strategic plans and budget.
- 4.2 As politicians, Members may express the values and aspirations of the party Political Groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.
- 4.3 Members are not authorised to instruct Officers other than:
- (a) through the formal decision-making process;
  - (b) to request the provision of consumable resources provided by the Council for Members' use;
  - (c) where staff have been specifically allocated to give support to a Member or group of Members.
- 4.4 Members may not initiate or certify financial transactions, or enter into a contract in writing or orally on behalf of the Council, or direct any Officer to do so. Letters which may commit the Council to any action should not be sent in the name of any Member without having first checked the position with an appropriate Officer from Legal Services. Members should not give any assurances to any person outside the Council or make any public statement which may be interpreted as making a formal commitment on any matter where a formal decision has yet to be made.
- 4.5 No Member should meet with a developer or contractor concerning negotiations for the disposal of land or the terms of a contract outside the formal meeting processes of the Council unless a Council Officer is present and a note is made of the content of the discussion at the meeting. Such meetings might occasionally take place on an initial exploratory basis, but should not continue beyond that. Officers should then pursue any negotiations arising. The Chief Officer would keep the Member(s) informed and report formally to Member meetings where appropriate for information or decision.
- 4.6 Members must not take actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation to take into account, when reaching decisions, any advice provided by the Monitoring Officer or the designated Finance Officer.
- 4.7 Members' roles on the employment of staff are limited to:
- (a) the appointment of specified senior posts as set out in the Officer Employment Procedure Rules;

- (b) determining Human Resources policies and conditions of employment; and
- (c) hearing and determining specific appeals as set out in the Officer Employment Procedure Rules.

- 4.8 Members must respect the impartiality of Officers and do nothing to compromise it, e.g. by insisting that an Officer change their professional advice.
- 4.9 A Cabinet Member wanting to make a decision about a matter in their portfolio should ensure that other Members and Senior Officers who need to know of the matter are informed, particularly on issues of joint responsibility or mutual interest, and in appropriate cases to brief the whole Cabinet.

## 5.0 THE ROLE OF OFFICERS

- 5.1 Officers are paid employees of the Council (not of Elected Members). Officers are required to operate within the law, the Constitution, local and national codes and protocols and must always act to achieve the objectives of the Council. Ultimately, as employees, Officers are accountable under their contracts of employment. Some employees are in politically restricted posts and cannot stand for election, nor hold certain posts in political parties.
- 5.2 Officers have a duty to provide information, advice and recommendations to Members to fulfil their roles. Such information, etc. can be given both formally and informally, but where significant or potentially controversial issues are at stake should be given formally and in writing.
- 5.3 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any Political Group, combination of groups or any individual Member of the Council.
- 5.4 Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the Authority as expressed in the Council's formal decisions.
- 5.5 Officers have a contractual and legal duty to be impartial. They must not allow their professional judgment and advice to be influenced by their own personal views.
- 5.6 ~~Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, Officers will take into account all available relevant factors.~~
- 5.6 Proper, open dialogue between Members and Officers of all grades and seniority is essential to good governance. In order to ensure that dialogue is mutually respectful, productive and contributes to the effective running of the council, certain principles should be followed.
- 5.7 Under the direction and control of the Council (including, as appropriate, the Cabinet, Committees and Sub-Committees), Officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 5.8 Officers have a duty to implement decisions of the Council, the Cabinet, Committees and Sub-Committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's Constitution, and duly recorded.
- 5.9 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.

5.10 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on Officers' involvement in political activities applying to certain Officers holding politically restricted posts.

5.11 Senior Officers shall agree mutually convenient times for regular contact with Cabinet Members and Shadow Cabinet Members.

## **6.0 MEMBER DECISION MAKING**

6.1 Officers should never lobby Members or otherwise improperly seek to influence their decision making, nor should they seek to act for personal rather than professional motives.

6.2 The principal focus of Member decision making is to determine policy and strategic objectives. Members will only exceptionally be involved in operational or managerial decisions designed to deliver those policies and strategic objectives. One exception to this principle is that Members sitting in a regulatory capacity will take decisions which affect the rights of individuals, for example in relation to development management and licensing matters, to which specific codes of practice apply.

6.3 Member decision making is always formal, public and auditable on the basis of written reports and advice from relevant Officers.

6.4 Accordingly, Members should not purport to give instructions directly to junior Officers on an informal basis, except to the small number of Officers employed specifically to provide support services to Elected Members.

6.5 Members need to be aware that some, particularly more junior, members of staff can feel intimidated by direct approaches by Members, and in particular should avoid being in a position where they could be seen as asking an Officer to act against Council policy, against the Officer's professional judgment or otherwise under pressure from the Member.

## **7.0 THE RELATIONSHIP BETWEEN MEMBERS AND OFFICERS**

7.1 The conduct of Members and Officers should be such as to inspire mutual confidence and trust.

7.2 The key elements are a recognition of, and a respect for, each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.

7.3 There must be no bullying and/or intimidating behaviour between Members and Officers.

7.4 It is important that there should be a close working relationship between the Leader, Cabinet Members, Chairs of committees and senior Officers of any department which reports to that Member or committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other Political Groups, or with any other individual or organisation.

7.5 Informal and collaborative two-way contact between Members and Officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection.

7.6 No Member or Officer should allow any personal connection or relationship with any other Member or Officer to affect the performance of their official responsibilities or the taking of any action or decision by or on behalf of the Council. This includes, for example, any family relationship, membership of the same household or any business connection. Members and Officers should always consider how such a relationship or connection would be likely to be regarded by anyone outside the Council, or by any other Member or Officer, and avoid creating any impression of bias or unfairness.

7.7 Any Members and Officers who form a close personal relationship, either a Member with an Officer, a Member with a Member, or an Officer with another Officer, shall inform their Head of Service of any such relationship since it might be seen as unduly influencing their work in their respective roles.

7.8 If a Member or Officer becomes aware of an inappropriate relationship that may or does affect their work and/or the reputation of the Council, they should bring this to the attention of their Head of Service and Monitoring Officer.

7.9 It is not enough to avoid actual impropriety. Members and Officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Member should not sit on a body or participate in any decision which directly affects the Officer on a personal basis.

7.10 Officers work to the instructions of their Senior Officers, not individual Members. It follows that, whilst such Officers will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, Members should direct their requests and concerns to a Senior Officer, or an Officer that the Senior Officer has confirmed beforehand may be approached directly. Chief Officers shall ensure that Members are adequately informed of such arrangements.

7.11 Officers will do their best to give timely responses to Members' enquiries. However, Officers should not have unreasonable requests placed on them. Their work priorities are set and managed by Senior Managers. Members may discuss and give their views upon work priorities with Senior Officers.

7.12 Members will endeavour to give timely responses to enquiries from Officers.

7.13 An Officer shall not discuss with a Member personal matters concerning themselves or another individual employee. This does not prevent an Officer raising on a personal basis, and in their own time, a matter with their Ward Member.

7.14 Members and Officers should respect each other's free (i.e. non-Council) time.

7.15 Members and Officers must comply with and promote the Council's policies on equality and diversity.

## **8.0 POLITICAL GROUPS AND OFFICERS**

8.1 Officers' support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.

8.2 Party group meetings, as opposed to meetings of a body such as the Cabinet that may consist only of members of one political party, are not empowered to make decisions on



behalf of the Council, and conclusions reached at such meetings have no status as formal Council decisions.

- 8.3 In their dealings with Political Groups, Officers must treat each group in a fair and even-handed manner. In particular, if a briefing is offered to one party then it should be offered to all Political Groups.
- 8.4 There is statutory recognition for Political Groups, and it is common practice for such groups to give preliminary consideration to policy matters before being considered by the relevant Council decision-making body. There have to be confidential spaces in which Political Groups can develop their policy proposals in private with the benefit of officer advice. Officers must respect the confidentiality of any Political Group discussions at which they are present in the sense that they should not relay the content of any such discussion to another Political Group. Officers may therefore properly be called upon by Political Groups to support and contribute to such deliberations but must at all times maintain political neutrality. Equally, Members must not do anything which compromises or is likely to compromise Officers' impartiality.
- 8.5 At party group meetings where some of those present are not Members of the Council, care must be taken not to divulge confidential information relating to Council business. Persons who are not Members are not bound by the Members' Code of Conduct. They do not have the same rights to Council information as Members.

## **9.0 MEMBERS' ACCESS TO DOCUMENTS AND INFORMATION**

- 9.1 This part of the Protocol should be read in conjunction with the Access to Information Procedure Rules in Part 4 of the Council's Constitution.
- 9.2 Members may request Senior Officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as Members. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:
- it is in the public domain, and
  - it is not barred from being given, by any legislative restriction, including the Data Protection Act.
- 9.3 A Member should obtain advice from the Monitoring Officer in circumstances where they wish to have access to documents or information:
- where to do so is likely to be in breach of the Data Protection Act, or
  - where the subject matter is one in which they have a personal or disclosable pecuniary interest as defined in the Members' Code of Conduct.
- 9.4 Information given to a Member must only be used for the purpose for which it was requested.
- 9.5 Members and Officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.
- 9.6 When requested to do so, Officers will keep confidential from other Members advice requested by a Member.
- 9.7 Members and Officers must not prevent another person from gaining access to information to which that person is entitled by law.

## **10.0 INTERPRETATION, COMPLAINTS AND ALLEGATIONS OF BREACHES**

- 10.1 This part of the Protocol should be read in conjunction with the Council's Anti-Fraud, Corruption and Whistleblowing Policy Statement and Code of Conduct.
- 10.2 Members or Officers with questions about the implementation or interpretation or any part of this Protocol should seek the guidance of the Monitoring Officer or in their absence the Chief Executive.
- 10.3 Neither Officers nor Members should pass comment about Officers (individually or collectively) in a way which could be taken as personally critical of, or as undermining, the Officer(s). Similarly, it is never the role of an Officer to criticise or undermine Members (individually or collectively).
- 10.4 A Member should not raise matters relating to the conduct or capability of Officers (individually or collectively) in a manner that is incompatible with the objectives of this Protocol. This is a longstanding tradition in public service. Officers have no means of responding to such criticisms in public.
- 10.5 A Member who is unhappy about the actions taken by, or the conduct or capability of, Officers (individually or collectively) should:
- (a) avoid personal attacks on, or abuse of, the Officer(s) at all times;
  - (b) ensure that any criticism is well founded and constructive;
  - (c) never make a criticism in public (including on social media); and
  - (d) take up the concern with the relevant Director or Chief Executive.
- 10.6 A serious breach of this Protocol by an Officer may lead to an investigation and action under the Council's disciplinary procedure.
- 10.7 An Officer who believes a Member may have acted other than in accordance with this Protocol should raise their concern with the Monitoring Officer. They will consider how the complaint or allegations should be dealt with and take such action as they consider appropriate. At a minor level, this may be to raise the matter confidentially with the Member and/or the Leader of the relevant party group, giving information to the Officer concerned as to the action taken. More serious complaints may be dealt with in accordance with the Members' Code of Conduct and Standards Procedure Rules, if they relate to an alleged breach of the Members' Code of Conduct.

## **Monitoring Officer Protocol**

### **1.0 THE MONITORING OFFICER**

- 1.1 The Monitoring Officer is responsible for ensuring that the Council and its Members act lawfully, do not cause maladministration, and comply with the Member Code of Conduct. The Monitoring Officer is the Council's primary source of advice on all legal issues, and to Members on their legal obligations, but they also have specific statutory duties, such as investigating complaints of Member misconduct and making public report to the Council in cases of illegality. There is an inherent potential conflict between the Monitoring Officer role as a Legal Advisor and the fact that, on occasion, they may have to comply with statutory duties in respect of illegality. The purpose of this protocol is to enable Members to make use of the Monitoring Officer's ability to provide them with practical advice on legality and conduct, by setting out how the Monitoring Officer will carry out their functions.

### **2.0 INTRODUCTION**

- 2.1 The Council recognises that an effective Monitoring Officer, positively engaged in the discharge of the Council's business, is essential to the effective running and sound corporate governance of the Council.
- 2.2 Section 5(1) Local Government and Housing Act 1989 requires the Council to appoint an Officer as the Council's Monitoring Officer and gives that Officer personal responsibility:
- (a) to report on actual, and anticipated, illegality within the Councils;
  - (b) to report cases where the Ombudsman has found maladministration on the part of the Council;
  - (c) to maintain the Register of Members' Interests; and
  - (d) to administer, assess and investigate complaints of Members' misconduct.
- 2.3 The Council has extended the functions of its Monitoring Officer beyond these 'statutory functions' above, and their functions are set out in paragraph 5 below.
- 2.4 The law does not prescribe exactly how the Monitoring Officer is to carry out these functions. Therefore, this protocol describes the manner in which the Council expects the Monitoring Officer to discharge these functions and how it expects Officers and Members to co-operate with the Monitoring Officer in order to enable them to discharge these functions effectively.

### **3.0 APPOINTMENT**

- 3.1 The Monitoring Officer is appointed by Council and is the Council's Senior Legal Officer and Head of Legal Services.
- 3.2 The Monitoring Officer is employed by Adur District Council but also seconded to Worthing Borough Council to enable them to act as Monitoring Officer for both Adur District Council and Worthing Borough Council.
- 3.3 Where the Monitoring Officer leaves the employment of Adur District Council, they automatically cease to be the Monitoring Officer for both Councils. The Council may appoint an Officer as Interim Monitoring Officer, pending a permanent appointment.

### **4.0 PERSONAL RESPONSIBILITY**

- 4.1 The Monitoring Officer is required to carry out the statutory functions of their post personally, with the exception that:

- (a) the Monitoring Officer may nominate one or more members of staff as Deputy Monitoring Officer, with power to act as Monitoring Officer where they are unable to act; and
- (b) in respect of the obligations relating to alleged breaches of the Members' Code of Conduct, the Monitoring Officer may arrange for any person to perform all or any of their functions, for example by delegating internally or by instructing an external lawyer to conduct a particular investigation.

4.2 Whilst the statutory functions are personal to the Monitoring Officer, they may arrange for any member of staff to assist them in the discharge of any non-statutory functions.

## **5.0 FUNCTIONS**

The functions of the Monitoring Officer are as follows:

### **5.1 Statutory Functions**

- 5.1.1 To report to the Council in any case where they are of the opinion that any proposal, decision or omission by the Council or any of its Committees, Sub-Committees or Joint Committees, or any Member or Officer of the Council, has given rise to, or is likely to give rise to any illegality, in accordance with Section 5(2)(a) Local Government and Housing Act 1989.
- 5.1.2 To report to the Council in any case where the Ombudsman, after investigation, has reported that any proposal, decision or omission by the Council or any Committee, Sub-Committee or Joint Committee of the Council, or any Member or Officer of the Council has given rise to maladministration or injustice, in accordance with Section 5(2)(b) Local Government and Housing Act 1989.
- 5.1.3 To maintain the Register of Members' Interests in accordance with Section 81(1) Local Government Act 2000.
- 5.1.4 To administer, assess and investigate complaints referred to them of allegations of breach of the Members' Code of Conduct, in accordance with the Localism Act 2011.

### **5.2 Non-Statutory Functions**

- 5.2.1 To investigate any proposal, decision or omission by the Council or any of its Committees, Sub-Committees or Joint Committees, or any Member or Officer of the Council, which they have reason to believe may have given rise to, or is likely to, or would give rise to:
  - (a) illegality;
  - (b) maladministration;
  - (c) service failure;
  - (d) failure to observe the Members' Code of Conduct.
- 5.2.2 To act as the principal legal advisor to the Councils' Joint Audit & Governance Committee.
- 5.2.3 To act as principal advisor to the Sub-Committees of the Councils' Joint Audit & Governance Committee when dealing with allegations of breach of the Members' Code of Conduct.
- 5.2.4 To provide advice to Members on the Member Code of Conduct and local protocols adopted by the Council.
- 5.2.5 To monitor and uphold the Constitution.

- 5.2.6 Responsibility for the managing of complaints from the Commissioner for Local Administration in England and whistleblowing functions of the Council.
- 5.2.7 Appointment as Proper Officer for the Data Protection Act 1998, the Freedom of Information Act 2000 and the Regulation of Investigatory Powers Act 2001.
- 5.2.8 To consult regularly with the Chief Executive, the Chief Finance Officer and Internal Audit to identify areas where the probity of the Council can be improved or better protected and to take appropriate actions.
- 5.2.9 To investigate any application for dispensation from a Member and to report and recommend to the Councils' Joint Audit & Governance Committee as appropriate.
- 5.2.10 To ensure that Members of the Council are fully aware of their obligations in respect of probity, particularly under the Member Code of Conduct and any local protocols adopted by the Council.
- 5.2.11 To report to the Councils' Joint Audit & Governance Committee, and to the Council, on the resources which they require for the discharge of their functions.
- 5.2.12 To report to the Councils' Joint Audit & Governance Committee on the performance of their functions and to make any recommendations which would better enable those functions to be performed.

## **6.0 ADVICE AND DECISIONS**

6.1 The Monitoring Officer's responsibilities fall into three distinct categories:

### **6.1.1 Advice**

In a number of instances the Monitoring Officer acts as advisor to the Council, or to individual Members. For example, a Member may seek advice as to whether they have a disclosable pecuniary interest in a matter coming before a Committee. In such cases, the Monitoring Officer will provide such advice, but ultimately it is for the individual Member to take their own decision as to their conduct in the light of that advice. Where a Member's enquiry discloses a wider issue, the Monitoring Officer may decide that it is appropriate to make recommendations to the Council, in order to avoid a repetition of such difficulties.

### **6.1.2 Decisions**

In other cases, where the proposal, action or omission would cause the Council to act unlawfully, the Monitoring Officer may be required by statute to take a decision as to whether there is, or would be, any illegality on the part of the Council, or of any Member or Officer of the Council, and to decide whether they are required by statute to make a report to the Council which would have the effect of suspending the implementation of the action, or decision, until the report has been considered.

### **6.1.3 Advice and Decision**

The categories of advice and decisions are not mutually exclusive. In some instances the conduct of a Member could for example give rise to both a failure to comply with the Member Code of Conduct and an illegality on the part of the Councils. In some cases the Monitoring Officer may be obliged to advise a Member whilst also being required to take action as Monitoring Officer to address an illegality.

## **7.0 SEEKING THE ADVICE OF THE MONITORING OFFICER**

7.1 It is recognised that the Monitoring Officer will be most effective if they are able to advise on any issue at an early stage of policy formulation or implementation. Accordingly, Officers

and Members of the Council should routinely inform and consult the Monitoring Officer in respect of new policy proposals and action programmes.

## **7.2 Advice on legality and maladministration**

- 7.2.1 Members and Officers of the Council may consult the Monitoring Officer in confidence in respect of any proposal, decision or omission.
- 7.2.2 Wherever possible, the Monitoring Officer will seek to avoid any illegality or maladministration by identifying alternative or legitimate means of achieving the objective of the proposal, decision, act or omission or by rectifying any deficiency.
- 7.2.3 The Monitoring Officer will only need to make a report public on the matter if the proposed decision, act or omission were, in their opinion, unlawful and the Officer or Member concerned subsequently took any action to progress that proposal, decision or omission, despite having been advised to the contrary by the Monitoring Officer.
- 7.2.4 Where the Monitoring Officer is consulted by a Member in respect of possible illegality or maladministration in any proposal, action or omission of the Council (as opposed to of the Member making the enquiry) the Monitoring Officer shall advise the Council's Political Group Leaders and the relevant Committee Chair that they have been so consulted and the advice which they have given.

## **7.3 Advice on the Code of Conduct**

- 7.3.1 The Monitoring Officer is the primary source of advice for all Members on the Member Code of Conduct and on local protocols.
- 7.3.2 Any Member, irrespective of political party, can seek the confidential advice of the Monitoring Officer as to their own position. Where the Monitoring Officer is so consulted, and subject to any conflict of interest with the Council, they will seek to provide prompt advice to the Member concerned as to whether, in their opinion, the action or proposed action would constitute a failure to comply with the Members' Code of Conduct. Where they are so consulted by a Member about their own conduct, the Monitoring Officer will not disclose the fact of consultation or the advice given unless required to do so by law or as part of an investigation into an alleged breach of the Members' Code of Conduct.
- 7.3.3 Any Member, irrespective of political party, may seek the advice of the Monitoring Officer as to whether the actions of another Member of the Council would amount to a failure to comply with the Code of Conduct. Such enquiry should be made in writing to ensure that advice is given on the correct details. Members are encouraged to consult the Monitoring Officer before considering whether to make a formal complaint of an alleged breach of the Code. The Monitoring Officer may make enquiry of the Member in respect of whom the enquiry is made before providing such advice.

## **8.0 INVESTIGATION**

### **8.1 Preventative Investigation**

- 8.1.1 Prevention is better than cure and the Council expects the Monitoring Officer to investigate matters which give them concern as to possible illegality, maladministration or breach of the Member Code of Conduct. This would arise when the Monitoring Officer receives information which raises the possibility that a proposal, action or omission of the Council or any of its Committees, Sub-Committees or Joint Committees, or any Member or Officer of the Council, is or would be unlawful, or give rise to maladministration and injustice, or amount to a breach of the Member Code of Conduct. In such cases, the Council expects the Monitoring Officer to investigate the matter and determine whether the proposal, action

or omission, actually is or would be unlawful, or give rise to maladministration or injustice, or amount to a failure to observe the Member Code of Conduct, and to take the appropriate action.

- 8.1.2 Where the Monitoring Officer determines that the proposal, action or omission is, or would be, a failure to comply with the Member Code of Conduct, they shall advise the relevant Member accordingly. If appropriate, the Monitoring Officer could carry out an assessment of the matter, investigate as appropriate and bring the matter to the attention of the Councils' Joint Audit & Governance Committee in accordance with the Standards Procedure Rules.

## **8.2 Established Procedures**

- 8.2.1 Where the Monitoring Officer receives a complaint that a proposal, action or omission is unlawful or constitutes maladministration, and the Council already operates an appeal process for resolving such matters, the Monitoring Officer may deal with the matter by ensuring that the established procedure is followed. They may also intervene in such procedure to identify that the particular matter potentially gives rise to illegality or maladministration and injustice.
- 8.2.2 In cases where the Monitoring Officer determines that the proposal, act or omission is not unlawful, they shall advise any Member or Officer concerned of their determination. Where the Monitoring Officer determines that the proposal, action or omission is, or would be, unlawful, they shall, where possible, seek to agree an alternative and lawful course of action. The Monitoring Officer will then advise the complainant of their determination and of any agreed alternative course of action, which could include an offer in settlement of any injustice suffered by any person and/or the Monitoring Officer making a statutory report.

## **8.3 Maladministration**

- 8.3.1 Where the Monitoring Officer determines upon investigation that a proposal, act or omission has not caused, or would not give rise to, maladministration and injustice, they shall respond to the complainant and advise any Member or Officer concerned of the determination.
- 8.3.2 Where the Monitoring Officer determines that the proposal, act or omission has caused or would give rise to maladministration and injustice, they shall advise any Member or Officer concerned of the determination and seek to agree an alternative lawful course of action. The Monitoring Officer shall then advise the complainant of their determination and of any agreed alternative course of action and/or offer in settlement of any injustice suffered by any person.

## **8.4 Failure to observe the Member Code of Conduct**

- 8.4.1 The Monitoring Officer will deal with assessments and determinations of allegations of failure to observe the Member Code of Conduct in accordance with the Standards Procedure Rules in Part 4 and the Member Code of Conduct.

## **9.0 LOCAL RESOLUTION**

- 9.1 Where the Monitoring Officer receives a complaint of illegality, maladministration or failure to observe the Member Code of Conduct, they shall, if appropriate, seek to resolve the matter amicably by ensuring the situation is as far as possible rectified, informing the complainant of the resolution and dealing with any potential compensation payment or apology. However, it is recognised that the Monitoring Officer may determine that the matter is not appropriate for local resolution or incapable of being so resolved, or is of such seriousness that a statutory report is the only appropriate response.

## **10.0 REPORTING**

### **10.1 Illegality**

- 10.1.1 Where the Monitoring Officer is of the opinion that an unlawful action or omission has already occurred, or that the Council, its Committees, Sub-Committees or Joint Committees, or any Member or Officer seeks to progress an unlawful proposal, action or omission, the Monitoring Officer shall consult as far as practicable with the Chief Executive and the Chief Finance Officer (Section 151 Officer), prior to determining whether to make a formal report under Section 5 of the Local Government and Housing Act 1989.
- 10.1.2 To avoid a separate statutory report, the Monitoring Officer shall be entitled, if they wish, to add their written advice to the report on the matter by any other Officer of the Council, and/or to provide oral advice at any meeting of the Council.

### **10.2 Maladministration**

- 10.2.1 Where the Monitoring Officer is of the opinion that maladministration and injustice have already occurred, or where the Council or any Committees, Sub-Committees, or Joint Committees of the Council, or any Member or Officer of the Council, seek to progress a proposal, action or omission which would give rise to maladministration and injustice, the Monitoring Officer shall consult as far as practicable with the Chief Executive and the Chief Finance Officer (Section 151 Officer) before determining whether to make a written report to the decision-maker. The Monitoring Officer shall be entitled to add their written advice to the report on the matter by any other Officer of the Council, and/or to provide oral advice at any meeting of the Council.

### **10.3 Failure to observe the Member Code of Conduct**

- 10.3.1 The Monitoring Officer will deal with allegations of failure to observe the Member Code of Conduct in accordance with the Council's Member Code of Conduct and the Standards Procedure Rules.

## **11.0 ADVICE TO INDIVIDUAL MEMBERS**

- 11.1 Wherever possible, the Monitoring Officer will provide advice to individual Members to support them in the discharge of their responsibilities as a Councillor. The Monitoring Officer will not however provide advice to a Political Group or party or to a Member making an enquiry on their behalf.
- 11.2 The Monitoring Officer is employed by the Council and owes their primary responsibility to the Council, rather than to any individual Member or group of Members. Consequently, where the Monitoring Officer considers that providing advice to a Member on a matter which is incompatible with their role as advisor to the Council, or any action they may have to take on behalf of the Council, the Monitoring Officer may decline to provide such advice but could, at their discretion, secure such advice from an independent source at the Council's expense.

## **12.0 MONITORING AND INTERPRETING THE CONSTITUTION**

- 12.1 The Monitoring Officer will monitor, and review on a regular basis, the effectiveness and operation of the Council's Constitution so as to ensure that the aims and principles of the Constitution are given full effect and that the Constitution enables the Council to discharge its functions effectively.
- 12.2 In order to conduct such monitoring and review, the Monitoring Officer may:
- (a) consult any Member and/or Officers and other organisations and persons having dealings with the Council;



- (b) observe meetings of Members and/or Officers at any level;
  - (c) undertake an audit trail of a sample of decisions;
  - (d) record and analyse issues raised with them by Members, Officers, the public and other relevant stakeholders;
  - (e) compare practices in this Council with those in other comparable authorities, or national examples of best practice; and
  - (f) consider any relevant reports and recommendations of the District Auditor and other regulatory agencies.
- 12.3 The Monitoring Officer shall consult the Chief Executive and the Chief Finance Officer periodically, highlighting areas where there is potential to improve the Constitution or its effectiveness, before determining whether to report to the Council on any necessary changes.
- 12.4 The Monitoring Officer will maintain an up-to-date copy of the Constitution and ensure that it is accessible to Members, Officers and the public and will make such amendments to the Constitution as are necessary to reflect changes of fact and law and decisions of the Council. The Council shall retain the power and responsibility to consider and determine policy changes to the Constitution.
- 12.5 The Monitoring Officer shall be responsible for advising on the interpretation of the Constitution and in particular, shall determine whether a proposed decision is contrary to the Policy Framework or the approved budget and whether a proposal is sufficiently urgent to merit the use of the statutory urgency provisions or the Chief Executive's urgency powers.

### **13.0 RESOURCES**

- 13.1 The Council is required by statute to provide the Monitoring Officer with the resources which they consider are necessary for the fulfilment of their statutory duties.
- 13.2 For the purpose of carrying out their functions, the Monitoring Officer shall be provided with the following resources:
- (a) the right of access to all documents and information held by or on behalf of the Council;
  - (b) the right of access to any meetings of Members or Officers of the Council, although this does not extend to any meetings held by any political party or group;
  - (c) the right to require any Officer or Member of the Council to provide an explanation of any matter under investigation;
  - (d) a right to report to the Council, the Joint Audit & Governance Committee and to the Cabinet, including a right to present a written report and to attend and advise verbally;
  - (e) the right to require the assistance of any Officer of the Council and to delegate to that Officer any other powers of the post of Monitoring Officer;
  - (f) a power to agree a local resolution of any complaint of maladministration or breach of the Council's Member Code of Conduct, in consultation with the Chief Executive and Chief Finance Officer, including the power to agree a compensation payment of up to £5,000 in any particular case, and subject to subsequent report to the Joint Audit & Governance Committee for information;
  - (g) the right of access to the Chief Executive and the Chief Finance Officer;
  - (h) the right after consultation with the Chief Executive and the Chief Finance Officer, to notify the Police, the Council's auditors and other regulatory agencies of their concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions;
  - (i) the right to obtain legal advice at the Council's expense, whether internally or from an independent external solicitor or barrister, on any matter and to be provided with sufficient financial resource to enable them to do so.

## **Dispensations Protocol**

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### **1.0 Guide to Dispensations**

1.1 The council is responsible for determining requests for a dispensation by a Member under s.33 of the Localism Act 2011. The council may grant a dispensation to an Elected or Co-opted Member on a matter with which they would otherwise not be permitted to deal, as a result of having a Disclosable Pecuniary Interest.

1.2 This guide explains:

- (a) The purpose and effect of dispensations
- (b) The procedure for requesting dispensations
- (c) The criteria applied in determining dispensation requests
- (d) The terms of dispensations

1.3 Until a dispensation is granted, a Member may not participate in the consideration of the matter before the Council (or any committee or sub-committee) in which they have a Disclosable Pecuniary Interest.

1.4 For the avoidance of doubt, Members do not have a Disclosable Pecuniary Interest and/or are granted a general dispensation in respect of any business of the Council relating to:

- (a) housing, where the Member is a tenant of the Council, provided that the business does not relate particularly to the Member's tenancy or lease, or that of a relative, friend or close associate;
- (b) an allowance, payment or indemnity given to Members;
- (c) any ceremonial honour given to Members;
- (d) setting council tax or a precept under the Local Government Finance Act 1992.

### **2.0 Purpose and effect of dispensations**

2.1 In certain circumstances, Members may be granted a dispensation that enables them to take part in council business where this would otherwise be prohibited because they have a Disclosable Pecuniary Interest. Provided Members act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct or the law.

2.2 Section 31(4) of the Localism Act 2011 states that dispensations may allow a member to:

- (a) participate, or participate further, in any discussion of the matter at a meeting; and/or
- (b) participate in any vote, or further vote, taken on the matter at a meeting

**Please note: if a member participates in a meeting where they have a Disclosable Pecuniary Interest and they do not have a dispensation, they may be committing a criminal offence under section 34 of the Localism Act 2011.**

### **3.0 Process for making requests**

3.1 A request for dispensation must be made on an individual basis. Any Member who wishes to apply for a dispensation should fully complete a Dispensation Application Form (Appendix 1) and submit it to the Monitoring Officer, explaining why it is desirable and appropriate to grant the dispensation.

### **4.0 Approval Process**

4.1 The Monitoring Officer may only grant a dispensation to a Member who has a Disclosable Pecuniary Interest allowing them to participate in any discussion of a matter at a meeting and/or to participate in any vote on the matter (as per paragraph 2 above), if they consider that:

- (a) without the dispensation, the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
- (b) without the dispensation, the representation of different Political Groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- (c) without the dispensation, each Member of the authority's Cabinet would be prohibited from participating in any particular business to be transacted by the Cabinet,
- (d) granting the dispensation is in the interests of persons living in the authority's area, or
- (e) it is otherwise appropriate to grant a dispensation.

4.2 In the absence of the Monitoring Officer, a Deputy Monitoring Officer is authorised to execute the functions of the Monitoring Officer. The Joint Audit & Governance Committee also has the delegated power to agree dispensations.

4.3 Applications dealt with by the Monitoring Officer will normally be determined within 10 working days. Applications made to the Joint Audit & Governance Committee will go to the next ordinary meeting or it may be appropriate to arrange a special meeting at the discretion of the Chair of the committee. Applications must be received at least 10 clear working days before a meeting to enable a report to be prepared and the agenda published five clear days before the meeting.

4.4 The Monitoring Officer will formally notify the Member of the decision and reasons in writing at the earliest opportunity and in any event within five clear working days of the decision.

#### **5.0 Criteria for determination of requests**

5.1 In reaching a decision on a request for a dispensation, the Monitoring Officer will consider:

- (a) the nature of the Member's interest
- (b) the extent to which the request could have been avoided or other arrangements could be made
- (c) the need to maintain public confidence in the conduct of the Council's business
- (d) the extent to which there is some personal benefit and the extent of the public benefit obtained by agreeing to a dispensation
- (e) the possible outcome of the proposed vote
- (f) the need for efficient and effective conduct of the Council's business
- (g) any other relevant circumstances

#### **6.0 Terms of dispensations**

6.1 Dispensations may be:

- (a) Granted for one meeting or for a period not exceeding 4 years
- (b) Subject to specific conditions, e.g. notification of any material change in circumstances arising from the dispensation

#### **7.0 Disclosure of decision**

7.1 Any Member who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it relates.

7.2 A copy of the dispensation will be kept with the Register of Members' Interests.

#### **8.0 Dispensations for Conflicts of Interest when taking Executive decisions**

8.1 Under regulations 12 and 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the record of a Cabinet decision made either at meetings or by individuals, must include:

- (a) details of any conflict of interest either declared by any Member of the body which made the decision or declared by any Cabinet Member consulted by the Member or Officer taking the decision which relates to that decision;
- (b) In respect of any such conflict of interest, a note of dispensation granted by the Chief Executive.

**Please note: A conflict of interest is broader than a Disclosable Pecuniary Interest. It can be any interest that conflicts (or may reasonably be perceived to conflict) with a Member's duty to take decisions only in the public interest in the light of material considerations.**

#### **Appendix 1**

To: The Monitoring Officer

#### **APPLICATION FOR A DISPENSATION UNDER SECTION 33 OF THE LOCALISM ACT 2011 IN RESPECT OF A DISCLOSABLE PECUNIARY INTEREST**

##### **Name of member:**

A Member who has a Disclosable Pecuniary Interest in a matter that is under consideration may not participate in the consideration of that matter by the Council, a committee or sub-committee or by the Cabinet or a committee of the Cabinet unless they have first obtained a dispensation from the council. You may apply for a dispensation by completing this form and sending it to the Monitoring Officer.

##### **1. What is the matter for which dispensation is sought?**

Please provide full details including amounts where the matter involves funding or finance.

##### **2. For which type of meeting is dispensation sought?**

(Full Council, Cabinet, Committee or Sub-Committee)

##### **3. What is the nature of the Disclosable Pecuniary Interest?**

Please provide full details.

##### **4. What is the date of the meeting(s) at which this matter is to be considered?**

##### **5. For how long is the dispensation needed?**

Please note that it cannot be longer than 4 years nor exceed the Member's term of office.

##### **6. Do you benefit personally from the business to which this application relates?**

If 'yes', the full details must be provided of the nature and extent.

##### **7. How is the business of the Council being impeded in the absence of a dispensation?**

##### **8. Are there any other factors that might help the council to reach a decision on the application?**

##### **9. Are you seeking a dispensation to speak and vote?**

Yes/No

##### **10. Are you seeking a dispensation to speak but not vote?**

Yes/ No

**Signed: \_\_\_\_\_ Date: \_\_\_\_\_**

Please complete, sign and return this form to the Monitoring Officer

## **Officer Decision-Making Protocol**

### **1.0 BACKGROUND**

- 1.1 This document sets out the legal framework for decision-making and establishes a system to document decisions taken by Officers under delegated authority.

### **2.0 TYPES OF DECISION**

- 2.1 The significance of decisions taken under delegated authority will vary and Officers authorised to make delegated decisions will need to exercise judgement in determining whether decisions are significant enough to require placing in the Forward Plan if they are in relation to Executive functions and/or formally recording. To assist in this process, decisions relating to Executive functions are defined as Key, Major or Administrative. All decisions other than Administrative Decisions need formally recording and publishing in accordance with paragraph 5. Administrative Decisions, although not required to be formally reported to the Proper Officer, must be recorded so as to provide an audit trail as referred to in paragraph 5.
- 2.2 In relation to Non-Executive functions, Officers should adopt a similar approach to formal recording to ensure transparency of decision-making. Whilst Overview and Scrutiny cannot consider decisions of Regulatory Committees or Officers, such decisions can be challenged externally through appeals processes, the Courts and the Local Government Ombudsman.
- 2.3 'Key Decision', 'Major Decision' and 'Administrative Decision' are all defined in Article 12 of the Constitution.

### **3.0 THE PROCESS**

- 3.1 Before taking any decision, Officers should ensure that they have appropriate delegated authority, and reference should be made to the Scheme of Officer Delegations in Part 4 of the Constitution.
- 3.2 Where appropriate delegated authority exists, in writing, the authorised Officer must take into account the principles of decision-making set out in Article 12 of the Constitution.
- 3.3 All proposed Key Decisions need to be published on the Council's website not less than 28 clear days prior to the date on which the decision is to be made. Officers proposing to make a Key Decision and needing to place an item on the Council's website should provide details to the Democratic Services Manager at least 30 clear days prior to the date on which the decision is to be made.
- 3.4 If it is impracticable to publish the notice not less than 28 clear days before the date of decision, then the Officer must comply with the legal requirements relating to exceptional and urgent Executive decisions. These are laid out in full in the Access to Information Procedure Rules in Part 4 of the Council's Constitution.
- 3.5 If an Officer is unable to give five clear days' notice of a Key Decision that was not published on the Council's website at least 28 clear days before the date of the decision, they can take the decision only if the Chair of the Overview and Scrutiny Committee (for an Adur only item) or the Joint Chair of the Joint Overview and Scrutiny Committee (joint items) agrees that the decision is urgent and cannot reasonably be deferred. The full procedure is again set out in the Access to Information Procedure Rules in Part 4 of the Council's Constitution.
- 3.6 Consultations under Paragraph 3.4 and 3.5 above, must be taken in consultation with the Democratic Services Manager.

3.7 In making an Officer decision, the principles of Member decision-making set out in Article 12 of the Constitution, should be complied with.

#### **4.0 CALL-IN**

4.1 Relevant decisions made by Officers are subject to Call-In by the Overview and Scrutiny Committee or Joint Overview and Scrutiny Committee and cannot be implemented until either the Call-In period has expired or the Overview and Scrutiny Committee or Joint Overview and Scrutiny Committee has made a decision regarding the Call-In. The Call-In procedure is set out in the Overview and Scrutiny Procedure Rules within the Constitution.

#### **5.0 RECORDING AND PUBLISHING THE OFFICER DECISIONS**

5.1 Officer Key Decisions are recorded in the same manner as Cabinet Member decisions. The Officer will produce a decision record in the same format as those relating to Executive decisions following the Officer decisions.

5.2 Upon making a Major Decision in relation to a Cabinet function, the Officer must provide the Democratic Services Manager with a completed delegated decision form (available on the Council's intranet site) within two clear working days of the date of taking the decision.

5.3 Upon making a Major Decision relating to the exercise of a Non-Executive function, the Officer must provide the Democratic Services Manager with a completed delegated decision form within two clear working days of the date of taking the decision, unless agreed with the Head of Legal Services that that decision (or class of decision) does not require this. Any such forms must be copied to the relevant Director.

5.4 The Democratic Services Manager will maintain a record of all decisions referred to in paragraphs 5.1 to 5.3, including any report upon which each decision was made and subject to any requirement for confidentiality, will ensure that this decision is recorded by the Council. They will also ensure that the record of decision is available for public inspection during all normal office hours, that the public has the right to copy or to be provided with a copy of any part of that record upon payment of a reasonable copying and administrative charge, and that the decision, report and background documents are available on the Council's website.

5.5 It is essential that the contents of the delegated decision form are clear in conveying the decision taken, i.e. it will not be sufficient to state that the recommendations in the report were agreed. The form and accompanying report must set out:

- (a) A record of decision (including the date it was made);
- (b) The reasons for the decision;
- (c) Details of any alternative options considered and rejected, with reasons;
- (d) A record of any conflict of interest declared by any Cabinet Member consulted; and
- (e) In relation to any such declaration, a note of any dispensation granted by the Joint Audit & Governance Committee.

5.6 The delegated decision form includes a section for the recording of interests by Officers. It is important that where Officers involved in making decisions have a registerable interest, this is declared on the form to preserve the integrity of the process.

#### **Types of officer decisions**

5.7 An 'Executive decision' is one made in connection with the discharge of a function which is the responsibility of the Leader and Cabinet and which has been delegated to officers.

- 5.8 A 'Non-Executive decision' is one made in connection with the discharge of a function that is the responsibility of Full Council and its committees and which has been delegated to officers.
- 5.9 The significance of decisions taken under delegated powers will vary, and officers authorised to make delegated decisions need to exercise judgment in determining whether decisions are significant enough to require formal recording and publishing.
- 5.10 Although administrative and operational decisions are not required to be formally reported, they must be recorded within the service area so as to provide an audit trail.
- 5.11 Key Decisions, Major Decisions and Urgent Decisions are defined below:

**Key Decisions** are Executive decisions that are likely to result in the Council incurring expenditure which is, or the making of savings which are significant, having regard to the Council's budget for the service or function to which the decision relates, which the Council has currently determined to be:

- (a) capital schemes, within the approved Capital Programme, in excess of £250,000; or
- (b) the letting/re-letting of contracts of value of £100,000 or more over the period of the contract, where provision has been made in the approved budget; or
- (c) expenditure in addition to the approved budget, requiring virement or a supplementary estimate in excess of £100,000; or
- (d) in terms of its effects on communities living or working in an area comprising two or more Wards in the wider area of Adur District Council and Worthing Borough Council jointly.

**Major Executive Decisions** are Executive decisions (other than purely operational or administrative in nature) taken by officers under powers delegated by a specific resolution of the Cabinet/Cabinet Member or under the Scheme of Delegation:

- (a) That are contentious, controversial or politically sensitive; or
- (b) Where there is likely to be a strong public interest; or
- (c) Where there is significant variance in expenditure outside the agreed scope or budget for a project or issue; or
- (d) Raise new issues of policy

**Major Non-Executive Decisions** are Non-Executive decisions (other than purely operational or administrative in nature) taken by officers under powers delegated by a specific resolution of Full Council, a committee or under the Scheme of Delegation and having wide public impact/interest; where the effect of the decision:

- (a) is to grant a permission or licence
- (b) affects the legal rights of an individual
- (c) is to award a contract or incur expenditure which 'materially' affects the authority's financial position

**Urgent Decisions** are decisions made in circumstances where:

- (a) a decision is required by statute or otherwise within a specified timescale; or
- (b) any delay likely to be caused by not making the decision would seriously prejudice the council's or the public's interests; or
- (c) any delay likely to be caused by not making the decision would be likely to expose the council, its members or the public to a significant level of risk, loss, damage or disadvantage

- 5.12 The following types of officer decision must be formally recorded and published subject to the exceptions set out:

<u>Type of Officer Decision</u>	<u>Exception</u>	<u>Publication</u>
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<p><b>Key Decisions</b> Executive decisions that are:</p> <p>a) capital schemes, within the approved Capital Programme, in excess of £250,000; or</p> <p>b) the letting/re-letting of contracts of value of £100,000 or more over the period of the contract, where provision has been made in the approved budget; or</p> <p>c) expenditure in addition to the approved budget, requiring virement or a supplementary estimate in excess of £100,000; or</p> <p>d) are significant in terms of the effect on communities living or working in two or more electoral Wards.</p>	<p>Officers are only to take Key Decisions where:</p> <p>(i) specifically authorised by the Leader or Cabinet; or</p> <p>(ii) where the Chief Executive or (in their absence) the Deputy Chief Executive is acting under urgency powers.</p>	
<p><b>Major Executive Decisions</b> Executive decisions under powers delegated by a specific resolution of the Cabinet/Cabinet Member or under the Scheme of Delegation:</p> <ul style="list-style-type: none"> <li>• That are contentious, controversial or politically sensitive; or</li> <li>• Where there is likely to be a strong public interest; or</li> <li>• Where there is significant variance in expenditure outside the agreed scope or budget for a project or issue; or</li> <li>• That raise new issues of policy.</li> </ul>	<p>Does not apply:</p> <p>(i) To routine operational, organisational or administrative decisions;</p> <p>(ii) Where the expenditure or saving has already been approved by the Cabinet or Cabinet Member and the decision has been published;</p> <p>(iii) Confidential or Exempt Information; or</p> <p>(iv) Where the expenditure or saving is already recorded and published under separate statutory requirements.</p>	<p>As soon as reasonably practicable after an officer has made a Key, Material or Significant decision, they must produce a written statement, available for inspection at City Hall and published on the council's website, that includes details of:</p> <ul style="list-style-type: none"> <li>• the decision and the date it was made;</li> <li>• the reasons for it;</li> <li>• any alternative options considered and rejected;</li> <li>• any conflicts of interests declared by any Cabinet member consulted by the officer and any dispensations granted by the Chief Executive in respect of any declared conflict;</li> <li>• the report considered by the decision-maker;</li> <li>• any background documents disclosing facts or matters on which the decision was based and which were relied on to a material extent in making the decision.</li> </ul>
<p><b>Major Non-Executive Decisions</b> Non-Executive decisions under powers delegated by a specific resolution of Full Council, a committee or under the Scheme of Delegation and having wide public impact/ interest; where the effect of the decision:</p> <ul style="list-style-type: none"> <li>• is to grant a permission or licence</li> </ul>	<p>Does not apply:</p> <p>(i) To routine operational, organisational or administrative decisions;</p> <p>(ii) Confidential or Exempt information;</p> <p>(iii) Where the date, details of and reasons for the decision are already required to be produced under a statutory requirement;</p> <p>(iv) If only the rights of an individual or business are</p>	<p>The decision record must be kept for inspection for 6 years and the background papers for 4 years.</p>



<ul style="list-style-type: none"> <li>• <u>affects the legal rights of an individual</u></li> <li>• <u>is to award a contract or incur expenditure which 'materially' affects the authority's financial position</u></li> </ul>	<p><u>affected, unless there is a wider public impact/ interest in the action.</u></p>	
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### **The process**

5.13 Before taking any decision, the authorised Officer must consider the principles of decision making set out in this Constitution.

5.14 Details of all proposed Key Decisions must be published at least 28 clear days before the decision is made (unless the general exceptions procedure or special urgency procedure is applicable) via the Cabinet Notice (Forward Plan).

5.15 Where an Officer makes an urgent Key Decision, they must comply with the legal requirements set out in the Access to Information Procedure Rules.

### **Call-In**

5.16 Key Decisions made by Officers are subject to Call-In by Overview and Scrutiny Committees and cannot be implemented until either the Call-In period has expired or the Overview and Scrutiny Committee has made a decision regarding the Call-In.

5.17 Although the formal Call-In process only applies to Officer Key Decisions, Overview and Scrutiny Committees can call an Officer to account over any decision made.

## **6.0 AUTHORISATION OF OFFICERS TO EXERCISE DELEGATED POWERS**

6.1 The Scheme of Delegations to Officers includes the power for Officers to authorise other Officers to exercise delegations that have been delegated to them under the Scheme. This must be to another Officer or Officers of suitable experience and seniority. Each Director will prepare and maintain an up-to-date departmental Register of Sub-Delegations. It shall set out how decisions will be made in their area. This should establish which Officers will be given authority to make decisions under delegated powers and subject to which terms and conditions. The Scheme of Authorisation will be lodged with the Head of Legal Services.

6.2 Whilst Directors may authorise other Officers to take delegated decisions, the decision is still their responsibility in that they will be accountable for the decision to authorise and the exercise of that authorisation.

## **7.0 REFERRAL**

7.1 Whilst the Scheme of Delegations to Officers is designed to encourage Officers to take responsibility for decisions, an Officer may decide that a particular issue is such that it should be referred to the body from whom authority was delegated. Such a referral must take place where the proposed decision relates to a Cabinet function and is conflict with the Council's Budget and Policy Framework.

7.2 The Cabinet may also direct an Officer's delegated authority should not be exercised in respect of a particular matter and that the matter should be referred to the Cabinet.

7.3 In relation to the exercise of Non-Executive functions, the Officer may decide to refer a particular issue to the Committee or Sub-Committee from whom it was delegated, or if none, arrange for an appropriate recommendation to be made to Full Council.

## **8.0 GIVING REASONS**

8.1 A matter of increasing significance in Local Government, decision-making is when reasons have to be given. Generally, giving reasons is an accepted 'best practice' principle of good administration. Case law suggests that the practice may be important in ensuring that controversial decisions are rooted in relevant considerations and with proper regard to available legal powers.

## **9.0 ACCOUNTABILITY**

9.1 Officers are accountable to the Council for any decision they may make and with the exception of decisions relating to individual regulatory matters, may be required to report to, and answer questions from, the Overview and Scrutiny Committee or Joint Overview and Scrutiny Committee in respect of any decisions. The Overview and Scrutiny Committee or Joint Overview and Scrutiny Committee may also Call-In Key and Major Decisions before they are implemented and may recommend a course of action when the matter is to be reconsidered by the Officer.

## **10.0 CONSULTATION WITH MEMBERS**

### **10.1 General provisions:**

- (a) Decisions made by Officers under delegated powers fall into two principal categories, namely:
  - (i) Decisions delegated to Officers in, or following, consultation with Cabinet Member (which may or may not be Key Decisions); and
  - (ii) Other decisions delegated to Officers (which are not required to be taken in, or following, consultation with Cabinet Members) and which may or may not be Key Decisions;
- (b) Officers to whom decisions have been delegated have a duty to ensure that effective consultation takes place in accordance with the Constitution and the terms of the delegation;
- (c) Every effort will be made to ensure that Members have a realistic timescale to respond to consultation and, where appropriate and reasonably practicable, this timescale will be sufficient to enable Members to consult with their constituents. Members will be informed of any time restrictions which may apply relating to the process of consultation, particularly where urgent action is needed in the Council's and/or the public interest.

### **10.2 Decisions by Officers following consultation with Cabinet Members**

Officers to whom decision-making powers have been delegated, subject to consultation with Cabinet Members, will ensure that such consultation takes place.

Consultation shall be carried out in writing, unless there is an urgency about the decision that makes such written consultation impractical, in which case the Officer shall confirm, in writing, to the Cabinet Member their understanding of the Cabinet Member's response to the consultation.

The decision, however, is the responsibility of the Officer and if, following consultation with the relevant Cabinet Member, the Officer does not feel that they can make the decision in accordance with their professional opinion, then they must refer the matter to the Cabinet Member for a formal decision.

### 10.3 **Other decisions delegated to Officers**

- (a) Officers acting within the remit of their delegated authority must ensure that they identify, at an early stage, issues upon which Members should be consulted; and
- (b) Will ensure that appropriate consultation takes place.

### 10.4 **Consultation with Cabinet Members**

Officers will ensure that appropriate consultation is undertaken with Cabinet Members on issues relating to their portfolios.

## **Councillor Call For Action Protocol**

### **1.0 INTRODUCTION**

- 1.1 Councillor Call for Action (CCfA) was introduced under the Local Government and Public Involvement in Health Act 2007. It seeks to strengthen the role of the Ward Councillor, encouraging them to resolve local problems on behalf of residents. The legislation allows Ward Councillors to place CCfA onto scrutiny agendas for resolution and action. The legislation extends the power of the Council's Overview and Scrutiny function in two ways:
- (a) So that any Member of the Council can refer a local government matter to the Council's Overview and Scrutiny Committee; and
  - (b) that matters which can be referred include matters which the Council and its partners are delivering through the Local Area Agreement and 'local crime and disorder' matters.
- 1.2 The CCfA Best Practice guidance released by the Centre for Public Scrutiny (CfPS) and the Improvement and Development Agency (IDeA) refers to the importance of concentrating on outcomes rather than process when dealing with CCfAs. This protocol is therefore a light touch approach.
- 1.3 The protocol outlines what constitutes a CCfA, what should be excluded and the process for dealing with a CCfA. The protocol applies to CCfAs related to crime and disorder matters as well as local government matters.

### **2.0 WHAT IS COUNCILLOR CALL FOR ACTION?**

- 2.1 The CCfA is a process for a Councillor to act on behalf of residents to resolve a local issue of concern, acting as a last resort for people who cannot get issues resolved through any other means; this can include crime and disorder matters.
- 2.2 Under section 21A of the Local Government Act 2000, a CCfA needed to relate to a 'local government matter'. To give full effect to CCfA, the interpretation of 'local government matter' was broad. It would include issues relating to the Council's partners, in line with the area focus of Comprehensive Area Assessment, and the fact that an Authority's duties increasingly impact on other organisations and involve partners within and outside the Local Strategic Partnership.
- 2.3 Under CCfA, Ward Councillors are able to refer issues to Overview and Scrutiny Committee, where it can be shown that:
- (a) the issue is of a genuine and persistent local concern;
  - (b) the issue is not subject to ongoing legal processes; and
  - (c) other courses of action have failed to resolve the matter.
- 2.4 The Localism Act 2011 has provided further clarification on the matters or concerns that can be referred through the CCfA process. Ward Councillors are no longer restricted to referring matters of 'local government concern' to Overview and Scrutiny Committee.

### **3.0 MATTERS WHICH ARE EXCLUDED FROM COUNCILLOR CALL FOR ACTION**

- 3.1 The following matters have been excluded under section 21A of the Local Government Act 2000, introduced under section 119 of the Local Government and Public Involvement in Health Act 2007:
- (a) any matter relating to a planning decision;
  - (b) any matter relating to a licensing decision;
  - (c) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;

- (d) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee or at a meeting of a Sub-Committee of that Committee.

#### **4.0 CCFA PROCESS**

- 4.1 In accordance with the national best practice guidance Overview and Scrutiny should be the last resort for a CCfA. The expectation will be on the Ward Councillor to have tried to resolve an issue using all available mechanisms (including partnership working when appropriate) prior to referring the matter to the Overview and Scrutiny Committee. When a matter is referred to the Overview and Scrutiny Committee it will be up to the Overview and Scrutiny Committee Chair and the Proper Officer whether the matter is progressed and taken forward by scrutiny. The process of determination by the Overview and Scrutiny Committee Chair with the Proper Officer represents a sifting process to determine if the matter is of sufficient weight to be considered as a CCfA, and to determine whether the matter is excluded under paragraph 3 above.
- 4.2 At this stage the Overview and Scrutiny Committee Chair, together with the Proper Officer, will need to decide if the matter relates to a joint service issue. If so, the matter should be considered by the Councils' Joint Overview and Scrutiny Committee and the Chair and Proper Officer will need to consult with the Worthing Borough Council Overview and Scrutiny Committee Chair to determine if the matter should be considered by the Joint Overview and Scrutiny Committee.
- 4.3 The possible reasons for rejecting a CCfA are outlined at paragraph 5.0 below.

#### **5.0 REFERRAL TO SCRUTINY**

- 5.1 The Chair of the Overview and Scrutiny Committee will then determine with the Proper Officer whether to take the CCfA forward. The Proper Officer will inform the Ward Councillor whether they will accept the CCfA within 5 working days of the request. If the CCfA is a crime and disorder related matter then responsible partners must be notified.
- 5.2 Reasons an Overview and Scrutiny Committee Chair may decide not to take a CCfA forward to Overview and Scrutiny Committee (or Joint Overview and Scrutiny Committee) could include:
- (a) Not enough information has been provided;
  - (b) More could be done to resolve the issue at a local level, e.g. key people have not been contacted;
  - (c) The CCfA is, or has stemmed from, a vexatious discriminatory or unreasonable complaint;
  - (d) The matter has recently been examined by Overview and Scrutiny (though the Ward Councillors may argue that certain aspects were not sufficiently covered hence a need for a CCfA);
  - (e) The matter is the subject of an Ombudsman complaint or other official complaints procedure;
  - (f) The matter falls under any other excluded matters (see paragraph 3 above).
- 5.3 If a CCfA is rejected for consideration by scrutiny the Ward Councillor will be notified by the Proper Officer in writing within 5 working days of lodging the CCfA. Where it is a crime and disorder CCfA, all responsible partners must also be notified of the rejection. Ward Councillors will have the opportunity to reply to the Chair perhaps with further information to substantiate the CCfA.
- 5.4 If the CCfA is accepted, the relevant Cabinet Members, Officers and/or partners will be notified by the Proper Officer.

## **6.0 PROCESS FOR RESOLUTION OF A CCfA**

- 6.1 In an attempt to resolve the CCfA, a Ward Councillor may:
- (a) receive public request for action or issue;
  - (b) discuss with other Ward Councillors if a multi-member ward and agree action;
  - (c) take steps to resolve the issue through existing mechanisms such as liaising with partners, County Councillors or raising with Officers;
  - (d) If unresolved and the matter can be taken no further by the Ward Councillor then refer to the Overview and Scrutiny Committee by completing 'the Councillor Call for Action Form' and submit this to the Proper Officer for action.
- 6.2 Overview and Scrutiny Committee either:
- (a) reject the CCfA and notify the Ward Councillor, who in turn should inform the public; or
  - (b) accept the CCfA and arrange to consider the CCfA, notifying partners as appropriate. Following which they will determine their response and relay this to the Ward Councillor and Partners as appropriate.

## **7.0 PROCESS FOR DEALING WITH A CCfA AT OVERVIEW AND SCRUTINY COMMITTEE**

- 7.1 The Chair and Proper Officer will determine if a special meeting outside the calendar of meetings is required and call a meeting, if not then the CCfA will be dealt with at the next available meeting of the Committee.
- 7.2 The Chair in consultation with the Ward Councillor and Proper Officer when considering the meeting should give consideration to:
- (a) Witnesses;
  - (b) Notifying and Inviting Partners
  - (c) Evidence required;
  - (d) Key questions;
  - (e) Timescales; and
  - (f) Aims and objectives for the meeting.
- 7.3 In a similar fashion to the Call-In process, at the meeting of the Overview and Scrutiny Committee, or Joint Overview and Scrutiny Committee, as appropriate, Members will be expected to reach a decision on whether to:
- (a) take no action;
  - (b) refer the matter to the Cabinet/Council/Partner Organisation, with recommendations; and/or
  - (c) carry out a full scrutiny investigation.
- 7.4 Any report and recommendations arising from the Committee meeting will be made available and sent to all agencies involved with the CCfA within 5 working days of the meeting. In the case of a crime and disorder matter, reports and recommendations will be sent to the responsible authorities as listed in the Police and Justice Act 2006.

## **8.0 PROPER OFFICER**

- 8.1 For the purposes of this protocol, the Proper Officer dealing with Councillor Call for Action will be the Council's Corporate Policy Officer (Scrutiny).

## **Pre-Election Period Protocol**

### **1.0 INTRODUCTION**

- 1.1 The actions of the Councils, its Members and Officers are subjected to closer scrutiny in a pre-election period and many activities which would normally pass without comment, could become the subject of controversy.
- 1.2 This Protocol is intended to assist Officers and Members and covers rules on publicity, use of Council facilities, Council meetings, and use of premises during the pre-election period.
- 1.3 This Protocol aims to extend the principles underlying the conduct of Members and Officers and should be read in conjunction with the Council's Member Code of Conduct, the Officer Code of Conduct and the Protocol relating to Relationships within the Council. Also of relevance is any guidance note for the Officers and/or Members that is issued by the Returning Officer for any particular election.
- 1.4 The pre-election period, which is sometimes referred to as 'Purdah' commences with the Notice of Elections and terminates the day after elections are concluded.

### **2.0 PUBLICITY**

- 2.1 At any time the Councils are prohibited from publishing material which appears to be designed to affect public support for a political party. The Government's Code of Recommended Practice on Local Authority Publicity sets out the following key principles in relation to Local Authority communications and publicity generally:
  - (a) Publicity is defined in section 6 of the Local Government Act 1986 as: '*Any communication, in whatever form, addressed to the public at large or to a section of the public*'. This definition is very wide and would include press releases, speeches, leaflets and newspaper articles issued by, or on behalf of, the Council; posters; sponsorships; events; and displays.
  - (b) Publicity about individual Members (whether or not they are or may become election candidates) should be objective and explanatory and should not be either party political or open to misinterpretation as such.
  - (c) Publicity may include information about individual Members' views on issues, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. If views expressed by, or attributed to, individual Councillors do not reflect the views of the Local Authority itself, such publicity should make this fact clear.

### **3.0 PUBLICITY DURING THE PRE-ELECTION PERIOD**

- 3.1 The following additional guidelines apply during the pre-election period:
  - (a) During the pre-election period all Council publicity should avoid the pro-active publicity of candidates and other politicians involved directly with the elections;
  - (b) There is a need to ensure that any publicity is objective, balanced, informative and accurate; concentrating on facts, explanations or both;
  - (c) Council publicity should, as far as possible, avoid controversial issues or report proposals which could be identified with individual Members or Groups. However, the Council may respond to any events and enquiries provided the answers are factual and not party political;
  - (d) Members holding key positions are able to comment on important unplanned events or emergencies where a Member-level response is required – ideally this should be a Member holding a politically neutral position or alternatively an agreed response from all Group Leaders;

- (e) Events providing photo and publicity opportunities should, where possible, be timed to avoid the pre-election period. Where this is not possible, candidates for election should not be involved.

3.2 The timing of a publication is an important factor. The nearer the publication to the election, the more likely it is to be controversial and be perceived as designed to affect support for a particular party. Where possible, therefore, it is advisable to avoid publishing any controversial material near the elections.

#### **4.0 CONTENT OF MEMBERS' PUBLICITY**

4.1 The content of any publicity issued by Members who are election candidates is very much a matter for each Member and their Political Group. However, there will be circumstances when the Council's Code of Conduct may apply, even to an individual Member's own election publicity, and as such the Code must be borne in mind. As Members of a Local Authority, it is also necessary to take into account the general duties of Local Authorities under equalities and other legislation.

#### **5.0 IMPACT ON COUNCIL MEETINGS AND ACTIONS DURING THE ELECTION PERIOD**

5.1 In Local Government there is a broad convention that matters of political controversy, either locally or nationally, should not routinely be brought before Members if at all avoidable during a pre-election period. This can impact on, for example, items brought to Committees, questions from the public or from Members, petitions, or Motions on Notice at Council.

5.2 In addition to the accepted convention, there are practical reasons for this approach from the publicity point of view. Firstly, whereas the agendas and minutes of official Council meetings are protected by the Local Government Act 1986 from being 'publicity', press releases publicising those minutes are not. This presents the Councils with difficulties in publicising any sensitive or controversial decisions during the pre-election period, even if in other circumstances such publicity would be merited by the level of public interest. Secondly, the more restrictive publicity regime during the pre-election period means that where an initiative would benefit from a public launch or immediate advertisement or consultation, this will rarely be possible during the pre-election period.

5.3 Therefore any working practices or protocols which include publicity and media arrangements will need to be interpreted in the light of the restrictions mentioned above.

#### **6.0 CONSULTATION**

6.1 Guidance contained in the 2019 Local Government Association Guidance recommends that no new public consultations should be launched during the election period, and nor should any findings from consultation exercises be reported during this period if they could be politically sensitive.

#### **7.0 CODE OF MEMBER CONDUCT**

7.1 The Member Code of Conduct applies not only when a Member conducts the business of their Authority but also when acting, claiming to act, or giving the impression they are acting as a representative of the Authority. In this respect, certain elements of the Code are particularly relevant during the pre-election period:

7.2 Disrepute: forbids a Member from conducting themselves in a manner which could reasonably be regarded as bringing their Office or Authority into disrepute.

7.3 Unfair advantage: forbids a Member from using their position to confer on or secure for themselves or any other person an advantage or disadvantage.



- 7.4 Equalities: forbids a Member from conducting themselves in a way that is contrary to duties under Equalities legislation. Members should consider the need to treat some issues with sensitivity at all time, including in their election publicity and where they may relate to minority groups or protected characteristics.

## **8.0 GENERAL**

- 8.1 The Councils do not and cannot vet Members' election publicity. Generally, Members would need to seek any specific advice in relation to such publicity externally from the Councils, e.g. through their Political Group machinery. Also the Monitoring Officer would be happy to assist in relation to any queries from Members which relate to the application of the Code of Conduct.

## **9.0 USE OF COUNCIL FACILITIES**

- 9.1 The use of Council facilities during the pre-election period can generate enquiries and complaints. The Councils' Member Code of Conduct provides that a Member must ensure that Council resources are not used improperly for political purposes.
- 9.2. Any services or facilities provided by the Council for Members should be used exclusively for the purposes of Council business or to enable the Member concerned to discharge their function as a Councillor. This applies to all facilities, including:
- (a) Council stationery (letterheads, envelopes, compliment slips);
  - (b) Telephones;
  - (c) Transport;
  - (d) Photocopiers;
  - (e) Officer time;
  - (f) IT equipment.
- 9.3. Subject to paragraph 12 below (use of Council premises during the pre-election period), no election candidate or a person associated with a political party is entitled to access Council premises. Members and Officers need to take extra care to ensure that election candidates or other persons associated with political parties who are not serving Councillors are not seen to have unauthorised access to Council offices or facilities.
- 9.4 In relation to IT equipment, Members should not use IT equipment for party political purposes, as mentioned above. For example, Members sending messages to chat rooms or forums will need to consider whether to use their Councillor email address or a personal address. The former could be appropriate for simply sending information as a Councillor, but the latter will be appropriate if engaging in political debate.
- 9.5. Council business and party political business are not always mutually exclusive. For example, a Political Group within the Councils may use Council facilities (such as meeting rooms) to discuss matters coming before the Councils or its Committees. The particular circumstances of each event will need to be considered. By way of illustration, the following are examples of cases where the use of Council facilities would not be appropriate: -
- (a) The use of the internal/external Council postal service to distribute election campaign material;
  - (b) Using Council supplied letterheads or compliment slips in sending out election material or as part of election campaigning;
  - (c) Including election messages, strap-lines or slogans in letters which are otherwise being legitimately sent (e.g. for information purposes) on Council supplied letterheads to local residents;
  - (d) Sending out election material using a Council email address;
  - (e) Putting election material on, or canvassing via, the Councillors' web pages on the Councils' web site;

- (f) Using Council telephones for canvassing.

## **10.0 USE OF EMAILS**

- 10.1 A Member's Council email address should not be used for political purposes, such as electioneering.
- 10.2 It is recognised that a local resident may contact their Ward Member about an election issue via that Member's Council email address. As long as the use of the Council email for political purposes was not initiated or promoted by the Member, it would be perfectly acceptable to reply to the email although it may be political in nature. Members should not however initiate political discussions using Council provided email facilities. If the exchange becomes extensive, Members should consider using their own email.

## **11.0 USE OF TELEPHONE**

- 11.1 In line with the position on emails, Members may use Council supplied telephones for non-party-political purposes or where the call is not initiated by a Member.
- 11.2 Council email addresses and telephone numbers are better avoided for any party-political literature. If Members wish to refer to the facility for purposes of constituency work, it should be made clear that it is for Ward casework only and it is better kept in a discrete part of the document, for example in a box at the back saying 'If you want to contact your Ward Councillors about Ward issues, you may contact them on....'.

## **12.0 USE OF COUNCIL PREMISES DURING THE PRE-ELECTION PERIOD**

- 12.1 Between the Notice of Election being published and the day before the election, a candidate in the election is entitled to use Council meeting rooms to hold public meetings for furtherance of their candidature. This includes committee rooms and rooms in schools in the candidate's electoral area. The use of these rooms is free of hire charge, though the candidate may be required to cover the expenses associated with using the premises e.g. electricity, cleaning costs. Further information on these arrangements may be obtained from the Electoral Services Office.

## **13.0 CONFIDENTIAL INFORMATION**

- 13.1 Members are usually entitled to information not available to the public (exempt or confidential information) where that information is required by them to discharge their functions as Councillors. This may, for example, be the case if the information relates to an item coming before a Committee of which they are a Member. Exempt or confidential information cannot be used for electioneering purposes. It is for this reason that Officers, in the run up to an election, may seek to clarify the purpose for which a Member is seeking information. Members should not seek, nor may Officers provide, exempt or confidential information to help election campaigns.

## **14.0 MEMBER/OFFICER ROLES**

- 14.1 In general terms, the role of Members is to set the strategies, policies and frameworks within which the Councils will operate, to monitor performance and to represent those who live in their Wards. Officers are employed to advise, undertake the detailed preparation and implementation work, and provide the day-to-day running of services. It is particularly worth bearing in mind this broad split of functions at election time and, in the interests of good administration, the need to avoid roles becoming confused.

## **15.0 SPECIAL RULES RELATING TO OFFICERS**

- 15.1 Officers at all levels should not engage in party political activity that compromises their neutrality and objectivity at work. Officers who hold politically restricted posts (generally Senior Officers and those who advise Members or speak on behalf of the Councils) are subject to additional restrictions.
- 15.2 If an Officer attends a Political Group meeting to brief Members on Council business, Members should ensure that the Officer is not present when political business is discussed. Attendance at such meetings should normally be limited to Directors, Heads of Service or other Senior Officers.
- 15.3 A central register of all posts which are Politically Restricted is held by the Head of Human Resources.

#### **16.0 PROTOCOL FOR RELATIONSHIPS WITHIN THE COUNCILS**

- 16.1 Further information and advice on the working relationship between Members and Officers is contained in the Protocol for Member/Officer Working Arrangements, which forms part of this Constitution. It covers in more detail matters such as roles and responsibilities, political activity, contact between Members and Officers, access to information, undue pressure and redress for breach of the Protocol.

## Recording of Council Meetings Protocol

### 1.0 BACKGROUND

- 1.1 This protocol provides guidance on acceptable conduct for audio and visual recording and the use of social media tools at public Council meetings.
- 1.2 Adur and Worthing Councils support the principle of transparency in the decision-making process and therefore will allow, subject to the control of the person presiding at the relevant meeting, the recording of the public section of Full Council, committee and sub-committee meetings by members of the press and public.
- 1.3 The Councils audio record Full Council, Committee and Sub-Committee meetings and retain a copy of the recording along with the written minutes of the meeting. More detail on this procedure can be found within the Council Procedure Rules at Part 4 of the Constitution.

### 2.0 WHAT IS 'REPORTING'?

- 2.1 Reporting means:
  - (a) Filming, photographing or making an audio recording;
  - (b) Using social media, such as Twitter, Facebook, blogging or similar;
  - (c) Using any other means for enabling a person not present to see or hear proceedings at a meeting, as it takes place or later.

### 3.0 WHEN IS REPORTING PERMITTED?

- 3.1 Subject to the following rules, the public and press are permitted to record in any meetings of the Council that are held in public, except where the public have been excluded as permitted by law.
- 3.2 Where meetings are held in private, due to confidential or exempt information being included, no recording by the press or public is permitted.
- 3.3 No recording equipment may be left in the meeting room during any part of a meeting which is conducted in private.

### 4.0 RULES ON REPORTING

- 4.1 Anyone wishing to undertake recording should notify Democratic Services, by email at [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk) or by telephone on 01903 239999, 24 hours prior to the commencement of the meeting and comply with any requests made by the Person Presiding.
- 4.2 All recording must take place from a fixed position in the meeting room (i.e. public gallery) approved by the Person Presiding.
- 4.3 Recording should be directed at Members of the Council. Members of the public seated in the public gallery should not be recorded, unless they have expressly given consent, to the Chair of the meeting. This also applies to a member of the public asking a question, presenting a petition or making a representation.
- 4.4 No recording of anyone under the age of 18 is permitted.
- 4.5 If a member of the public is concerned about being recorded at a Council meeting, please inform the Democratic Services Officer present at the meeting. No image or recording of a

member of the public should be made unless the member of the public has expressly given their consent to the Chair of that meeting.

- 4.6 The Democratic Services Team will ensure signs are prominently displayed at meetings to remind attendees that recording may be undertaken and that the Council has no control over where a recording might appear (for example posted on the internet). meeting agendas will also carry this message and at the commencement of a meeting, the Person Presiding will announce if any requests to record have been made by the public.
- 4.7 Persons recording meetings are not permitted to carry out an oral commentary or report whilst the meeting is in session.
- 4.8 The use of flash or additional lighting in connection with recording at meetings will not be permitted without the prior notification and agreement of the Person Presiding.
- 4.9 Where any part of a meeting is held in private, no recording by the press or public will be permitted. All recording equipment must be removed from the meeting room during the exclusion.
- 4.10 Where the Person Presiding considers any recording is disrupting the meeting, the operator of the equipment will be required to stop and may be asked to leave the meeting room, removing their equipment at the same time.
- 4.11 Anyone who has been asked to leave a meeting because they have refused to comply with the Person Presiding's request with regard to recording may be prohibited from recording at future meetings.
- 4.12 Members of the public and press must ensure the recording will not be edited in a way that could lead to misinterpretation of the proceedings of a meeting. This includes refraining from editing the views being expressed in a way that may ridicule or show a lack of respect towards those being filmed/recorded.
- 4.13 Persons recording meetings are advised that the law of the land still applies when publishing recordings, for example the law of defamation and the law on public order offences. Freedom of speech within the law should also be exercised with personal and social responsibility, showing respect and tolerance towards the views of others. Anyone recording any meeting of the Council, or part of it, must comply with their statutory obligations relating to the recording, use and retention of any personal data they may capture.
- 4.14 Recognised media organisations and educational institutions may be given greater flexibility to record meetings for the purposes of news bulletins, programmes and education. These requests must be directed through the Democratic Services Manager and approved by the Mayor or Chair of the relevant Council in the case of meetings of the Full Council, or the Person Presiding in the case of Committees and Sub-Committees.
- 4.15 Any decision taken by the Person Presiding on the interpretation of this protocol is final.

## Petition Scheme

### 1.0 PETITIONS

- 1.1 The Council welcomes petitions and recognises that they are a way in which the public can let the Council know about their concerns. Petitions can be submitted in paper or electronic form and a petition can be received by the Council by post, electronically or be hand delivered. All petitions must be sent to the Monitoring Officer by email at [monitoringofficer@adur-worthing.gov.uk](mailto:monitoringofficer@adur-worthing.gov.uk).

### 2.0 CONTENT

- 2.1 Petitions submitted to the Council must:
- (a) include a clear and concise statement covering the subject of the petition stating what action the petitioners wish the Council to take;
  - (b) be accompanied by the name, address and contact details of the Petition Organiser; and
  - (c) contain a minimum of 50 names, postal addresses (property name/number and post code) and signatures (other than when in electronic form) of people who live, work or study in the District of Adur and who support the petition.

### 3.0 PETITION ORGANISER

- 3.1 The Petition Organiser is the person the Council will contact to explain how it will respond to the petition. The contact details of the Petition Organiser will not be placed on the Council's website.

3.2 Elected Members are not permitted to sign public petitions made to the Council.

### 4.0 ACKNOWLEDGEMENT

- 4.1 An acknowledgement will be sent to the Petition Organiser, by the Monitoring Officer, within five working days of receiving the petition. The acknowledgement will advise the Petition Organiser if their petition has been rejected by the Monitoring Officer on any of the grounds below, or accepted.

### 5.0 REJECTION BY THE MONITORING OFFICER

- 5.1 A petition may be rejected by the Monitoring Officer should they consider that the petition:
- (a) contains intemperate, inflammatory, abusive or provocative language, is defamatory, frivolous, vexatious, discriminatory or otherwise offensive or contains false statements;
  - (b) is similar to another petition submitted to the Council within the previous six months;
  - (c) discloses confidential or exempt information, including information protected by a court order;
  - (d) discloses material which is commercially sensitive;
  - (e) contains names of individuals as the target of the petition, or provides information where the individual could be easily identified;
  - (f) contains advertising statements;
  - (g) refers to an issue which is currently the subject of a formal Council complaint, Local Government Ombudsman complaint or legal proceedings;
  - (h) relates to the Council's Planning or Licensing functions (as there are separate processes in place to deal with those matters);
  - (i) relates to a response to the Council as part of a formal consultation process;
  - (j) relates to a matter where there is already an existing right of appeal, such as Council Tax Banding and non-domestic rates, (as there are separate processes in place to deal with those matters);

- (k) relates to a statutory petition, for example if at least 5% of Local Government electors in the District petition the Council to hold a referendum on whether it should change to a different form of governance (as there are separate processes to deal with those matters);
- (l) does not relate to an issue upon which the Council has powers or duties or on which it has shared delivery responsibilities. However, if the petition is about something over which the Council has no direct control, the Monitoring Officer will give consideration to the best method for responding to it. For example, the Council may make representations on behalf of the community to the relevant body or forward the petition to the relevant body. In any event the Council will always notify the Petition Organiser of the action it has taken;
- (m) has already been the subject of debate by Full Council within the previous six months;
- (n) is received during politically sensitive times, such as prior to an election or referendum, and the petition contains politically controversial material. In that situation the Monitoring Officer may need to agree a revised timescale for the acceptance of the petition;
- (o) relates specifically to the annual budget resolution, which is governed by the Council's Budget Procedure Rules;
- (p) it contains less than 50 names, addresses and signatures of individuals who live, work or study in the District.

## **6.0 ACCEPTED PETITIONS: THE COUNCIL'S RESPONSE**

- 6.1 If the Monitoring Officer has accepted the petition, the Petition Organiser will be advised what the Monitoring Officer plans to do with the petition and when they can expect to hear from the Council.
- 6.2 The petition (but not the Petition Organiser's details) and the details of what the Council will do will also be published on the Council's website.

### Non-qualifying petitions

- 6.3 Non-qualifying petitions are defined in this scheme as petitions with 50 or more signatories but less than 1,000, and those petitions shall be referred to the relevant decision-maker, by the Monitoring Officer.
- 6.4 Where the decision-maker is the Cabinet, a Committee or Joint Committee, then the Petition Organiser shall be advised as to when and where the petition is to be considered and shall be allowed to attend, remotely if the meeting is held with attendance via remote access, and speak for up to five minutes in support of the petition. Following which the Members shall discuss the petition and decide how to respond to it. Once a decision is made, the decision-maker will notify the Petition Organiser in writing of the response with reasons for the decision within five working days.
- 6.5 Where the decision-maker is an individual Cabinet Member or an Officer they shall meet with the Petition Organiser, remotely or otherwise, to discuss the contents of the petition. Following which they shall determine how to respond to it. Once a decision is made, the decision-maker will notify the Petition Organiser in writing of the response with reasons for the decision within five working days.

### Qualifying Petitions

- 6.6 Qualifying petitions are defined in this scheme as petitions containing 1,000 or more names, postal addresses and signatures (other than when in electronic form) of people who live, work or study in the District of Adur and support the petition.

- 6.7 On receipt of a qualifying petition, where time permits, the petition will be debated by the Full Council, at their next Ordinary meeting, provided that the petition is received by the Monitoring Officer 15 clear working days prior to that meeting, or otherwise at the next available Ordinary Council meeting. The Petition Organiser will be given five minutes to read the petition at the meeting and make any representations and the petition will then be discussed by Councillors in accordance with the Council's Standing Orders as contained in Part 4 of this Constitution. Following the debate by Councillors, the Petition Organiser will be given a further opportunity to address the Council and shall have a maximum of three minutes to make a closing statement. The Council will decide, by way of a motion being proposed, seconded and voted upon, how to respond to the petition at this meeting.
- 6.8 If the petition relates to action currently being progressed by the Council and the petition will trigger a debate at Full Council, as it is accepted by the Monitoring Officer and is a qualifying petition, then the action will be suspended pending the debate, unless in relation to statutory, contractual or other legal situations where a suspension would, in the view of the Monitoring Officer, prejudice the Council's position.
- 6.9 Where a petition is accepted by the Monitoring Officer and is a qualifying petition but time does not permit a debate at Full Council, for example because an action that is the subject of the petition will occur prior to the next meeting of the Full Council, the petition will be referred by the Monitoring Officer to the appropriate decision-maker, Cabinet or relevant Committee or Joint Committee. Once a decision is made, the decision-maker will notify the Petition Organiser in writing of the response with reasons for the decision within five working days.

#### The Council's Response to a Petition

- 6.10 The Council's response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:
- (a) taking the action requested;
  - (b) receiving and considering the petition at the next Ordinary Council meeting;
  - (c) holding an enquiry into the matter;
  - (d) undertaking research into the matter;
  - (e) holding a public meeting;
  - (f) holding a consultation;
  - (g) holding a meeting with the petitioners;
  - (h) referring the petition for consideration by the Overview & Scrutiny or Joint Overview & Scrutiny Committee;
  - (i) referring the petition to the Cabinet or another Committee if the substantive content of the petition falls within the remit of that Committee;
  - (j) writing to the Petition Organiser setting out the Council's views about the request in the petition;
  - (k) deciding not to agree to do what is asked in the petition.

#### **7.0 PUBLICATION AND RETENTION**

- 7.1 All decisions relating to petitions will be published on the Council's website.
- 7.2 Petitions will not be retained by the Council for longer than 6 years in compliance with General Data Protection Regulations.



## **Planning Committee: Site Visit Protocol**

Commented [g60]: As per WBC Constitution.

- 1.0 Site visits by the Planning Committee shall be held only where the benefit is clear and substantial, having regard to: policy and material considerations; where the impact of the proposed development is difficult to visualise from the plans, photographs and information provided; where the comments of the applicant and objectors cannot be expressed adequately in writing; or where the proposal is particularly contentious.
- 2.0 The purpose of the site visit is to observe the site and gain a better understanding. The Committee shall visit the site with Officer assistance. The decision to hold a site visit will be taken by the Chair of the relevant Planning Committee in consultation with Officers, Planning Committee Members and Ward Councillors and a record of the reason for the visit shall be kept.
- 3.0 Where a site visit is carried out following a request from a Ward Councillor, it may also be appropriate to invite the relevant Member to attend the site visit to hear the same explanation of the proposal/application as the Committee. The site owner, (whether the applicant, objector or third party) will also be present, solely to provide access to the site.
- 4.0 The Ward Councillor, landowner, applicant and objector (if in attendance) may not make any representations to the Committee about the application, but may point out relevant features on the ground.
- 5.0 The Committee should direct all questions to the Officer. Only where the Officer does not have the answer immediately available, may the applicant or objector answer a technical or factual question relevant to the application.
- 6.0 At no point during a site visit should the applicant, objector or Ward Councillor be allowed to make representations to the whole Committee or to individual Committee Members in conversation. All representations should be made at the Planning Committee meeting in accordance with the procedure for public speaking on planning applications.
- 7.0 The needs of all participants will be considered and reasonable measures taken to facilitate access to the site visit. A representative may attend where reasonable adjustments cannot be made.
- 8.0 Individual Committee Members are only entitled to view the site from public vantage points if visiting the site alone, as they have no individual rights to enter private property.

## Public Speaking at Planning Committee Protocol

### 1.0 INTRODUCTION

Public speaking to object to or support planning applications at Planning Committee is an established part of the Council's procedure.

### 2.0 AGENDA ITEM

A Planning Officer will introduce the planning application and display any plans as well as bringing any new matters that have arisen since the agenda was prepared. Members may ask questions of the Planning Officer.

### 3.0 PUBLIC SPEAKING

3.1 Public speaking at Planning Committee meetings shall be allowed in respect of planning applications, including Conservation Area, Listed Building, Tree Preservation Order confirmation and Advertisement Consent Applications.

3.2 Questions, statements and comments made by the public to the Planning Committee must be relevant to planning issues.

3.2.1 Examples of relevant planning issues include:

- (a) external design, appearance and layout of the development,
- (b) impact on trees and nature conservation or overshadowing and privacy,
- (c) Highway safety,
- (d) Planning Policy and Government Guidance.

3.2.2 Examples of non-relevant planning issues may include:

- (a) boundary disputes or other property rights,
- (b) loss of property value or loss of a view,
- (c) matters covered by other legislation,
- (d) the applicants' motives, character or reputation.

3.3 Relevant representations will be accepted from objectors, parish councillors, Ward Councillors, and the Applicant or their representative and supporters.

3.4 Advance notice of the intention to make representations must be provided to Democratic Services Officers, by email at [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk), by noon on the working day prior to the date of the meeting. If a decision on the application is deferred to a future meeting, the individual having given appropriate notice, will be able to speak when the application is considered by the Committee again, without the need to give further notice of their intention to speak. If more than the maximum number of speakers give notice of their intention to make representations, those permitted will be taken in order in which their notice was received.

The order, and time allowed, for speaking at Planning Committee meetings will be as follows:

		Total time allowed
Objectors	Limited to a maximum of three speakers	Limited to 3 minutes per speaker
Parish Councillor	A maximum of one Parish Councillor from the relevant Parish Council	Limited to 3 minutes
Ward Councillors	Subject to a maximum of one Councillor speaking in support of the application and a maximum of one Councillor	35 minutes each

	speaking against the application, limited to: <ul style="list-style-type: none"> <li>• Up to two Ward Councillors or</li> <li>• With the agreement of the Chair, and subject to a maximum of one Ward Councillor wishing to speak, one Ward Councillor and an adjacent Ward Councillor, or</li> <li>• With the agreement of the Chair and subject to no Ward Councillors wishing to speak, a maximum of two Councillors.</li> </ul>	
Applicant or representative and Supporters	Limited to a maximum of three speakers	Limited to 3 minutes per speaker

3.5 There is no right for anyone to speak at a Planning Committee meeting otherwise than in accordance with the above table. An individual may not speak a second time at a Planning Committee meeting on the same application.

3.6 Speakers may address the Planning Committee Chair, but are not permitted to ask questions of other speakers, Officers or Members. Members and Officers can question speakers for clarification purposes only.

#### **4.0 DETERMINATION OF APPLICATION**

4.1 Following public speaking, Members of the Planning Committee will debate the planning application, involving professional Officers as necessary and appropriate. The debate should be governed by the Rules of Debate within the Council's Procedure Rules.

4.2 Members of the Planning Committee may receive legal and other professional advice as required during the Committee meeting.

#### **5.0 MISCELLANEOUS**

5.1 The Chair has the discretion to waive any of the requirements of this Protocol if satisfied on legal and professional advice that it is fair, reasonable and appropriate to do so in the circumstances.

5.2 This Protocol is formally adopted by the Council as part of its Constitution. It is to be reviewed at least once every 3 years.

## **Probity in Planning**

### **1.0 INTRODUCTION**

- 1.1 Planning has a positive and proactive role to play at the heart of Local Government. It helps the Councils to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs to achieve sustainable development.
- 1.2 The planning system works best when Officers and Members involved in planning understand their roles and responsibilities, and the context and constraints in which they operate.
- 1.3 Planning decisions involve balancing many competing interests. In doing this, decision-makers need an ethos of decision-making in the wider public interest on what can be controversial proposals.
- 1.4 It is recommended that Members should receive regular training on Code of Conduct issues, interests and predetermination, as well as on planning matters.

### **2.0 BACKGROUND**

- 2.1 Early Member engagement is encouraged to ensure that proposals for sustainable development can be harnessed to produce the settlements that communities need. This Protocol is intended to reinforce Members' community engagement roles, whilst maintaining good standards of probity that minimise the risk of legal challenge.
- 2.2 Planning decisions are based on balancing competing interests and making an informed judgement against a local and national Policy Framework. Decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the Local Plan and decision notices. Nevertheless, it is important that the decision-making process is open and transparent.
- 2.3 One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. Opposing views are often strongly held by those involved.
- 2.4 Whilst Members must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. It is important, therefore, that planning authorities make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons.
- 2.5 The process should leave no grounds for suggesting that those participating in the decision were biased or that the decision itself was unlawful, irrational or procedurally improper.
- 2.6 This guidance is not intended to be prescriptive. Local circumstances may provide reasons for local variations of policy and practice. Every Council should regularly review the way in which it conducts its planning business.
- 2.7 This Protocol, which is based on the Local Government Association Probity in Planning Guidance, refers mainly to the actions of a Local Authority Planning Committee as the principal decision-making forum. However, the Council's governance and decision-making arrangements must be complied with and there are circumstances set out elsewhere in this

Constitution which provide for, in some circumstances, Officer delegations and Full Council decision-making.

2.8 The Protocol applies equally to these alternative forms of decision-making.

### **3.0 THE GENERAL ROLE AND CONDUCT OF MEMBERS AND OFFICERS**

3.1 Members and Officers have different but complimentary roles. Both serve the public but Members are responsible to the Electorate, whilst Officers are responsible to the Council as a whole. Officers advise Members and the Council and carry out the Council's work. They are employed by the Council, not by individual Members. A successful relationship between Members and Officers will be based upon mutual trust, understanding and respect of each other's positions.

3.2 Both Members and Officers are guided by Codes of Conduct. The Localism Act 2011 sets out a duty for each Local Authority to promote and maintain high standards of conduct by Members and to adopt a Local Code of Conduct. The Codes of Conduct adopted by Worthing Borough Council and Adur District Council are consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

3.3 The Codes of Conduct embrace the standards central to the preservation of an ethical approach to Council business, including the need to register and disclose interests, as well as appropriate relationships with other Members, Officers, and the public. Many Local Authorities have adopted their own, separate Codes relating specifically to planning, although Worthing Borough Council and Adur District Council have agreed to adopt the LGA Probity in Planning Guidance, which is summarised in this Protocol. This Protocol should always be cross-referenced with the Council's substantive Code of Conduct.

3.4 Officers and Members must not act as agents for people pursuing planning matters within their Authority either Adur District or Worthing Borough Councils, even if they are not involved in the decision-making on it.

3.5 The determination of a Planning Application is a formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. All involved should remember the possibility that an aggrieved party may seek a Judicial Review and/or complain to the Ombudsman on grounds of maladministration or a breach of the Council's Code of Conduct.

### **4.0 REGISTRATION AND DISCLOSURE OF INTERESTS**

4.1 The Localism Act 2011 places requirements on Members regarding the registration and disclosure of their pecuniary interests and the consequences for a Member taking part in consideration of an issue in the light of those interests. The definitions of disclosable pecuniary interests are set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. A failure to register a disclosable pecuniary interest within 28 days of election or co-option or the provision of false or misleading information on registration, or participation in discussion or voting in a meeting on a matter in which a Member or Co-opted Member has a disclosable pecuniary interest, are criminal offences.

4.2 Advice should always be sought from the Council's Monitoring Officer in respect of disclosable pecuniary interests. Ultimately, however, responsibility for fulfilling the requirements rests with each Member.

4.3 The provisions of the Act seek to separate interests arising from the personal and private interests of a Member from those arising from the Member's wider public life. Members should think about how a reasonable member of the public, with full knowledge of all the

**Commented [g61]:** Planning Committee members get to enjoy a closer relationship with officers from the planning department and receive ongoing training and support; there is a risk that both might be perceived as directly assisting their business and therefore benefiting them financially. In addition, it is not unusual for local developers to submit planning applications in neighbouring areas. As such, it is of potential reputational concern for members of the Planning Committee to be making regulatory decisions on applications that have been submitted by their potential clients.

relevant facts, would view the matter when considering whether the Member's involvement would be appropriate.

- 4.4 For information as to what interests need to be disclosed, reference should be made to the Council's Member Code of Conduct. All disclosable interests should be registered under Register maintained by the Council's Monitoring Officer and made available to the public. Members should also disclose that interest orally at the Committee meeting when it relates to an item under discussion.
- 4.5 A Member must provide the Monitoring Officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the Member becoming aware of such changes.
- 4.6 A disclosable pecuniary interest relating to an item under discussion requires the withdrawal of the Member from the Committee. In certain circumstances, a dispensation can be sought from the appropriate body or Officer to take part in that particular item of business, but further advice should be sought from the Council's Monitoring Officer.
- 4.7 If a Member has a (non-pecuniary) personal interest, they should disclose that interest, but then may speak and vote on that particular item. This includes being a member of an outside body; mere membership of another body does not constitute an interest requiring such a prohibition.
- 4.8 It is always best to identify a potential interest early on. If a Member thinks that they may have an interest in a particular matter to be discussed at Planning Committee, they should raise this with the Council's Monitoring Officer as soon as possible.

## **5.0 PREDISPOSITION, PREDETERMINATION OR BIAS**

- 5.1 Members of the Planning Committee (or Full Council when the Local Plan is being considered) need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application or on planning policies. The Courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a 'closed mind' approach and likely to leave the Committee's decision susceptible to challenge by Judicial Review.
- 5.2 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Member makes it clear they are willing to listen to all the considerations presented at the Committee before deciding on how to vote (predisposition). The latter is acceptable; the former is not and may result in a Court quashing such planning decisions.
- 5.3 Section 25 Localism Act 2011 also provides that a Member should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to a particular matter.
- 5.4 This reflects the common law position that a Member may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their minds in light of all the information presented at the meeting. Nevertheless, a Member in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Member was biased.
- 5.5 If a Member has predetermined their position, they should withdraw from being a Member of the decision-making body for that matter. This would apply to any Member of the Planning Committee who wanted to speak for or against a proposal as a campaigner.

5.6 The Councils have a Cabinet Member responsible within their portfolio for development and planning. This Member is able to be a Member of the Planning Committee. Leading Members of a Local Authority who have participated in the development of planning policies and proposals, need not and should not, on that ground and in the interests of the good conduct of the business, normally exclude themselves from decision-making Committees.

## **6.0 DEVELOPMENT PROPOSALS SUBMITTED BY MEMBERS AND OFFICERS AND COUNCIL DEVELOPMENT**

6.1 Proposals submitted by serving and former Members, Officers and their close associates and relatives can easily give rise to suspicions of impropriety. Proposals could be planning applications or Local Plan proposals.

6.2 Such proposals must be handled in a way that gives no grounds for accusations of favouritism. Any local planning protocol or code of good practice should address the following points in relation to proposals submitted by Members and Planning Officers:

- (a) If they submit their own proposal to the Authority they should play no part in its consideration;
- (b) A system should be devised to identify and manage such proposals;
- (c) The Council's Monitoring Officer should be informed of such proposals;
- (d) Such proposals should be reported to the Planning Committee and not dealt with by Officers under delegated powers.

6.3 A Member would undoubtedly have a disclosable pecuniary interest in their own application and should not participate in its consideration. They do have the same rights as any applicant in seeking to explain their proposal to an Officer, but the Member, as applicant, should also not seek to improperly influence the decision.

6.4 Proposals for a Council's own development should be treated with the same transparency and impartiality as those of private developers.

## **7.0 LOBBYING OF AND BY MEMBERS**

7.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a local development plan, or an emerging policy, will often seek to influence it through an approach to their Ward Member or to a Member of the Planning Committee.

7.2 Lobbying, however, can lead to the impartiality and integrity of a Member being called into question, unless care and common sense is exercised by all the parties involved.

7.3 Whilst the common law permits predisposition, it remains good practice that when being lobbied, Members (and particularly Members of the Planning Committee) should try to take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such situations, they could restrict themselves to giving advice about the process and what can and can't be taken into account.

7.4 Members can raise issues which have been raised by their constituents, with Officers. If Members do express an opinion to objectors or supporters, it is good practice that they make it clear that they will only be in a position to take a final decision after having heard all the relevant arguments and taken into account all relevant material and planning considerations at Committee.

7.5 If any Member, whether or not a Planning Committee Member, speaks on behalf of a lobby group at the decision-making Committee, they would be well advised to withdraw once any public or Board Member speaking opportunities had been completed, in order to counter

any suggestion that Members of the Committee may have been influenced by their continuing presence.

- 7.6 It is sometimes difficult to get the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. However, it cannot be stressed too strongly, that the striking of this balance is, ultimately, the responsibility of the individual Member. Further specific issues relating to lobbying are as follows:
- (a) Planning decisions cannot be made on a party political basis in response to lobbying; the use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.
  - (b) Planning Committee or Local Plan Steering Group Members should in general avoid organising support for or against planning application and avoid lobbying other Members. Members should not put pressure on Officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the Officers' impartiality or professional integrity.
  - (c) Call-in procedures, whereby Members can require a proposal that would normally be determined under the delegated authority to be called in for determination by the Planning Committee, should require the reasons for Call-In to be recorded in writing and to refer solely to matters of material planning concern.
- 7.7 As previously outlined, Members must always be mindful of their responsibilities and duties under their local Codes of Conduct. These responsibilities and duties apply equally to matters of lobbying as they do to the other issues of probity explored elsewhere in this Protocol.

## **8.0 PRE-APPLICATION DISCUSSIONS**

- 8.1 Pre-application discussions between a potential applicant and a Member can benefit both parties and are encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.
- 8.2 The Localism Act has given Members much more freedom to engage in pre-application discussions. Nevertheless, in order to avoid perceptions that Members might have fettered their discretion, such discussions should take place within clear, published guidelines.
- 8.3 The following guidelines should be adhered to:
- (a) Clarity at the outset that the discussions will not bind a Council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
  - (b) An acknowledgement that consistent advice should be given by Officers based upon the Local Plan and material planning considerations.
  - (c) Officers should be present with Members in pre-application meetings. Members should avoid giving separate advice on the Local Plan or material considerations as they may not be aware of all the issues at an early stage. Neither should they become drawn into any negotiations, which should be done by Officers (keeping interested Members up to date) to ensure that the Authority's position is coordinated.
  - (d) Confirmation that a written note should be made of all meetings. An Officer should make the arrangements for such meetings, attend and write notes. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. The note should be placed on the file as a public record. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised or advice given can still normally be placed on the file to reassure others not party to the discussion.
  - (e) A commitment that care will be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to Committee could appear to be advocacy.



- (f) The scale of proposals to which these guidelines would apply. Members talk regularly to constituents to gauge their views on matters of local concern.

## **9.0 OFFICER REPORTS TO COMMITTEE**

- 9.1 As a result of decisions made by the Courts and Ombudsman, Officer reports on planning applications must have regard to the following:
  - (a) Reports should be accurate and should include the substance of any objections and other responses received to the consultation.
  - (b) Relevant information should include a clear assessment against the relevant local development plan policies, relevant parts of the National Planning Policy Framework, any local finance considerations, and any other material planning considerations.
  - (c) Reports should have a written recommendation for a decision to be made.
  - (d) Reports should contain technical appraisals which clearly justify the recommendation.
  - (e) If the report's recommendation is contrary to the provisions of the Local Plan, the material considerations which justify the departure must be clearly stated. Failure to do so may constitute maladministration or give rise to a Judicial Review challenge on the grounds that the decision was not taken in accordance with the provisions of the Local Plan and the Council's statutory duty under Section 38A of the Planning and Compensation Act 2004 and Section 70 of the Town and Country Planning Act 1990.
  - (f) Any oral updates or changes to the report should be recorded.

## **10.0 PUBLIC SPEAKING AT PLANNING COMMITTEES**

- 10.1 Reference is made to the Protocol on Public Speaking at the Planning Committee, to be found within Part 5 of the Constitution.

## **11.0 DECISIONS WHICH DIFFER FROM A RECOMMENDATION**

- 11.1 The law requires that decisions should be taken in accordance with the Local Plan, unless material considerations indicate otherwise. This applies to all planning decisions. Any reasons for refusal must be justified against the Local Plan and other material considerations.
- 11.2 The Courts have expressed the view that the Committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other material or non-material planning considerations which might cause local controversy will rarely satisfy the relevant tests.
- 11.3 Planning Committees can, and often do, make a decision which is different from the Officer recommendation. Sometimes this will relate to conditions or terms of a Section 106 obligation. Sometimes it will change the outcome, from an approval to a refusal or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.
- 11.4 Planning Committees are advised to take the following steps before making a decision which differs from the Officer recommendation:
  - (a) Firstly, if a Member is concerned about an Officer recommendation, they should discuss their area of difference and the reasons for that with Officers in advance of the Committee meeting;
  - (b) Recording the detailed reasons as part of the mover's motion;
  - (c) Adjourning for a few minutes for those reasons to be discussed and then agreed by the Committee;
  - (d) Where there is concern about the validity of reasons, considering deferring to another meeting to have the putative reasons tested and discussed.

- 11.5 If the Planning Committee makes a decision contrary to the Officers' recommendation, a detailed minute of the Committee's reasons should be made and a copy placed on the application file. Members should be prepared to explain in full their planning reasons for not agreeing with the Officers' recommendation.
- 11.6 The Officer should also be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome, and chances of a successful award of costs against the Council, should one be made.
- 11.7 All applications that are clearly contrary to the Local Plan must be advertised as such and are known as 'departure' applications. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the Local Plan must be clearly demonstrated.
- 11.8 The application may then have to be referred to the relevant Secretary of State, depending upon the type and scale of the development proposed. If the Officers' report recommends approval of such a departure, the justification for this should be included, in full, in that report.

## **12.0 ANNUAL REVIEW OF DECISIONS**

- 12.1 It is good practice for Members to visit a sample of implemented planning permissions to assess the quality of the decisions and the development. This should improve the quality and consistency of decision-making, strengthen public confidence in the planning system, and can help with reviews of planning policy.
- 12.2 Reviews should include visits to a range of developments such as major and minor schemes, upheld appeals, listed building works and enforcement cases. Briefing notes should be prepared on each case. The Planning Committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

## **13.0 COMPLAINTS AND RECORD KEEPING**

- 13.1 So that complaints may be fully investigated and as general good practice, record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. This applies to decisions taken by Committee and under delegated powers, and to applications, enforcement and local development plan matters.

## **14.0 TRAINING**

- 14.1 Councillors should not participate in decision making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.
- 14.2 Members of Planning Committee should endeavour to attend any other specialised training sessions provided, since these will be designed to extend their knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist them in carrying out their role properly and effectively.
- 14.3 Members of Planning Committee should participate in a periodic review of a sample of planning decisions to ensure that their judgments are based on proper planning considerations. The review should include examples from a broad range of categories, such as:  
(a) major and minor development proposals

- (b) permitted departures from the Development Plan
- (c) significant allowed appeals
- (d) major listed building works
- (a)(e) associated infrastructure

## **Social Media Policy**

### **1. INTRODUCTION**

- 1.1. Social Media includes the various online technology tools that enable people to communicate easily via the internet to share information and resources. Social media includes, but is not limited to, blogs; wikis; RSS feeds; social networking sites such as Facebook, LinkedIn and Twitter; photo sharing sites such as Flickr, Instagram and Snapchat; and video sharing sites such as YouTube.
- 1.2. The widespread availability and use of social networking applications brings opportunities for the Councils to better understand, engage and communicate with its customers, partner agencies and the communities it serves.
- 1.3. This Policy supports the Councils' stated purpose, ambition and values by enabling the organisation to make best use of these technologies and so improve the way it does business. It also sets out a behavioural framework for Officers and Members to ensure that the considerable benefits that accrue from using social media are adequately balanced against our legal responsibilities and the need to safeguard the Councils' image and reputation.

### **2. PURPOSE AND OBJECTIVES**

- 2.1. The purpose of this policy is to:
  - (a) ensure Officers are aware of their responsibility to comply with good practice and the law for example in relation to data protection, confidentiality, libel, copyright, safeguarding of children and vulnerable adults, human rights, harassment and discrimination so that the Councils are not exposed to legal and governance risks;
  - (b) support safer working practice by setting standards of good practice and behaviour in the use of social media;
  - (c) ensure the reputation of the Councils and its Officers are not damaged;
  - (d) ensure children, young people and vulnerable adults are safeguarded by reducing the risk of positions of trust being abused or misused;
  - (e) minimise the risk of misplaced or malicious allegations being made against those who work with vulnerable groups;
  - (f) ensure users of social networking media are able to clearly identify where information provided via such applications is legitimately representative of the Councils;
  - (g) enable Officers to distinguish between the use of social media in their work and personal lives;
  - (h) ensure the use of social media is aligned to the Council's corporate communications approach.

### **3. OTHER CODES AND POLICIES**

- 3.1. The Councils' Officer Code of Conduct applies to all offline and online communications and includes the use of social media, and can in some circumstances apply to the use of social media in an Officer's personal life.
- 3.2. The Councils' Disciplinary Policy applies to online communications and includes the use of social media, and can in some circumstances apply to the use of social media in an Officer's personal life.
- 3.3. The Council's Code of Conduct for Elected Members applies to a Member's use of Social Media.

#### **4. USE OF SOCIAL MEDIA BY ADUR & WORTHING COUNCIL OFFICERS**

- 4.1. Social media is used to communicate news and updates from the Council and the wider community and residents. It is also now an important customer service tool. The two main channels used are Facebook and Twitter.
- 4.2. There is also a Council presence on LinkedIn and YouTube.
- 4.3. The majority of public facing communication via the Councils' corporate social media channels should be either produced or approved by the Council's Communications Team.
- 4.4. Some individual Councils accounts or aspects of social media management, such as incoming customer enquiries, can be operated by other members of staff. However, this is only by prior approval of the Head of Communications and after full training delivered by the Communications Team is completed.
- 4.5. A Council service can request to create a public social media page by submitting a business case outlining how social media would benefit this service and how it will be maintained or managed. This should be submitted for review to the Head of Communications.
- 4.6. If approved, the social media pages will be set up in collaboration with the Communications Team and all design must be in line with the Councils' branding.
- 4.7. All new social media pages will be reviewed after a period of 4 months. Those sites which are not performing well or are not benefiting residents will be removed. Similarly, any unauthorised sites will be closed down. Contact the Head of Communications for more information.
- 4.8. Officers may be permitted to use a Council's Twitter account to represent their role within the local authority. These must:
  - (a) Be requested and approved by the Head of Communications;
  - (b) Be clearly identifiable as a corporate account using @nameAWC
  - (c) Include the relevant Adur/Worthing/Joint logo in the header or profile image

#### **5. PERSONAL USE OF SOCIAL MEDIA - OFFICERS AND MEMBERS**

- 5.1. Social Media is now part of everyday life and routine and the lines between personal/professional use can become blurred.
- 5.2. Officers and Members must be aware that their actions online on their personal pages may have wider implications on their professional role and on the Councils' image/representation. Always bear your relevant Code of Conduct in mind when you post to social media.
- 5.3. In the event that an Officer/Member's online conduct impacted on the Councils this would become a matter of Council concern and may result in investigation in accordance with the Council's Disciplinary Procedure or Member Code of Conduct.
- 5.4. All Officers and Members should familiarise themselves with the privacy settings of each social media platform they are using and ensure these are set up correctly. You should never include any personal information (DOB, phone number, address, etc) on your personal profile, nor should you share this with residents or third parties.
- 5.5. Never publish confidential information which you have received as part of your job. Nor should you use any such information for personal gain or pass it on to others who may use it in such a way.

- 5.6. Staff should be aware of not using personal online profiles to raise or discuss a complaint or grievance about the Council, your manager, colleagues, etc. There are formal procedures in place for progressing these within the Council.

## **6. DATA PROTECTION AND SUBJECT ACCESS REQUESTS**

- 6.1. As per section 5.5, to adhere to the latest data protection laws, i.e. (EU General Data Protection Regulation 2016/679 and Data Protection Act, 2018 you should never share any sensitive or personal information to social media about a colleague, Member or resident. Any instances of this will be investigated and may lead to disciplinary action.
- 6.2. Data protection law was introduced to respect an individual's fundamental right to privacy through the protection of their personal data. Personal data is identified as 'any information related to an identifiable individual'.
- 6.3. Observe the privacy notices of the social media platforms for which you sign up to and check the privacy settings to see who your posts are shared with.
- 6.4. Personal data collected outside of social media by AWC may only be shared on social media if such sharing was stated explicitly under the AWC privacy notice that was used to initially collect the data.
- 6.5. The sharing of 'special category' data, i.e. ethnicity, religious beliefs, trade union membership ([refer to ICO website for full list](#)) may only be shared on social media with the consent of the individual (data subject) and must be accurate at the time of posting.
- 6.6. The sharing of personal data on social media must be noted in the Register of Processing Activity (RoPA) for the respective service who collected the information in the first instance.
- 6.7. Members of the public can submit a Subject Access Request (SAR) via our corporate social media pages. The right of access, commonly referred to as subject access, gives individuals the right to obtain a copy of their personal data as well as other supplementary information.
- 6.8. More information about an SAR can be found here: <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-of-access/>
- 6.9. Members of the public may also exercise their other rights, i.e. right to rectification, erasure, restrict processing, data portability, object and automated decision making including profiling via our corporate social media pages.
- 6.10. Most personal information collected for use by Members uses the 'Public Task' legal basis and any subsequent sharing or disclosure of personal information on social media satisfies that basis.
- 6.11. More information about other rights may be found here: <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/>

## **7. MEMBER CODE OF CONDUCT**

- 7.1. Members should be very careful in respect of their actions on their personal pages as the Member Code of Conduct may apply to them when they are not expecting it. [The Code and relevant legislation continues to apply online and in social media. If you are referring online in any way to your role as a councillor, you are deemed to be acting in your 'official capacity' and any conduct may fall within the Code.](#)

7.2 Elected and Co-opted Members are bound by the provisions of their Member Code of Conduct when they are conducting Council business or acting, claiming to act, or giving the impression of so acting, as a representative of the Council, or in their official capacity as a Councillor. However, the law has held that whether a Member uses a personal social media or email account or a Council one is not definitive, and neither is whether the sign off of refers to themselves as a councillor or not (*MC v Standards Committee of LB of Richmond 2011*).

7.3 It is becoming increasingly common for standards complaints to be made on the basis of comments Members have made on social media. As section 27(1) of the Localism Act 2011 places a positive duty on councils to promote and maintain high standards of conduct of members and officers, the Council must seek to do so wherever its Members use social media.

7.4 Section 27(2) of the Act states that the Code of Conduct applies when Members are acting in their official capacity. This can present significant grey areas in the context of social media, where the line between acting officially or in a private capacity can be a difficult one to draw.

7.5 In January 2019, the Committee on Standards in Public Life published their report 'Local Government Ethical Standards – A Review by the Committee on Standards in Public Life'. In respect of Members' use of social media, it recommended that there be a rebuttable presumption that when posting on social media they are acting in an official capacity.

7.6 Once something is posted on social media, it is difficult to retain control over how it will be used. Consider the content of your communications carefully and apply this test – if you would be reluctant to say it face-to-face or in an official email, then it is probably inappropriate to say online. As a rule of thumb, never post anything online you would not be comfortable saying or sharing in a public meeting.

## **8. LINKED DOCUMENTS**

8.1. There are a number of policies which should be considered in conjunction with this social media policy. These can all be found on the Councils' Intranet, or hard copies can be provided on request. These are:

- (a) The IT Policy
- (b) The Disciplinary Policy
- (c) The Use of Social Media in Investigation Policy
- (d) The Officer Code of Conduct (see Intranet)
- (e) The Members' Code of Conduct

## Code of Corporate Governance

### 1.0 INTRODUCTION

Governance is about how local government bodies ensure they are doing the right things, in the right way, for the right people, in a timely, inclusive, open and honest, and accountable manner. It comprises the systems and processes, and cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with and, where appropriate, lead their communities.

Adur District Council and Worthing Borough Council are committed to the practise of good governance: ensuring good management, good performance, good stewardship of public money, good public engagement and ultimately good outcomes for citizens and service users.

### 2.0 THE PRINCIPLES OF GOOD GOVERNANCE

The Chartered Institute of Public Finance and Accountancy (CIPFA)/Society of Local Authority Chief Executives (SOLACE) provide a framework for developing and maintaining a Local Code of Corporate Governance and for discharging accountability for the proper conduct of public business.

The CIPFA/SOLACE guidance *Delivering Good Governance in Local Government* (2012) identified six core principles against which local authorities should review their existing corporate governance arrangements and develop and maintain a Local Code of Governance.

The six principles are:

- (a) Focussing on the Councils' purpose and outcomes for the community and implementing a vision for the local area.
- (b) Members and Officers working together to achieve a common purpose with clearly defined functions and roles.
- (c) Promoting values for the Councils and demonstrating the values of good governance through upholding high standards of conduct and behaviour.
- (d) Taking informed and transparent decisions which are subject to scrutiny and managing risk.
- (e) Developing the capacity and capability of Members and Officers to be effective.
- (f) Engaging with local people and other stakeholders to ensure robust public accountability.

Adur District Council and Worthing Borough Council are committed to these six core principles. The Councils' Code of Corporate Governance has been prepared in accordance with the CIPFA/SOLACE guidance. The Code describes how the Councils achieve compliance with each of the core principles to deliver the best outcomes for local communities.

#### **Focussing on the Councils' purpose and outcomes for the community and implementing a vision for the local area.**

##### Summary

Good governance ensures the Councils fulfil their purpose and achieve the intended outcomes for their citizens and service users. Good governance also ensures the Councils continue to operate in an effective, economic and ethical manner. The Councils have therefore developed a clear vision of their purpose and intended outcomes which are communicated both within the Councils and to external stakeholders and the public, and contained within the document *Catching the Wave*.

##### Supporting Principles of Good Governance

In order to exercise strategic leadership the Councils will:

- (a) Develop and promote their authority's purpose and vision;



- (b) Review on a regular basis the authority's vision for the local area and its impact on the authority's governance arrangements;
- (c) Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by the parties;
- (d) Publish an annual report on a timely basis to communicate the authority's activities and achievements, its financial position and performance.

In order to ensure users have quality services the Councils will:

- (a) Decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available;
- (b) Put in place effective arrangements to identify and deal with failure in service delivery.
- (c) In order to ensure the Councils make best use of resources and that tax payers and service users receive excellent value for money the Councils will:
- (d) Decide how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively.
- (e) Measure the environmental impact of policies, plans and decisions.

#### Evidence of Commitment to these Principles

- (a) ~~Catching the Wave – details~~ The Councils' strategic plans ~~and~~ identifies ~~four~~ its corporate priorities. The plan is widely promoted through the Councils' website.
- (b) ~~Surfs Up – The corporate plan~~ sets out the Councils' ambitious vision and details how the strategic plan will be implemented and corporate priorities achieved.
- (c) Councils' Constitution – sets out the governance arrangements and procedural requirements for the business of the Councils.
- (d) Joint Committee Agreement – sets out the roles and responsibilities for partnership working between Adur District Council and Worthing Borough Council.
- (e) Local Development Framework – a series of Local Development Documents that deliver the spatial planning strategy for the District/Borough.
- (f) Medium Term Financial Strategy – links the Councils' finances to the Corporate Priorities and sets out strategic financial policies, a medium term financial forecast and budget guidelines for the forthcoming year.
- (g) Annual Statement of Accounts – a mainly financial document listing achievements for the previous year as well as setting out longer term aims.
- (h) Trello Boards for Performance Dashboard and Risk Registers - records performance in relation to a range of key and local performance measures which form part of performance dashboard information and also details of Corporate and Service level risks which are reported to the Corporate Leadership Team on a regular basis.
- (i) Benchmarking – provides comparisons between the Councils' functions and performance with those provided by similar organisations.
- (j) Comments, Compliments and Complaints System.
- (k) Contract Standing Orders - outlines the procurement process used by the Councils and how Officers ensure value for money is achieved.
- (l) Committee reports – Provide Members with information needed to make decisions.

#### **Members and Officers working together to achieve a common purpose with clearly defined functions and roles**

##### Summary

Elected Members are collectively responsible for the governance of the Councils. The Local Government Act 2000 introduced new Executive arrangements whereby the Councils' Policy Framework, budget and key strategies are agreed by Full Council following proposals from the Cabinets. The Councils each have a Cabinet responsible for exercising all functions except those reserved to Council and statutory functions such as planning and licensing. In addition, the

Councils have Overview and Scrutiny Committees, comprising of Non-Cabinet Members who can question and challenge the decisions and/or performance of the Cabinets.

The Chief Executive, Directors, Section 151 Officer and Monitoring Officer are responsible for advising the Cabinets and other Committees on legal, financial and other policy considerations.

#### Supporting Principles of Good Governance

In order to ensure effective leadership throughout the Councils, each Council will:

- (a) Set out a clear statement of the respective roles and responsibilities of the Cabinet and of the Cabinet Members individually and the authority's approach towards putting this into practice;
- (b) Set out a clear statement of the respective roles and responsibilities of other Authority Members, Members generally and of Senior Officers.

In order to ensure a constructive working relationship exists between Members and Officers, each Council will:

- (a) Determine an Officer Scheme of Delegations and reserve powers within the Constitution, including a formal schedule of those matters specifically reserved for collective decision of the authority, taking into account relevant legislation and ensuring that it is monitored and updated when required;
- (b) Make the Chief Executive responsible and accountable to the authority for all aspects of operational management;
- (c) Develop protocols to ensure that the Leader and Chief Executive negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained;
- (d) Make the Section 151 Officer responsible to the authority for ensuring that appropriate advice is given on all financial matters for keeping proper financial records and accounts, and for maintaining an effective system of internal financial controls;
- (e) Make the Monitoring Officer responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with.

To ensure the Councils' relationships with partners and the public are clear, each Council will:

- (a) Develop protocols to ensure effective communication between Members and Officers in their respective roles;
- (b) Set out the terms and conditions for remuneration of Members and Officers and an effective structure for managing the process, including an effective job evaluation process for Officers' remuneration and a remuneration panel for Members;
- (c) Ensure that effective mechanism exists to monitor service delivery;
- (d) Ensure that the organisation's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated;
- (e) When working in partnership, ensure that Members are clear about their roles and responsibilities, both individually and collectively, in relation to the partnership and to the authority;
- (f) When working in partnership, ensure that there is clarity about the legal status of the partnership, ensure that representatives or organisations understand and make clear to all other partners the extent of their authority to bind their organisation to partner decisions.

#### Evidence of Commitment to these Principles

- (a) Constitution – sets out how the Councils operate, how decisions are made and the procedures and codes of conduct which the Councils follow. It also includes the roles of Statutory Officers and their responsibilities relating to compliance with the law and ensuring sound financial control.
- (b) Role of Members – set out in the Constitution.
- (c) Terms of Reference for the Cabinet and Cabinet Members – set out in the Constitution.

- (d) Monitoring Officer Protocol – set out in the Constitution.
- (e) Cabinet Procedure Rules – set out in the Constitution.
- (f) Overview and Scrutiny Procedure Rules – sets out the terms of reference which includes the role of overseeing the proper and effective administration of the Councils, reviewing the effectiveness of its services and supporting and complimenting the activities of the Cabinets.
- (g) Officer Job Descriptions – detail the roles and responsibilities of Officers employed by the Councils.
- (h) Whistleblowing Policy – enables Members and Officers to confidentially report suspected malpractice.
- (i) Chief Executive and Leader meetings – held to ensure effective communication.
- (j) Pay Policy – the Councils are committed to the principle of Equal Pay for all its employees and adopted a Pay Policy in October 2015.
- (k) Catching the Wave – sets out the corporate objectives and strategic ambitions of the Councils.

**Promoting values for the Authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour**

Summary

Adur and Worthing Councils recognise that good governance is underpinned by shared values and demonstrated in the behaviour of its Members and Officers. The Councils' values (the way in which the Councils work for the community in pursuing its aims) are set out in Catching the Wave and Surf's Up. The standards of conduct and behaviour the Councils expect of their Members and Officers are clearly set out in the Constitution. This is supported by the Codes of Conduct and a range of training programmes for both Members and staff.

Supporting Principles of Good Governance

To ensure Members and Officers exemplify good standards of conduct each Council will:

- (a) Ensure that the authority's leadership sets a tone for the organisation by creating a climate of openness, support and respect;
- (b) Ensure that standards of conduct and personal behaviour expected of Members and staff, of work between Members and staff and between the authority, its partners and the community are defined and communicated through codes of conduct and protocols;
- (c) Put in place arrangements to ensure that Members and Officers are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice.

To ensure organisational values are put into practice each Council will:

- (a) Develop and maintain shared values including leadership values both for the organisation and staff reflecting public expectations and communicate these with Members, staff, the community and partners;
- (b) Put in place arrangements to ensure that procedures and operations are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice;
- (c) Develop and maintain an effective Standards Committee;
- (d) Use the organisations' shared values to act as a guide for decision-making and as a basis for developing positive and trusting relationships within the authority;
- (e) In pursuing the vision of a partnership, agree a set of values against which decision-making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively.

Evidence of Commitment to these Principles

- (a) Constitution – seeks to define the standards of conduct and personal behaviour expected of Members and Officers.
- (b) Member Code of Conduct and Officer Code of Conduct.
- (c) Performance Development Reviews – provide opportunities to review the performance, including standards of conduct and personal behaviour of Officers, as well as identifying any development needs.
- (d) Comments, Compliments and Complaints System – this provides a process, clearly publicised on the website, for those wanting to complain to the Councils.
- (e) Data Access Requests – a system is in place to respond to Freedom of Information and Subject Access Requests.
- (f) Joint Audit & Governance Committee and Standards Sub-Committee – promotes and maintains high standards of conduct by Members.
- (g) Whistleblowing Policy and Ombudsman Complaints System – enables Members, employees and residents to confidentially report suspected malpractice that is in the public interest.
- (h) Anti-Fraud and Corruption Strategy – designed to encourage prevention and promote detection.
- (i) Anti-Bribery Policy – this policy outlines the Councils' position on preventing and prohibiting bribery, in accordance with the Bribery Act 2012.
- (j) Members' and Officers' Register of Interests and Gifts and Hospitality – the Councils maintain such registers to safeguard both Members and Officers against conflicts of interest. The Members' Register of Interests and Gifts and Hospitality is available online.
- (k) Member Induction – following Council Elections, Members undergo a formal induction which includes information about the Councils' vision and corporate priorities, an introduction to the Constitution and in particular the Code of Conduct.

### **Taking informed and transparent decisions which are subject to effective scrutiny and managing risk**

#### Summary

Adur and Worthing Councils recognise that all Council decisions must be accountable and legally sound. As such, the Councils must be able to demonstrate that decision-makers follow a proper process and that all decisions are based on accurate information, including consideration of legal, financial and risk management implications. To ensure that this happens, Adur and Worthing Councils have a range of procedures in place to ensure that decisions are not influenced by prejudice, bias or conflicts of interest.

#### Supporting Principles of Good Governance

In being rigorous and transparent about how decisions are taken each Council will:

- (a) Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the Councils' performance overall and of any organisation for which they are responsible;
- (b) Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based;
- (c) Put in place arrangements to safeguard Members and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice;
- (d) Develop and maintain an effective Audit Committee which is independent of the Cabinet;
- (e) Put in place effective transparent and accessible arrangements for dealing with complaints.

In order to ensure that the Councils have good quality information and advice, each Council will:

- (a) Ensure that those making decisions, whether for the authority or partnership, are provided with information that is fit for the purpose - relevant, timely and gives clear explanations of technical issues and their implications;

- (b) Ensure that professional advice on matters that have legal or financial implications is available and recorded well in advance of decision-making and used appropriately.

In order to ensure that there is an effective system of risk management, each Council will:

- (a) Ensure that risk management is embedded into the culture of the organisation, with Members and Managers at all levels recognising that risk management is part of their job;
- (b) Ensure that arrangements are in place for whistleblowing to which staff and all those contracting with the authority have access.

In order to use the Councils' legal powers for the full benefit of the community, the Councils will:

- (a) Actively recognise the limits of lawful activity placed on them by, for example, the ultra vires doctrine but also strive to utilise powers to the full benefit of their communities;
- (b) Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on local authorities by public law;
- (c) Observe all specific legislative requirements placed upon them, as well as the requirements of general law, and in particular, integrate the key principles of good administrative law - rationality, legality and natural justice - into their procedures and decision-making processes.

#### Evidence of Commitment to these Principles

- (a) Overview and Scrutiny Committee – this is an established Committee which reviews and monitors the effectiveness of the Councils' services.
- (b) Report Templates – to ensure that all relevant information is obtained when producing a report for Committee, Cabinet or Full Council, a standard report template has been adopted. The report format helps to ensure that all matters coming before Member bodies have received appropriate legal and financial vetting before being signed off.
- (c) Meeting Minutes – the majority of meetings are open to members of the public and minutes of the decisions taken are published on the Councils' website.
- (d) Constitution – in order to safeguard Members and employees against conflicts of interest, the Constitution contains protocols which describe and regulate the way in which Members and Officers interact with one another.
- (e) Members' and Officers' Register of Interest and Gifts and Hospitality – the Councils maintain a Register of Interests and a Register of Gifts and Hospitality to safeguard both Members and Officers against conflicts of interest.
- (f) Joint Audit & Governance Committee – this Committee, which is independent from the Cabinets and scrutiny functions, monitors budgets and receives reports on the work of internal and external audit and risk management.
- (g) Comments, Compliments and Complaints System – a process is clearly outlined on the website for those wishing to complain to the Councils. Complaints are monitored and categorised, and reported to Corporate Leadership Team on a regular basis.
- (h) Data Access Requests – a system is in place to respond to Freedom of Information and Subject Access Requests.
- (i) Member Training – Members of specific committees receive comprehensive training to equip them with the skills required to carry out their work.
- (j) Whistleblowing Policy – enables Members and Officers to confidentially report suspected malpractice that is in the public interest. The Whistleblowing Policy is publicised on the Councils' intranet.
- (k) Monitoring Officer provisions – the Monitoring Officer is responsible for advising the Councils if any proposal would give rise to unlawfulness or maladministration and as such performs a key function in ensuring lawfulness and fairness in the operation of the Councils' decision-making processes.

#### **Developing the capacity and capability of Members and Officers to be effective**

##### Summary

Adur and Worthing Councils realise that the Officers they employ enable the Councils to fulfil their ambitions. Once appointed or elected, Members and Officers are provided with a range of development opportunities. The Councils' learning and development needs are met through a variety of training interventions including in-house training and e-learning. Members also receive specialised training on key issues on a regular basis.

#### Supporting Principles of Good Governance

To make sure Members and Officers have the necessary skills and resources, the Councils will:

- (a) Provide induction programmes tailored to individual needs and opportunities for Members and Officers to update their knowledge on a regular basis;
- (b) Ensure that the Statutory Officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the organisation.

To develop the capability of people with governance responsibilities, each Council will:

- (a) Assess the skills required by Members and Officers and make a commitment to develop those skills to enable roles to be carried out effectively;
- (b) Develop skills on a continuing basis to improve performance including the ability to scrutinise and challenge and to recognise when outside expert advice is needed;
- (c) Ensure that effective arrangements are in place for reviewing the performance of the authority as a whole and of individual Members and agreeing an action plan which might for example aim to address any training or development needs.

To encourage new Members of the authority, the Councils will:

- (a) Ensure that effective arrangements are in place, designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority;
- (b) Ensure that career structures are in place for Members and Officers to encourage participation and development.

#### Evidence of Commitment to these Principles

- (a) Member and Officer Induction Programme – an extensive induction programme is in place for both Members and Officers. All new Officers receive an induction booklet and are invited to a corporate induction where the Councils' values and visions are outlined in further detail.
- (b) Unboxed – the Councils run a talent pool known as the Unboxed Programme for Officers to provide opportunity for innovation and development.
- (c) Mentoring Scheme – the Councils run a programme of mentoring for Officers throughout the Councils, using external Mentors where necessary.
- (d) Members' Bulletin – this is a web-based area which provides an information zone for Members and is a key source of information.
- (e) Performance Development Reviews – provide opportunities to review employee performance, providing a chance to consider personal development needs in relation to the employee's role.
- (f) Officer Job Descriptions – set out the roles and responsibilities of Officers employed by the Councils.
- (g) Constitution – sets out how the Councils operate, how decisions are made and the procedures and codes of conduct which are followed. It also covers the roles of the Statutory Officers of the Council – Head of Paid Service, Section 151 Officer and Monitoring Officer – and their responsibilities relating to compliance with the law and ensuring sound financial control.
- (h) Overview and Scrutiny Committee – this is an established Committee which reviews and monitors the decisions of each Cabinet.
- (i) Leadership and Staff Exchange – organised events at which Managers and Officers meet to consider current issues affecting the Councils and work together to identify solutions.

## **Engaging with local people and other stakeholders to ensure robust public accountability**

### Summary

Adur and Worthing Councils recognise the need to effectively engage with local residents to ensure that their opinions are taken into account when preparing Council plans and policies. The Constitution sets out how the Councils incorporate the rights of residents in relation to the Councils' work.

### Supporting the Principles of Good Governance

To exercise leadership through a robust scrutiny function the Councils will:

- (a) Make clear to themselves, all staff and the community, to whom they are accountable and for what;
- (b) Consider those institutional stakeholders to whom they are accountable and assess the effectiveness of the relationships and any changes required;
- (c) Produce an annual report on scrutiny function activity.

To take an active approach to dialogues and accountability with the community each Council will:

- (a) Ensure that clear channels of communication are in place with all sections of the community and other stakeholders including monitoring arrangements to ensure that they operate effectively;
- (b) Hold meetings in public unless there are good reasons for confidentiality;
- (c) Ensure arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands;
- (d) Establish a clear policy on the types of issues they will meaningfully consult on or engage with the public and service users including a feedback mechanism for those consultees to demonstrate what has changed as a result;
- (e) On an annual basis, publish an annual report giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period;
- (f) Ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so.

In order to make best use of human resources, the Councils will develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision-making.

### Evidence of Commitment to these Principles

- (a) Constitution – sets out how the Councils operate, how decisions are made and the procedures and codes of conduct which are followed. It also sets out roles and responsibilities for Members and Statutory Officers and includes the Officer Scheme of Delegations.
- (b) Overview and Scrutiny Committee – this is an established committee which reviews and monitors the decisions made by the Cabinets and other Council bodies, as well as monitoring the activities and performance of external bodies. The Committee sets and reviews its work programme on a regular basis and produces an annual report on its work.
- (c) Joint Audit & Governance Committee – independent from the Cabinet and scrutiny functions, this Committee monitors budgets and receives reports on the work of internal and external audit and risk management.
- (d) Annual Statement of Accounts – a mainly financial document listing achievements for the previous year, as well as setting out longer term aims.

- (e) Petition Scheme – sets out in broad terms the right of members of the public to submit petitions, the functions and areas of the Councils' activities which may be the subject of petitions and the general arrangements for dealing with them.

### 3.0 REVIEW OF THE CODE

The Councils' Code of Corporate Governance will be reviewed on an ~~annual~~regular basis with a view to ensuring that:

- a) The Councils' governance arrangements are adequate and operating effectively in practice, or
- b) If reviews of governance arrangements have revealed gaps, action is planned that will ensure effective governance in the future.

The Joint Governance Committee will ~~consider the annual~~ review of the Code at least once ~~aevery~~every two years.



## Whistleblowing Protocol

### 1.0 INTRODUCTION

- 1.1 In this Protocol 'Whistleblowing' means the reporting by staff of suspected misconduct, illegal acts or failure to act within the Councils.
- 1.2 The aim of this Protocol is to encourage employees and others who have serious concerns about any aspects of the Council's work to come forward and voice those concerns.

This Protocol intends to:

- (a) Encourage staff to report suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected, as far as possible.
  - (b) Encourage and enable staff to raise concerns within the Council rather than ignoring a problem or blowing the whistle externally.
  - (c) Provide staff with guidance as to how to raise those concerns.
  - (d) Reassure staff that they should be able to raise genuine concerns without fear of reprisals, victimisation, subsequent discrimination, disadvantage or dismissal, even if they turn out to be mistaken, provided the disclosure is made in the public interest.
- 1.3 The Councils are committed to conducting business with honesty and integrity, and we expect all staff to maintain high standards of conduct, in accordance with the Council's Officer Code of Conduct. However, all organisations face the risk of things going wrong from time to time, or of unknowingly harbouring illegal or unethical conduct. A culture of openness and accountability is essential in order to prevent such situations occurring or to address them when they do occur.

Staff are often the first to realise that there may be something seriously wrong within an organisation. 'Whistleblowing' is viewed by the Council as a positive act that can make a valuable contribution to the Council's efficiency and long-term success. It is not disloyal to colleagues or the Council to speak up. The Council is committed to achieving the highest possible standards of service and the highest possible ethical standards in public life and in all of its practices. To help achieve these standards it encourages freedom of speech.

### 2.0 WHAT IS WHISTLEBLOWING?

- 2.1 Any serious concerns that staff have about service provision or the conduct of Officers of the Council, or others acting on behalf of the Council, that make them feel uncomfortable in terms of known standards, are not in keeping with the Constitution or Council policies, fall below established standards of practice or are improper behaviour, should be reported. This may relate to:

- (a) Criminal activity;
- (b) Miscarriages of justice;
- (c) Racial, sexual, disability or other discrimination;
- (d) Danger to health and safety;
- (e) Damage to the environment;
- (f) Failure to comply with any legal, or professional, obligation or regulatory requirements;
- (g) Unauthorised use of public funds or other assets;
- (h) Bribery;
- (i) Financial fraud or mismanagement;
- (j) Negligence;
- (k) Breach of our internal policies and procedures, including our Officer Code of

Conduct;

- (l) Conduct likely to damage our reputation;
- (m) Unauthorised disclosure of confidential information;
- (n) The deliberate concealment of any of the above matters.

- 2.2 A whistleblower is a person who raises a genuine concern relating to any of the above, where they honestly and reasonably believe it to be in the public interest to raise the concern.
- 2.3 This Protocol should not be used for complaints relating to an individual's own personal circumstances, such as the way they have been treated at work. In those cases the Grievance Procedure should be used.
- 2.4 If a staff member is uncertain whether something is within the scope of this Protocol they should seek advice from the Monitoring Officer, whose contact details are at the end of this Protocol.
- 2.5 This Protocol does not form part of any employee's contract of employment and it may be amended at any time.
- 2.6 If an individual has a concern about services provided to them, it should be raised through the Council's complaints procedure.
- 2.7 Complaints of misconduct by Councillors are dealt with under a separate procedure and should be referred to the Council's Monitoring Officer.

### **3.0 WHO CAN RAISE A CONCERN UNDER THIS PROTOCOL?**

- 3.1 This Protocol applies to all individuals working at all levels of the organisation, including Senior Managers, Officers, Directors, employees, consultants, contractors, trainees, homeworkers, part-time and fixed-term workers, casual and agency staff and volunteers (collectively referred to as staff in this Protocol).

### **4.0 RAISING A WHISTLEBLOWING CONCERN**

- 4.1 It is hoped that in many cases staff will be able to raise any concerns with their line manager or Director. Staff may tell them in person or put the matter in writing if preferred. They may be able to agree a way of resolving concerns quickly and effectively.
- 4.2 However, where the matter is more serious, or staff feel that their line manager or Director has not addressed the concern, or if they prefer not to raise it with them for any reason, they should contact one of the following:
  - (a) The Monitoring Officer;
  - (b) The Chief Executive;
  - (c) The Chairs of the Joint Audit & Governance Committee;
  - (d) The Chief Financial Officer (S.151 Officer).
- 4.3 The Council will arrange a meeting with the whistleblower as soon as possible to discuss their concern. The whistleblower may bring a colleague or Union representative to any meetings held under this Protocol. The companion must respect the confidentiality of the disclosure and any subsequent investigation.
- 4.4 The Council will take down a written summary of the whistleblower's concern and provide them with a copy after the meeting. The Council will also aim to give an indication of how it proposes to deal with the matter.

- 4.5 Whoever internally, within the Councils, receives a whistleblowing disclosure, they are obliged to notify the Monitoring Officer, in writing, within 2 working days of the nature of the disclosure made.

## **5.0 CONFIDENTIALITY**

- 5.1 The Council hopes that staff will feel able to voice whistleblowing concerns openly under this Protocol. However, if a whistleblower wants to raise a concern confidentially, the Council will make every effort not to disclose their identity. If it is necessary for anyone investigating the concern to know the whistleblower's identity, this will be discussed with the whistleblower in advance.
- 5.2 The Council does not encourage staff to make disclosures anonymously. Proper investigation may be more difficult or impossible if the Investigating Officer cannot obtain further information from the whistleblower. It is also more difficult to establish whether any allegations are credible. Whistleblowers who are concerned about possible reprisals if their identity is revealed should come forward to the Monitoring Officer or another senior manager and appropriate measures can then be taken to preserve confidentiality.
- 5.3 If a whistleblower is in any doubt, they can seek independent advice from the independent charity, Protect, who offer a confidential helpline. Their contact details are at the end of this Protocol.

## **6.0 EXTERNAL DISCLOSURES**

- 6.1 The aim of this Protocol is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases a whistleblower should not find it necessary to alert anyone externally.
- 6.2 The law recognises that in some circumstances it may be appropriate for a whistleblower to report their concerns to an external body such as a regulator. It will very rarely, if ever, be appropriate to alert the media. The Council strongly encourages whistleblowers to seek advice before reporting a concern to anyone external. The independent whistleblowing charity, Protect, operates a confidential helpline. They also have a list of prescribed regulators for reporting certain types of concern. Their contact details are at the end of this Protocol.
- 6.3 Whistleblowing concerns usually relate to the conduct of staff, but they may sometimes relate to the actions of a third party, such as a customer, supplier or service provider. In some circumstances the law will protect a whistleblower if they raise the matter with the third party directly. However, the Council encourages whistleblowers to report such concerns internally first.

## **7.0 INVESTIGATION AND OUTCOME**

- 7.1 Once a whistleblower has raised a concern, the Council will carry out an initial assessment to determine the scope of any investigation. The Council will then inform the whistleblower of the outcome of the assessment. The whistleblower may be required to attend additional meetings in order to provide further information.
- 7.2 In some cases the Council may appoint an Investigating Officer or team of investigators including staff with relevant experience of investigations or specialist knowledge of the subject matter. The investigator(s) may make recommendations for change to enable the Council to minimise the risk of future wrongdoing.

7.3 The Council will aim to keep the whistleblower informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent the giving of specific details of the investigation or any disciplinary action taken as a result. Any information given about the investigation should be treated as confidential.

7.4 If the Council concludes that a whistleblower has made false allegations maliciously or with a view to personal gain, the whistleblower may be subject to disciplinary action.

#### **8.0 IF THE WHISTLEBLOWER IS NOT SATISFIED WITH THE OUTCOME**

8.1 While the Council cannot always guarantee the outcome the whistleblower is seeking, it will deal with the concern raised fairly and in an appropriate way, and in compliance with Human Rights and Equalities legislation.

8.2 If a whistleblower is not satisfied with the way in which their disclosure has been handled, they can raise it with one of the other key contacts in paragraph 4.2 of this Protocol. Alternatively they may contact the Council's Auditors (contact details are set out at the end of this Protocol) or seek independent advice from Protect.

#### **9.0 PROTECTION AND SUPPORT FOR WHISTLEBLOWERS**

9.1 It is understandable that whistleblowers are sometimes worried about possible repercussions. The Council aims to encourage openness and will support staff who raise genuine concerns under this Protocol, if they reasonably believe it to be in the public interest to do so, even if they turn out to be mistaken.

9.2 Staff must not suffer any detrimental treatment as a result of raising a concern or making a disclosure, provided it is made in the honest belief that it is in the public interest to do so. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform the Monitoring Officer immediately. If the matter is not remedied you should raise it formally using the Council's Grievance Procedure.

9.3 Staff must not threaten or retaliate whistleblowers in any way. Any staff member involved in such conduct is likely to be subject to disciplinary action. In some cases the whistleblower could have a right to sue them personally for compensation in an Employment Tribunal, and also for the Council to potentially be vicariously liable for their actions.

#### **10.0 RESPONSIBILITY FOR THE SUCCESS OF THIS PROTOCOL**

10.1 The Council's Corporate Leadership Team has overall responsibility for this Protocol, and for reviewing the effectiveness of actions taken in response to concerns raised under this Protocol.

10.2 The Monitoring Officer has day-to-day operational responsibility for this Protocol, and must ensure that all managers and other staff who may deal with concerns or investigations receive regular and appropriate training.

10.3 The Monitoring Officer should review this Protocol at least every 3 years in conjunction with the Councils' Joint Audit & Governance Committee and with the Strategic Head of Human Resources who shall consult with UNISON.

10.4 All staff are responsible for the success of this Protocol and should ensure that they use it to disclose any suspected danger or wrongdoing. Staff are invited to comment on this Protocol and suggest ways in which it might be improved. Comments, suggestions and queries should be addressed to the Monitoring Officer.

## PART 6 - MEMBERS' ALLOWANCES SCHEME

### ADUR DISTRICT COUNCIL COUNCILLORS' ALLOWANCES 2021/22

Adur District Council in December 2019 approved an Allowance Scheme for Members that linked the scheme to the Officers' NJC National Pay Agreement. The National Pay Agreement was agreed as 1.75% increase from 1 April 2021.

Therefore the allowances for Members for 2021/22 are as follows:

<b>Basic Allowance</b> (payable to all Members)	<b>£4,762.10</b>
<b>Special Responsibility Allowances</b>	
Leader	<b>£14,286.32</b>
Deputy Leader	<b>£7,143.17</b>
Cabinet Members (each portfolio holder)	<b>£5,952.64</b>
Chair of the Council Vice Chair	<b>£2,381.05</b> <b>£1,190.53</b>
Chair of Planning Committee Vice Chair	<b>£4,762.10</b> <b>£1,190.53</b>
Chair of Licensing Committee Vice Chair	<b>£3,571.58</b> <b>£1,190.53</b>
Chair of Joint Overview and Scrutiny Committee Vice Chair	<b>£3,865.48</b> <b>£1,190.53</b>
Chair of Joint Audit & Governance Committee Vice Chair	<b>£2,577.03</b> <b>£1,190.53</b>
Leader of the Main Opposition Group	<b>£2,381.05</b>
<b>Other allowances</b>	
• Child Carer Allowance - £10.25 per hour	
• Dependent person Carer allowance - up to £15 per hour	
• Travelling and Subsistence: NJC Rate, no local agreement	
• The allowances are not pensionable	
• More than one SRA can be claimed	

**Notes:**

Councillors may renounce in writing their entitlement to all or part of their allowance.

Travel and all other expenses and claims by Members must be submitted within two months of the period to which they relate.

**Principal Officer:**

Tina Favier  
Director for Communities  
Worthing Borough Council  
Town Hall, Chapel Road, Worthing, West Sussex, BN11 1HA

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## PART 7 - MANAGEMENT STRUCTURE

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Commented [GW62]: Replace with structure chart.

### 1.0 — INTRODUCTION

The Council's Officer structure consists of the Chief Executive and 3 Directors with their Directorates. This section should be read in conjunction with Article 11 of the Constitution which details with statutory responsibilities within the Council's management structure. Adur and Worthing Councils have a Joint Officer Management Structure; some of the areas of responsibility may refer only to one Council. The Joint Committee Agreement has the definitive roles and responsibilities. Full details of the delegations to Officers can be found in the Joint Scheme of Delegations to Officers (see Part 4 of this Constitution).

### 2.0 — THE CHIEF EXECUTIVE

~~The Chief Executive provides strategic and corporate direction of the Council, working closely with the Elected Members and Senior Officers to ensure the management of the Council meets corporate objectives.~~

~~The Chief Executive is also the Council's statutorily appointed Head of Paid Service. They are directly responsible, and line manages, the Council's team relating to Communications.~~

### 3.0 — DIRECTORS

~~The Directors have a significant role in the Corporate Management of the Council and pursue matters of a strategic nature. The Directors are responsible for overseeing various Directorates; these are detailed below:~~

#### 3.1 — Director for the Economy responsible for the following service areas:

- ~~• Planning and Development~~
- ~~• Culture~~
- ~~• Place and Economy~~
- ~~• Major Projects and Investment~~

#### 3.2 — Director for Communities responsible for the following service areas:

- ~~• Environmental Services~~

- ~~Housing~~
- ~~Wellbeing~~

### **3.3 — Director for Digital & Resources responsible for the following service areas:**

- ~~Revenues and Benefits~~
- ~~Finance~~
- ~~Customer and Digital Services~~
- ~~Legal Services~~
- ~~Human Resources~~
- ~~Business and Technical Services~~

## **4.0 — SERVICE AREAS**

Each of the Services, or Sections, within a Directorate is headed by a Head of Service post. Outline details of their areas of responsibility are given below:

### **4.1 — Economies Directorate**

#### **4.1.1 Head of Planning & Development**

- ~~Planning Policy~~
- ~~Major Planning Applications~~
- ~~Development Management~~
- ~~Building Control~~
- ~~Land Charges~~
- ~~Local Land and Property Gazetteer (LLPG)~~
- ~~Street Naming and Numbering~~
- ~~Fire Safety Advisory Services~~
- ~~Flood defence~~

#### **4.1.2 Head of Culture**

- ~~Museums~~
- ~~Venues~~
- ~~Cultural Partnership~~

#### **4.1.3 Head of Place & Economy**

- Economic Investment (LEP)/Growth Deal/City Region
- Economic Development, Inward Investment & Business Retention
- Place Shaping, Urban Realm & Town Centre Management
- Skills & Enterprise
- Business Engagement & Partnerships
- EU and External Funding
- Visitors & Events

#### **4.1.4 Head of Major Projects & Investment**

- Major Regeneration Projects
- Estates & Property

### **4.2 Communities Directorate**

#### **4.2.1 Head of Environmental Services**

- Parks & Open Spaces
- Foreshore
- Worthing Pier
- Bereavement Services
- Environmental Health (Dog Control)
- Recycling & Refuse Service
- Bulky Waste
- Clinical Waste
- Commercial Waste
- Street Cleansing
- Graffiti
- Waste Strategy & Compliance
- Waste Education
- Fleet & Transport Management
- Commerce Way & Meadow Road Management
- Waste Transfer Licences



- Pest Control

#### **4.2.2 Head of Housing**

- Building Services (Housing)
- Tenancy Services (Adur Homes)
- Strategy, Systems & Clienting
- Private Sector Housing
- Housing Solutions

#### **4.2.3 Head of Wellbeing**

- Public Health & Wellbeing
- Public Health & Regulation (Environmental Health) — Protection
- Public Health & Regulation (Environmental Health) — Food Safety & Healthy Workplaces
- Think Family & Early Help
- Community Safety & Anti-Social Behaviour
- Licensing
- Democratic Services
- Community Engagement
- Places & Neighbourhoods
- Third Sector & Partnerships
- Safeguarding

### **4.3 Digital & Resources Directorate**

#### **4.3.1 Head of Revenues & Benefits**

- Council Tax and NNDR (National Non-Domestic Rates)
- BID (Business Improvement District) Levy
- Benefits

#### **4.3.2 Chief Financial Officer**

- Management & Technical Accounting
- Strategic Accounting

- Exchequer & Fraud
- Internal Audit
- Procurement & Contracts

#### **4.3.3 Head of Customer & Digital Services**

- Customer Services
- Customer Insight
- Digital Transformation
- Service Design
- Systems Support & Development
- Management Information Systems (MIS), Data and Information Security
- Elections
- Business Support
- Parking Services

#### **4.3.4 Head of Legal Services**

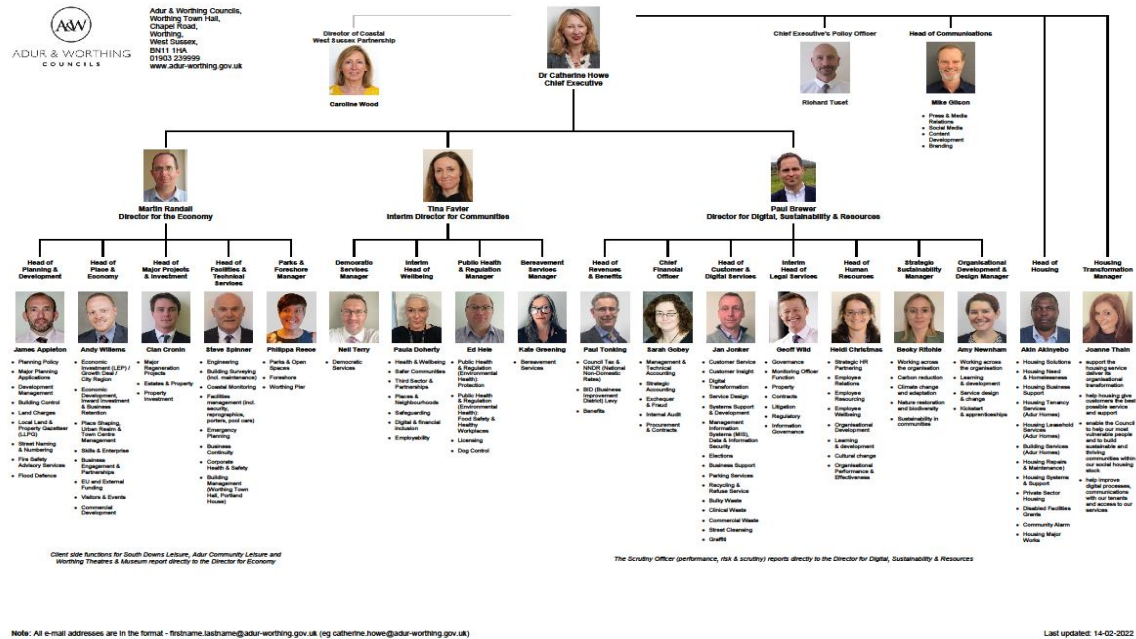
- Governance
- Monitoring Officer Function
- Property
- Contracts
- Litigation
- Regulatory

#### **4.3.5 Head of Human Resources**

- Strategic HR Partnering
- Employee Relations
- Employee Resourcing
- Employee Wellbeing
- Organisational Development
- Learning & Development
- Cultural Change
- Organisational Performance & Effectiveness

### 4.3.6 Head of Business & Technical Services

- Engineering & Surveying
- Coastal Monitoring
- Facilities management (including security, reprographics, porters, pool care)
- Emergency Planning
- Business Continuity
- Corporate Health & Safety
- Building Management (Worthing Town Hall, Portland House)
- Public Conveniences



Client side functions for South Downs Leisure, Adur Community Leisure and Worthing Theatres & Museum report directly to the Director for Economy

The Security Officer (performance, risk & security) reports directly to the Director for Digital, Sustainability & Resources

Note: All e-mail addresses are in the format - firstname.lastname@adur-worthing.gov.uk (eg catherine.howe@adur-worthing.gov.uk)

Last updated: 14-02-2022

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## PART 8 – JOINT ARRANGEMENTS

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The Council has several methods of establishing bodies for decision-making, collaboration or consultation with other local authorities, partners, officer representatives and members of the public. These bodies may be set up for a specific purpose or to more generally promote the economic, social, or environmental well-being of the District.

The council has made joint arrangements with one or more other local authorities under section 101(5) of the Local Government Act 1972 for the exercise of certain of its functions. The council appoints with those other authorities joint committees to exercise these functions.

Joint arrangements with other local authorities may be established to exercise Executive and/or Non-Executive functions. The establishment of joint committees that exercise Executive powers requires the agreement of the Leader. The establishment of joint committees that exercise Non-Executive powers requires the approval of Full Council. The Leader must obtain Council approval before agreeing to exercise functions on behalf of another local authority.

Political balance rules apply to joint committees that exercise Non-Executive powers and where Full Council appoints to three or more seats. Political balance rules do not apply to joint arrangements that only exercise Executive powers. If any Executive functions are to be exercised, then a Cabinet Member must be appointed if the Leader appoints to two or more seats on the committee.

The membership, terms of reference and functions of the joint committees and the rules governing their conduct and proceedings are described below and in Part 9.

There are additional joint arrangements with external bodies, as detailed below.

### **Adur Homes Management Board**

#### **TERMS OF REFERENCE**

##### **1.0 Purpose**

**1.1 Adur District Council's residential housing stock is generally referred to as Adur Homes.**

**1.2 The purpose of the Adur Homes Management Board is to:**

- (a) operate collectively and concentrate on advising on strategic and operational issues affecting performance;**
- (b) scrutinise and challenge policies and procedures with a view to the long-term health and success of the business;**
- (c) direct, supervise and make recommendations on the operations of Adur Homes on behalf of the tenants, stakeholders, employees and community at large.**

##### **2.0 Responsibilities of the Board**

**2.1 Contribute to the development of the strategic vision, values, and objectives of the Adur Homes as incorporated into Adur District Council's plans.**

**2.2 Monitor operational service delivery including and any plans and strategies put in place to improve service delivery.**

2.3 Receive and review reports on the Adur Home's performance against key performance indicators relating to operational services.

2.4 Monitor the ongoing quality of overall services provided to customers through the review of performance, customer feedback methods and customer service standards.

2.5 Consider any issues in relation to statutory or regulatory compliance, specifically in relation to the Regulator of Social Housing (RSH) consumer standards and/or any associated risks in relation to the delivery of services and report any such concerns to the Adur Council Executive Member particularly in respect of potential serious detriment.

2.6 Consider and make recommendations to the Adur Council Executive Member where there are serious performance concerns which require improvement.

2.7 Contribute to the development of Adur Home's value for money strategy with particular reference to the operational services.

2.8 Ensure that all aspects of operational services are delivered with appropriate respect for fairness and inclusion.

2.9 Contribute to the development and delivery of Capital Improvement and Affordable Homes delivery.

3.0 Composition of the Board

3.1 The board will consist of the following

- (a) Adur Executive Member for Customer Services;
- (b) The chairperson of the Adur Homes general housing tenants representative group;
- (c) The chairperson of the sheltered housing tenants residents representative group;
- (d) The chairperson of the leaseholders representative group;
- (e) Young person's group;
- (f) Director for Communities;
- (g) Chief Financial Officer (or delegate);
- (h) Head of Housing.

4.0 Board Meetings

4.1 The Board will meet four times per year to coincide with the quarter end reporting.

4.2 Additional meetings can be convened where business is critical but the use of special meetings will be avoided as much as possible.

4.3 After the first meeting of a Board, the Board will agree the date of the next meeting.

4.4 Members will receive at least seven (7) days' notice of a meeting however, a forward plan will be agreed and papers will be sent out the week before the meeting.

**Adur & Worthing Safer Communities Partnership (A&WSCP) Executive**

**TERMS OF REFERENCE**

1. The primary purpose of the A&WSCP Executive is to prevent crime and disorder, tackle substance misuse, anti-social behaviour and reduce re-offending to make Adur & Worthing a safer place for all.

2. Its primary responsibilities shall comprise:

- Being the statutory 'strategy board' for the Adur & Worthing Safer Communities Partnership;
- Carry out an annual strategic assessment of local crime and disorder problems and community safety issues, taking into account the views of those who live, visit and work in Adur & Worthing;
- Formulate and implement a three year partnership plan to address local priorities as identified in the strategic assessment;
- Monitor partnership performance and progress against its priorities;
- Publish an annual summary of the partnership's achievements;
- Review the strategic assessment on an annual basis and refresh the partnership plan, as appropriate;
- Complete an annual Hallmarks assessment of the partnership & formulate an improvement plan if required;
- Hold an annual 'Face the Public' session;
- Have a clear escalation process of issues to the Safer West Sussex Partnership (county-wide Community Safety Partnership) from A&WSCP.

3. The partnership shall be managed by an Executive comprising senior representatives from the following statutory responsible authorities, namely:

- Police District Commander for Adur & Worthing;
- Chief Executive, Adur & Worthing Councils or nominee;
- Cabinet Member for Health & Wellbeing for Adur District Council;
- Cabinet Member for Health & Wellbeing for Worthing Borough Council;
- Chief Executive, West Sussex County Council or nominee;
- Central Operations Group Manager, West Sussex Fire and Rescue Service;
- Public Health, West Sussex or nominee;
- Surrey & Sussex Probation Trust, Team Manager, Adur & Worthing;
- Sussex Police & Crime Commissioner (Co-operating Member);

4. Members of the Executive shall have authority to make decisions on behalf of their respective organisations.

5. The Executive shall meet on a quarterly basis. The Executive will agree the partnership plan, allocate funding, and monitor performance against priorities and commission services to deliver the plan.

6. The Executive shall also:

- Seek to encourage and promote arrangements to ensure that their respective organisation's policies, strategies, plans and budgets take into account the prevention of crime and disorder, anti-social behaviour, substance misuse and reducing re-offending;
- Agree an annual funding plan and submit its bids to the appropriate grant-funding bodies;
- Ensure that partnership funding provides value for money;
- Engage communities in problem identification and resolution;
- Appoint a chair & vice-chair with tenure of 12 months shared between partners, appointed following the local election cycle in May of each financial year;
- The vice-chair should provide continuity and an overview role in connection with the SCP's supporting structure and partnership working;
- At least once a year, ensure that the partnership has the requisite skills and knowledge to meet its statutory requirements;
- Sign up to the Pan- West Sussex Information Sharing Protocol, governing the sharing of information between the responsible authorities and others, as appropriate;
- Share depersonalised information, as required;
- Ensure that each responsible authority nominates a designated liaison officer whose role will be to facilitate the sharing of information with other partners.

7. Membership of the wider Safer Communities Partnership (including the Executive) shall comprise all those agencies, organisations and individuals in the public, private, voluntary and community sectors who contribute to delivering the plan.

### **Adur and Worthing Business Partnership**

#### **MEETINGS:**

Frequency: Quarterly.

Venue: Various venues – across Adur and Worthing.

Time/Duration: Board meetings 2pm to 3.15pm

Partnership meetings 3:30pm to 6pm

#### **TYPE OF BUSINESS:**

To work in partnership with all economic development agencies to secure economic regeneration of the local economy, to open up new business opportunities and to promote competitiveness and employment growth. To liaise with business organisations and educational establishments in Worthing, Adur and surrounding areas to enable, facilitate and develop the delivery of skills, training and learning as broadly and widely to the community as practicable.

**NUMBER OF REPRESENTATIVES: 1**

**ROLE OF REPRESENTATIVE (VOTING/OBSERVER) tba**

**TERM: Annual appointment**

**Armed Forces Champion** (appointed representative to sit on West Sussex Civilian Military Partnership Board, which also includes Community Engagement Sub-Group and South East Reserve Forces' and Cadets' Association (SERFCA))

DETAILS OF MEETINGS:

**West Sussex Civilian Military Partnership Board (& Community Engagement Sub-Group)**

Frequency: 3 times a year

Venue: Various throughout the West Sussex Area

Time/Duration: 0930-1230

**SERFCA**

Frequency: Annually

Venue: Reserve Centre, Brighton or to be notified at the time of the meeting

Duration: 3 hours

TYPE OF BUSINESS:

To champion the role of the Armed Forces in relation to the signed Community Covenant.

SKILLS/INTERESTS REQUESTED:

Able to liaise with local interested groups, former service personnel, individuals and families, the Royal British Legion and Combined Ex-Services Associations. Willing to represent these groups on Community Covenant issues. To be the council's spokesperson on Armed Forces and Community Covenant matters. Appointed representative should have an interest in Armed Forces matters.

ROLE OF REPRESENTATIVE (VOTING/OBSERVER)

Interpretation of regulations. Able to liaise with local interested groups, former service personnel, individuals and families; the Royal British Legion and Combined Ex-Services Associations. Willing to represent these groups on Community Covenant issues. To be the council's spokesperson on Armed Forces and Community Covenant matters.

NUMBER OF REPRESENTATIVES: 1

TERM: Annual Appointment

**Brighton City Airport Consultative Committee** (formerly Shoreham Airport Consultative Committee)

DETAILS OF MEETINGS:

Frequency: Quarterly

Venue: Brighton City Airport.

Time/Duration: 2:30pm (normally Wednesdays)

TYPE OF BUSINESS:

The Committee provides a forum for those operating and using the airport and those environmentally affected by the airport.

SKILLS/INTERESTS REQUESTED: seal



This appointment is most relevant to Members with close links to the airport and/or neighbouring wards. Representatives are invited from Adur and Worthing Councils.

NUMBER OF REPRESENTATIVES: 1 plus a substitute

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Active participant.

Representative to have knowledge of Shoreham Airport.

TERM: Annual Appointment

### **Coastal West Sussex Partnership Board**

DETAILS OF MEETINGS:

Frequency: Quarterly.

Venue: Various venues on the West Sussex south coast.

Time/Duration: 2pm – 4pm

TYPE OF BUSINESS:

A public/private sector partnership of West Sussex organisations who have joined together to tackle the big economic issues facing coastal towns including Selsey, Bognor Regis, Chichester, Littlehampton, Worthing and Shoreham. The priority areas for action include business enterprise, employment and skills and economic regeneration. A partnership that brings together the private and public sector around a common purpose to support business development and sustainable economic growth working collectively on economic issues that affect the coast. Focusing on the strategic issues, the Coastal West Sussex Partnership brings together leaders and senior officers from business, education institutions and the public sector to work collectively on economic issues that affect the coastal area. The Partnerships vision is for a strengthened coastal economy that delivers an exceptional experience for residents, business and visitors.

NUMBER OF REPRESENTATIVES: 1

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Bring ideas about what growth could mean for the area. What economic challenges are being faced in the area and on a wider scale.

TERM: Annual appointment

### **Court of the University of Sussex (known as the Sussex Annual Forum)**

DETAILS OF MEETINGS:

Frequency: 1 per year.

Venue: University of Sussex, Falmer, Brighton.

Time/Duration: tbc

TERMS OF REFERENCE/FUNCTION OF ORGANISATION: To promote research, teaching, and interests of the University to the local area, enhance relationships with businesses to strengthen placement opportunities and provide an opportunity for networking.

NUMBER OF REPRESENTATIVES: 1

ROLE OF REPRESENTATIVE (VOTING/OBSERVER) Non-voting member.

TERM: Annual Appointment

### **Discretionary Housing Payments Board**

#### DETAILS OF MEETINGS:

Frequency: as and when required.

Venue: Shoreham Centre

Time/Duration: will be arranged as necessary.

#### TYPE OF BUSINESS:

To consider applications by members of the public in accordance with the Councils' Joint Housing Discretionary Payments Policy as agreed by the Joint Strategic Committee on 11 June 2013.

SKILLS/INTERESTS REQUESTED: Interpretation of regulations.

NUMBER OF REPRESENTATIVES: 3

TERM: Annual Appointment

### **District Councils' Network**

#### DETAILS OF MEETINGS:

Regular Assemblies, Executive meetings and an annual conference

Frequency: Monthly Executive meetings, 3 or 4 Assemblies a year.

Time/Duration: Varied – Executive meetings are 2 hours. Assemblies vary from one morning or afternoon or one day.

#### TYPE OF BUSINESS:

Membership organisation for District Councils within the Local Government Association.

NUMBER OF REPRESENTATIVES: 183 council leaders

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Voting

TERM: The Cabinet Leader remains the representative for the duration of their leadership of the council.

### **Greater Brighton Economic Board (Joint Committee)**

#### DETAILS OF MEETINGS:

Frequency: 4 per year

Venue: Varied locations

Time/Duration: 10am - varied duration

#### TYPE OF BUSINESS:

The Greater Brighton Economic Board is overarching, legally constituted, body behind the growth of the Greater Brighton City Region, formed in 2014 with the aim of protecting and growing the

Region's economy through creative, innovative initiatives which coordinate economic development activities and investment at City Region level

NUMBER OF REPRESENTATIVES: 1 – Executive Leader

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Voting member

TERM: The Cabinet Leader remains the representative for the duration of their leadership of the council.

### **Greater Brighton Economic Board 'Call in Panel'**

DETAILS OF MEETINGS:

Frequency: Ad Hoc

Venue: tba

Time/Duration: tba

TYPE OF BUSINESS:

Determination of call in for the Greater Brighton Economic Board, as required by the Board's Constitution.

NUMBER OF REPRESENTATIVES: 1 Scrutiny member (plus substitute)

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): tba

TERM: Annual

### **Heritage Champion Member**

(Appointed representative to sit on Historic England which is an executive non-departmental public body of the British Government sponsored by the Department for Digital, Culture, Media and Sport).

DETAILS OF MEETINGS:

Various optional training and other events: <https://historicengland.org.uk/services-skills/training-skills/online-training/>

TYPE OF BUSINESS:

Established in 2004, the Heritage Champions are a network of people in local authorities, almost all Councillors, who have been selected by their councils to be advocates for the historic environment within their authority. Historic England supports Historic Champions through offering expert advice, training, other events and the Heritage Champion newsletter.

For more information visit: <https://historicengland.org.uk/advice/planning/local-heritage/heritage-champions/>

SKILLS/INTERESTS REQUESTED:

Heritage Champions can be very influential. At a strategic level, Champions can make sure that local plans and strategies capture the contribution that the local historic environment can make to the success of an area. More specifically, Champions can:

- Help local authorities manage the historic environment of their area

- Promote heritage within the local authority, generating enthusiasm for and awareness of the importance of the local historic environment
- Help ensure that the commitment to the proper care of the historic environment is embedded in all relevant activities and plans of the local authority; for example, helping to ensure good quality planning decisions are made
- Support the authority's local historic environment services (both archaeological and historic buildings conservation officers). Influence and communicate with others to ensure benefits for the historic environment. Heritage Champions can interpret the role in a way that fits with local priorities.

NUMBER OF REPRESENTATIVES: 1 (more if wished: the role can be a shared one)

TERM: as determined by the Leader

### **Local Government Association – Coastal Issues Special Interest Group**

#### DETAILS OF MEETINGS:

Frequency: Quarterly meetings a year

Venue: London and/or a coastal location.

Time/Duration: Daytime

As confirmed by LGA for the foreseeable future, all meetings will take place via Zoom.

#### TERMS OF REFERENCE/FUNCTION OF ORGANISATION:

To increase awareness and debate at a national and European level of environmental, economic and social issues and concerns that directly affect or which may so affect coastal, estuarine and maritime communities. To act as a focus for liaison between local authorities and other bodies representing coastal, estuarine and maritime interests; To secure cross-departmental coordination within Central Govt on coastal, estuarine and maritime issues with a view to ensuring consistency in policy and provision of resources.

NUMBER OF REPRESENTATIVES: 1 (the LGA suggests that the representative should be the Leader)

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Attend and participate in meetings of the SIG

TERM: Annual appointment

### **Local Government Association - General Assembly**

#### DETAILS OF MEETINGS:

Frequency: Annual

Venue: National venue, to coincide with the LGA Annual Conference

Time/Duration: 11.45am - usually lasts between 45 minutes and 2 hours (held before lunchtime on the first day of the Conference and precedes the formal opening of the Annual Conference)

TERMS OF REFERENCE/FUNCTION OF ORGANISATION: As set out in the LGA's Articles of Association and Governance Framework

NUMBER OF REPRESENTATIVES: 1 (the Leader plus a substitute)

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Voting

TERM: One Year

### **Marlipins Museum**

DETAILS OF MEETINGS:

Frequency: 4-5 meetings per year.

Venue: Marlipins Museum

Time/Duration: Afternoon – 2:00pm

TERMS OF REFERENCE/FUNCTION OF ORGANISATION:

To manage the activities of the museum.

SKILLS/INTERESTS REQUESTED: Interest in heritage and conservation

NUMBER OF REPRESENTATIVES: 1

TERM: Annual Appointment

### **PATROL (Parking and Traffic Regulations Outside London) Adjudication Joint Committee)**

DETAILS OF MEETINGS:

Frequency: Annually in July.

Venue: Church House, Great smith St, Westminster, London SW1P 3NZ

Time/Duration: 11am-2pm

TYPE OF BUSINESS:

Statutory requirement for all councils undertaking civil parking or bus lane enforcement to make provision for independent adjudication and this is delivered through the Traffic Penalty Tribunal. The PATROL Adjudication Joint Committee Agreement (to which both Adur District Council and Worthing Borough Councils are party) requires nomination of a Councillor to the Joint Committee, even if those Councillors are unable to attend meetings.

PATROL has been established to enable councils undertaking civil parking enforcement in England and Wales and civil bus lane and moving traffic enforcement in Wales to exercise their functions under section 81 of the Traffic Management Act 2004 (TMA) and Regulations 17 and 18 of The Civil Enforcement of Parking Contraventions (England) General Regulations 2007 (the English General Regulations).

SKILLS/INTERESTS REQUESTED: There are no specific requirements for nominees except for being a Councillor, however they generally have an involvement in transport or environmental matters.

NUMBER OF REPRESENTATIVES: 1 - Cabinet Member (may also provide a substitute). It is suggested that the Cabinet Member for the Environment be appointed.

TERM: Annual Appointment

### Quayside Youth Centre (Management Committee)

#### DETAILS OF MEETINGS:

Frequency: Approximately 4 meetings per annum.

Venue: Quayside Youth Centre.

Time/Duration: Weekday evenings, normally 7:00pm.

#### TYPE OF BUSINESS:

Youth and Community work. Management Committee still in the process of taking over the Centre from WSCC

#### SKILLS/INTERESTS REQUESTED:

Interest in social education of young people between the ages of 13 and 18. Representatives of Southwick and/or Fishersgate preferred. The representative would be required to support the Management Committee in any decisions etc that they may make regarding the running of the Centre. Also as a member of the Council to give any appropriate information that may help the Centre.

#### NUMBER OF REPRESENTATIVES: 1

TERM: Annual appointment

### Safeguarding Children Champion Member

#### DETAILS OF MEETINGS:

Frequency: tba

Venue: tba

Time/Duration: tba

Adur and Worthing Health and Wellbeing Partnership (thematic group of Local Strategic Partnership)

#### TYPE OF BUSINESS:

The Children Act 2004 introduced new duties for District and Borough Councils for safeguarding and promoting the welfare of children through cooperation and communication with key bodies and agencies.

Government guidance has set out that for all tiers of local authorities, an elected member should be appointed with responsibilities for safeguarding children. Adults at Risk is included in this work as good practice and a legal duty to undertake this work is imminent.

#### SKILLS/INTERESTS REQUESTED:

The key objective for the Safeguarding Champion Member is to ensure that consideration is given to children and young people and Adults at Risk in the decision making of the Council, that Adur has support for the application of the Safeguarding Policy, and ensuring Council involvement in the West Sussex Think Family Board (delivering the West Sussex Children and Young People's Plan).

#### NUMBER OF REPRESENTATIVES: 1 (Portfolio Holder for Health and Wellbeing)

TERM: The Cabinet Portfolio Holder may remain in this appointment for the duration of their office. To be endorsed annually by the Leader.

### **Shoreham Port Local Authority Liaison Committee**

#### **DETAILS OF MEETINGS:**

Frequency: 2 meetings per year.

Venue: Shoreham Port

Time/Duration: Normally 11am - 2 hours

#### **TYPE OF BUSINESS:**

The Local Authority Liaison Committee is attended by representatives of Adur District Council, Brighton & Hove City Council, West Sussex County Council, and Shoreham Port Authority. It is a forum for consultation and information flow.

SKILLS/INTERESTS REQUESTED: Interest in and knowledge of the Port.

NUMBER OF REPRESENTATIVES: 2

TERM: Annual appointment

### **South Downs Leisure**

#### **DETAILS OF MEETINGS:**

Frequency: 4-6 meetings per year

Venue: Field Place

Time/Duration: 6pm- 2.5hrs

#### **TERMS OF REFERENCE/FUNCTION OF ORGANISATION:**

To provide both indoor and outdoor facilities in the interest of social welfare for recreation or other leisure time, promote community participation in healthy recreational activities and any other such charitable purposes.

NUMBER OF REPRESENTATIVES: 1

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): An active Board member for the Trust.

TERM: Three years from 2020 or until no longer a councillor (up to the Council)

### **South Downs National Park Authority (SDNPA)**

This is a joint appointment by the Leaders of Adur and Worthing Councils.

#### **DETAILS OF MEETINGS:**

Frequency: The Authority meets 6 times per year; plus working groups, training sessions and workshops as required. Each SDNPA Member is appointed to one Committee.

Appointments to Committees and Outside bodies are made at the AGM meeting in June.

- Planning Committee convenes 12 times per year and has 12 site visits per year
- Policy & Programme Committee convenes 6 times per year

- Governance Committee convenes 5 times per year
- Area tours and development opportunities at least 6 times per year.
- Local Plan monthly workshops

Venue: Generally the South Downs Centre at Midhurst.

Time/Duration: Authority 2:00pm - Committees 10-10:30am

**TERMS OF REFERENCE/FUNCTION OF ORGANISATION:**

The two main purposes of the SDNPA are to: conserve and enhance the natural beauty, wildlife and cultural heritage; and promote opportunities for the understanding and enjoyment of the special qualities of the South Downs National Park by the public. The overall purpose of the Member role on the SDNPA is to ensure that the SDNPA fulfils its objectives and does so in a way that best suits the special characteristics of the National Park.

**SKILLS/INTERESTS REQUESTED:**

Skills and Knowledge Framework table set by South Downs National Park Authority (available on request).

South Downs National Park Authority Members are able to claim an allowance, together with travel and other expenses incurred in the course of their appointment - Commitment to involvement of typically 3 to 4 days per month.

**NUMBER OF APPOINTEES:**

1 Councillor appointed by Adur District Council and Worthing Borough Council. Members of the SDNPA do not represent their appointing bodies on the Authority, but will, as an SDNPA Member, be responsible for ensuring that the SDNPA achieves the National Park Purposes and Duty, and does so in a way that best suits the National Park as a whole.

(Appointment to alternate between ADC and WBC)

**TERM:**

An election serves as a trigger for the reappointment process or if the appointee resigns/ceases to be a member of the SDNPA or appointing Authority – Appointments must be confirmed if the member appointed has stood for re-election.

The provisions in the Environment Act 1995 place certain restrictions on termination of membership. The effect of Para 2(5) of Schedule 7 to the Act is that a local authority-appointed member holds office with a National Park Authority until they cease to be a member of the appointing local authority, unless the appointing local authority terminates the appointment earlier in accordance with the provisions, in the Local Government and Housing Act 1989, requiring that appointments to committees and external bodies reflect the political balance of the appointing authority.

However, even if there has been a recent change in political balance within a local authority, the effect of Para 1(c) of Schedule 1 to the 1989 Act is that the rules on maintaining political balance in appointments only apply to appointments to a national park authority of three seats or more (local authorities within the SDNPA only appoint one member to SDNPA).

**Southwick Community Association**

**DETAILS OF MEETINGS:**



Frequency: Bi-monthly.

Venue: Southwick Community Centre

Meeting – Trustees Meeting.

Time/Duration: 7.30pm – approx 9.30pm

TYPE OF BUSINESS: Community Centre

SKILLS/INTERESTS REQUESTED:

To be a trustee and ensure the community centre is run properly.

NUMBER OF REPRESENTATIVES: 1

TERM: Annual Appointment

### **Sussex Police and Crime Panel (PCP)**

DETAILS OF MEETINGS:

Frequency: Quarterly.

Venue: Council Chamber, County Hall, Lewes.

Time/Duration: 10:30am start

TYPE OF BUSINESS:

To hold the elected Police and Crime Commissioner (PCC) to account. Main functions in brief:

- to consider and make recommendations on the draft Police and Crime Plan;
- to consider and make recommendations (including power of veto) on the PCC's proposed precept; and conduct public confirmation hearings for the PCC's proposed appointments to senior positions including Deputy PCC, CEO, CFO and Chief Constable (PCP has power of veto over proposed Chief Constable appointment).
- to scrutinise the actions and decisions of the PCC.

SKILLS/INTERESTS REQUESTED: An interest in local crime and policing and the new police governance structures. Involvement in the authority's community safety role.

NUMBER OF REPRESENTATIVES: 1 (plus a substitute)

TERM: The term of office to be decided by a member's own local authority. Only appointed while a councillor. ADC determination: Appointment by the Annual Meeting of the Council after the PCC elections; or the term of office of the appointed Councillor; or any resignation from office by the appointed Councillor.

### **The Ropetackle Trust**

DETAILS OF MEETINGS:

Frequency: 4 meetings per year, or as required

Venue: Ropetackle Centre

Time/Duration: Normally evening meetings – 2 hours.

TYPE OF BUSINESS:

The management of the Ropetackle Arts Centre.

SKILLS/INTERESTS REQUESTED:

Liaison between the Council and the Trust, and acting as advocate of the Trust.

NUMBER OF REPRESENTATIVES: 1

TERM: No fixed period

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## **PART 9 – ADUR/WORTHING JOINT COMMITTEE AGREEMENT**

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DATED 27<sup>th</sup> July 2007  
Amended 1<sup>s</sup> May 2011  
Amended 7<sup>th</sup> October 2011  
Amended 17<sup>th</sup> May 2013  
Amended 10<sup>th</sup> November 2016  
Amended 3<sup>rd</sup> December 2018  
Amended 25<sup>th</sup> September 2019  
Amended 12<sup>th</sup> May 2020

**(1) ADUR DISTRICT COUNCIL**

and

**(2) WORTHING BOROUGH COUNCIL**

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**An Agreement (1) for the employment of staff (2) to provide services jointly and (3) to establish Joint Committees for Adur District Council and Worthing Borough Council**

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Mrs Susan Sale  
Head of Legal Services  
Adur District Council and Worthing Borough Council  
Town Hall  
Chapel Road  
Worthing  
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BN11 1HA  
DX 142960 Worthing 10

Mr Andrew Mathias  
Senior Solicitor  
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THIS AGREEMENT is made on the **27<sup>th</sup> of July 2007** and amended on the 1<sup>st</sup> May 2011, 7<sup>th</sup> October 2011, 17<sup>th</sup> May 2013, 10<sup>th</sup> November 2016, 3<sup>rd</sup> December 2018 and 25<sup>th</sup> September 2019 and 12<sup>th</sup> May 2020

## BETWEEN

- (1) Adur District Council whose principal office is at c/o Town Hall, Chapel Road, Worthing BN11 1HA ('Adur')
- (2) Worthing Borough Council whose principal office is at Town Hall, Chapel Road, Worthing BN11 1HA ('Worthing')

## 1.0 BACKGROUND

1.1 Adur and Worthing agreed in 2007 to deliver functions and services through a Joint Officer Structure and a Joint Committee Structure.

1.2 The Strategic Purposes of such a co-ordinated approach are:

- (a) to optimise the availability of skills and resources available to the two Councils;
- (b) to achieve best value in the delivery of services;
- (c) to secure the most economic, efficient and effective use of resources;
- (d) to secure the reduction of operational costs;
- (e) to maximise the opportunities for securing funding from outside bodies including Government;
- (f) to reduce reliance on outside bodies to improve bargaining power in relation to outside bodies and to increase capacity and capability within the constituent Councils;
- (g) to provide and promote a customer-orientated approach to service delivery;
- (h) to support the community strategies led by the constituent Councils and prepared from time to time to reflect the strategic direction of the organisations; and
- (i) wherever possible, to secure a joint response to strategic and other issues affecting the two Councils.

1.3 In order to achieve the Strategic Purposes set out in clause 1.2 the Councils have agreed:

- (a) to establish:
  - (i) a Joint Committee to provide strategic direction for the Joint Services and determine all delegated Executive functions relating to the Joint Services on behalf of the two Councils, to be known as the Joint Strategic Committee;
  - (ii) a Joint Individual Cabinet Member decision-making process in respect of all Executive functions of the Joint Services delegated to Individual Cabinet Members, encompassed in the Cabinet Procedure Rules in Part 4 of the Constitution;
  - (iii) a Joint Committee to agree, and where appropriate recommend to the Councils, the appointment of and staffing matters in relation to Senior Staff, in accordance with the Officer Employment Procedure Rules in Part 4 of the Constitution, known as the Joint Senior Staff Committee;
  - (iv) a Joint Committee to determine Non-Executive staff matters and to determine employment policies, known as the Joint Staff Committee.
  - (v) a Joint Overview & Scrutiny Committee to exercise the scrutiny function in relation to the Joint Services of the two Councils;
  - (vi) a ~~Joint Governance Committee~~Joint Audit & Governance Committee to determine or make recommendations to the Councils on all Non-Executive functions that are not reserved to any other Committee, Joint Committee or Full Councils, and to establish a Joint Sub-Committee to deal with Standards matters relating to either Council;
  - (vii) a Joint Remuneration Panel, to make proposals to the ~~Joint Governance Committee~~Joint Audit & Governance Committee, as to Members Allowances .

- (b) to establish a Joint Officer structure to deliver all of the services of Adur and Worthing Councils jointly, subject to any other agreements made under s101 Local Government Act 1072 in respect of joint delivery of services.

IT IS AGREED as follows

## 2.0 DEFINITIONS

Adur:	Adur District Council
Amendment Date:	12 <sup>th</sup> May 2020
Appendix:	Appendix to this Agreement
Assets:	All assets relating to the delivery of the joint services including contracts, machinery, computers, information, materials and equipment
Chief Executive:	Chief Executive of the Councils
Clause:	Clause in this Agreement
Commencement Date:	27 <sup>th</sup> July 2007
Contract Standing Orders:	Joint Contract Standing Orders of Adur District Council and Worthing Borough Council
Costs:	Costs include income, expenditure, cashable savings and efficiency savings
Council:	One of Adur District Council or Worthing Borough Council as the case may be
Councils:	Both Adur District Council and Worthing Borough Council
Executive:	The Leader and Executive of the relevant Council(s)
Executive arrangements:	Construed in accordance with Part II of the Local Government Act 2000, as amended
Expenses:	Expenses as defined by clause 8
Financial Regulations:	The Joint Financial Regulations of Adur District Council and Worthing Borough Council
Head of Paid Service:	The Head of Paid Service under Section 4 of the Local Government and Housing Act 1989 who shall be the Chief Executive of the Councils
Intellectual Property Rights:	All rights available for the protection of any discovery, invention, name, design, process or work in which copyright or any rights in the nature of copyright subsist and all patents, copyrights, registered designs, design rights, trade marks, service marks and other forms of protection from time to time subsisting in relation to the same, including the right to apply for any such protection and trade secrets and other unpublished information
JGC:	The <del>Joint Governance Committee</del> <u>Joint Audit &amp; Governance Committee</u> established by Clause 4

Joint Committees:	the Joint Committees established by Clause 4
JOSC:	the Joint Overview & Scrutiny Committee established by Clause 4
Legal Adviser	The Head of Legal Services of Adur District Council and Worthing Borough Council, or their representative
Monitoring Officer:	The Officer appointed under Section 5 of the Local Government and Housing Act 1989, who shall be the Head of Legal Services of Adur District Council and Worthing Borough Council
Officers:	Officers employed within the Joint Officer Structure referred to in this Agreement
Section 151 Officer:	The Head of Financial Services of Adur District Council and Worthing Borough Council who shall be the Chief Financial Officer
Service:	Any one of the Joint Services provided by the Councils
JSC	The Joint Strategic Committee established by Clause 4
JSSC:	the Joint Senior Staff Committee established by Clause 4
The Joint Services:	All services are joint services provided by the Councils unless specifically reserved to an individual Council as specified in Schedule 1
JSfC:	the Joint Staff Committee established by Clause 4
Worthing:	Worthing Borough Council

- 2.1 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 2.2 A reference to a statute or statutory provision shall include all subordinate or secondary legislation made from time to time under the statute or statutory provisions.

IT IS AGREED as follows

#### PRELIMINARY MATTERS

- 3.1 This Agreement is made pursuant to:
- (a) Sections 101 and 102 of the Local Government Act 1972 (delegation to joint committees)
  - (b) Section 3 of the Local Government Act 1999 (duty to secure best value)
  - (c) Section 1 of the Localism Act 2011 (general power of competence)
  - (d) Sections 14 and 20 of the Local Government Act 2000 and The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000/2851 (joint arrangements for the exercise of Executive functions), as amended.
- 3.2 This Agreement has been entered into:
- (a) by Adur by virtue of the resolution of Adur District Council dated 23<sup>rd</sup> July 2007 and
  - (b) by Worthing by virtue of the resolution of Worthing Borough Council dated 25<sup>th</sup> July 2007 and amended:
  - (c) by Adur by virtue of a resolution of Adur District Council dated 7<sup>th</sup> April 2011 and
  - (d) by Worthing by virtue of a resolution of Worthing Borough Council dated 12<sup>th</sup> April 2011 and

- (e) By Adur by virtue of a resolution of Adur District Council dated 6<sup>th</sup> October 2011 and
- (f) By Worthing by virtue of a resolution of Worthing Borough Council dated 4<sup>th</sup> October 2011 and
- (g) by Adur by virtue of a resolution of Adur District Council dated 20<sup>th</sup> December 2012 and
- (h) By Worthing by virtue of a resolution of Worthing Borough Council dated 18<sup>th</sup> December 2012 and
- (i) By Adur by virtue of a resolution of Adur District Council dated 24<sup>th</sup> October 2016 and
- (j) By Worthing by virtue of a resolution of Worthing Borough Council dated 25<sup>th</sup> October 2016 and
- (k) By Adur by virtue of a resolution of Adur District Council dated 1<sup>st</sup> November 2018 and
- (l) By Worthing by virtue of a resolution of Worthing Borough Council dated 30<sup>th</sup> October 2018 and
- (m) By Worthing and Adur by virtue of the Monitoring Officer making minor amendments under delegated authority dated 25<sup>th</sup> September 2019.
- (n) By Worthing and Adur by virtue of the Monitoring Officer making minor and/or consequential amendments under delegated authority dated 12<sup>th</sup> May 2020

3.3 This Agreement shall commence on the commencement date and shall, subject to Clause 10 (termination and review) and Clause 9 (extension) terminate on 31<sup>st</sup> March 2028.

#### THE JOINT COMMITTEES

The Joint Committees shall not be bodies corporate or have the functions of acquiring or holding assets, employing staff or entering into contracts. For the avoidance of doubt such functions shall be undertaken by one of the Councils as an administering Council.

A Schedule of Joint meetings shall be agreed annually by each Council and additional meetings may be called in accordance with Council Procedure Rule 4.2. The Director for Communities shall be the Proper Officer for the signing of documents relating to the calling of meetings.

Call-in of decisions of Joint Committees exercising Executive functions are provided for in the Joint Overview and Scrutiny Procedure Rules in Part 4 of each Council's Constitution. Non-Executive decisions may not be called in and therefore the procedure does not apply to decisions of JOSc, JSSc, JSfC and JGC.

#### 4.1 Joint Strategic Committee

The Councils shall establish a Joint Strategic Committee ('JSC') which:

- (a) shall comprise of the Cabinet of each Council. The Cabinet model adopted by each Council ensures that the Members appointed to JSC are empowered to take Executive decisions.
- (b) shall have the following terms of reference:
  1. To determine all matters relating to Executive functions of Joint Services, as set out in the Terms of Reference in Part 3 of the Constitution, unless specifically reserved to the individual Council's individual Executives as specified in Schedule 1, either meeting as individual Executives or as sub-committees under 4.1(l);
  2. To provide strategic management of the Joint Services;
  3. To provide strategic direction to both Councils in relation to all Executive functions unless specifically reserved to the Cabinets of the individual Councils as specified in Schedule 1;
  4. To set strategic targets in respect of the Joint Services;
  5. To agree draft revenue budgets for the implementation of each Joint Service which comply with the agreed budget strategy set by the Councils and which clearly show the costs to be borne by each Council including the allocation of any resulting savings or efficiencies and to recommend them to the Councils, via the individual Executives;

**Commented [g63]:** All Executive decisions are joint, except for budgets, Local Plans, and housing (Adur only)



6. To annually agree draft capital budgets for the Joint Services which comply with the agreed budget strategies set by the Councils and which clearly show the costs to be borne by each Council;
  7. To receive any reports in respect of any Executive function from either Council;
  8. To determine significant changes to the nature of the Joint Services delivered to the public in one or both Council areas;
  9. To determine any matters assigned as Executive functions in accordance with the Local Choice functions set out in Part 3 of the Constitution.
- (c) If there is an inequality between the Councils as to the number of Members on each Executive, all Members of the Cabinet may attend and participate in meetings of the Joint Strategic Committee as full voting Members.
  - (d) One representative from Adur Consultative Forum shall be a co-opted non-voting Member on the Joint Strategic Committee for any item concerning the 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.
  - (e) In the event of a Member being unable to attend a meeting of JSC, there is no ability to appoint a Substitute Member.
  - (f) The JSC shall meet on at least four occasions in any municipal year. One of those meetings shall be scheduled to ensure that any proposed budgets can properly and fully be considered by each of the Councils as part of their respective budget-making processes.
  - (g) The JSC shall meet during May to October of each municipal year at Worthing Town Hall and in November to April of each municipal year at the Shoreham Centre, or such other location as the Chair of the Committee shall agree.
  - (h) The Cabinet Leader in whose area a meeting should take place shall be the Chair of the meeting and, in their absence, the Deputy Leader of that Council shall be the Chair. In the absence of both the Leader and Deputy Leader, the Leader of the other Council shall act as Chair of the meeting.
  - (i) Each Member of JSC shall have one vote in its proceedings. The Chair shall not have a casting vote.
  - (j) The JSC may arrange for the discharge of their functions by an Officer and in doing so will set out clearly any limits upon such delegation.
  - (k) The JSC may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups will not be decision-making bodies.
  - (l) JSC may establish sub-committees consisting solely of the Members of one Council, to consider matters solely relating to that Council.
  - (m) For a meeting of JSC to be quorate there must be at least 4 members present and: at least two Members present from each Council where the business of the Committee relates to both the District of Adur and the Borough of Worthing; or at least one Member present from each Council where the business of the Committee relates to either the District of Adur or the Borough of Worthing.

#### **4.2 Individual Cabinet Member Decisions**

The Councils shall establish a process for the taking of decisions jointly by Individual Cabinet Members from each Council, encompassed in the Cabinet Procedure Rules in Part 4 of the Constitution, which includes:

- (a) where a decision relating to a Cabinet function which falls within the remit and portfolio of an Individual Cabinet Member from each Council and relates to a Joint Service, the relevant report shall be sent simultaneously by Democratic Services Officers to both Individual Cabinet Members from each Council;
- (b) the Individual Cabinet Members will consult with one another in an attempt to make a Joint decision;

- (c) if the two Individual Cabinet Members agree on the decision that is to be made, then they may make a Joint decision;
- (d) if the two Individual Cabinet Members do not agree on the decision that is to be made, then no decision is made, and the matter must be referred to the Joint Strategic Committee for determination.

#### 4.3 Joint Senior Staff Committee

The Councils shall establish the Joint Senior Staff Committee ('the JSSC') which:

- (a) shall comprise three Councillors from each Council (or such greater number of Councillors as the Councils may from time to time agree, providing there is equal representation from each Council) at least one of whom shall be a Cabinet Member and at least one of whom shall be a Non-Cabinet Member;
- (b) shall be politically balanced for each Council in accordance with the provisions of the Local Government & Housing Act 1989;
- (c) shall have the terms of reference in respect of all staff employed in the Joint Officer structure, as set out in Part 3 of the Constitution, and shall operate in accordance with the Officer Employment Procedure Rules in Part 4 of the Constitution.
- (d) In the event of an appointed Councillor being unable to attend any meeting of the JSSC, the relevant Political Group Leader may appoint a substitute Member, provided that prior written notice of such substitution is given to the Director for Communities as Proper Officer for such matters.
- (e) shall meet on such occasions as is necessary to determine any business within its terms of reference.
- (f) shall meet from May to October each year at Worthing Town Hall and from November to April each year at the Shoreham Centre, or such other location as the Chairs of the Committee shall agree.
- (g) The Chair and Vice Chair of the JSSC Committee shall be appointed by each Council at its Annual Council meeting.
- (h) The Chair of JSSC in whose area a meeting should take place shall be the Chair of that meeting and, in their absence, the Vice Chair shall be the Chair. In the absence of both the Chair and Vice Chair, the Chair of JSSC from the other Council shall act as Chair of the meeting.
- (i) Each Member of JSSC shall have one vote in its proceedings, to include Substitute Members appointed in accordance with this Agreement. The Chair of JSSC shall have a casting vote.
- (j) JSSC may arrange for the discharge of their functions by an Officer and in doing so will set out clearly any limits upon such delegation.
- (k) JSSC may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups shall not be decision-making bodies.
- (l) JSSC may establish sub-committees consisting solely of the Members of one Council, to consider matters solely relating to that Council.
- (m) For a meeting of JSSC to be quorate there must be at least 4 Members present and: at least 2 Members present from each Council where the business of the Committee relates to both the District of Adur and the Borough of Worthing; or at least one Member present from each Council where the business of the Committee relates to either the District of Adur or the Borough of Worthing.

**Commented [g64]:** Possibly use sub-committees for matters relating to one council only, and/or instead of holding separate OSC meetings for independent council decisions.

#### 4.4 Joint Staff Committee

The Councils shall establish the Joint Staff Committee ('JSfC') which

- (a) shall comprise three Councillors from each Council (or such greater number of Councillors as the Councils may agree from time to time, providing there is equal representation from each Council);

- (b) shall be politically balanced from each Council in accordance with the provisions of the Local Government and Housing Act 1989;
- (c) shall have the terms of reference in respect of all staff employed in the Joint Officer structure, as set out in Part 3 of the Constitution, and shall operate in accordance with the Officer Employment Procedure Rules in Part 4 of the Constitution.
- (d) In the event of an appointed Councillor being unable to attend any meeting of the JSfC, they may nominate a Substitute Member to attend, provided that prior written notice of such substitution is given to the Director for Communities as the Proper Officer for such matters.
- (e) The JSfC shall meet on such occasions as is necessary to determine any business within its terms of reference.
- (f) The JSfC shall meet from May to October each year at the Worthing Town Hall and from November to April each year at the Shoreham Centre, or such other location as the Chair of the Committee shall agree.
- (g) The Chair and Vice Chair of JSfC shall be appointed by the relevant Authority at its Annual Council meeting.
- (h) The Chair of JSfC in whose area a meeting should take place shall be the Chair of that meeting and, in their absence, the Vice Chair shall be the Chair. In the absence of both the Chair and Vice Chair, the Chair of JSfC from the other Council shall act as Chair of the meeting.
- (i) Each Member of JSfC shall have one vote in its proceedings (to include Substitute Members appointed in accordance with this Agreement). The Chair of JSfC shall have a casting vote.
- (j) JSfC may arrange for the discharge of its functions by an Officer and in doing so will set out clearly any limits upon such delegation.
- (k) JSfC may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups shall not be decision-making bodies.
- (l) JSfC may establish a Sub-Committee consisting solely of the Members of one Council to consider matters solely relating to that Council.
- (m) For a meeting of JSfC to be quorate there must be at least 4 Members present and: at least 2 Members present from each Council where the business of the Committee relates to both the District of Adur and the Borough of Worthing; or at least one Member present from each Council where the business of the Committee relates to either the District of Adur or the Borough of Worthing.

#### 4.5 Joint Overview and Scrutiny Committee

The Councils shall establish the Joint Overview and Scrutiny Committee (JOSC) which:

- (a) shall comprise eight Members from each Council (or such other number of Members as the Councils may from time to time agree, providing equal representation from each Council);
- (b) shall be politically balanced for each Council in accordance with the provisions of the Local Government and Housing Act 1989;
- (c) shall have the terms of reference set out in Article 6 of each Council's Constitution and shall operate in accordance with the Joint Overview and Scrutiny Procedure Rules in Part 4 of the Constitution;
- (d) shall exercise the overview and scrutiny functions of the two Councils in relation to all matters, except those to be determined by each Council's Individual Executives as set out in Schedule 1 to this Agreement;
- (e) the Councils may each establish an Overview and Scrutiny Committee (OSC) to exercise the overview and scrutiny functions of the Councils in relation to matters reserved to each Council's individual Executive as set out in Schedule 1 to this agreement;
- (f) one Member of Adur Consultative Forum shall be a co-opted non-voting Member of the Joint Overview and Scrutiny Committee for any item concerning the Housing Revenue

**Commented [g65]:** Individual Council OSCs limited to reviewing Sch.1 matters only.

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 Member should not be the same Adur Consultative Forum representative who sits as a co-opted Member of JSC for the same purpose.

- (g) shall not comprise any Members of the Cabinet within its membership. In making its appointments to the JOSC each Council will ensure that its Members are not Members of the Cabinet;
- (h) In the event of an appointed Councillor being unable to attend any meeting of the JOSC, the relevant Member may appoint a Substitute Member to attend, provided that prior written notice of such substitution is given to the Director for Communities as the Proper Officer for such matters;
- (i) The JOSC shall meet on at least four occasions in any municipal year.
- (j) The JOSC shall meet in May to October of each municipal year at the Shoreham Centre and in November to April of each municipal year in Worthing Town Hall, or such other location as the Chair of the Committee shall agree;
- (k) The Chair and Vice Chair of JOSC shall be appointed by the relevant Council at its Annual Council meeting. The Chair of the JOSC of the Council in whose area a meeting should take place shall be the Chair of that meeting and, in their absence, the Vice Chair of the JOSC from the Council where the meeting should take place will be the Chair. In the absence of both, the Chair of JOSC from the other Council shall act as Chair of that meeting.
- (l) Each Member of JOSC shall have one vote in its proceedings (to include Substitute Members appointed in accordance with this Agreement). The Chair of JOSC shall not have a casting vote.
- (m) JOSC may arrange for the discharge of their functions by an Officer and in doing so will set out clearly any limits upon such delegation.
- (n) JOSC may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups shall not be decision-making bodies.
- (o) JOSC may establish sub-committees consisting solely of the Members of one Council to consider matters solely relating to that Council.
- (p) For a meeting of JOSC to be quorate there must be at least 4 Members present and: at least 2 Members present from each Council where the business of the Committee relates to both the District of Adur and the Borough of Worthing; or at least one Member present from each Council where the business of the Committee relates to either the District of Adur or the Borough of Worthing.

**Commented [g66]:** Sub-committees may be established to deal with each authority's sole matters.

#### 4.6 **Joint Governance Committee** **Joint Audit & Governance Committee**

The Councils shall establish a Joint Audit & Governance Committee ('JGC') which shall:

- (a) comprise six Councillors from each Council (or such other number of Councillors as the Councils may from time to time agree, providing there is equal representation from each Council);
- (b) be politically balanced for each Council in accordance with the provisions of the Local Government and Housing Act 1989;
- (c) have the terms of reference set out in Part 3 of the Council's constitution;
- (d) have no more than one Cabinet Member from each Council in its membership.
- (e) In the event of an appointed Councillor being unable to attend any meeting of the JGC, the relevant Member may appoint a Substitute Member to attend, provided that prior written notice of such substitution is given to the Director for Communities as the Proper Officer for such matters.
- (f) The JGC shall meet on at least four occasions in any municipal year.
- (g) The JGC shall meet from May to October each year at the Shoreham Centre and from November to April each year at Worthing Town Hall, or such other location as the Chairs of the Committee shall agree.

- (h) The Chair and Vice Chair of JGC shall be appointed by each Council at its Annual Council meeting.
- (i) The Chair and Vice Chair of any meeting of JGC shall be the Chair and Vice Chair of JGC of the Council in whose area a meeting should take place. In the absence of the Chair and Vice Chair of JGC for the Council in whose area the meeting should take place, the Chair of JGC from the other Council will act as Chair for that meeting.
- (j) Each Member of JGC shall have one vote in its proceedings (to include Substitute Members appointed in accordance with this Agreement). The Chair of JGC shall not have a casting vote.
- (k) JGC may arrange for the discharge of its functions by an Officer and in doing so will set out clearly any limits upon such delegation.
- (l) JGC may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups shall not be decision-making bodies.
- (m) JGC may establish sub-committees consisting solely of the Members of one Council to consider matters solely relating to that Council.
- (n) For a meeting of JGC to be quorate there must be at least 4 Members present and: at least 2 Members present from each Council where the business of the Committee relates to both the District of Adur and the Borough of Worthing; or at least one Member present from each Council where the business of the Committee relates to either the District of Adur or the Borough of Worthing.
- (o) The Councils' Independent Persons, appointed under the Localism Act 2011, will be co-opted Members of Joint Audit & Governance Committee.

**Commented [g67]:** Sub-committees may be established to deal with each authority's sole matters.

#### 4.7 Joint Independent Remuneration Panel

The Council shall establish a Joint Independent Remuneration Panel, which shall:

- (a) Comprise of four independent persons appointed in accordance with the Local Authorities (Members Allowances) (England) Regulations 2001.
- (b) carry out the functions set out in the Local Authorities (Members Allowances) (England) Regulations, 2001.

Proposals of the Joint Independent Remuneration Panel are received by the Joint Audit & Governance Committee who will make recommendations to each Council as appropriate.

#### 4.8 Officers

The Joint Committees shall receive their legal advice from the Legal Adviser who shall also be the Monitoring Officer, or their representative.

The Joint Committees shall receive their financial advice from the Chief Financial Officer who shall also be the Section 151 Officer, or their representative.

The Joint Committees shall receive their advice (except that relating to legal, probity, and financial matters) from the Council's Officers, as appropriate.

#### 4.9 Rules of Procedure

Rules of Procedures relating to Joint Committee structure are contained within each Council's constitution. Where there is any conflict with the terms of this Agreement and the Constitution, advice will be taken from the Monitoring Officer as to the interpretation of provisions, and their determination will be final.

#### 4.10 Administrative Expenses

The administration expenses of the Joint Committees will be borne by the Councils in accordance with clause 8 below.

#### **4.11 Decision Making**

Where decisions are taken by a Joint Committee the following principles and conditions, in addition to those contained in Article 12 of each Council's Constitution, shall apply:

- (a) powers shall be exercised in accordance with the Joint Contract Standing Orders and Joint Financial Regulations.
- (b) the Joint Committees shall have proper regard to any resolution of the Councils.
- (c) the Joint Committees shall satisfy themselves that any inter-Council consultation has been carried out.
- (d) decision making by individual Cabinet Members should be undertaken in accordance with the Cabinet Procedure Rules in Part 4 of each Council's Constitution.
- (e) the taking of decisions shall be subject to there being appropriate and adequate budgetary provision.
- (f) any decision which could attract legal liability shall be taken in consultation with the Legal Adviser or their representative.
- (g) any decision which has financial implications shall be taken in consultation with the Chief Financial Officer and particularly in any case where JSC is considering making recommendations which involve increased expenditure in any budget they shall receive and incorporate in any report advice from the Chief Financial Officer or their representative.
- (h) any decision which could involve the exercise by the Monitoring Officer of any of their powers shall be taken in consultation with them, or in their absence the Deputy Monitoring Officer.
- (i) The exercise of functions by a Joint Committee shall have regard to all relevant considerations and shall not take into account irrelevant matters. In particular a Joint Committee must take proper account of the Councils' duties to promote compliance with human rights legislation, social value, reduction of crime and disorder and promotion of equalities.
- (j) The Joint Committees shall not authorise the entering into of obligations by or on behalf of the Councils beyond the expiry of the Term of this Agreement, unless the Councils have so agreed.

#### **5.0 UNRESOLVED DECISIONS**

5.1 There is an unresolved decision for the purposes of this clause if the Members of JSC, JOSOC or JGC fail to reach a decision upon the matter by a majority of their votes at a meeting.

5.2 An unresolved decision of JSC shall be referred to the respective Leaders with a view to resolution by discussion and negotiation and thereafter either a Joint Decision Notice will be issued by them or the matter will be referred back to JSC for reconsideration and decision.

5.3 An unresolved decision of the JOSOC shall not be referred on for resolution.

5.4 An unresolved decision of JGC will either be referred to the next meeting of JGC to allow a period of discussion and negotiation, or will be referred to full Council as the Committee was unable to determine the matter.

5.5 Where there is an unresolved decision as set out in sections 5.2 and 5.4 above, advice should be taken from the Chief Executive, the Chief Financial Officer and/or the Monitoring Officer, as appropriate, in seeking to resolve the matter.

#### **6.0 DECISIONS RELEVANT TO A SINGLE AUTHORITY**

- 6.1 This Clause applies where there is a matter which is solely the province of one Council and has not been reserved to the relevant Executive or sub-committee under clause 4.1(l) of the relevant Council. This clause does not apply to decisions of JSSC or JSfC.
- 6.2 Where there is a matter which is solely within the province of one Council, the rules will be:
- 6.2.1 All Members of the Committee present may participate in the debate;
- 6.2.2 All Committee Members present may participate in the vote;
- 6.2.3 The decision shall be made by a majority vote of those present and voting provided that the majority of those representatives of the relevant Council shall be part of that majority.
- 6.2.4 If the overall majority of those present and voting does not include the majority of the relevant Council, then the decision shall stand referred as follows:
- Where it is a decision of JSC, to the relevant Executive or sub-committee under clause 4.1(l), who may hold a special meeting to determine the matter.
  - Where a decision of JGC, to the next Council meeting of the relevant Council.
  - Where a decision of JOS, to a meeting of OSC of the relevant Council or sub-committee under clause 4.3(l).
- 6.3 Where the decision is one of a Joint Governance Sub-Committee determining an allegation that a Councillor has breached the Member Code of Conduct, the decision shall be made by a majority vote of those present and voting provided that the majority of those representatives of the relevant Council shall be part of that majority. If not, or where there is no majority decision, then the matter will be referred to a meeting of the Joint Audit & Governance Committee. Should the Joint Audit & Governance Committee considering such a referred decision be unable to reach a majority decision which includes the majority of those representatives of the relevant Council, then the breach will stand as 'not proven'.
- 7.0 OFFICER SUPPORT
- 7.1 The Councils shall establish a joint officer structure which shall:
- (a) be employed by Adur as lead authority under this Agreement as staff are transferred, appointed or employed within the joint officer structure.
  - (b) provide advice to both Councils
  - (c) provide services to both Councils
  - (d) not show bias towards one Council vis-à-vis the other in the provision of advice or services.
- 7.2 The Chief Executive shall be the Head of Paid Service in respect of the joint officer structure and workforce and for each Council.
- 7.3 The two Councils will appoint joint senior officers to fill the posts of Joint Chief Executive, Directors and Heads of Service within the joint officer structure serving the Councils by means of the Joint Senior Staff Committee or Officer Employment Procedure Rules, as appropriate.
- 7.4 The Councils shall ensure that each Council has a Head of Paid Service, a Monitoring Officer and a Chief Financial Officer (Section 151 Officer). This to be achieved by way of employment by Adur and a secondment to Worthing of each office holder for the purposes of discharging their statutory duties at both Councils.
- 7.5 Officers are to be empowered to act under the Scheme of Officer Delegations of each Council when providing services on behalf of that Council.

- 7.6 The Transfer of Undertakings (Protection of Employment) Regulations 2006 apply to the transfer of staff from Worthing to Adur as lead authority for employment purposes and this constitutes a relevant transfer of an undertaking pursuant to regulation 3 thereof.
- 7.7 The Councils shall agree financial arrangements as to the allocation of pension contributions including those relating to payments due in respect of the pension deficits of the two Councils upon the transfer, appointment or employment of staff within the joint officer structure.
- 8.0 THE SERVICES
- 8.1 The services providing the joint functions through a joint service, and the services providing a function through separate provision are set out in Schedule 1 to this Agreement.
- 8.2 The costs of each joint service shall be shared by each Council in accordance with the terms of Schedule 2
- 9.0 EXPENSES
- 9.1 The expenses of the Joint Committee shall be borne 50% by Adur and 50% by Worthing.
- 9.2 The expenses shall comprise:
- (a) the costs of and incidental to the holding of meetings of the Joint Committees,
  - (b) the costs of legal, secretarial and financial support to the Joint Committees,
  - (c) the costs of and incidental to the training of Members relating to the Joint Committees.
- 9.3 The administration of the Joint Committees shall be shared between the relevant officers of the Councils until (1) there is an Agreement to alternative effect or (2) the joint officer structure is established for particular administrative services. This shall include legal, financial, human resources and democratic services administration.
- 9.4 Income properly and solely paid for the Joint Committee (including grants) rather than to the constituent Councils individually shall be accounted for by the Chief Financial Officer and allocated if and as appropriate to the Councils.
- 9.5 The Chief Financial Officer shall account to each of the Councils annually regarding the expenses of the Joint Committees by not later than 30<sup>th</sup> June following the end of the financial year.
- 9.6 Payments due but not paid within 30 days of the invoice rendered pursuant to clause 8.5 shall bear interest from the date of the invoice until payment at a rate of 2% above the Cooperative Bank plc base rate.
- 10.0 EXTENSION
- 10.1 This agreement may be extended by agreement in writing between the parties.
- 11.0 TERMINATION AND REVIEW
- 11.1 This Agreement shall continue until 31<sup>st</sup> March 2028 unless terminated in accordance with this clause or extended in accordance with clause 11.
- 11.2 Either of the parties may terminate or withdraw from this Agreement before 31<sup>st</sup> March 2028 only by giving to the other not less than two years' prior written notice to expire on 31<sup>st</sup> March in the relevant year. Such a decision to terminate or withdraw the Cabinet functions may only be made by the Cabinet of each Council, and in respect of the Non-Executive functions, each Council.
- 11.3 In the event of termination however and whenever occurring the parties shall:



- (a) co-operate in terminating, modifying, restructuring, assigning or novating contractual arrangements entered into to mutual advantage and properly and timeously execute any documents necessary
  - (b) enter into arrangements with the other party concerning the ownership and control of assets acquired, particularly where such assets may have been acquired for other parties or third parties
  - (c) use reasonable endeavours to secure an amicable financial settlement
  - (d) immediately transfer or return any property including data belonging to the other party
  - (e) ensure that a fair and reasonable proportion of the staff within the joint officer structure are transferred promptly to the Council which is not the employer under this Agreement so that (1) each Council can maintain continuity in the provision of its services at the same level of effectiveness and efficiency as the other and (2) they become employed by the Council to which they are transferred.
  - (f) The senior posts at the level of Chief Executive, Strategic Directors and Heads of Service shall be re-allocated between the two Councils so that each has half in number of the postholders concerned (with the Monitoring Officer and Section 151 Officer being allocated to different Councils) SAVE THAT the Head of Service with responsibility for direct provision of housing shall go to Adur.
- 11.4 In the event of one party wishing to terminate or withdraw from this Agreement before 31<sup>st</sup> March 2028 and the other party confirming in writing within three months of the receipt of the notice of termination its wish to continue this Agreement then the party wishing to terminate or withdraw from this Agreement shall
- (a) pay to the other party or direct to third parties (as may be appropriate) any additional costs which the other party may properly and reasonably incur by virtue of the early termination or withdrawal together with any professional and other costs properly and reasonably incurred by the other party in consequence of such early termination or withdrawal, and
  - (b) indemnify and keep indemnified the other party from and against any claims, costs, losses and expenses arising from or in connection with such early termination or withdrawal.
- 11.5 The parties may review and seek to amend this Agreement from time to time and (1) in any event they shall carry out a review as to the efficacy and relevance of its terms upon every seventh anniversary of the commencement date and (2) all changes arising upon such reviews shall only take effect upon the completion and sealing of a formal amending Agreement.
- 12.0 DISPUTE RESOLUTION
- 12.1 In the event of a dispute concerning the construction or effect of this Agreement the matter shall be referred to the respective Leaders in consultation with the Chief Executive and such other officers as are appropriate with a view to resolution by discussion and negotiation.
- 12.2 In the event that a decision or a matter in dispute cannot be resolved under clause 13.1 the matter will be referred to an arbitrator from a professional body appropriate to the matter in dispute.
- 12.3 The arbitrator shall be appointed with the agreement of the two Councils or in the event that agreement cannot be reached by the President or other chief officer of the appropriate profession (such profession to be determined by the Chief Executive of the Councils).
- 12.4 The resolution of unresolved disputes in respect of the expenses of the Joint Committees (referred to in clause 8) shall be determined in accordance with section 103(b) of the Local Government Act 1972 namely by a single arbitrator agreed on by the Councils or, in default of agreement, appointed by the Secretary of State.

12.5 For the avoidance of doubt this clause remains in effect after the termination or expiry of this Agreement to confer powers on the parties to resolve matters remaining in dispute.

#### 13.0 ASSETS

13.1 Each Council shall draw up a register of all its assets which will be applied for the purposes of the joint services controlled by the joint committees as at 1<sup>st</sup> April 2008.

13.2 All assets acquired by the Councils for the purposes of the joint services controlled by the joint committees after 1<sup>st</sup> April 2008 shall be recorded on a register of shared assets, and incorporated into each authority's register or balance sheet at the appropriate share. Those assets shall be acquired by Worthing but held in trust for the benefit of both Councils so that each has a share in the beneficial ownership of them in accordance with the statement to be prepared for each joint service under clause 7.3 (k).

13.3 Each Council shall permit all staff employed under this Agreement reasonable use of all assets of the Councils for the purpose of discharging the joint services.

13.4 Upon termination of this agreement all assets listed on the register of shared assets shall be valued and the assets shall be divided between the Councils in accordance with the share as shown on the balance sheet of the respective Councils.

13.5 This Agreement has no application to any interests in land. Neither Council will acquire any rights or interest in land in respect of which the other Council has any right or interest.

#### 14.0 LIABILITIES

14.1 The Councils shall be equally and severally liable to any third parties in respect of all claims, costs and expenses arising from (1) the employment of staff under this Agreement (2) the provision of joint services under this Agreement and (3) the use of assets under it.

14.2 Each Council shall ensure that it has all appropriate insurances relating to public liability, employee liability, professional indemnity and Member indemnity to cover liabilities arising under clause 15.1 and (1) in relation to all functions and services provided by the joint officer structure and (2) in relation to the joint services.

#### 15.0 INTELLECTUAL PROPERTY RIGHTS

15.1 Each Council shall remain the owner of all intellectual property rights it owns at the date of this Agreement in any materials which it has created or the creation of which was undertaken by a third party which it commissioned to create those materials.

15.2 Any new material created jointly by the Councils in the course of provision of the joint services shall belong to the parties jointly.

15.3 Each Council hereby grants a licence to the other to use its intellectual property rights incorporated in or appearing from the materials referred to in clauses 16.1 and 16.2 for the purposes of the performance of this Agreement.

#### 16.0 NOTICES

16.1 Any notice to be served under this Agreement shall be valid and effective if it is addressed to the Chief Executive and delivered by e-mail, fax, prepaid recorded delivery post or delivered by hand to the other Council's principal offices.

#### 17.0 RIGHTS AND DUTIES RESERVED

17.1 Nothing in this Agreement shall prejudice or fetter the proper exercise of any function by the Councils or their Officers.

#### 18.0 LEGAL AND OTHER FEES

18.1 Each party shall bear its own legal and other fees in relation to the preparation and completion of this Agreement.

#### 19.0 PROVISION OF STATISTICAL INFORMATION, ACCOUNTS AND OTHER DOCUMENTS ETC

19.1 The parties shall make available to the other party such statistical information which each Council may from time to time reasonably require.

19.2 Without prejudice to any provision in this Agreement requiring the keeping of records, the supply of statistics or the provision of information the parties shall keep such other records and details of or concerning the joint services, supplies or work delivered pursuant to this Agreement or their performance as the parties may require and shall produce or provide to the other copies whether kept electronically or in paper format, of such accounts, invoices, orders, contracts, receipts, statistics and other information or documents touching or concerning or arising from the joint services, supplies or work delivered pursuant to this Agreement or their performance or this Agreement as, when and in such form as each Council may reasonably require.

19.3 Without prejudice to any provision in this Agreement the parties shall keep and maintain all necessary information and shall provide all necessary assistance to enable each Council to complete all necessary official returns or statistics related to this Agreement and the joint services, supplies or works delivered pursuant to this Agreement.

19.4 The parties shall supply each other with such assistance and information as each Council may require to enable it to allocate such expenditure as each Council may incur under this Agreement and in relation to joint services, supplies or works delivered pursuant to this Agreement between their various respective budget heads.

#### 20.0 AUDIT

20.1 Each Council's external and internal auditors shall have the like powers set out in the Local Audit and Accountability Act 2014. Each Council shall at all reasonable times (including following the termination for whatever reason of this Agreement) allow or procure for any auditor for the purposes of an external or internal or audit:

- (a) immediate access to
- (b) permission to copy and remove any copies of and
- (c) permission to remove the originals of

any books, records and information in the possession or control of either Council which in any way relates to or are or were used in connection with this Agreement or the provision of the joint services supplies and works delivered pursuant to this Agreement including (but without limitation) any of each Council's data and any such information stored on a computer system operated by another Council.

20.2 Each Council will provide all practicable co-operation and afford all appropriate access to personnel and records in order to assist the requesting Council in carrying out any investigations which are already under way at the Commencement Date and any investigations which are carried out after the termination or expiry of this Agreement.

#### 21.0 STATUS

21.1 Nothing in this Agreement shall be construed as establishing or implying any legal partnership or joint venture between the parties.

#### 22.0 ANTI-CORRUPTION

22.1 Either Council may cancel this Agreement at any time and recover from the other the amount of any loss resulting from such cancellation if any of the following apply:

- (a) the other Council has offered or given or agreed to give to any person any gift or consideration as an inducement or reward (1) for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Agreement or any other contract with the Council (2) for showing or forbearing to show favour or disfavour to any person in relation to the Agreement or any other contract with the Council.
- (b) any person employed by or acting on behalf of the other Council (whether with or without the other council's knowledge or consent) acts in a similar manner to that set out in (a) above.
- (c) in relation to any contract or potential contract with the Council the other Council or any person employed by or acting on behalf of the other Council shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916 or any amendment or replacement of them or shall have given any fee or reward the receipt of which is an offence under Sub Section (2) of Section 117 of the Local Government Act 1972.

#### 23.0 DISCRIMINATION

23.1 The Councils shall not unlawfully discriminate within the meaning and scope of the provisions of the Race Relations Act 1976, the Sex Discrimination Act 1975 and 1986 or the Disability Discrimination Act 1995, Gender Recognition Act, 2004, Equality Act, 2010 and any other legislation prohibiting discrimination on any grounds whatsoever. The Councils shall take all reasonable steps to secure the observance of these provisions by its employees in the execution of the Agreement (and any statutory provisions amending or replacing the same).

#### 24.0 HUMAN RIGHTS

24.1 The Councils in the performance of this Agreement shall comply with the provisions of the Human Rights Act 1998 in all respects as if the joint committees were public bodies within the meaning of the Act. The Councils shall indemnify or keep indemnified each other against all actions, claims, demands, proceedings, damages, losses, costs, charges and expenses whatsoever in respect of any breach by the one Council of this clause.

#### 25.0 FREEDOM OF INFORMATION

25.1 It is agreed that the Councils are subject to the provisions of the Freedom of Information Act, 2000. Each waives all claims of commercial or other confidentiality in respect of this document.

#### 26.0 DATA PROTECTION

26.1 All data relating to the services or the recipient of any services undertaken by the Joint Committee shall remain the property of the Council on whose behalf that service is provided and that Council is the Data Controller.

#### 27.0 SURVIVAL OF THIS AGREEMENT

27.1 In so far as any of the rights and powers of the parties provided for in this Agreement shall or may be exercised or exercisable after the termination or expiry of this Agreement the provisions of this Agreement conferring such rights and powers shall survive and remain in full force and effect notwithstanding such termination or expiry

27.2 In so far as any of the obligations of the parties provided for in this Agreement remain to be discharged after the termination or expiry of this Agreement the provisions of this Agreement imposing such obligations shall survive and remain in full force and effect notwithstanding such termination or expiry

#### 28.0 WHOLE AGREEMENT

28.1 This Agreement constitutes the whole agreement and understanding of the parties as to its subject matter and there are no prior or contemporaneous agreements between the parties.

#### 29.0 WAIVER

29.1 Failure by any party at any time to enforce any provision of this Agreement or to require performance by the other or others of any of the provisions of this Agreement shall not be construed as a waiver of any such provisions and shall not affect the validity of this Agreement or any part or the right of that party to enforce any provision in accordance with its terms.

30.0 SEVERANCE

30.1 If any provision of this Agreement shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other provision all of which shall remain in full force and effect.

31.0 CLAUSE HEADINGS

31.1 The clause headings shall not be construed as part of the clauses.

32.0 LAW

32.1 This Agreement shall be governed by and construed in accordance with the laws of England and the parties irrevocably submit to the jurisdiction of the English courts.

33.0 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

33.1 The parties do not intend that any term of this Agreement should be enforceable by any third party as provided by the Contracts (Rights of Third Parties) Act 1999.

34.0 NON-ASSIGNMENT

34.1 Neither of the parties shall be entitled to assign this Agreement or any of its rights and obligations under it without the written consent of the other (which consent the other party may in its absolute discretion withhold).

IN WITNESS of which this Agreement has been executed as a Deed on the first day before written

Sealed with the Common Seal of        )  
Adur District Council in the         )  
presence of:                                )

Authorised signatory

Sealed with the Common Seal of        )  
Worthing Borough Council in         )  
the presence of:                                )

Authorised signatory

## SCHEDULE 1

All services of each Council will be regarded as Joint Services, other than those listed below.

### 1.0 Services retained as a separate service by Adur District Council

- 1.1 All matters relating to the Adur District Council Local Plan.
- 1.2 All matters relating to the Adur District Council annual budget process.
- 1.3 All matters relating to rent, fees and charges, connected to the provision and maintenance of Council housing stock, garages and leasehold property.

### 2.0 Services retained as a separate service by Worthing Borough Council

- 2.1 All matters relating to the Worthing Borough Council Local Plan
- 2.2 All matters relating to the Worthing Borough Council annual budget process.

## SCHEDULE 2

### Cost allocation between the Councils

#### Protocol for cost allocation in the Adur/Worthing partnership:

Under joint working arrangements the allocation of costs becomes much more sensitive. Changes in allocation will affect not just individual services but could affect each authority's budget (and final accounts). A gain for one authority will be a loss to another under the arrangement.

There is no possible solution to this problem which will completely alleviate the risk to both authorities if the Councils are to comply with relevant professional guidelines and codes of practice. However, there are a number of measures which would help manage the risks. This note details those measures.

1. Code directly to services where possible to minimise the amount to be allocated and consequently the amount which could be subject to controversy.
2. Within the costs to be allocated, some will relate uniquely to services provided by one or other authority and some will relate to true joint services (for example AWS management). Those costs which relate uniquely to the services provided by one or other authority can continue to be allocated as present as changes in these will not affect the other Council.

Those which are true joint costs will need to be subject to differing protocols. As part of this it will be sensible to review the current structure of the holding accounts and where possible separate out those groups of staff which deliver the services of one Council, from staff engaged on joint activity, again to minimise any areas of dispute.

3. The service head will need to produce a service specification which should include the following:
  - The service specification – What are we delivering, to whom, to what standard, and how frequently?
  - The existing staff structures and the proposed staffing structure required to deliver the new service.
  - The existing baseline costs of service analysed between Adur and Worthing.

- The new cost of service which should distinguish between costs which fall directly of Worthing, those which fall on Adur, and those which will need to be allocated between the two authorities.
- The allocation basis for the joint service. The basis chosen should reflect the nature of the service delivered (for example number of invoices paid for creditors), and should be capable of being substantiated.
- The overall impact on each authority's budget of the new service.

This will then determine the allocation of cost in the short term.

4. Where the allocation of costs is across both Councils, the overriding principle must be one of stability. Consequently, having established a split of costs, this then should not be annually revised unless a trigger point is reached. Trigger points should include:

- The overall resources devoted to the service need to be increased to meet demand.

For example, it will be possible for the refuse and recycling service to accommodate a certain amount of growth in the number of households. However, a major development such a west Durrington may necessitate an increase to the number of refuse rounds and consequently increase the cost of refuse and recycling. At this point, the allocation of costs should be reviewed.

- The current allocation does not reflect the long-term trend in use of the service.

The allocation of costs should be reviewed each year as part of the budget cycle. If over a three year period it transpires that the original allocation does not substantially reflect the average 3-year allocation, then the allocation should be changed. This should enable each authority to manage temporary changes to the allocations due to items such as project work. However, it may lead to the perception that one Council is getting better value than another.

5. The concept of 'no detriment' has been introduced to equalise any changes that might occur as a result of any of the above, although the actual details of such an arrangement still need to be established.

6. The cost of the joint service for household waste collection and recycling shall be shared between the two Councils upon the basis of the ratio of the numbers of properties receiving the service in each area. Paragraph 4 of this schedule shall apply to any necessary review of this allocation.

7. All the costs incurred by the Councils in employing the joint Chief Executive, Strategic Directors and Executive Heads of Services (including tax, pension, National Insurance and miscellaneous expenses incurred) shall be shared equally by the two Councils.



WORTHING BOROUGH  
COUNCIL

# **CONSTITUTION**



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## PART 1 - SUMMARY AND EXPLANATION

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### 1.0 Introduction

The Borough of Worthing covers an area of some 32.37 km<sup>2</sup> and has a population of approximately 104,000 residents. The Borough includes Worthing, Goring-by-Sea, Durrington, Salvington and Findon Valley.

The Borough Council of Worthing was originally established by Royal Charter in 1890 and re-established by statute in 1974. It provides many statutory services to the residents, businesses and visitors of the Borough, such as waste collection, food safety and collection of Council Tax. It also provides many other discretionary services, such as sports and leisure facilities, car parks and support for many local Voluntary Organisations.

The Council is made up of 37 Councillors and together with the District Council of Adur, employs over 1,000 staff to ensure its aim of maintaining, and where possible, improving the quality of life for all sectors of the community.

This document is the Constitution of the Council. It sets out the roles, responsibilities and the rules of the Borough Council, as well as the rights of the community and individuals in relation to the Council. This document is subject to any changes in the relevant legislation.

If you have any questions about this document, please contact the Head of Legal Services and Monitoring Officer, Borough Council of Worthing and the District Council of Adur, Town Hall, Chapel Road, Worthing, West Sussex, BN11 1HA, email: [monitoringofficer@adur-worthing.gov.uk](mailto:monitoringofficer@adur-worthing.gov.uk), website: [www.adur-worthing.gov.uk](http://www.adur-worthing.gov.uk).

### 1.01 Interpretation

Throughout this Constitution:

- a) Unless the context otherwise requires, the singular includes the plural and the plural the singular.
- b) Any reference to a numbered or lettered paragraph is, unless the context otherwise requires, a reference to the paragraph in this Constitution.
- c) The following words and expressions shall have the undermentioned meanings respectively assigned to them:

‘1972 Act’ shall mean the Local Government Act 1972.

‘1989 Act’ shall mean the Local Government and Housing Act 1989.

‘2000 Act’ shall mean the Local Government Act 2000.

‘2011 Act’ shall mean the Localism Act 2011.

‘Cabinet Member’ shall mean an elected Member of the Council appointed to the Cabinet by the Leader in accordance with the Constitution.

‘Chief Financial Officer’ shall mean the Officer holding the post of Chief Financial Officer of the Borough Council, who is also designated as the Chief Financial Officer responsible for the purposes of Section 151 Local Government Act 1972; Section 73 Local Government Act 1985 and Section 112 Local Government Act 1988 for monitoring the Council’s financial affairs.

'Clear Working Day' excludes the day on which the summons or agenda for a meeting is published, the day on which the meeting was or is to be held and shall mean a day other than a Saturday or a Sunday, or a day which is a public or bank holiday.

'Clear Calendar Day' excludes the day on which the summons or agenda for a meeting is published, the day on which the meeting was or is to be held but will include a day which is a Saturday or a Sunday, or a day which is a public or bank holiday.

'Confidential information' is defined at paragraph 10.3 of the Access to Information Rules in Part 4 of the Constitution.

'Committee' shall include any Committee, Sub-Committee, Joint Committee or Joint Sub-Committee of, or appointed by, the Council.

'Constitution' shall mean this Constitution as approved by the Council in accordance with the Local Government Act 2000.

'Council' shall mean the Borough Council of Worthing as the legal entity.

'Deputy Mayor' shall mean the Deputy Chair of the Council.

'Executive' shall mean the Cabinet of the Council as set out in the Constitution and as defined by the 2000 Act, and shall comprise the Leader, Deputy Leader and Cabinet Members (sometimes referred to as 'the Cabinet') and will often act together with Adur District Council's Executive as the Joint Strategic Committee.

'Exempt information' is defined at paragraph 10.4 of the Access to Information Rules in Part 4 of this Constitution.

'Head of Paid Service' shall mean the Officer holding the post of Chief Executive in the Borough Council, who is also designated as the Head of Paid Service under Section 4 of the Local Government and Housing Act 1989.

'Key Decision' is defined in Article 12.03 (b) of Part 2 of the Constitution.

'Leader' shall mean the Executive Leader, elected by the Council in accordance with the Constitution and the 2000 Act.

'Mayor' shall mean the Chair of the Council or, if the context permits, the person presiding at any meeting of Full Council.

'Meeting' shall mean a meeting of the Full Council, or in relation to the Cabinet, a Committee, Sub-Committee, Joint Committee or Joint Sub-Committee, a meeting of that body.

'Member' shall mean:

- (a) in relation to a meeting of the Full Council, a Councillor;
- (b) in relation to a Committee, a Member of that Committee whether a Councillor or a person who is not a Councillor, but who is appointed to be a Member of the Committee under Section 102 of the 1972 Act; and
- (c) in relation to the Cabinet, a Cabinet Member.

'Monitoring Officer' shall be that person designated as Monitoring Officer in accordance with section 5(1) Local Government and Housing Act 1989.

'Motion' includes a recommendation contained in any report concerning an item of business for a meeting and a new motion.

'Person Presiding' shall mean the person appointed or entitled to preside at any meeting including the Mayor or Deputy Mayor where the context allows.

'Rule' shall mean a Procedure Rule or Standing Order, and shall include Financial Procedure Rules, Contract Procedure Rules and Council Procedure Rules.

'Sub-Committee' shall mean a Sub-Committee of a Committee of the Council and 'Joint Sub-Committee' shall mean a Sub-Committee of a Joint Committee of the Councils.

'Summons' shall mean the Summons for a meeting, or in relation to a Council Standing Order, applied to the Cabinet or a Committee shall mean the agenda for the meeting.

'Terms of Reference' shall mean the terms of reference of the Cabinet or a Committee as varied from time to time.

'Urgent' means a matter of pressing importance requiring swift action given the gravity of the situation, which was unforeseeable (in an objective sense) and is not attributable to a failing on the part of the Council (and similar expressions shall be construed accordingly).

'Working Group' shall mean a group established by the Council consisting of Elected Members and / or Officers and / or co-opted Members and / or persons who are not Elected Members, Officers or co-opted Members, for the purpose of providing advice to any decision maker within the Council.

## 1.02 The Constitution

This is the Constitution of the Borough Council of Worthing which has been adopted by the Council. It sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

Updates to the Constitution are made on an ongoing regular basis and an up-to-date version may always be accessed via the Council's website.

The Constitution is divided into nine parts. The 15 Articles in Part 2 set out the basic rules governing the Council's business, and the remaining parts provide more detailed procedures and guidance.

The Council's Monitoring Officer takes overall responsibility for ensuring that the Council maintains an up-to-date Constitution. However, Parts 6, 7 and 8 dealing with Members' Allowance Schemes, Council Management Structure and Joint Arrangements, are maintained by the Democratic Services Manager. Further, the Financial Procedure Rules and Contract Standing Orders contained in Part 4 of the Constitution, are maintained by the Chief Finance Officer.

The Constitution may be accessed on the internet at: [Constitutions - Adur & Worthing Councils \(adur-worthing.gov.uk\)](http://constitutions-adur-worthing.council.gov.uk). Hard copies of the Constitution are available to inspect at Council offices and public libraries, and may be provided upon request to the Democratic Services Lead at a charge of £40 per copy, payable in advance, to cover the costs of photocopying.

### 1.03 What is in the Constitution?

Article 1 of the Constitution briefly describes the Constitution and commits the Council to:

- 1 — Leadership;
- 2 — Responsibility;
- 3 — Integrity;

~~4 — Transparency;~~

~~5 — Efficient and effective services; and~~

~~6 — Participation.~~

~~Articles 2 — 15 explain the rights of the citizens in relation to the Council and how the key parts of the Council operate. These are:~~

~~3 — Members of the Council (Article 2);~~

~~• The Citizen and the Council (Article 3);~~

~~• The Full Council (Article 4);~~

~~i) — Chairing the Council (Article 5);~~

~~ii) — Overview and Scrutiny Committee (Article 6);~~

~~a) — The Executive (Article 7);~~

~~5 — Regulatory and other Non-Executive Decision-making Committees and Advisory Panels (Article 8);~~

~~6 — Governance (Article 9);~~

~~i) — Joint arrangements (Article 10);~~

~~a) — Officers (Article 11);~~

~~i) — Decision-making (Article 12);~~

~~i) — Finance, contracts and legal matters (Article 13);~~

~~7 — Review and revision of the Constitution (Article 14);~~

~~Suspension, interpretation and publication of the Constitution (Article 15);~~ **1.03 How the Council Operates**

**Commented [g1]:** Unnecessary and repetitive.

The Council is composed of 37 Councillors (with elections by thirds), i.e. one third of Councillors are elected each year for three out of every four years. The Borough is divided into 13 Wards each of which elects 2 or 3 Councillors. The Councillors are democratically accountable to the residents of their Ward. The overriding duty of Councillors is to the whole Borough, but they have a special duty to their constituents, regardless of how they voted.

Councillors should undertake their duties in accordance with the high standards of conduct expected of persons in public life and, to this end, the Council has adopted a Members' Code of Conduct to which Members are obliged to adhere. The Joint Audit & Governance Committee oversees the provision of training and advice to Councillors on the Code of Conduct.

All Councillors meet together as the Full Council. Meetings of the Full Council are normally open to the public. Here Councillors decide the Council's overall policies, set the annual budget and the Council Tax. The Full Council will elect a Leader from among the elected Councillors.

Legislation provides the Leader with the Cabinet decision-making powers of the Council. The Leader must appoint between 2 and 9 other elected Councillors to the Cabinet and may delegate to the Cabinet, individual Cabinet Members, [Committees of the Cabinet](#), [Ward Members](#) and Officers many of the Cabinet functions and powers.

The Council appoints at least one Overview & Scrutiny Committee, a Planning Committee and two Licensing & Control Committees.

The Full Council appoints the following Joint Committees with the District Council of Adur: a Joint Audit & Governance Committee; Joint Overview and Scrutiny Committee; Joint Staff Committee; Joint Senior Staff Committee and a Joint Senior Staff (Appeals) Committee. These are explained in more detail in Articles 7 to 9.

The Council appoints Members to the Greater Brighton Economic Board (Joint Committee) with other Councils.

Each year, the Full Council appoints a ceremonial Mayor of the Borough, who also chairs meetings of the Full Council.

#### **1.04 How Decisions are made**

The Full Council agrees the Policy Framework and Budget within which any other decisions within the Council are to be made.

The Cabinet are responsible for most of the other Major Decisions. The Cabinet usually meets as a Joint Committee with the Cabinet of the District Council of Adur. This Committee is known as the Joint Strategic Committee. The fact that the Cabinet is to make a Key and/or Exempt Decision is published on the Council's website not less than 28 calendar days before the decision is to be made. When such decisions are to be discussed with Council Officers at a meeting of the Cabinet this will be open for the public to attend, except where confidential information or, if determined, exempt matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the Budget or Policy Framework, this must be referred to the Full Council as a whole to decide.

Cabinet Members take individual decisions, within the remit of their portfolios. These decisions are made outside formal meetings following receipt of a written report, with recommendations and advice, from Officers. These individual Cabinet Member decisions are often taken as joint decisions following consultation with the equivalent Executive Member of the District Council of Adur.

The Council has put in place procedures to ensure that before such decisions are taken, there is appropriate opportunity for consultation with all interested parties and that the decisions must be recorded, in writing, kept and are available to the public.

The majority of the day-to-day decisions of the Council are delegated to Officers.

#### **1.05 Overview and Scrutiny**

The Council will have at least one Overview and Scrutiny Committee ('OSC') and a Joint Overview and Scrutiny Committee ('JOSC') with the District Council of Adur which support the work of the Full Council and the Cabinet as well as scrutinising and challenging the decisions of the Cabinet and Officers when appropriate. When they are looking at policy development or reviewing decisions by the Cabinet, the OSC and JOSC can hold public hearings to receive evidence and opinions from the public, external experts, elected Members and Officers of the Council. Details of how matters can be brought before the OSC are set out in the Overview and Scrutiny Procedure Rules in Part 4 of the Constitution. The majority of the work of Overview and Scrutiny is carried out by the Joint Overview and Scrutiny Committee with the District Council of Adur.



## 1.06 ~~Joint Governance Committee~~ Joint Audit & Governance Committee

The Council has a Joint Audit & Governance Committee with Adur District Council, which is responsible for:

- a) Promoting and maintaining high standards of conduct by Elected Councillors and Co-opted Members and determining standards matters;
- b) Overseeing the audit function, annual accounts and the work of internal auditors; and
- c) For all Non-Executive functions that are not the responsibility of Full Council or any other Non-Executive Committee.

## 1.07 Regulatory Committees

The Council has the following three Regulatory Committees:

The Planning Committee, which is responsible for the Council's development control functions, determines the more complex or sensitive planning applications, and is responsible for planning enforcement and building regulations. Public involvement in this process is encouraged by the opportunity for the public (applicants and objectors) to make written and oral representations to the Committee on planning applications.

The Licensing and Control Committee A, which is responsible for all Non-Executive licensing functions, other than those under the Licensing Act 2003 and the Gambling Act 2005, including the licensing of private hire vehicles, drivers and operators and hackney carriage vehicles and drivers.

The Licensing and Control Committee B, which has been established under the Licensing Act 2003 and is responsible for developing the Council's Licensing Policy and making determinations under the Licensing Act 2003 and the Gambling Act 2005.

## 1.08 The Council's Staff

Together with Adur District Council, the Council employs staff (called 'Officers') to give professional and practical advice, implement decisions of Members, make and implement delegated decisions and manage the day-to-day delivery of its services. Some Officers, namely the Chief Financial Officer (Section 151 Officer), Deputy Section 151 Officer, Monitoring Officer and Deputy Monitoring Officers, have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A protocol in Part 5 of this Constitution governs the relationships between Officers and Members of the Council.

## 1.09 Citizens' Rights

The Council welcomes participation by its citizens in its work. Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The Local Citizens' Advice Bureau can advise on individuals' legal rights.

Where members of the public use specific Council services, they have additional rights. These are not covered in this Constitution. ~~Citizens have the right to:~~

- ~~a) vote at local elections for Councillors if they are registered;~~
- ~~b) contact the Council about any matters for which it is responsible;~~
- ~~c) contact their local Councillor about any matters of concern to them and which are the responsibility of the Council;~~
- ~~d) obtain a copy of the Constitution;~~
- ~~e) attend meetings of the Full Council, the Cabinet and Committees, except where confidential matters are being discussed or it is determined otherwise;~~
- ~~f) petition to request a referendum on a Mayoral form of governance;~~
- ~~g) present petitions, ask questions and make statements at meetings of the Full Council, the Cabinet and Committees in accordance with the relevant rules;~~

Commented [g2]: Repetitive. This is shown in Art.3.

- ~~h) find out, from the 28 Calendar Day Notice of Key and/or Exempt Decisions, what Key Decisions are to be made by the Cabinet or Officers; when they are to be made and how they can make representation;~~
- ~~i) see copies of agendas, reports, background papers in relation to Full Council, the Cabinet and Committees, except those relating to exempt or confidential items;~~
- ~~j) see any record of decisions or minutes of decisions made by the Full Council, the Cabinet and Committees, except those relating to exempt or confidential items;~~
- ~~k) complain to the Council in accordance with its Complaints Procedure;~~
- ~~l) complain to the Local Government Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process;~~
- ~~m) complain to the Monitoring Officer if they have evidence which they think shows that a Councillor has not adhered to the Council's Code of Conduct, and~~
- ~~n) inspect the Council's accounts and make their views known to the External Auditor.~~

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## PART 2 - ARTICLES OF THE CONSTITUTION

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### Article 1 – The Constitution

#### 6.041.01 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution. Should there be a conflict between the two, the law will prevail.

#### 6.021.02 The Constitution

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

#### 6.031.03 Purpose of the Constitution

The purpose of the Constitution is to:

- (a) enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations
- (b) support the active involvement of citizens and encourage all sections of the District's communities to be involved in the Council's decision-making processes;
- (c) help Elected Members represent their constituents more effectively;
- (d) enable decisions to be taken efficiently and effectively;
- (e) create a powerful and effective means of holding decision-makers to public account;
- (f) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (g) ensure that those responsible for decision-making are clearly identified to local people and that they explain the reasons for their decisions;
- (h) provide a means of improving the delivery of services to the community;
- (i) balance speedy and reasoned decision-making with adequate checks and balances;
- (j) place high standards of conduct and probity at the centre of decision-making.

#### 6.041.04 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is most appropriate given the purposes stated above.

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

### Article 2 – Members of the Council

#### 2.01 Composition

The Council comprises 37 Members, otherwise called Councillors. Councillors are elected by the voters of the 13 Wards in the Borough in accordance with a scheme approved by the Secretary of State.

## 2.02 Eligibility

Only registered voters of the Borough or those living or working within the Borough are eligible to stand as a Councillor. For additional information you should refer to [Sections 79 to 81 of the Local Government Act 1972](#).

## 2.03 Election and Term of Office of Councillors

The Ordinary Election of a third of all Councillors will be held on the first Thursday in May in each year, or such date as is determined by legislation except that in 2017 and every fourth year thereafter there will be no Ordinary Borough Election. A Councillor's term of office is four years starting on the fourth calendar day after being elected and finishing on the fourth calendar day after the date of the local Election four years later, unless they have been elected at a by-election, when the term is the remainder of the vacated office they have filled.

## 2.04 Roles and Functions of all Councillors

On accepting office, all Councillors sign a Statutory Declaration of Acceptance of Office. Acceptance of office provides an implied obligation for an Elected Member to comply with the Constitution.

### a) Key Roles

All Councillors will participate constructively and effectively in the governance of the Borough and their local area. Councillors will:

- (i) Collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) Represent their communities and bring the views of their communities into the Council's decision-making process (i.e. become the advocate of and for their communities);
- (iii) Deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (iv) Balance different interests identified within their Ward and represent the Ward as a whole;
- (v) Be involved in decision-making;
- (vi) Be available to represent the Council on other bodies; and
- (vii) Maintain the highest standards of conduct, ethics and probity.

More specifically, all Councillors will:

- (viii) Participate constructively in the good governance of the area;
- (ix) Develop and maintain a prominent position within the community, which reflects their position as a democratically elected representative of the people within the Ward;
- (x) Contribute actively to the formation and scrutiny of the Council's policies, budget, strategies and service delivery;
- (xi) Develop and maintain a sound level of working knowledge of the Council's policies and practices generally and in particular in relation to services, plans and policies affecting Committees to which they are appointed or functions which are delegated to them and to their local area;
- (xii) Exercise their judgement in the best interests of the Ward for which they were elected, subject to their overriding responsibility to the wider community, and deal with constituents' enquiries and representations;
- (xiii) Champion the causes which best relate to the interests and sustainability of the community and campaign for the improvement of the quality of life of the community in terms of equity, economy and environment;

- (xiv) Represent the Council on outside bodies as appointed by the Council or its Executive.
- (xv) [Demonstrate awareness of their corporate parenting role and shared responsibility for understanding the impact of council decisions on, and championing the needs of, children in care and care leavers in the area.](#)

## **b) Key Tasks**

A Councillor's key tasks are to:

- (i) Fulfil the statutory requirements of an Elected Member of the Council and the locally determined requirements of the Council itself, including compliance with all relevant codes of conduct and participation in those decisions and activities reserved to the Full Council;
- (ii) Participate effectively as a Cabinet Member, any Committee, Sub-Committee or working group to which they are appointed, including related responsibilities for the functions falling within their terms of reference and liaison with other public bodies to promote better understanding and partnership working;
- (iii) Participate, where appointed to do so, in the scrutiny or review of services, and their effectiveness in achieving the Council's strategic objectives;
- (iv) Contribute constructively to open government and democratic renewal and actively encourage local people to participate generally in the governance of the area;
- (v) Participate in the activities of any outside body to which they are appointed, providing two-way communication between the Council and the relevant organisations;
- (vi) Report to the Council annually on the activities of any outside body to which they are appointed;
- (vii) Participate, as appointed, in consultative processes with the community and with other organisations;
- (viii) Develop and maintain a working knowledge of the organisations, services, activities and other factors that impact upon the well-being and identity of the Borough of Worthing;
- (ix) Develop and maintain good and effective working relationships with the Cabinet, Chairs and Vice-Chairs of the Council's Committees and relevant Officers of the Council;
- (x) Represent the local community as requested under the procedures for the Community Call for Action (Local Government Act 2007).

## **c) Rights and Duties**

- (i) Councillors will have rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law;
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it;
- (iii) For these purposes, 'confidential' and 'exempt' information are defined in the Access to Information Rules in Part 4 of this Constitution.
- (iv) Councillors shall not request to inspect any document or have access to any information relating to any matter in which they have a disclosable pecuniary interest unless they have received a dispensation from the Monitoring Officer.
- (v) No Councillor shall have any claim by virtue of their position:
  - to enter any land or buildings occupied by the Council to which the public do not have access, or to which Members of the Council do not regularly have access, except with the permission of the Director responsible for the service of the Council for which the land or buildings are occupied, or the Chief Executive;

- to exercise any power of the Council to enter or inspect other land or buildings, except where specifically authorised by the Council;
- to exercise any other powers of the Council.

## **2.05 Conduct**

Councillors will, at all times, observe the Members' Code of Conduct and the Member/Officer Protocol as set out in Part 5 of this Constitution.

## **2.06 Allowances**

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

## **2.07 Political Groups**

Councillors may belong to Political Groups (which are not necessarily the same as political parties). The groups are entitled under the Local Government (Committees and Political Groups) Regulations to nominate Councillors to fill a proportion of the seats on certain Committees of the Council.

Under these Regulations, the membership of most Committees, other than the Cabinet, broadly reflect the proportion of Councillors who are Members of each Political Group on the Council. The main principles are:

- (a) That not all the seats on the Committee are allocated to the same Political Group;
- (b) That the majority of the seats on the Committee are allocated to a Political Group if the majority of Councillors on the Council belong to that group;
- (c) Subject to paragraphs (a) and (b) above, the number of seats on each Committee reflects the proportion of Councillors in the various groups.

At meetings of the Full Council, the Cabinet and Committees, individual Councillors may have regard to the views of their Political Group on policy matters, provided that they also take into account all other considerations. However, this would not apply to the determination of individual regulatory applications.

## **2.08 External Representation**

The Council recognises the importance of its relationship with the communities it represents and all those who receive its services in order to provide desired outcomes. It achieves these aims in the following ways:

- (a) By recognising the opportunity for the public and external bodies to be involved in its business, through its Committee structure and engagement with the community;
- (b) By making appropriate Councillor appointments to other bodies; and
- (c) By ensuring that the Councillor representative role is meaningful and recognises the needs of the electorate.

## **2.09 Indemnity**

The Council shall indemnify each and every Member, co-opted Member and Officer of the Council ('the Beneficiary') on demand from and against all liability for actions, claims, demands, costs, charges and expenses (including legal expenses on an indemnity basis) which may arise out of, or be in consequence of, any action of, or failure to, act by the Beneficiary which is:

- (a) authorised by the Council; or
- (b) forms part of, or arises from, any powers conferred or duties placed upon the Beneficiary as a consequence of any functions being carried on by that Beneficiary

but excluding any action of, or failure to act by, the Beneficiary which constitutes a criminal offence or is the result of fraud, deliberate wrong doing or recklessness.

## Article 3 – The Citizen and the Council

### 3.01 Citizens' Rights

The council welcomes participation by members of the public in its work. A strong democratic council, working collaboratively across Worthing, can deliver (and advocate for) the policies and resources that all its citizens need to live a good life within the framework of a strong, creative and vibrant community.

Members of the public who grow up, study, work, live and visit the Borough have a number of rights in their dealings with the council, including:

- (a) vote at local elections, if they are registered
- (b) contact the Council about any matters for which it is responsible;
- (c) contact their local councillor about any matter of concern to them and which are the responsibility of the Council;
- (d) attend meetings of Council, Cabinet, Scrutiny and Regulatory committees, except where confidential or exempt information is likely to be disclosed;
- (e) find out from the Forward Plan what Major Decisions will be taken and when by Cabinet and officers and how they can make representations;
- (f) sign a petition:
  - i) requesting the establishment of a parish council or similar Community Governance Review<sup>1</sup>
  - ii) requesting a referendum to replace the council's political management model<sup>2</sup>
  - iii) on any matter for which the council's is responsible in accordance with the Council's Petition Scheme set out in Part 5 of the Constitution
- (g) inspect the following documents:
  - i) agendas, public reports, background papers and any public records of decisions made by Council, Cabinet, committees and officers, except those relating to exempt or confidential items
  - ii) the Constitution
  - iii) the Register of Members' Interests
  - iv) the Council's accounts as part of the annual audit and make their views known to the external auditor
  - v) pay and remuneration policies for chief and senior officers
- (h) access other information as set out in the Access to Information Rules
- (i) make complaints about services to:
  - i) the Council, under its customer complaints scheme
  - ii) the Ombudsman, after using the Council's complaints scheme
  - iii) the Monitoring Officer, about alleged breaches of the Member Code of Conduct
  - iv) the Information Commissioner in relation to the Council's actions under the Data Protection Act 1998 and the Freedom of Information Act 2000
- (j) ask questions or address all formal meetings of the Full Council, the Cabinet and Committees, subject to Council Standing Orders in Part 4 of this Constitution
- (k) attend and speak as part of a deputation at full Council meetings, subject to Council Procedure Rules in Part 4 of this Constitution
- (l) contribute to the discussions investigations by the Overview and Scrutiny Committee and the Joint Overview & Scrutiny Committee at the discretion of the chair of the meeting;
- (m) take part in the Council's consultation activities

<sup>1</sup> See the Legislative Reform (Community Governance Reviews) Order 2014

<sup>2</sup> See the Local Authorities (Referendums)(Petitions)(England) Regulations 2011. Every year, the Council will publish details of the number of electors required to instigate a referendum for a change in governance arrangements.

(n) initiate a Community Right to Buy, Community Right to Build, Community Right to Bid, Community Right to Challenge or participate in Neighbourhood Planning, as identified by the Localism Act 2011 (see below).

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

#### **• Voting and Petitions**

Citizens on the Electoral Roll for the area have the right to;

- i) vote in the election of Councillors;
- ii) sign a petition to request a referendum for an Elected Mayor form of Executive; and
- iii) vote in referenda.

Every year, the Council will publish details of the number of electors required to instigate a referendum for an Elected Mayor form of Executive.

**b)** Anyone who lives, works or studies in the Borough can sign or organise a petition to request particular action. Petitions will be managed and responded to in accordance with the Council's Petition Scheme set out in Part 4 of the Constitution.

#### **c) Information**

Citizens have the right to:

- i) attend meetings of the Full Council, the Executive, Committees and Sub-Committees, except where confidential or exempt information is likely to be disclosed and it is determined that the meeting is held in private;
- ii) find out from the 28 Day Notice of Key and/or Exempt Decisions and the Full Council's website what Key Decisions will be taken by the Full Council, the Executive and Officers and when;
- iii) see reports, background papers, minutes and any records of decisions made by the Full Council, the Executive, Committees and Sub-Committees, except those that are confidential or exempt; and
- iv) see the decisions relating to Executive functions made by Officers, except where confidential or exempt information is likely to be disclosed;
- v) inspect the Council's accounts and make their views known to the external Auditor (subject to statutory limitations).

#### **d) Participation**

Citizens have the right to present petitions to the Council, in accordance with the Petitions Scheme in part 4 of this Constitution.

Citizens may ask questions or address all formal meetings of the Full Council, the Executive and Committees, subject to Council Standing Orders in Part 4 of this Constitution, and can contribute to investigations by the Overview and Scrutiny Committee and the Joint Overview & Scrutiny Committee.



### **e) Complaints**

Citizens have the right to complain to:

- i) ~~the Council itself under its complaints scheme;~~
- ii) ~~the Local Government Ombudsman or the Housing Ombudsman after using the Council's own complaints scheme;~~
- iii) ~~the Council's Monitoring Officer about an alleged breach of the Councillors' Code of Conduct (details are set out in Part 5 of this Constitution);~~
- iv) ~~the Information Commissioner in relation to the Council's actions under the Data Protection Act 1998 and the Freedom of Information Act 2000.~~

### **3.02 Citizens' Responsibilities**

Citizens have social responsibilities and the Council's Officers and Members have a legitimate expectation to be treated courteously and with respect. Citizens must not be violent, abusive or threatening to Councillors, Co-opted Members or Officers and must not wilfully harm things owned by the Council, Councillors, Co-Opted Members or Officers.

Citizens are entitled to attend public meetings of the Full Council, the Cabinet and Committees, but must comply with the rulings of the Chair. They may not disrupt the meeting or cause undue disturbance or they may be removed from the meeting.

### **3.03 The Community Rights**

The Localism Act 2011 introduced rights and powers for individuals and communities to take over public services, community assets and influence planning and development.

The four community rights are a set of powers that give local people a greater say over how their community develops. They give local people the chance to decide what is built and how their area should develop. Groups of people have the chance to deliver local services and develop them into community enterprises.

**Community Right to Bid - We want to save our local pub, shop, library, park, football ground'**

The Right to Bid allows communities and parish councils to nominate buildings or land for listing by the local authority as an 'asset of community value'. An asset can be listed if its principal use furthers (or has recently furthered) the community's social well-being or social interests (which include cultural, sporting or recreational interests) and is likely to do so in the future.

The council must keep a 'List of Assets of Community Value'. The legislation outlines the definition of an asset of community value, what groups can nominate, the appeals process for land owners, timescales for groups interested in buying land or property on the list, and compensation available to the owners of land or property on the list. The council's list can be found here: [Assets of Community Value and Community Right to Bid - Adur & Worthing Councils \(adur-worthing.gov.uk\)](http://Assets of Community Value and Community Right to Bid - Adur & Worthing Councils (adur-worthing.gov.uk)). If the asset comes up for sale, the community can 'pause' the sale and take up to six months to find the funding required to buy the asset.

Several community organisations can nominate land and buildings for inclusion on the list, provided they have a local connection, which means their activities are wholly or partly concerned with the area, or with a neighbouring authority's area. These include parish councils, neighbourhood forums (as defined in Neighbourhood Planning regulations).

unconstituted community groups of at least 21 members and not-for-profit organisations (e.g. charities).

**Community Right to Build - 'We want to build affordable housing and other community facilities'**

The Right to Build gives communities the power to build new shops, housing or community facilities without going through the normal planning process. It gives local organisations the right to bring forward small-scale community-led developments.

A Community Right to Build Order is a type of Neighbourhood Development Order and forms part of the Neighbourhood Planning provisions in the Localism Act that give parish councils or neighbourhood forums the right to develop plans for their area.

Development proposals in neighbourhood plans and Community Right to Build need to be agreed through an independent examination and have the agreement of 50% of people who vote through a community referendum. Local authorities have a duty to assist and advise community organisations, which are also free to involve partners such as developers or housing associations.

If your community wants to construct or rebuild community buildings such as a community centre or community-led housing, a Community Right to Build Order could be the best route to take.

**Community Right to Challenge - 'We can do this better – I want to deliver a local service and set up a social enterprise'**

The Right to Challenge gives local groups the opportunity to express their interest in taking over a local service where they think they can do it differently and better.

Community Right to Challenge is the right for community organisations to say that they are interested in running a particular public service and potentially get the chance to bid to do this. If a community group, charity, parish council or group of public sector staff identifies a service they would like to run, then they can submit an expression of interest to the council that runs the service. If accepted, this will trigger a procurement exercise. The interested group will then most likely need to compete with others in a competitive tendering process.

**Community Right to Reclaim Land - 'We can use this land in a better way'**

The Community Right to Reclaim Land allows communities to challenge local councils and some other public bodies to release their unused and underused land. As land is held on the behalf of the taxpayer, councils have a duty to use it effectively. This right gives communities the power to ensure that they do so.

Anyone can submit a request to the Secretary of State for Communities and Local Government requesting that the council be directed to dispose of the land so that it can be brought back into use. If it is found that the land is being held without being adequately utilized, and that the council has no plans to bring the land into use, the Secretary of State can direct the council to dispose of the land, usually on the open market.

Submitting requests is a simple and easy process, with request forms and detailed guidance available on the government website.

**Community Asset Transfer**

Community Asset Transfer is the transfer of management and/or ownership of land or buildings from a public body to a community-based organisation, at less than market value, in order to promote social, economic or environmental well-being.

The Community Right to Bid is sometimes confused with Community Asset Transfer. Although they share some of the same objectives, they are substantively different mechanisms that communities can use to acquire land and buildings. The main differences are:

- (a) Community Asset Transfer is the transfer of ownership or management of publicly owned assets, whereas the Community Right to Bid applies to some public and some privately owned assets.
- (b) Community Asset Transfer is the transfer of management or ownership at less than market value. Community Right to Bid gives a window of opportunity for a community group to compete to buy an asset on the open market.
- (c) Community Asset Transfer is a voluntary process entered into proactively by public bodies. The Community Right to Bid is a pre-emptive legal right pertaining to communities.

## Article 4 – The Full Council

### 4.01 The Role of the Full Council

Full Council is the policy-making body from which the Policy Framework will be established. Council has responsibility for ensuring that the correct structures are in place for the effective implementation and delivery of its services. Once the structures are agreed and appointments made, the Cabinet will be delegated the responsibility of policy implementation and effective service delivery. The election of the Leader and the appointment of Non-Executive Committees, will be the responsibility of the Full Council.

Each year the Full Council will elect a Chair, who shall not then be a Cabinet Member or the Overview & Scrutiny Committee.

Each year the Full Council shall appoint a Vice Chair who shall not then be a Cabinet Member.

The Full Council shall normally meet six times per year unless a need is identified for any additional meetings.

### 4.02 Meanings

#### a) Policy Framework

The Council's Policy Framework comprises the following list of plans and strategies relevant to its functions, [some of] which are required by law<sup>3</sup> to be decided by Full Council, usually on the recommendation of the Cabinet:

The Policy Framework includes the following plans and strategies:

- (a) The Council's Vision and its Key Aims and Objectives (Corporate Plan);
- (b) Plans and strategies which together comprise the Local Development Framework Plan;
- (c) Licensing Authority Policy Statement(2003 Act);
- (d) Gambling Policy: Statement of principles;

<sup>3</sup> Regulation 4 and Schedule 3 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000

**Commented [g3]:** This list of policies requiring Full Council approval appears excessively long. Suggest it be reduced.

The minimum required by statute are:

- Corporate Plan
- Plans and alterations that together comprise the Local Plan
- Licensing Policy
- Gambling Policy

Plus any other plan or strategy required by law or which the Council determines should be designated as a Policy Framework document and adopted or approved by Full Council

All others can be delegated either to officers or committees to approve.

- ~~(e) Treasury Management Strategy Statement and Annual Investment Strategy;~~
- ~~(f) Revenue Budget Strategy;~~
- ~~(g) Capital Strategy;~~
- ~~(h) Medium Term Financial Plan;~~
- ~~(i) Sustainable Community Strategy;~~
- ~~(j) Community Safety Strategy;~~
- ~~(k) Housing Strategy;~~
- ~~(l) Parking Strategy;~~
- ~~(m) Cultural Strategy;~~
- ~~(n) Climate Change Strategy;~~
- ~~(o) Coastal Defence Strategy;~~
- ~~(p) Rivers Arun to Adur Flood and Erosion Management Strategy;~~
- ~~(q) Economic Development Strategy;~~
- ~~(r) Health and Safety Enforcement;~~
- ~~(s) Equality Scheme;~~
- ~~(t) E-business Strategy;~~
- ~~(u) The Plan and Policy Strategy, which comprises the Asset Management Plan;~~
- ~~(v) Code of Corporate Governance;~~
- ~~(w) Procurement Strategy;~~
- ~~(x) Risk Management Strategy;~~
- ~~(y) Any other plan or strategy (whether statutory or non-statutory) which the Council resolves shall be adopted or approved by it.~~

Any proposal to amend these plans or adopt policies or take decisions that are not in accordance with them can only be decided by Full Council.

There will, however, be a number of supplementary policies, plans, strategies, operating procedures or protocols that sit under these plans, which do not need to be approved by the Council. Those supplementary documents can be approved by the relevant committee, Cabinet, Cabinet Member or Officer with responsibility for the area of operations concerned.

#### b) Budget

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

#### 4.03 Functions of the Full Council

The following functions must not be exercised by the Leader/Executive and, where not otherwise delegated, shall be reserved to the Full Council:

- to adopt, amend (apart from changes to Part 3 in relation to Executive functions which will be discharged by the Leader/Executive) or suspend the Constitution, in accordance with the provisions of Article 15;
- b) to make proposals and fulfil any duties to change the Council's Executive arrangements, determine whether a Referendum is required and pass a resolution to make such change;
- e) to approve the Council's budget, as defined in Article 4.02(b) of the Constitution;
- d) to approve, amend, revoke or replace any plan or strategy falling within the Council's Policy Framework (including any decision required for submission to the Secretary of State);

**Commented [g4]:** Section 100 of the Deregulation Act 2015 repealed section 4 of the Local Government Act 2000. The effect of this is to remove the duty for local authorities to prepare a Sustainable Community Strategy and the linked duty to consult with and seek the participation of their partner authorities and others. The repeal was made as part of the localism agenda and gives local authorities the freedom to decide whether or not a Sustainable Community Strategy is needed for their area. On 13 April 2011 the statutory guidance to local authorities on preparing a Sustainable Community Strategy was withdrawn.

'Waves Ahead' used to be the SCS, but we appear to have a [Sustainability Framework 2021-23](#) now instead?

**Commented [g5]:** The current [Housing Strategy](#) appears to run from 2020-23, although it is unclear when it was approved by full Council.

**Commented [g6]:** The [Parking Strategy](#) was last approved in 2018 by Joint Strategic Committee – NOT full Council.

**Commented [g7]:** It is unclear when the [Cultural Strategy](#) was approved by full Council and when it is due to be reconsidered.

**Commented [g8]:** Is it the same as the [SustainableAW Framework](#), which was approved by JSC rather than full Council? Or was it subsumed into the Sustainability Framework, mentioned above?

**Commented [g9]:** There is reference [here](#) to a Coastal Defence Strategy having been made in March 2000. It has since been superseded by the Flood and Erosion Management Strategy (2010-20), but has not since been reviewed or updated.

**Commented [g10]:** The [latest version](#) of this strategy appears to run from 2010-20. It replaced the Coastal Defence Strategy. There is no later version and no plans to review or update it.

**Commented [g11]:** There is an Economic Strategy that runs from 2018-23 [here](#). Is this the same? When was it approved by full Council?

**Commented [g12]:** Included in Corporate Strategy – remove.

**Commented [g13]:** "This was an update of an existing policy decision made in 2012 - we were in breach of our duties so undertook an update of the existing policy. It needs a complete update (and associated staff and community engagement process) and the revised policy needs to go to members for adoption." (Richard Tuset)

**Commented [g14]:** I could find no record of this strategy. Does it exist?

**Commented [g15]:** There is a Property Asset Management Plan [here](#). Is it the same. When was it approved by full Council? When is it due for review?

**Commented [g16]:** There is a Sustainable Procurement Strategy [here](#). Is it the same? When was it approved by full Council?

**Commented [g17]:** The Risk and Opportunity Management Strategy isn't annual – it is said to run from 2021-23. It was approved by JSC in Dec 2020, but has not been approved by full Council.

**Commented [g18]:** This section has been moved to Part 3, so that all Full Council functions are in one place.

- e) ~~subject to the urgency procedure contained in the Financial Procedure Rules in Part 4 of this Constitution, to make decisions about any matter in the discharge of an Executive function which is covered by the Financial Procedure Rules or included in the budget, but where the decision-maker is minded to make it in a manner which would be contrary to Financial Procedure Rules or contrary to, or not wholly in accordance with, the budget:-~~
- ~~9~~ ~~— where the decision is made under any procedure for the approval of urgent decisions approved by the Council;~~
- ~~a) where departures from the budget:-~~
- ~~10~~ ~~— are not met from external funding, a contingency or reserve set up for the purpose;~~
- ~~11~~ ~~— are not met from proven savings elsewhere in the revenue budget and exceed £150,000;~~
- ~~12~~ ~~— are not met from proven savings in that financial year in the Capital Programme and exceed £150,000;~~
- ~~13~~ ~~— the new project (whether revenue or capital) is not fully funded by a grant or external contribution already contained in the Council budget and/or the cost of the project exceeds £150,000;~~
- ~~14~~ ~~— The expenditure has the effect of changing Council policy.~~
- ~~f) — to elect the ceremonial Mayor and appoint the Deputy Mayor of the Council;~~
- ~~g) — to elect and remove the Leader;~~
- ~~h) — with the exception of the Executive, to appoint and dissolve Committees and determine or amend their Terms of Reference and size;~~
- ~~i) — with the exception of the Executive, to determine the allocation of seats on the Council's Committees, and to make appointments to them;~~
- ~~j) — to appoint representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Full Council;~~
- ~~k) — to approve, amend, revoke or replace the Members' Allowances Scheme and to determine the levels of all allowances payable to Councillors taking into consideration the recommendations of the Council's Joint Independent Remuneration Panel;~~
- ~~l) — to confer the title of Honorary Alderman, Alderwoman or Freedom of the Borough;~~
- ~~m) — to make arrangements in accordance with the Officer Employment Procedure Rules in Part 4 of the Constitution for the appointment of Directors, Statutory Chief Officers, non-statutory Chief Officers, the Monitoring Officer and the Deputy Chief Officers;~~
- ~~n) — to appoint and dismiss the Chief Executive (Head of Paid Service), Chief Finance Officer and Monitoring Officer;~~
- ~~o) — to designate Officers as the Head of Paid Service, Monitoring Officer and Chief Finance Officer;~~

- p) — to appoint Proper Officers as required by statute;
- q) — to determine the terms and conditions on which staff hold office, including procedures for their dismissal, unless otherwise delegated;
- r) — to make, amend, revoke, re-enact or enforce bylaws (other than those relating to taxis and private hire vehicles);
- s) — to promote or oppose local or personal Bills;
- t) — to exercise such local choice functions as may be set out in Part 3 of this Constitution which the Full Council decides should be undertaken by itself, rather than by the Executive or any Committee or Officer;
- u) — to exercise the Council's functions in relation to elections and electoral registration including the appointment of the Electoral Registration Officer and the Returning Officer for Local Government Elections;
- v) — to adopt, revise or replace the Code of Conduct for Councillors and Co-opted Members and arrange for dealing with allegations of misconduct;
- w) — to approve the public consultation in accordance with Part 6 of the Town and Country Planning (Local Planning) (England) Regulations 2012 any draft proposals relating to a development plan document;
- x) — to make all necessary arrangements for the discharge of non-Executive functions through joint arrangements, including the establishment of Joint Committees, Area Committees or delegation to another Local Authority;
- y) — to authorise the contracting out of non-Executive functions to another body;
- z) — to accept any delegation of functions from another Local Authority (in relation to both Executive and non-Executive functions);
- aa) — to exercise the Council's functions in relation to community governance arrangements and to determine any matters relating to the name and status of areas;
- bb) — to make an Order identifying a place as a designated public place for the purposes of Police powers in relation to alcohol consumption and designating a locality as an alcohol disorder zone; unless otherwise delegated;
- cc) — to resolve not to issue casino premises licences;
- dd) — to determine policy in respect of the licensing of Hackney Carriages and Private Hire Vehicles and review such policy upon the recommendation of the Licensing Control Committee;
- ee) — to authorise Co-opted Members to vote at meetings of Scrutiny Committees in accordance with a scheme approved by the Council;
- ff) — to determine matters relating to the failure of a Councillor to attend meetings for a period of six months;
- gg) — to determine all other matters which, by law, must be reserved to the Council or which have not been delegated to any Committee or Officer;

- hh) —to approve the Schedule of Ordinary Council Meetings for the forthcoming year;
- ii) —to make appointments to various Independent Person roles; as required by statute.

#### 4.03 Full Council Meetings

There are ~~four~~five types of Full Council Meeting:

- (a) the Annual Meeting;
- ~~(b)~~ Ordinary Meetings;
- ~~(b)~~(c) Budget setting meetings;
- ~~(c)~~(d) Extraordinary Meetings;
- ~~(d)~~(e) Special Meetings;

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution, except that there will be no Public Question Time, Petitions and Questions from Elected Members at the Annual Meeting.

#### 4.05 Responsibility for Functions

The Full Council will determine the responsibilities for the Council's functions which are not the responsibility of the Cabinet. Details are set out in Part 3 of this Constitution.

### Article 5 – Chairing the Council

#### 5.01 Role and Function of the Mayor

The Mayor will be elected by Council annually.

The Mayor, and, in their absence, the Deputy Mayor will have the following roles, functions and responsibilities:

- (a) Chairing meetings of Full Council
  - (i) to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary, having taken advice from the Head of Legal Services;
  - (ii) to preside over meetings of the Full Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
  - (iii) to ensure that the Full Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Cabinet or do not hold Committee Chairs are able to hold the Cabinet and Committee Chairs to account;
  - (iv) ensure that meetings of Council are properly constituted and that a quorum is present;
  - (v) preserve order in the conduct of those present;
  - (vi) preside over meetings of the council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
  - (vii) confine discussion within the scope of the meeting and reasonable limits to time;
  - (viii) decide whether proposed motions and amendments are in order;
  - (ix) determine the validity of points of order;
  - (x) determine other incidental questions that require decision;
  - (xi) ascertain the sense of the meeting by:
    - putting relevant questions to the meeting and taking a vote thereon

- declaring the result
- (xii) cause a ballot to be taken if demanded;
- (xiii) approve the draft minutes or other record of proceedings;
- (xiv) adjourn the meeting with the consent of those present where circumstances justify it;
- (xv) declare the meeting closed when its business is complete.
- ~~to promote public involvement in the Council's activities; and~~
- ~~v) to be the conscience of the Council.~~

(b) Civic and Ceremonial Role

The Mayor shall be the First Citizen of the Borough of Worthing and shall have the following civic responsibilities:

- (i) to attend such civic and ceremonial functions as the Council and the Mayor may determine generally or in appropriate cases;
- (ii) to promote the Council as a whole and act as a focal point for the community;
- (iii) to host functions in order to promote the Council and its interests.

(c) Generally:

The Mayor may promote a Mayor's Charity Appeal for the charity or charities of their choice during their term of office and will make external arrangements for provision of all the support necessary in relation to their involvement with, or support of, that charity appeal.

## Article 6 – Overview and Scrutiny

### 6.01 Introduction

- (a) Overview and Scrutiny is an important element of the Constitution. The Overview and Scrutiny Committee, Joint Overview and Scrutiny Committee, Sub-Committees and/or panels which may be established from time to time to carry out overview and scrutiny represent powerful public forums through which Councillors can monitor the implementation of the Council's policies and the quality of its services; make recommendations on the discharge of the Council's functions and/or other matters affecting the Borough of Worthing and hold the Cabinet to account for their decisions and actions;
- (b) Overview and Scrutiny is concerned with the overall wellbeing of the Borough and all factors affecting this, including not only Council services but those of other agencies and other matters. Overview and Scrutiny is an important mechanism for community Councillors to represent their Wards and are a focus for stakeholder and community involvement;
- (c) This Article outlines the basic elements of the Overview and Scrutiny function. It should be read in conjunction with the Overview and Scrutiny Procedure Rules, which appear at Part 4 of the Constitution and provide a more detailed framework for the operation of Overview and Scrutiny.

### 6.02 The Council has appointed an Overview and Scrutiny Committee and jointly with the District Council of Adur, a Joint Overview and Scrutiny Committee to discharge the functions conferred by Section 21 of the Local Government Act 2000 and regulations under Section 32 of the Local Government Act 2000.

### 6.03 General Role

Within their Terms of Reference, the Overview and Scrutiny Committee and the Joint Overview and Scrutiny Committee may:



- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (b) make reports and/or recommendations to the Full Council, the Cabinet or any Committee in connection with the discharge of any functions;
- (c) consider and make reports or recommendations to the Full Council, the Cabinet or a Committee on any matters affecting the Council's area or its inhabitants; and
- (d) exercise the right, following a Call-In, to ask for reconsideration of decisions made but not yet implemented by the Cabinet;
- (e) perform scrutiny functions relating to crime and disorder and to scrutinise the Adur & Worthing Safer Communities Partnership<sup>4</sup>

The Overview and Scrutiny Committee has 15 Members appointed by the Council and its membership will reflect the political balance on the Council.

The Joint Overview and Scrutiny Committee has 16 Members. The Council appoints 8 Members and the District Council of Adur appoints 8 Members.

All councillors (except Cabinet Members) may be members of the Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee. However, no member may be involved in scrutinising a decision with which they have been directly involved, or in which they have pecuniary or personal interest, or any other actual or perceived conflict of interest, e.g. a close relationship with a decision-maker.

#### 6.04 Co-opted Members

The Overview and Scrutiny Committee and the Joint Overview and Scrutiny Committee, their Sub-Committees and Working Groups, may, from time to time, co-opt up to two non-voting Members to assist them with 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.

#### 6.05 Specific Functions

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

The Overview and Scrutiny Committee and the Joint Overview and Scrutiny Committee may:

- (i) assist the Council and the Cabinet on all issues, including the development of new policies and the review of existing policies and services;
- (ii) assist the Council and the Cabinet in the development of its budget and Policy Framework by in-depth analysis of policy issues;
- (iii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (iv) consider all performance, resources and corporate governance issues;
- (v) question Cabinet Members about their views on issues and proposals affecting the area; and appoint Panels to assist it with its work;
- (vi) set and monitor the annual scrutiny work programme.

##### b) **Scrutiny**

The Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee may:

- (i) review and scrutinise the decisions made by the Cabinet and Council Officers, both in relation to individual decisions and over time;

<sup>4</sup> s.19 Police and Justice Act 2006 and Crime and Disorder (Overview and Scrutiny) Regulations 2009

- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (iii) question Cabinet Members and Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the Cabinet and/or Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and
- (vi) question and gather evidence from any person (with their consent).

c) **Finance**

The Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee may exercise overall responsibility for any finances made available to it.

d) **Annual Report**

The Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee must report annually to Full Council on its workings and make recommendations for future work programmes and amended working methods, if appropriate.

e) **Officers**

The Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee may exercise overall responsibility for the work programme of any Officers employed to support their work.

**6.06 Proceedings of the Overview and Scrutiny Committee**

The Overview and Scrutiny Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules, or jointly with the Borough Council of Worthing in accordance with the Joint Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

**6.07 Greater Brighton Economic Board (Joint Committee) Call-in Panel**

The Overview and Scrutiny Committee will appoint one of its Members to be a Member of the Greater Brighton Economic Board (Joint Committee) Call-in Panel, who is not a Member, nor a substitute Member, of the Greater Brighton Economic Board (Joint Committee). The function of this Panel will be to consider decisions made, but not yet implemented, by Greater Brighton Economic Board (Joint Committee), when challenged by a Member of the Board referring such a decision to the Panel.

**Article 7 – The Cabinet**

**7.01 Role**

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

**7.02 Form and Composition**

The Cabinet will consist of the Leader, who shall act as Chair of the Cabinet, together with between 2 and 9 other Councillors appointed by the Leader, one of whom the Leader shall appoint as Deputy Leader.

### 7.03 Leader

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:

- (a) They resign from office.
- a) ~~They cease to be a Councillor other than on the normal day of their retirement as Councillor; or~~
- b) ~~The next 'Selection Meeting' of the Council which is the Annual Meeting after the Leader's normal day of retirement as a Councillor; or~~
  - (b) They are removed from office by the Council.
  - (c) If the Leader in office immediately before the Council elections is re-elected as a councillor within the Political Group having an overall majority of councillors after the elections, then the Leader shall continue in office until the election of a Leader by the Council and may exercise any Executive functions under this Constitution, if necessary;
  - (d) If the Leader in office immediately before the Council elections ceases to be a councillor or ceases to be within the Political Group having an overall majority of councillors after the elections, then the Leader shall not continue in office and delegated power is granted to the Chief Executive in cases of genuine urgency to exercise all Executive functions of the Council in consultation with the representative of the largest Political Group of councillors (or groups in the event of a parity of councillors).

### e)a) 7.04 Deputy Leader

The Leader shall appoint a Cabinet Member to be the Deputy Leader.

The Deputy Leader will hold office until:

- (a) they resign from office;
- (b) they cease to be a Councillor; or
- (c) they are removed from office by the Leader; ~~such removal to be notified in writing to the Monitoring Officer and the removal will take place 3 clear working days after receipt of such notice.~~

### 7.05 Cabinet Members

Other Cabinet Members shall be appointed by the Leader and have delegated to them specific Executive functions. They shall hold office until:

- (a) they resign from office;
- (b) they cease to be Councillors;
- (c) they are removed from office by the Leader; ~~such removal to be notified in writing to the Chief Executive (or Monitoring Officer) and the removal will take place 3 clear working days after receipt of such notice.~~

### 7.06 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Council's Procedure Rules and the Cabinet Procedure Rules, as set out in Part 4 of this Constitution.

### 7.07 Responsibility for Functions

The Leader, at their discretion, will determine which individual Cabinet Members, Committees of the Cabinet, Ward Members, Officers or joint arrangements are responsible

**Commented [g19]:** The Local Government and Public Involvement in Health Act 2007 makes provision in section 236 for councils to delegate some of their functions to individual councillors, to allow them to make decisions at a ward level which will bring real improvements to their local areas.

for the exercise of particular Executive functions. The Monitoring Officer will maintain a list setting out such arrangements in Part 3 of this Constitution. The Leader will notify the Monitoring Officer of any appointments, removals or changes to Executive delegations, which shall then be circulated to all Members and take effect immediately, which shall take effect 3 working days thereafter.

#### **7.08 Policy Advisers**

- a) ~~Policy Advisers may be appointed by the Leader to advise Executive Members on any area for which they are responsible.~~
- b) ~~An Executive Member may consult a Policy Adviser before making a decision.~~
- c) ~~A Policy Adviser shall not have power to take decisions on behalf of or affecting the Council.~~

## **Article 8 – Regulatory and Other Non-Executive Committees and Advisory Panels**

### **8.01 Regulatory Committees**

The Council will appoint the following Committees:

- (a) Planning Committee;
- (b) Licensing and Control Committee A;
- (c) Licensing and Control Committee B

### **8.02 Non-Executive Decision-Making Committees**

The Council will, jointly with the District Council of Adur, appoint the following Non-Executive Decision Making Committees:

- (a) Joint Audit & Governance Committee;
- (b) Joint Staff Committee;
- (c) Joint Senior Staff Committee;
- (d) Joint Senior Staff (Appeals) Committee

### **8.03 Advisory Panels**

The Council will, jointly with the District Council of Adur appoint the following advisory panels:

- (a) Joint Independent Remuneration Panel.

### **8.04 Terms of Reference and Procedure Rules**

The terms of reference and delegated powers of the Committees are set out in Part 3 of this Constitution.

The terms of reference of the Joint Audit & Governance Committee should be read in conjunction with the Standards Procedure Rules in Part 4. The terms of reference of the Joint Staff Committee, Joint Senior Staff Committee and Joint Senior Staff Appeals Committee should be read in conjunction with the Officer Employment Procedure Rules in Part 4. The terms of reference for the Planning Committee should be read in conjunction with the Probity in Planning document in Part 5.

The terms of reference, procedure rules and delegated functions of the Joint Independent Remuneration Panel can be found in Part 4 of this Constitution.

## **Article 9 – Governance**

### **9.01 Standards**

The Council has established a Joint Audit & Governance Committee with the District Council of Adur.

The Committee will carry out functions delegated to it by the Council in accordance with the Local Government Acts 1972 and 2000 and the Localism Act 2011 including the Standards functions.

### **9.02 Composition**

#### **a) Political Balance**

The Joint Audit & Governance Committee has to comply with the political balance rules in Section 15 of the Local Government & Housing Act 1989.

#### **b) Membership**

The Joint Audit & Governance Committee is composed of the following:

- (i) Eight Worthing Borough Councillors only one of whom can be a Cabinet Member;
- (ii) Eight Adur District Councillors only one of whom can be a Cabinet Member;
- (iii) Up to three persons who are not Councillors nor Officers of the Council nor any other body having a Standards Committee and are appointed as Independent non-voting co-opted members ('Independent Persons');
- (iv) One Member of Lancing Parish Council and one Member of Sompting Parish Council (Parish Representatives) appointed as non-voting Co-opted Members to advise the Committee on standards matters relating to a Parish.

#### **c) 'Independent Persons'**

'Independent Persons' are independent non-voting Co-opted Members of the Joint Audit & Governance Committee. Their role and function is to:

- (i) advise and assist the Committee by providing an independent opinion on the matters before the Committee;
- (ii) advise the Monitoring Officer, as consultee, in respect of complaints under the Member Code of Conduct; and
- (iii) advise any Member who is the subject of a complaint under the Member Code of Conduct, (the 'Subject Member'), as a consultee.

Not more than one Independent Person shall advise the Committee in respect of standards matters at any one time.

#### **d) Parish Representatives**

Parish Representatives will not be entitled to vote at meetings. At least one Parish Representative should be present when matters relating to Parish Councils or their Members are being considered, although a Parish Representative must not advise in any matter affecting the Parish Council or Parish Councillors of the Parish of which they are a Parish Councillor.

#### **e) Local Determinations**

The Committee may appoint a Sub-Committee, comprising at least two Members of the Council, and at least two Members of Adur District Council and one Independent

Person. The Members of the Sub-Committee shall be selected by the Monitoring Officer from the Members of the Joint Audit & Governance Committee.

When considering a complaint in respect of a Parish Councillor the Sub-Committee shall include a Parish Representative.

### **9.03 Role and Function of Members of the Governance Committee**

- (a) Promoting and maintaining high standards of conduct by Councillors and Co-opted Members;
- (b) Assisting the Councillors and Co-opted Members to observe the Code of Members Conduct;
- (c) Advising the Council on the adoption, or revision, or replacement of the Code of Members' Conduct;
- (d) Monitoring the operation of the Code of Members' Conduct;
- (e) Advising, training or arranging for the training of Councillors and Co-opted Members on matters relating to the Code of Members Conduct;
- (f) Granting dispensations to Councillors and Co-opted Members from requirements relating to interests set out in the Code of Members Conduct, which have not been dealt with by the Monitoring Officer.
- (g) Hearing and determining allegations that a Member or Co-opted Member of the Borough Council has failed or may have failed to comply with the Code of Members' Conduct in accordance with the provisions of the Localism Act 2011 and any relevant regulations;
- (h) To co-opt, in an advisory capacity only, any person who is an Independent Person at another Local Authority, to advise the Committee or any Sub-Committee. Such advice to be provided on such terms as the Committee may determine and agree with the person and the Local Authority concerned, and in accordance with the Localism Act 2011 and any relevant regulations;
- (i) To make arrangements for the appointment of two Parish Representatives to advise the Committee on Parish matters;
- (j) To receive an annual report from the Monitoring Officer on the local resolution and assessment of allegations of breaches of the Code of Members' Conduct;
- (k) To support the Monitoring Officer in the exercise of the Officers' Ethical Standards functions, in particular the duty to establish and maintain Registers of Interest for the Council;
- (l) Any other functions imposed by statute;
- (m) To appoint a Sub-Committee consisting of two elected Members of the Council, two elected Members of Adur District Council, one co-opted Parish Representative (for Parish Matters) and one Independent Person to determine applications for dispensation and complaints following investigations.

## **Article 10 – Joint Arrangements**

### **10.1 Joint Arrangements**

- (a) The Council has established joint arrangements with the District Council of Adur to exercise Non-Executive functions, and to advise the Council. These arrangements include the appointment of Joint Committees with the District Council of Adur.
- (b) The Cabinet has established joint arrangements with the District Council of Adur to exercise Executive functions. These arrangements include the appointment of a Joint Strategic Committee with the Executive of the District Council of Adur.
- (c) The Council has established joint arrangements with Brighton & Hove City Council, and the District Councils of Adur, Lewes in relation to the Greater Brighton Economic Region under the City Deal arrangements. These arrangements include the appointment of a Greater Brighton Economic Board (Joint Committee).

- (d) The Council may establish further joint arrangements with the one or more Local Authorities to exercise Non-Executive functions, and to advise the Council. These arrangements may include the appointment of Joint Committees with the other Local Authorities.
- (e) The Cabinet may establish further joint arrangements with one or more other Local Authorities to exercise Executive functions. These arrangements may include the appointment of a Joint Committee with the other Local Authorities.

#### **14.210.2 Arrangements to Promote Well-Being**

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

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

#### **14.310.3 Access to Information**

- (a) The Access to Information Procedure Rules in Part 4 of this Constitution apply.
- (b) If all the Members of a Joint Committee are Cabinet Members in each of the participating Authorities then its access to information regime is the same as that applied to the Cabinet.
- (c) If the Joint Committee contains Members who are not on the Cabinet of any participating Authority then the Access to Information Rules in Part V of the Local Government Act 1972 will apply.

#### **14.410.4 Delegation to and from Other Local Authorities**

- (a) The Council may delegate Non-Executive functions to another Local Authority or, in certain circumstances, the Cabinet of another Local Authority.
- (b) The Cabinet may delegate Executive functions to another Local Authority or the Cabinet of another Local Authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another Local Authority shall be reserved to the Full Council.
- (d) The Council has accepted delegations from the South Downs National Park Authority in relation to Planning matters.

#### **14.510.5 Contracting Out**

The Cabinet may contract out, to another body or organisation, functions which may be exercised by an Officer and which are subject to an Order under Section 70 of the Delegation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making. In the event of such delegation, the decision to contract out shall be reserved to Full Council.

## **Article 11 – Officers**

### **11.01 Management Structure**

#### **a) General**

The Council may employ such staff (referred to as Officers) as it considers necessary to carry out its functions. The Full Council will confirm the appointment of the Chief Executive (Head of Paid Service), the Chief Finance Officer and the Monitoring Officer. All other staff will be appointed by the Chief Executive or by an

individual to whom the Chief Executive has delegated authority. All appointments must be made in compliance of the Officer Employment Procedure Rules in Part 4 of the Constitution.

Adur and Worthing Councils have a Joint Officer Management Structure; some of the areas of responsibility listed in this part of the Constitution may refer only to one Council. The Joint Committee Agreement, as amended, has the definitive roles and responsibilities. Full details of the delegations to Officers can be found in the Joint Scheme of Delegations to Officers, which is included within Part 4 of this Constitution.

**b) Corporate Leadership Team**

The Council will engage persons for the following posts and they will collectively be designated as the Corporate Leadership Team ('CLT'):

Chief Executive  
Director for Communities  
Director for Digital, Sustainability and Resources  
Director for the Economy

**c) Head of Paid Service, Monitoring Officer and Chief Financial Officer**

The Council will designate the following statutory posts as shown:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service, Returning Officer (for Adur, Worthing and Parish elections), Deputy Returning Officer (for West Sussex County Council elections), Acting Returning Officer (for Parliamentary elections) and Electoral Registration Officer (for Police and Crime Commissioner elections).
Head of Legal Services	Monitoring Officer (Section 5 of the Local Government and Housing Act 1989).
Head of Financial Services	Chief Finance Officer (Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1982)

Such posts will have the functions described in Articles 11.02–11.04 below.

**d) Structure**

The Chief Executive will, from time to time, report to Full Council on the overall departmental structure of the Council, showing the management structure and deployment of Officers. This is set out at Part 7 of this Constitution and may be amended from time to time by Full Council.

**e) The Council's Pay Policy**

The Chief Executive shall produce the Council's Pay Policy to be approved by Full Council no later than 31 March each year.



## **11.02 Functions of the Head of Paid Service**

### **a) Discharge of functions by the Council**

The Head of Paid Service will from time to time report to the Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.

### **b) Appointment and dismissal of staff**

The Council has delegated to the Head of Paid Service responsibility for certain staffing matters as set out in the Officer Employment Procedure Rules set out in Part 4 of the Constitution.

On acceptance of appointment all Officers are obliged to comply with the provisions of the Constitution.

### **c) Restrictions on functions**

The Head of Paid Service cannot be the Monitoring Officer but may hold the post of Chief Finance Officer, if a qualified accountant.

## **11.03 Functions of the Monitoring Officer**

### **a) Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is openly available to Members, Officers and the public. The Monitoring Officer has the delegated authority to make minor and consequential amendments to the Constitution at any time.

### **b) Ensuring lawfulness and fairness of decision-making**

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council, or to the Cabinet in relation to any Executive decision, if they consider that any proposal, decision or omission would give rise, or has given rise, to unlawfulness, or maladministration or service failure. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

### **c) Supporting the Joint Audit & Governance Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Joint Audit & Governance Committee.

### **d) Code of Conduct complaints**

The Monitoring Officer will:

- (i) carry out an initial assessment of every allegation that a Member of the Council has failed to comply with the Code of Conduct and, after consulting one of the Independent Persons if necessary, decide whether or not it should be investigated;
- (ii) appoint an Investigator if they decide that a complaint merits formal investigation;

(iii) review the Investigator's report, in consultation with one of the Independent Persons and decide either that no further action is required or that the matter should be referred to a Sub-Committee of the Joint Audit & Governance Committee for a hearing.

e) **Proper Officer for Access to Information**

The Monitoring Officer will ensure that all decisions, together with the reasons for those decisions, relevant Officer reports and background papers, are made publicly available as soon as possible. The Monitoring Officer will be the Proper Officer for determining whether information should be exempt.

f) **Providing advice**

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions and maladministration issues to all Members.

g) **Restrictions on posts**

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

#### **11.04 Functions of the Chief Finance Officer**

a) **Ensuring lawfulness and financial prudence of decision-making.**

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council, or to the Cabinet in relation to an Executive function, and the Council's External Auditor, if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.

b) **Administration of Financial Affairs**

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

c) **Contributing to Corporate Management**

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

d) **Providing Advice**

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and Policy Framework issues to all Members and will support Council.

e) **Providing Financial Information**

The Chief Finance Officer will provide financial information to the media, members of the public and the community.

f) **Advising whether Executive decisions are within the budget and the financial regulations**

The Chief Finance Officer is responsible for advising whether Executive decisions are within the financial regulations and whether funding for such decisions is within the budget.

g) **Restriction on Functions**

The Chief Finance Officer shall not be the Monitoring Officer, but may be the Head of Paid Service.

**11.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

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

**11.06 Conduct**

Officers will comply with the Officers' Code of Conduct set out in Part 5 of this Constitution.

**11.07 Employment**

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

## **Article 12 – Decision-Making**

**12.01 Responsibility for Decision-Making**

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

**12.02 Principles of Decision-Making**

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

- (a) there should be clarity of aims and desired outcomes;
- (b) all decision shall be in accordance with the Budget and Policy Framework, Finance, Contract and all other procedure rules, statutory requirements, guidance and codes of practice;
- (c) proper regard should be paid to the outcome of any internal or external consultation;
- (d) a presumption in favour of openness, accountability and transparency;
- (e) assessing the impact on human rights, equality, diversity and sustainability~~there should be respect for human rights;~~
- (f) proportionality (i.e. the action must be proportionate to the desired outcome);
- (g) there should be an explanation of the alternative options considered;
- (h) there should be proper and documented records and reasons given for all decisions;
- (i) take into account all relevant considerations and ignore those which are irrelevant;
- (j) due consultation and proper advice is taken from Officers and consideration of alternative options before decisions are reached;
- (k) impartiality and an absence of bias, pre-determination or conflicts of interest;
- (l) any interests are properly declared;
- (m) decisions are proportionate to the desired outcome;
- (n) a presumption in favour of transparency and openness;

In exercising discretion, the decision-maker must:

- (a) understand the law that regulates the decision-making power and gives effect to it. The decision-maker must direct itself properly in law;
- (b) take into account all relevant matters (those matters which the law requires the Authority as a matter of legal obligation to take into account);
- (c) leave out of account irrelevant considerations;
- (d) act for a proper purpose, exercising its powers for the public good;
- (e) not reach a decision which no Authority acting reasonably could reach (also known as the 'rationality' or 'taking leave of your senses' principle);
- (f) comply with the rule that Local Government finance is to be conducted on an annual basis, save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- (g) act with procedural propriety in accordance with the rules of fairness.

To be lawful, a decision:

- (a) If taken in Full Council, Cabinet, Committee, Sub-Committee or Joint Committee, must comply with the principle of being reached by a majority of Councillors present and voting, at a properly constituted meeting;
- (b) Be one which the decision-maker is empowered or obliged to take, otherwise it is ultra vires;
- (c) If intended to secure action (as opposed, for example, to a resolution merely expressing the Council's collective view on an issue), be capable of execution, or it will be of no effect; and
- (d) Not purport to undo what has already been done irrevocably (but it can rescind an earlier decision where this is feasible).

There can be no substitute for appropriate advice on a matter-by-matter basis. This guidance cannot be, and does not purport to be, comprehensive or replace that professional advice.

### 12.03 Types of decision

#### a) **Decisions reserved to Full Council**

Decisions relating to the functions listed in Article 4.03 will be made by the Full Council and not delegated.

#### b) **Key Decisions**

Certain Executive decisions are 'Key Decisions' within the terms of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000. These are decisions which are likely:

Either:

- i) to result in the Council incurring expenditure which is, or the making of savings which are, significant, having regard to the Council's budget for the service or function to which the decision relates, which the Council has currently determined to be;
  - A) Capital schemes, within the approved Capital Programme, in excess of £250,000; or
  - B) the letting/re-letting of contracts of value of £100,000 or more over the period of the contract, where provision has been made in the approved budget; or
  - C) expenditure in addition to the approved budget, requiring virement or a supplementary estimate in excess of £100,000;

Or:

- ii) to be significant in terms of its effects on communities living or working in an area comprising two or more Wards in the wider area of Adur District Council and Worthing Borough Council jointly.

In interpreting after the event whether or not a decision should or should not have been classified as a Key Decision, the following will be taken into account:

- The issue must be assessed on the basis of the information which could reasonably have been available to the decision-maker at the time;
- The 'de minimis'<sup>5</sup> rule will be applied;
- The level and nature of advice sought by the decision-maker. The Monitoring Officer and Chief Financial Officer will have significant roles to play in this.

A decision-maker may only make a Key Decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

No treasury management decisions, as defined by the Chief Financial Officer, shall be deemed to be key decisions.

**Major Decisions** are decisions which are not Key Decisions and are not Administrative Decisions.

**Administrative Decisions** are decisions that are ancillary to the delivery of the function such as the:

- (a) ordering of stationery;
- (b) publication of statutory notices;
- (c) deployment of staff.

#### **12.04 Decision-Making by the Full Council**

Subject to Article 12.08 the Full Council will follow the Council's Standing Orders relating to the Council in Part 4 of this Constitution when considering any matter.

#### **12.05 Decision-Making by the Cabinet**

Subject to Article 12.08 the Cabinet will follow the Cabinet Procedure Rules relating to the Cabinet in Part 4 of this Constitution when considering any matter.

#### **12.06 Decision-Making by Overview and Scrutiny**

Subject to Article 12.08 the Overview and Scrutiny function will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **12.07 Decision-Making by Other Committees**

Subject to Article 12.08, other Council committees and sub-committees will follow those parts of the Council's Procedure Rules set out in Part 4 of this Constitution as apply to them.

#### **12.08 Decision-Making by Council bodies acting as tribunals**

Any decision-making body within the Council acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purpose of giving advice) the civil rights and obligations or the criminal responsibility of any person, will follow a proper

<sup>5</sup> *'De minimis' means (in this context) that this rule does not apply to trifling, minor or insignificant variations, departures or breaches.*

procedure which accords with the requirements of natural justice and the right to a fair trial as contained in Article 6 of the European Convention on Human Rights.

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

### **13.01 Financial Management**

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

### **13.02 Contracts**

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

### **13.03 Legal Proceedings**

The Head of Legal Services is authorised to institute, defend, participate in, prosecute or settle any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where they consider that such action is in the Council's best interests. The Head of Legal Services may delegate this authority to a suitably qualified Officer or a suitably qualified external provider.

### **13.04 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal Services or another person authorised by them, unless any enactment otherwise authorises or requires.

All contracts entered into on behalf of the Council in the course of the discharge of an Executive or Non-Executive function shall be made in writing and signed in accordance with the Contract Procedure Rules in Part 4 of this Constitution.

Any contract with a value exceeding £100,000 entered into on behalf of the Council in the course of the discharge of an Executive or Non-Executive function shall be made in writing and must either be signed by at least two Officers of the Council, or made under the Common Seal of the Council attested by at least one Officer, in accordance with the Contract Procedure Rules in Part 4 of this Constitution.

### **13.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal Services or by any other person duly authorised by them, who is employed by the Council and authorised in writing. The Head of Legal Services may additionally arrange for the Mayor to attest the Common Seal where this is desirable for civic or ceremonial reasons.

The Monitoring Officer may adopt such means of sealing as from time to time they consider appropriate. This may include allowing electronic sealing in accordance with section 7A(1) of the Electronic Communications Act 2000 (as may be amended from time to time). Affixing of an electronic seal approved in this way shall be of the same legal effect as affixing the Common Seal of the Council (provided that where a witness is required, the additional formalities for witnessing the electronic execution are complied with).

**Commented [GW20]:** To make provision for electronic sealing.

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

### **14.01 Duty to Monitor and Review the Constitution**

The Joint Audit & Governance Committee will monitor and review the operation of the Constitution to ensure that its aims and principles are given full effect.

### **14.02 Protocol for Monitoring and Review of the Constitution by the Monitoring Officer**

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

- (a) observe meetings of different parts of the Member and Officer structure;
- (b) undertake an audit of a sample of decisions;
- (c) record and analyse issues raised with them by Members, Officers, the public and other relevant stakeholders; and
- (d) compare practices in this Council with those in other comparable Councils, or with national examples of best practice.

### **14.03 Changes to Constitution**

#### **a) Approval**

Changes to the Constitution arising either from a review, a motion from Council or from the Monitoring Officer will only be approved by the Full Council after consideration of the proposal by the Joint Audit & Governance Committee.

#### **b) Minor or inconsequential changes**

The Monitoring Officer has delegated authority to update the Constitution arising from decisions of the Council or Cabinet or where legislation requires a change in wording or terminology, such changes to be reported to Members of the Joint Audit & Governance Committee. The Monitoring Officer also has delegated authority to make 'de minimis' inconsequential changes to the Constitution, without the requiring of such reporting.

#### **c) Change in the form of Executive**

Special Procedures apply to changes in the form of Executive including (but not limited to) binding referendums when the law requires.

#### **d) Delegations**

Where a delegation is made to an Officer by the Council, to last six months or more, that delegation may need to be reflected within the Constitution (normally Part 3 or one of the Appendices), in which case the Monitoring Officer has authority to update the Constitution to reflect that change.

#### **e) Changes that are predominantly managerial in their nature**

The Monitoring Officer has the authority to amend the Constitution in relation to matters that are predominantly managerial in their nature where there is agreement from the other two Statutory Officers, namely the Chief Executive (Head of Paid

Service) and the Chief Financial Officer, and where the matter has been subject to consultation with the appropriate Members (normally the relevant Cabinet Member and opposition spokespersons). Any such changes will be reported subsequently to Joint Audit & Governance Committee.

f) **Changes arising from changes to Cabinet Portfolios**

The Monitoring Officer has authority to amend the Constitution to reflect decisions of the Leader in relation to the delegation of Executive functions.

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

### **15.01 Suspension or Waiver of the Constitution**

a) **Limit to Suspension**

The Articles of this Constitution may not be suspended or waived. The Standing Orders and Procedure Rules below may be suspended or waived by the Full Council or the Cabinet or any Committee, to the extent permitted within those Procedure Rules, and the law.

b) **Procedure to Suspend**

A motion to suspend any Standing Order or Procedure Rule in accordance with Article 15.01 must be moved in accordance with the Standing Order or Procedure Rules. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution as set out in Article 1.

### **15.02 Interpretation**

The person presiding at any meeting shall take into account legal advice in interpreting the Constitution. The ruling of the person presiding at any meeting as to the construction or application of this Constitution in relation to any proceedings of the meeting shall not be challenged at that meeting. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **15.03 Publication**

- (a) On first being elected to the Council, and on an individual declaring their acceptance of office, the Monitoring Officer will make available an electronic or paper copy of this Constitution to each Member.
- (b) The Monitoring Officer will ensure that copies are available for inspection at Council Offices, Libraries and other appropriate locations, and that they are available for purchase by members of the local press and the public on payment of a reasonable fee.



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## PART 3 – RESPONSIBILITY FOR FUNCTIONS

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### Commentary

- 1.1 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 specify that all functions are the responsibility of the Cabinet except for:
- (a) Those specified in the legislation as not being the responsibility of the Cabinet;
  - (b) Those which are specified in the legislation as being capable of being the responsibility of the Cabinet (the 'local choice functions'); and
  - (c) Those which are specified in the legislation to be, only to some extent, the responsibility of the Cabinet.

The Cabinet arrangements contained in the Constitution make clear how these distinctions are given effect.

### Principles of Delegation

- 2.1 One of the primary purposes of the Constitution is to make it clear where responsibility for a particular function lies, and which person or body (Full Council, Committee, Sub-Committee, Cabinet (whether acting individually or collectively), Joint Committee, [Ward Member](#) or Officer) is accountable for making a particular decision or not.

### 2.2 The Hierarchy of Decision-Making

#### The Full Council

The Full Council will exercise the functions reserved by law to Full Council as set out in Article 4 of this Constitution, and those determined locally to be functions of Full Council, as set out in Sections 3 and 4 of this Part 3 of the Constitution.

#### The Cabinet

The Cabinet will exercise the functions set out in Sections 3 and 5 of this Part 3 of the Constitution.

#### The Responsibility for Local Choice Functions

The responsibility for local choice functions will be exercised in accordance with Section 3 of this Part 3 of the Constitution.

#### Non-Executive Committees

Non-Executive Committees will exercise the functions set out in Section 4 of this Part 3 of the Constitution. Committees are able to appoint Sub-Committees. The Overview and Scrutiny Committee and Joint Overview and Scrutiny Committee may appoint Panels or Working Groups from time to time to carry out reviews.

#### Officers

Officers will exercise delegated functions, in accordance with:

- (a) Section 2 of Part 3 of the Constitution (Principles of Delegation);
- (b) Column 4 of the table in Section 4 of Part 3 of the Constitution (Responsibility for Council functions);

- (c) Section 5 of Part 3 of the Constitution (Terms of Reference and Delegated Powers of the Cabinet and Non-Executive Committees);
  - (d) The Scheme of Delegations to Officers in Part 4 of the Constitution;
  - (e) Provisions made elsewhere in the Constitution.
- 2.3 If a function is delegated to the appropriate Director, the Chief Executive may nominate a substitute Director or exercise the delegation himself, where this would, in the Chief Executive's opinion, be appropriate, provided that the Chief Executive or Director has the requisite professional qualification, experience and knowledge, where such is required.
- 2.4 If a decision falls within the remit of a Cabinet Member described in Section 3 of this Part 3 of the Constitution, that Member may take the decision. However, if responsibility overlaps with the portfolios of other Cabinet Members, the decision must be referred to the Cabinet as a whole.
- 2.5 If a decision falls within the remit of a Cabinet Member and that Cabinet Member is unavailable to make the decision or has not made the decision, then the Leader may make the decision in their place.
- 2.6 Limitations and parameters of delegations
- (a) The exercise of a delegated power, duty or function shall be subject to:
    - (i) The Council's Policy Framework and budget; and
    - (ii) The Constitution (including, but not limited to, the Council Standing Orders, Financial Regulations and Contract Procedure Rules) and any corporate standards;
  - (b) All delegated functions shall be deemed to be exercised on behalf of and/or in the name of the Council;
  - (c) An Officer to whom a power, duty or function is delegated may, unless prohibited by the delegation, authorise another Officer to exercise that power, duty or function, subject to a requirement that the seniority of the Officer exercising the power should be of an appropriate level having regard to the nature of the power in question. Such authorisation shall be in writing, copied to the Monitoring Officer, and shall include whether or not the receiving Officer can further delegate.
  - (d) References to any Act, regulation, Order or byelaw shall be construed as including any re-enactment or remaking of the same, whether or not with amendments.
  - (e) Any reference to any Act of Parliament includes reference to regulations, subordinate and EU legislation upon which either UK legislation is based (as amended or replaced from time to time), or from which powers, duties and functions of the Council are derived.
  - (f) Where the exercise of powers is subject to prior consultation with a Cabinet Member or Officer, the consultation shall be in writing, unless due to urgency that is not practicable, in which case there may be verbal consultation which must be confirmed, by the Officer undertaking the consultation to the consultee in writing, as soon as reasonably practicable and, in any event, within five working days.
  - (g) Subject to any express instructions to the contrary from the delegating body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.
  - (h) All delegations are subject to:
    - (i) The right of the delegating body to decide any matter in a particular case;
    - (ii) The right of an individual delegatee, in any case, to refer the matter to the delegating body for a decision, rather than exercising their delegation; and
    - (iii) Any restrictions, conditions or directions of the delegating body and of the delegation.
  - (i) In exercising delegated powers, the delegatee shall:
    - (i) Take account of the requirements of the Constitution and shall address all legal, financial and other professional safeguards as if the matter were not delegated;

- (ii) Exercise the delegation so as to promote the efficient, effective and economic running of the Council, and in furtherance of the Council's visions and value;
- (iii) Ensure that, except where otherwise expressly provided, either within this part of the Constitution or by resolution of the delegating body, the exercise of any delegated power, duty or function is subject to having the appropriate and necessary budgetary provision in place.
- (j) Any post specifically referred to shall be deemed to include any successor post, or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded.
- (k) Any reference to a Committee shall be deemed to include reference to a successor Committee, provided that the subject matter of a particular delegation can be found within the Terms of Reference of both the earlier and the successor Committee or Sub-Committee.
- (l) Where a power or duty is delegated, the exercise of that power or duty is contingent upon the opinion of the Council that particular conditions or factual circumstances exist, then the delegatee in question has the power to determine whether or not those circumstances do exist, or those conditions have been fulfilled, in the name of, and with the authority of, the Council.
- (m) If a matter is delegated, but that delegation cannot be implemented, that should be reported to the delegating body.
- (n) Functions, matters, powers, authorisations, delegations, duties and responsibilities, shall be construed in a broad and inclusive fashion, and shall include the doing of anything which is calculated to facilitate, or is conducive, or incidental, to the discharge of anything specified.

## Local Choice Functions

- 3.1 These are functions that could be, but don't have to be, the responsibility of the Cabinet, and whether a function is Executive or Non-Executive, is down to local choice. The Council has determined the decision-maker for local choice functions to be as set out in the table below, but the decision-maker is able to further delegate to Officers in accordance with the Officer Scheme of Delegations in Part 4 of the Constitution.
- 3.2 Where it has been determined locally to be a Non-Executive function, see Article 4 and the table below. Where it has been determined locally to be an Executive function, see Article 7 and the table below.

Function	Local Choice	Decision-Maker
<u>Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1.</u>	Executive	Cabinet as a whole
<u>The determination of appeals against any decision made by or on behalf of the authority (other than those reserved to a Non-Executive committee)</u>	Executive	Cabinet as a whole
Any function relating to contaminated land (a) to the extent that the function involves the formulation of a strategic policy	Executive	Cabinet Member for Environmental Services
(b) to the extent that the function does not involve the formulation of a strategic policy	Non-Executive	Governance Committee
Performing any function relating to controlling pollution or managing air quality: (a) to the extent that the function involves the formulation of a strategic policy	Executive	Cabinet Member for Environmental Services

(b) to the extent that the function does not involve the formulation of a strategic policy	Non-Executive	Governance Committee
The service of an Abatement Notice in respect of a statutory nuisance under Section 80(1) Environmental Protection Act 1990	Non-Executive	Governance Committee
The passing of a resolution that Schedule 2 Noise and Statutory Nuisance Act 1993 should apply under Section 8 of the Noise and Statutory Nuisance Act 1993: (a) to the extent that the function involves the formulation of a strategic policy	Executive	Cabinet Member for Environmental Services
(b) to the extent that the function does not involve the formulation of a strategic policy	Non-Executive	Governance Committee
Inspection of the Authority's area to detect any statutory nuisance (a) to the extent that the function involves the formulation of a strategic policy	Executive	Cabinet Member for Environmental Services
(b) to the extent that the function does not involve the formulation of a strategic policy	Non-Executive	Governance Committee
The investigation of any complaints as to the existence of a statutory nuisance	Non-Executive	Governance Committee
Obtaining information from Section 330 of the Town and Country Planning Act 1990 as to interests in land: (a) to the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders	Executive	Cabinet Member for Environmental Services
(b) to the extent that it is necessary to exercise these powers in respect of actions which are not preliminary to the exercise of powers to make compulsory purchase orders	Non-Executive	Planning Committee
Obtaining information about people interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976: (a) to the extent that it is necessary to exercise these powers in respect of actions which are preliminary to the exercise of powers to make compulsory purchase orders	Executive	Cabinet Member for Environmental Services
(b) to the extent that it is necessary to exercise these powers in respect of actions which are not preliminary to the exercise of powers to make compulsory purchase orders	Non-Executive	Governance Committee
Making agreements for highways works to be carried out	Non-Executive	Governance Committee
The appointment (and revocation of appointment) of any individual: (1) to any office other than an office in which they are employed by the Authority; (2) to any body other than: (a) the Authority; (b) a Joint Committee of two or more Authorities; or (c) to any Committee or Sub-Committee of such a body.	Executive and Non-Executive	Leader <a href="#">where the appointment relates to Executive powers.</a> <a href="#">The Council where the appointment relates to Non-Executive functions</a>
The making of agreements with other Local Authorities for the placing of staff at the disposal of those other Authorities: (a) to the extent that the staff are being placed at the disposal of the other Authority in relation to the discharge of functions which are the responsibility of the Authority placing the staff	Non-Executive	Governance Committee

(b) to the extent that the staff are being placed at the disposal of the other Authority in relation to the discharge of functions which are not the responsibility of the Authority placing the staff	Executive	Cabinet as a whole
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## Responsibility for Council Functions

- 4.1 Regulation 2 and Schedule 1 Local Authorities (Functions and Responsibilities) (England) Regulations 2000, provides that the following functions may not be the responsibility of the Cabinet and shall be reserved to the Full Council. These functions are therefore all Non-Executive.
- 4.2 The table below should be read in conjunction with the Committee terms of reference in Part 3 and the Officer Scheme of Delegations in Part 4 of the Constitution.

<u>Functions</u>	<u>Service Area with responsibility for Function</u>
<u>To elect the Chair and appoint the Vice Chair of the Council Power to confer the title of honorary alderman or alderwoman (section 249 of the Local Government Act 1972)</u>	Director for Communities
<u>To approve the Schedule of Ordinary Council meetings for the forthcoming year</u>	
<u>With the exception of the Cabinet, to appoint and dissolve Committees and determine or amend their terms of reference and size</u>	
<u>With the exception of the Cabinet, to determine the allocation of seats on the Council's Committees, and to make appointments to them</u>	
<u>To appoint representatives to outside bodies unless the appointment is an Executive function or has been delegated by the Full Council</u>	
<u>To make all necessary arrangements for the discharge of Non-Executive functions through joint arrangements, including the establishment of Joint Committees, Area Committees or delegation to another Local Authority</u>	
<u>To authorise the contracting out of Non-Executive functions to another body</u>	
<u>To accept any delegation of functions from another Local Authority (in relation to both Executive and Non-Executive functions)</u>	
<u>Make rules of procedure, adopt, amend (apart from changes in relation to Executive functions which will be discharged by the Leader/Cabinet) or suspend the Constitution, in accordance with the provisions of Article 15</u>	Head of Legal Services
<u>Appoint Proper Officers</u>	Head of Legal Services
<u>To make arrangements in accordance with the Officer Employment Procedure Rules in Part 4 of the Constitution for the appointment of Directors, Statutory Chief Officers, non-statutory Chief Officers, the Monitoring Officer and the Deputy Chief Officers</u>	
<u>To appoint and dismiss the Chief Executive (Head of Paid Service), Chief Finance Officer and Monitoring Officer</u>	
<u>To designate Officers as the Head of Paid Service, Monitoring Officer and Chief Finance Officer</u>	
<u>To determine the terms and conditions on which staff hold office, including procedures for their dismissal, unless otherwise delegated</u>	
<u>To make appointments to various Independent Person roles: as required by statute</u>	
<u>To approve the Council's budget, as defined in Article 4.02(b) of the Constitution, and Statement of Accounts (Part 3 of the Accounts and Audit Regulations 2015)</u>	Head of Financial Services (Section 151 Officer)

<p><u>Subject to the urgency procedure contained in the Financial Procedure Rules in Part 4 of this Constitution, to make decisions about any matter in the discharge of an Executive function which is covered by the Financial Procedure Rules or included in the budget, but where the decision-maker is minded to make it in a manner that would be contrary to Financial Procedure Rules or contrary to, or not wholly in accordance with, the budget:</u></p> <p><u>(a) where the decision is made under any procedure for the approval of urgent decisions approved by the Council;</u></p> <p><u>(b) where departures from the budget:</u></p> <p><u>i) are not met from external funding, a contingency or reserve set up for the purpose;</u></p> <p><u>ii) are not met from proven savings elsewhere in the revenue budget and/or exceed £150,000;</u></p> <p><u>iii) are not met from proven savings in that financial year in the Capital Programme and/or exceed £150,000;</u></p> <p><u>iv) the new project (whether revenue or capital) is not fully funded by a grant or external contribution already contained in the Council budget and/or the cost of the project exceeds £150,000;</u></p> <p><u>v) the expenditure has the effect of changing Council policy.</u></p>	
<u>To approve, amend, revoke or replace any plan or strategy falling within the Council's Policy Framework (including any decision required for submission to the Secretary of State)</u>	
<u>To approve, amend, revoke or replace the Members' Allowances Scheme and to determine the levels of all allowances payable to Councillors, taking into consideration the recommendations of the Council's Joint Independent Remuneration Panel</u>	<u>Democratic Services Manager</u>
<u>To adopt, revise or replace the Code of Conduct for Councillors and Co-opted Members and arrange for dealing with allegations of misconduct</u>	
<u>To authorise Co-opted Members to vote at meetings of Scrutiny Committees in accordance with a scheme approved by the Council</u>	
<u>To determine matters relating to the failure of a Councillor to attend meetings for a period of six months</u>	
<u>Adoption and revision of the Statement of Licensing Policy (Licensing Act, 2003)</u>	<u>Director for Customer Services</u>
<u>Adoption and revision of the Statement of Gambling Policy (Gambling Act 2005)</u>	<u>Director for Customer Services</u>
<u>To resolve not to issue casino premises licences</u>	
<u>To determine late night levy requirements (Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011, regulations made thereunder and para. 1.4 of Home Office guidance)</u>	
<u>To make an Order identifying a place as a designated public place for the purposes of Police powers in relation to alcohol consumption and designating a locality as an alcohol disorder zone, unless otherwise delegated</u>	
<u>To determine policy in respect of the licensing of Hackney Carriages and Private Hire Vehicles and review such policy upon the recommendation of the Licensing Committee</u>	
<u>Power to make, amend, revoke, re-enact or enforce bylaws (other than those relating to taxis and private hire vehicles)</u>	<u>Head of Legal Services</u>
<u>To promote or oppose local or personal Bills (section 239 of the Local Government Act 1972)</u>	<u>Head of Legal Services</u>
<u>Making a request for single-Member electoral areas</u>	<u>Returning Officer/Electoral Registration Officer</u>

<u>Resolving to consult on and change a scheme for elections and related publicity (sections 33(2), 35, 38(2), 41, 40(2) and 52 of the Local Government and Public Involvement in Health Act 2007)</u>	<u>Returning Officer/Electoral Registration Officer</u>
<u>To make proposals for a change in governance arrangements or complying with a duty to make a change in governance arrangements, approving the proposals, deciding whether the change should be subject to approval and a referendum to make the change, including provision in Executive arrangements for the Executive Leader to be removed by resolution and passing a resolution for the removal of the Executive Leader (section 81 Local Government and Public Involvement in Health Act 2007)</u>	<u>Head of Legal Services</u>
<u>Making a reorganisation order implementing recommendations of a community governance review (section 81 Local Government and Public Involvement in Health Act 2007)</u>	<u>Head of Legal Services</u>
<u>Functions relating to Electoral Registration and the holding of elections (section 39(4) of the Representation of the People Act 1983)</u>	<u>Returning Officer/Electoral Registration Officer</u>
<u>To pay expenses properly incurred by Electoral Registration Officers (section 54 of the Representation of the People Act 1983)</u>	
<u>The appointment of the Electoral Registration Officer (section 8(2) of the Representation of the People Act 1983) and the Returning Officer for local government elections (section 35 of the Representation of the People Act 1983)</u>	
<u>Assigning officers in relation to requisitions of the Electoral Registration Officer (section 52(4) of the Representation of the People Act 1983)</u>	
<u>To fill vacancies in the event of insufficient nominations at an ordinary election of parish councillors (section 21 of the Representation of the People Act 1985)</u>	
<u>To declare vacancy in office in certain cases (section 86 of the Local Government Act 1972)</u>	
<u>To give public notice of a casual vacancy (section 87 of the Local Government Act 1972)</u>	
<u>To submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000</u>	
<u>To divide constituencies into polling districts (sections 18A to 18E of, and Schedule A1 to, the Representation of the People Act 1983)</u>	
<u>To divide electoral wards into polling districts at local government elections (section 31 of the Representation of the People Act 1983)</u>	
<u>Duties relating to notice to Electoral Commission (sections 36 and 42 of the 2007 Act)</u>	
<u>To alter years of ordinary elections of parish councillors (section 53 of the 2007 Act)</u>	
<u>To change of name of electoral area (section 59 of the 2007 Act)</u>	
<u>To approve the public consultation on any draft proposals relating to a Local Plan document (Part 6 of the Town and Country Planning (Local Planning) (England) Regulations 2012)</u>	
<u>To exercise functions in relation to community governance arrangements, including those relating to Parishes and Parish Councils, and to determine any matters relating to the name and status of areas</u>	
<u>To dissolve small parish councils (section 10 of the Local Government Act 1972)</u>	
<u>To make temporary appointments to parish councils (section 91 of the Local Government Act 1972)</u>	
<u>To make orders for grouping parishes, dissolving groups and separating parishes from groups (section 11 of the Local Government Act 1972)</u>	

<u>To exercise such local choice functions as may be set out in Part 3 of this Constitution which the Full Council decides should be undertaken by itself, rather than by the Cabinet or any Committee or Officer</u>	
<u>To determine all other matters which, by law, must be reserved to the Council or which have not been delegated to any Committee or Officer</u>	

## Terms of Reference and Delegated Powers of the Cabinet and Non-Executive Committees

### Non-Executive Committees

#### Powers Delegated to Non-Executive Committees

- (a) Each Committee is authorised to exercise such powers and duties as are delegated to it by the Council and shall act within the plans, policies, strategies and budgets approved by the Council.
- (b) All Committees have power to create such sub-committees as are necessary for the efficient conduct of their business.
- (c) The following functions may not be delegated to Non-Executive Committees:
  - (i) to approve any matter which the Council is required by statute to approve;
  - (ii) ~~to decide the major policies or objectives of the Council, and specifically to~~ approve the budget and financial strategies, and the plans and strategies listed in Article 4 under the Policy Framework;
  - (iii) the discontinuance of, or major alterations to, existing services;
  - (iv) amendment to Council Standing Orders, Financial Regulations, Contract Procedure Rules or the Terms of Reference of Committees;
  - (v) to make Major Decisions relating to District, County or other boundaries;
  - (vi) the right to dissolve a Committee or alter its membership or Terms of Reference; and
  - (vii) the appointment of Members to other organisations.

### The Cabinet

#### Powers of the Cabinet

- (a) Composition: Between three and ten Elected Members of the Council, including the Leader and Deputy Leader.
- (b) Meetings: Up to twelve Ordinary meetings per year.
- (c) The Cabinet will be the Cabinet arm of the Council with the authority to action policies within the planned strategies and budget approved by the Council.
- (d) The composition of between three and ten Members does not, and is not, required to, follow the rules of proportionality relating to Political Groups.
- (e) The Executive Leader ('the Leader'), as elected by Council, shall chair the Cabinet meetings and may designate a portfolio role to each Cabinet Member.
- (f) The Leader will appoint Cabinet Members and delegate to them a portfolio as set out in the terms of reference below. The Leader will notify the Monitoring Officer of any such appointments, removals or changes to the Cabinet or Cabinet delegations, which shall then be circulated to all Members and take effect immediately. The Leader will notify the Head of Legal Services within two working days of any such appointments, changes to the Executive, or Executive delegations. On at least an annual basis, the Head of Legal Services will advise Council of the Executive structure for its noting.
- (g) The Leader may also appoint Portfolio Team Members to assist Cabinet Members.
- (h) The Leader shall prepare the 28 Calendar Day Notice of Key and/or Exempt Decisions to be made by the Cabinet.



- (i) For the avoidance of doubt, any reference to partnerships contained below may not include legally binding partnerships.
- (j) The Cabinet has the power to appoint Members to other organisations, in respect of Executive functions.

#### **Terms of Reference of the Cabinet**

1. To exercise those Executive functions delegated to it by the Leader.
2. To establish joint arrangements with one or more Local Authorities to exercise functions which are Executive functions, including the delegation or acceptance of a delegation to or from another Local Authority or public agency. Such arrangements may involve the appointment of Joint Committees with these other Local Authorities.
3. To implement policies as determined by Council.
4. To determine Key Decisions.
5. To advise the Council on financial and economic policy, to determine the Council Tax Base and to recommend annually, as determined by statute, proposals for the Council Tax. To exercise overall responsibility for the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972.
6. To maintain overall control of the accounts and approved budgets and to consider virement requests in accordance with Financial Regulations.
7. To determine an itemised asset renewal programme annually as part of the approved capital programme.
8. To recommend to the Licensing Committee fees and charges relating to licences and registration.
9. To determine the rent levels for District Housing.
10. In partnership with other agencies, to review and update as required the Sustainable Community Strategy for the consideration of the Council.
11. To submit annually to the Council a corporate plan and annual report and to monitor its effectiveness.
12. (a) to be responsible for the production and review of the Local Plan under the Town & Country Planning Act 1990, consulting the Planning Committee as appropriate and subject to final approval by the Council of:
  - (i) issues, papers and draft policies and proposals prior to public consultation on them; and
  - (ii) the final version of the Local Plan; and
 (b) to prepare supplementary planning guidance, designate conservation areas, areas of archaeological interest and nature reserves, remove permitted development rights through Article 4 directions and undertake other Executive functions under the Town & Country Planning Act which are not carried out by the Planning Committee or otherwise delegated to Officers.
13. To prepare or consider (new or amended) policies from the Overview and Scrutiny Committee for the consideration of Council.
14. To exercise the Cabinet powers and duties of the Council under all statutes, regulations and codes of practice relating to the health and safety of Council staff.
15. To let contracts on behalf of the Council in accordance with Contract Standing Orders.
16. To oversee the Council's corporate accommodation and to ensure the provision of safe, well-maintained premises to staff and public and to recommend the acquisition and disposal of such property.
17. To be responsible for the acquisition, management, maintenance, disposal and letting of all property of the Council and to consider the views of the Council before making a compulsory purchase order.
18. To be responsible for the review and implementation of the Council's Asset Management Plan and Capital Strategy.
19. To advise the Council on proposals for emergency planning and to ensure an adequate response to incidents affecting the District.
20. To exercise general control over the information, public relations and publicity services of the Council.

21. To prepare, approve and implement the Council's ICT Strategy.
22. To respond on behalf of the Council to external reports and consultation papers.
23. To authorise exceptions to approved policies only where the particular merits of individual cases justify the exceptions being made.
24. To authorise the spend of Section 106 monies in accordance with the Financial Regulations, following consultation with the Ward Member.
25. To appoint appropriate panels and forums to assist to advise the Cabinet in carrying out its functions.
26. To appoint or nominate persons to outside organisations which relate to functions of the Cabinet.
27. To review and recommend any updates to the Risk Management Strategy to the Joint Audit & Governance Committee every two years, and to receive and review the annual risk and opportunities management report. To receive quarterly reports on risk and to approve the Annual Risk Management Strate

### Delegation of Executive functions

The Executive Leader may delegate any of ~~its~~ their Executive functions to:

- (a) The Cabinet;
- (b) A Cabinet committee;
- (c) An individual Cabinet Member;
- (d) Officers;
- (e) A Ward Member (to the extent that the function is exercisable in relation to their electoral ward); or
- (f) Another body in accordance with joint working arrangements.

### Cabinet Portfolios

<b>Cabinet Member</b>	<b>Portfolio</b>	<b>Representation on Outside Bodies</b>	<b>Powers of Delegation</b>	<b>Portfolio Team Members</b>
<u>Leader</u> <u>Cllr Beccy Cooper</u>	<ul style="list-style-type: none"> <li>• Overall policy and strategy (vision and priorities)</li> <li>• City Deal (strategic matters)</li> <li>• Democratic Services, including committee management</li> <li>• Devolution and County liaison lead, including education and highways (Active/sustainable transport, in partnership with Regeneration's management of transport planning &amp; infrastructure)</li> <li>• Electoral Services within the remit of the Cabinet.</li> <li>• External relations, including complaints management, marketing and promotion</li> <li>• Head of Paid Service responsibilities</li> <li>• Mayor of the Borough and civic matters</li> <li>• Media and communications (internal and external)</li> <li>• Member Services</li> </ul>	<u>Coastal West Sussex Partnership Board</u>  <u>District Councils' Network</u>  <u>Greater Brighton Economic Board</u>  <u>Local Government Association Coastal Issues - Special Interest Group</u>  <u>Local Government Association General Assembly</u>	<ul style="list-style-type: none"> <li>• The Cabinet</li> <li>• <u>A Cabinet committee</u></li> <li>• <u>An individual Cabinet Member</u></li> <li>• <u>Officers</u></li> <li>• <u>A Ward Member (to the extent that the function is exercisable in relation to their electoral ward)</u></li> <li>• <u>Another body in accordance with joint working arrangements</u></li> </ul>	<u>Cllr Jim Deen</u> <u>Cllr Dale Overton</u>

<b>Cabinet Member</b>	<b>Portfolio</b>	<b>Representation on Outside Bodies</b>	<b>Powers of Delegation</b>	<b>Portfolio Team Members</b>
	<ul style="list-style-type: none"> <li>Partnership working (lead)</li> <li>Performance management, including improvement plans</li> <li>Reputation management, including risk (policy)</li> <li><u>Transport planning and infrastructure</u> (to share with Regeneration portfolio for active/sustainable transport development)</li> </ul>			
<b>Deputy Leader</b> <b>Cllr Carl Walker</b>	<ul style="list-style-type: none"> <li><u>In the absence of the Leader, the Deputy Leader has overall responsibility for the portfolio of the Leader</u></li> <li><u>Big Listening</u></li> <li><u>15 minute neighbourhoods and place-based working</u></li> <li><u>Children and young people, including mental wellbeing and family intervention project (to share with Community Wellbeing portfolio)</u></li> <li><u>Cost of living emergency</u></li> <li><u>Developing community participatory decision-making structures.</u></li> <li><u>Public Consultation, including Community Engagement and Citizens Panels</u></li> <li><u>Refugees</u></li> <li><u>Young persons' audit and consultation</u></li> <li><u>Youth Council</u></li> </ul>	<u>Local Government Association</u> <u>General Assembly (substitute)</u>	<ul style="list-style-type: none"> <li><u>The Cabinet as a whole (when acting in the absence of the Leader);</u></li> <li><u>Joint Strategic Committee (when acting in the absence of the Leader);</u></li> <li><u>An Individual Cabinet Member (when acting in the absence of the Leader);</u></li> <li><u>Officers</u></li> </ul>	<u>Cllr Sam Theodoridi</u> <u>Cllr Henna Chowdhury</u>
<b>Citizen Services</b> <b>Cllr Emma Taylor</b>	<ul style="list-style-type: none"> <li><u>Affordable Housing Provision</u></li> <li><u>Benefit Fraud Detection/Prevention</u></li> <li><u>Customer contacts and services, including Help Points</u></li> <li><u>Disabled Facilities Grant and other Housing Grants</u></li> <li><u>Empty Properties</u></li> <li><u>Homelessness and Advice (Prevention and Management), including Choice Based Lettings, Bed &amp; Breakfast</u></li> <li><u>Housing and Council Tax Benefits and Adjudication</u></li> <li><u>Housing Need, Options and Advice and Housing Register</u></li> </ul>	<u>Discretionary Housing Payments Board</u>	<u>Officers</u>	<u>Cllr Margaret Howard</u> <u>Cllr Dawn Smith</u>

<b>Cabinet Member</b>	<b>Portfolio</b>	<b>Representation on Outside Bodies</b>	<b>Powers of Delegation</b>	<b>Portfolio Team Members</b>
	<ul style="list-style-type: none"> <li>• <a href="#">Housing Strategy Development &amp; Review</a></li> <li>• <a href="#">Private Sector Housing</a></li> <li>• <a href="#">Revenues and Benefits</a></li> <li>• <a href="#">Strategic Housing and Enabling</a></li> <li>• <a href="#">Supported People</a></li> </ul>			
<b><a href="#">Environmental Services</a> <a href="#">Cllr Vicki Wells</a></b>	<ul style="list-style-type: none"> <li>• <a href="#">Cemeteries and burials</a></li> <li>• <a href="#">Crematorium</a></li> <li>• <a href="#">Environmental management and strategy (to share with Climate Emergency Portfolio)</a></li> <li>• <a href="#">Environmental protection and ecological sustainability, including noise, dog control, food hygiene, land drainage, pest control and air quality (to share with the Climate Emergency portfolio)</a></li> <li>• <a href="#">Foreshore - Sussex Bay and fishing community</a></li> <li>• <a href="#">Parks, open and green spaces, including ground maintenance and allotments</a></li> <li>• <a href="#">Public health, health protection and enforcement, including Food Safety Enforcement Plan</a></li> <li>• <a href="#">Public conveniences</a></li> <li>• <a href="#">Street cleaning</a></li> <li>• <a href="#">Waste minimisation, collection and recycling</a></li> <li>• <a href="#">Water Quality, including sea bathing water status</a></li> </ul>	<a href="#">Action in Rural Sussex</a>	<a href="#">Officers</a>	<a href="#">Cllr Dan Hermitage</a> <a href="#">Cllr Mike Barrett</a>
<b><a href="#">Community Wellbeing</a> <a href="#">Cllr Rosey Whorlow</a></b>	<ul style="list-style-type: none"> <li>• <a href="#">Children and young people, including mental wellbeing and family intervention project (to share with Deputy Leader portfolio)</a></li> <li>• <a href="#">Community development, including cohesion and planning, fuel poverty, community buildings and wellbeing hubs</a></li> <li>• <a href="#">Community safety, anti-social behaviour management, neighbourhood disputes, safer communities</a></li> <li>• <a href="#">Cross-cutting health issues and NHS liaison</a></li> <li>• <a href="#">Equalities and diversity</a></li> <li>• <a href="#">Partnership working with voluntary and community</a></li> </ul>	<a href="#">Discretionary Housing Payments Board</a>  <a href="#">Western Sussex Hospitals NHS Foundation Trust(now called University Hospitals Sussex NHS Foundation Trust (UHSussex))</a>	<a href="#">Officers</a>	<a href="#">Cllr Sally Smith</a> <a href="#">Cllr Ibsha Choudhury</a>

Cabinet Member	Portfolio	Representation on Outside Bodies	Powers of Delegation	Portfolio Team Members
	<p><u>organisations (including Local Strategic Partnership; grants and commissioning)</u></p> <ul style="list-style-type: none"> <li><u>Police performance and intelligence liaison</u></li> </ul>			
<p><b><u>Regeneration</u></b> <b><u>Cllr Martin</u></b> <b><u>McCabe</u></b></p>	<ul style="list-style-type: none"> <li><u>Beach Maintenance, including beach huts and chalets</u></li> <li><u>Building Control</u></li> <li><u>Coastal protection, including Coastal West Sussex</u></li> <li><u>Economic strategy and development, including regeneration, visitor economy, business partnerships, concessions, events and/or projects to encourage or are likely to generate viable, sustainable economic gain (to share with Climate Emergency portfolio)</u></li> <li><u>Foreshore management, including Worthing Pier</u></li> <li><u>Health and safety and civil contingencies (Emergency Plan), including business continuity</u></li> <li><u>Minor amendments to planning policy, Local Plan documents, conservation areas and management plans, development briefs, infrastructure delivery plans</u></li> <li><u>On and off-street car parking</u></li> <li><u>Street-scene, including abandoned vehicles, bus shelters, enforcement, street names and numbering, road name plates, street furniture</u></li> <li><u>Transport planning and infrastructure (to share with the Leader for active/sustainable transport development)</u></li> </ul>	<p><u>Court of the University of Sussex (known as the Sussex Annual Forum)</u></p> <p><u>PATROL (Parking and Traffic Regulations Outside London) Adjudication Joint Committee</u></p>	<p><u>Officers</u></p>	<p><u>Cllr Jon Roser</u> <u>Cllr Jim Deen</u></p>

<b>Cabinet Member</b>	<b>Portfolio</b>	<b>Representation on Outside Bodies</b>	<b>Powers of Delegation</b>	<b>Portfolio Team Members</b>
<b><u>Resources</u> <u>Cllr John Turley</u></b>	<ul style="list-style-type: none"> <li>• <u>Transport (maintenance)</u></li> <li>• <u>Budgets (including the overall allocation of revenue and capital), external funding</u></li> <li>• <u>Business Liaison</u></li> <li>• <u>Capital programme</u></li> <li>• <u>Community Wealth Building programme</u></li> <li>• <u>Digital transformation programme</u></li> <li>• <u>ICT (client side): telephony and e-government - Data Protection, Freedom of Information, information security and web team</u></li> <li>• <u>Local taxation (fraud investigation)</u></li> <li>• <u>Non-Domestic Rates</u></li> <li>• <u>Personnel and staffing (where Executive functions): including organisational development, occupational health, payroll and learning and development of staff</u></li> <li>• <u>Procurement, including contracts</u></li> <li>• <u>Other central support services</u></li> <li>• <u>Internal Audit and audit fees</u></li> <li>• <u>Property and Asset Management, including the Town Hall and Portland House sites; non-housing property repairs, corporate property, terriers, property not included in other portfolios and estates management</u></li> <li>• <u>Treasury management, including insurance, investments, loans, leasing and banking matters</u></li> </ul>	<u>Adur and Worthing Business Partnership</u>  <u>Worthing Town Centre Initiative</u>	<u>Officers</u>	<u>Cllr Andy Whight</u>
<b><u>Culture &amp; Leisure</u> <u>Cllr Rita Garner</u></b>	<ul style="list-style-type: none"> <li>• <u>Client for South Downs Leisure Trust and management of Worthing Leisure facilities and sites</u></li> <li>• <u>Cultural projects and public entertainments (not covered by the licensing functions, with a potential attendance of 500) to enhance the Borough's cultural offer to residents and visitors</u></li> <li>• <u>Tourism and Tourist Information Centres</u></li> </ul>	<u>South Downs Leisure</u>  <u>Worthing Town Centre Initiative</u>	<u>Officers</u>	<u>Cllr Cathy Glynne-Davies</u> <u>Cllr Dale Overton</u>

<b>Cabinet Member</b>	<b>Portfolio</b>	<b>Representation on Outside Bodies</b>	<b>Powers of Delegation</b>	<b>Portfolio Team Members</b>
	<ul style="list-style-type: none"> <li>Wellbeing and development functions for culture, leisure and sport, including the cultural strategy</li> <li>Worthing Cultural Assets: Museum, Art Gallery, Ritz Cinema, Assembly Hall, Pavilion Theatre and Connaught Theatre. (NB, Worthing Pier is with the Regeneration Portfolio)</li> </ul>			
<b>Climate Emergency Cllr Helen Silman</b>	<ul style="list-style-type: none"> <li>Climate and nature positive policy</li> <li>Carbon reduction and energy management policy, including low carbon building standards</li> <li>Economic strategy and development, including regeneration, visitor economy, business partnerships, concessions, events and/or projects to encourage or are likely to generate viable, sustainable economic gain (to share with Regeneration portfolio)</li> <li>Energy management and sustainability strategy</li> <li>Environmental management and strategy (to share with Environmental Services Portfolio)</li> <li>Environmental protection and ecological sustainability, including noise, dog control, food hygiene, land drainage, pest control and air quality (to share with the Environmental Services portfolio)</li> </ul>	Heene Community Centre (Management Committee)	Officers	Cllr Rich Mulholland

**Cabinet 5.5 Leader**

**Responsibility for the following functions**

1. Overall policy and strategy (vision and priorities).
2. External relations, including complaints management, marketing and promotion.
3. Reputation management, including risk (policy).
4. Performance management, including improvement plans.
5. Media and communications (internal and external).
6. Democratic Services, including committee management.
7. Electoral Services within the remit of the Executive.
8. Member Services.
9. Mayor of the Borough and civic matters.

- 10. Partnership working (lead).
- 11. Public Consultation, including Community Engagement and Citizens Panels.
- 12. City Deal (Strategic matters)
- 13. Devolution
- 14. Energy management and sustainability.

#### **Onward Limits on Delegations**

The Leader may delegate to:

- 1. The Executive as a whole;
- 2. Joint Strategic Committee;
- 3. An individual Executive Member;
- 4. An Officer.

#### **Executive Representation on Outside Bodies & Joint Committees**

The Leader shall be the Executive Member representative on:

- a) Greater Brighton Economic Joint Committee
- b) Local Government General Assembly
- c) South Downs National Park Authority (Representative for Adur District Council and Worthing Borough Council, effective until 2017).

#### **5.4 Deputy Executive Leader – Cllr Carl Walker**

##### **Responsibility for the following delegated functions**

In the absence of the Leader, the Deputy Leader has overall responsibility for the portfolio of the Leader.

##### **Onwards Limits on Delegations:**

The Deputy Leader may delegate to:

- a) The Executive as a whole (when acting in the absence of the Leader);
- b) Joint Strategic Committee (when acting in the absence of the Leader);
- c) An Individual Executive Member (when acting in the absence of the Leader);
- d) Officers

##### **Executive Representation on Outside Bodies**

None in their capacity as Deputy Leader, other than in the absence of the Leader.

#### **5.5 Executive Member for Environmental Services – Cllr Vicki Wells**

##### **Responsibility for the following delegated functions**

- a) Waste collection and recycling.
- b) Street cleaning.
- c) Environmental management and strategy.
- d) Cemeteries and burials.
- e) Crematorium (Worthing)



- f) Client for South Downs Leisure Trust and management of Worthing Leisure facilities and sites.
- g) Parks and ground maintenance, including allotments.
- h) Public conveniences.
- i) ICT, telephony and Data Protection, Freedom of Information, information security and web team.
- j) Digital transformation programme.

#### **Onward limits on delegations**

The Executive Member for the Environment may delegate to Officers.

#### **Executive Representation on Outside Bodies**

Federation of British Cremation Authorities — Executive Committee

### **5.6 — Executive Member for Community Wellbeing — Cllr Rosey Whorlow**

#### **Responsibility for the following delegated functions**

- a) Community safety anti-social behaviour management, neighbourhood disputes, safer communities.
- b) Community development, including cohesion and planning, fuel poverty, wellbeing hubs.
- c) Public health, health protection and enforcement, including Food Safety Enforcement Plan.
- d) Cross-cutting health issues and NHS Liaison.
- e) Equalities and diversity.
- f) Children and young people, including family intervention project.
- g) Partnership working with voluntary and community organisations (including local strategic partnership; grants and commissioning).
- h) Wellbeing and development functions for culture, leisure and sport, including the cultural strategy.
- i) Police performance and intelligence liaison.
- j) Environmental protection, including noise, dog control, food hygiene, land drainage, pest control, air quality.

#### **Onward Limits on Delegations**

The Executive Member for Health & Wellbeing may delegate to Officers.

#### **Executive Representation on Outside Bodies**

- a) Adur and Worthing Health & Wellbeing Partnership.
- b) Adur and Worthing Safer Communities Partnership.
- c) Waves Ahead: Adur and Worthing Local Strategic Partnership.
- d) Sussex Police and Crime Panel
- e) Western Sussex Hospitals NHS Foundation Trust

### **5.7 — Executive Member for Citizen Services — Cllr Emma Taylor**

#### **Responsibility for the following delegated functions**

- a) Customer contacts and services, including Help Points.
- b) Affordable Housing Provision.
- c) Benefit Fraud Detection/Prevention (Worthing).
- d) Housing and Council Tax Benefits and Adjudication (Worthing).

- e) Disabled Facilities Grant and other Housing Grants.
- f) Empty Properties.
- g) Housing Strategy Development & Review.
- h) Non-Domestic Rates (Worthing).
- i) Revenues and Benefits (Worthing).
- j) Strategic Housing and Enabling.
- k) Supported People (Other).
- l) Private Sector Housing.
- m) Worthing Cultural Assets; Museum, Art Gallery, Ritz Cinema, Assembly Hall, Pavilion Theatre and Connaught Theatre. (NB. Worthing Pier is with the Regeneration Portfolio).
- n) Homelessness and Advice (Prevention and Management), including Choice Based Lettings, Bed & Breakfast.
- o) Housing Need, Options and Advice and Housing Register.

#### **Onward Limits on Delegations**

The Executive Member for Improved Customer Services may delegate to Officers.

#### **Executive Representation on Outside Bodies**

- a) Adur and Worthing Homelessness Forum

### **5.8 Executive Member for Regeneration – Cllr Martin McCabe**

#### **Responsibility for the following delegated functions**

- a) Economic strategy and development, including regeneration (visitor economy, tourism, business partnerships, concessions, events and/or projects to encourage or are likely to generate viable, sustainable economic gain)
- b) Education liaison.
- c) Transport planning and infrastructure.
- d) Minor amendments to Planning policy, Local Development Plans, conservation areas and management plans, development briefs, infrastructure delivery plans.
- e) Building Control.
- f) Beach Huts and Chalets.
- g) Beach Maintenance.
- h) Foreshore management, including Worthing Pier.
- i) Coastal Protection.
- j) Coastal West Sussex
- k) Health and safety and civil contingencies (Emergency Plan), including business continuity.
- l) Tourist Information Centres.
- m) Local Growth Plan.
- n) Street scene, including abandoned vehicles, bus shelters, enforcement, street names and numbering, road name plates, street furniture.
- o) Highways liaison.
- p) On and off-street car parking.
- q) Transport (maintenance).
- r) Cultural Projects and/public entertainment events (not covered by the licensing functions, with a potential attendance of 500) to enhance the Borough's cultural offer to residents and visitors.

#### **Onward Limits on Delegations**

The Executive Member for Regeneration may delegate to Officers.

### **Executive Representation on Outside Bodies**

- a) ~~Greater Brighton Economic Joint Committee.~~
- b) ~~Coastal West Sussex Partnership Board.~~
- c) ~~Court of the University of Sussex.~~
- d) ~~Adur and Worthing Business Partnership.~~
- e) ~~Tourism South East.~~
- f) ~~PATROL Adjudication Joint Committee~~

### **5.9 Executive Member for Resources – Cllr John Turley**

#### **Responsibility for the following delegated functions**

- a) ~~Budgets (including the overall allocation of revenue and capital), external funding.~~
- b) ~~Capital programme.~~
- c) ~~Local taxation (fraud investigation (Worthing)).~~
- d) ~~Treasury management, including insurance, investments, loans, leasing and banking matters.~~
- e) ~~Procurement, including contracts.~~
- f) ~~Personnel and staffing (where Executive functions); including organisational development, occupational health, payroll and learning and development of staff.~~
- g) ~~Other central support services.~~
- h) ~~Internal Audit and audit fees.~~
- i) ~~Property and Asset Management, including the Town Hall and Portland House sites; non-housing property repairs, corporate property, terriers, property not included in other portfolios, estates management.~~

#### **Onward Limits on Delegations**

The Executive Member for Digital, Sustainability and Resources may delegate to Officers.

### **Executive Representation on Outside Bodies**

#### **Portfolio Team Members**

Cabinet Members, with the agreement of the Leader, may appoint Portfolio Team Members to support them in their role. Portfolio Team Members cannot exercise Executive functions or substitute for Cabinet Members, including voting at Cabinet or Joint Strategic Committee meetings and taking decisions on behalf of a Cabinet Member. Portfolio Team Members cannot participate in the scrutiny of a decision made by their Cabinet Member.

#### **Planning Committee**

The Planning Committee makes decisions about town planning applications.

#### **General:**

- (a) The Committee is a Committee of the Council appointed by the Council under Section 101(2) of the Local Government Act 1972;
- (b) The Council has arranged under section 101(1) of that Act for the discharge by the Committee of the Council's functions as are within the Committee's Terms of Reference (set out below);
- (c) Certain functions are delegated by this Committee to Officers. Full details of which may be found in the Officer Scheme of Delegations to Officers which can be found in Part 4 of this Constitution;

- (d) Where a function or matter within the Committee's competence has been delegated to an Officer, the Committee may exercise that function / matter concurrently with the Officer to whom it has been delegated;
- (e) The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Constitution;
- (f) The Committee shall consist of 8 Members;
- (g) The Committee shall be quorate with 3 or more Members.

**Terms of reference:**

No.	Delegation	Legislation
1.	To be consulted on the draft local development framework	Planning & Compulsory Purchase Act 2004
2.	Power to determine application for planning permission	Sections 59A(1)(b), 70(1)(a) and (b) and 72 of the Town & Country Planning Act 1990
3.	Power to decline to determine an application for planning permission	Section 70A of the Town & Country Planning Act 1990
4.	Power to determine application to develop land without compliance with conditions previously attached	Section 73 of the Town & Country Planning Act 1990
5.	Power to grant planning permission for development already carried out	Section 73A of the Town & Country Planning Act 1990
6.	Duties relating to the making of determinations of planning permissions	Sections 69, 69A, 92 and 96A of the Town and Country Planning Act 1990 and Parts 2- 6 and 8 of the Town & Country Planning (Development Management Procedure) Order 2015 and directions thereunder
7.	Power to determine application for planning permission made by a Local Authority, alone or jointly with another person	Section 316 of the Town & Country Planning Act 1990 and Town & Country Planning General Regulations 1992
8.	Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights	Town and Country Planning (General Permitted Development) Order 1995
9.	Power to enter into agreement regulating development or use of land	Sections 106, 106A and 106BA of the Town & Country Planning Act 1990
10.	Power to issue a certificate of existing or proposed lawful use or development	Sections 191, 192 and 193 of the Town & Country Planning Act 1990
11.	Power to serve a completion notice	Section 94 of the Town & Country Planning Act 1990
12.	Power to authorise entry on to land	Sections 196A, B and C of the Town & Country Planning Act 1990
13.	Power to grant consent for the display of advertisements	Section 220 of the Town & Country Planning Act 1990 and Town & Country Planning (Control of Advertisement) (England) Regulations 2007
14.	To exercise the Council powers and duties relating to advertisement control other than the grant of consent to display advertisements	Town & Country Planning Act 1990
15.	Power to require the discontinuance of a use of land	Section 102 of the Town & Country Planning Act 1990
16.	Power to serve a planning contravention notice, breach of condition notice, stop notice or temporary stop notice	Sections 171C, 171E, 187A and 183(1) of the Town & Country Planning Act 1990
17.	Power to issue an enforcement notice	Section 172 of the Town & Country Planning Act 1990

18.	Power to apply for an injunction restraining a breach of planning control	Section 187B of the Town & Country Planning Act 1990
19.	Power to determine application for hazardous substances consent and related powers	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990
20.	Power to require the proper maintenance of land	Section 215(1) of the Town & Country Planning Act 1990
21.	Power to determine application for listed building consent and related powers and duties	Sections 13, 14, 16, 17 and 33 of the Planning (Listed Buildings and Conservation Areas) Act 1990; regulations 3-6 and 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990; and paragraphs 8, 15 and 26 of Department of the Environment, Transport and the Regions Circular 01/01
22.	Power to determine application for conservation area consent and related powers	Planning (Listed Buildings and Conservation Areas) Act 1990
23.	Duties relating to applications for listed building consent and conservation area consent	Planning (Listed Buildings and Conservation Areas) Act 1990 Arrangements for Handling Heritage Applications
24.	Power to serve a building preservation notice, and related powers	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990
25.	Power to issue a listed building enforcement notice.	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990
26.	Power to acquire a listed building in need of repair and to serve repairs notice	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990
27.	Power to apply for an injunction in relation to a listed building	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990
28.	Power to execute urgent works	Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990
29.	Duty to enter land in Part 2 of the brownfield land register	Regulation 3 of the Town and Country Planning (Brownfield Land Register) Regulations 2017
30.2	The obtaining of information as to interests in land	Town & Country Planning Act 1990
31.3	Power to create footpaths bridleways or restricted byways by agreement	Highways Act 1980
32.3	Power to create footpaths bridleways or restricted byways	Highways Act 1980
33.3	Power to stop up footpaths bridleways or restricted byways (and highways in respect of s118C)	Highways Act 1980
34.3	Power to divert footpaths bridleways or restricted byways	Highways Act 1980
35.3	Power to obtain particulars of persons interested in land, where relevant to the other functions of the committee	Local Government (Miscellaneous Provisions) Act 1976
36.3	To exercise the Council's powers and duties in relation to hedgerows	Hedgerows Regulations 1997
37.3	To exercise the Council's powers and duties in relation to the preservation of trees	Town & Country Planning Act 1990 and Town and Country Planning (Tree Preservation) (England) Regulations 2012
38.3	To exercise all powers provided under the terms of any delegation arrangements from the South Downs National Park Authority in relation to applications that fall within the South Downs National Park area, within the Borough	
39.3	To make recommendations to Council, where such is considered desirable	

40.3	To make recommendations to the Cabinet in relation to matters of planning policy reserved to the Cabinet, where such is considered desirable	
41.4	To advise the Cabinet on any matters relating to claims and payments or statutory compensation arising from decisions on planning matters	
42.4	In the event that any or all of the above Acts or Statutory Instruments are amended, repealed and re-enacted by another Act or Statutory Instrument, or any of the general functions referred to in 1-5 above become the subject of additional legislation, then all such functions as contained in the new or amending legislation shall be delegated to the Planning Committee unless otherwise determined by Full Council or the new amending legislation provides that they shall be carried out by the Cabinet.	

#### **Licensing and Control Committee 'A'**

The Licensing Committee deals with various applications for licences. Sub-Committees have also been established to deal with the Council's additional licensing responsibilities under the Licensing Act 2003 and the Gambling Act 2005.

#### **General:**

- (a) The Committee is a Committee of the Council appointed by the Council under section 101(2) of the Local Government Act 1972 and under section 6 of the Licensing Act 2003 and the Gambling Act 2005;
- (b) The Council has arranged under section 101(1) of the Local Government Act 1972 and under section 9 of the Licensing Act 2003 and under the Gambling Act 2005 for the discharge by the Committee of the Council's functions as are within the Committee's Terms of Reference (set out below);
- (c) Certain functions are delegated by this Committee to Officers. Full details of which may be found in the Officer Scheme of Delegations which can be found in Part 4 of this Constitution;
- (d) Where a function or matter within the Committee's competence has been delegated to an Officer, the Committee may exercise that function or matter concurrently with the Officer to whom it has been delegated;
- (e) The exercise of any function or matter within the Committee's competence is subject to any relevant requirement of the Council's Constitution;
- (f) The Committee may establish one or more Sub-Committees in accordance with the provisions of the Licensing Act 2003; any such Sub-Committees are authorised to discharge all relevant functions under the Licensing Act 2003 and to hear taxi matters.
- (g) The Committee shall consist of 15 Members;
- (h) Substitutes are permissible on the Licensing Committee, except when dealing with an application under the Licensing Act 2003 or the Gambling Act 2005;
- (i) Substitutes are not permitted on Licensing Sub-Committees, other than from the Licensing Committee;
- (j) Executive Members are permitted to sit on the Licensing Committee, subject to the requirement that Executive Members shall not form the majority of the membership of the Committee.
- (k) The quorum for Licensing Committee shall be 5 or more voting Members.

- (l) A Licensing Sub-Committee shall consist of 3 Members and the quorum for any Licensing Sub-Committee shall be 3 Members;
- (m) Procedures adopted at hearings of the Licensing Committee and its Sub-Committees should be adopted in accordance with the guidance at the Licensing Procedure Rules which can be found in Part 4 of this Constitution;
- (n) The Licensing Committee and its Sub-Committees are authorised to make exceptions to any such procedure where appropriate, subject to complying with all relevant regulations;
- (o) Where an individual exercises a right of appeal against a decision of the Licensing Committee, to the Magistrates' Court, the Council will be represented in such proceedings by their Legal Officers, or their nominated representatives, and the Chair of the Licensing Committee, or Vice Chair in their absence, is expected to attend such hearing.

**Terms of reference:**

Except for matters of policy, the determination of casino premises licences and decisions to introduce, vary or end the requirement for a late night levy (which are reserved to Full Council), to undertake all licensing and gambling functions, powers and duties conferred on the Council under the Licensing Act 2003 and the Gambling Act 2005, including the matters set out below:

<b><u>No</u></b>	<b><u>Delegation</u></b>	<b><u>Legislation</u></b>
<u>1.</u>	<u>Duty to comply with requirement to provide information to Gambling Commission</u>	<u>Section 29 of the Gambling Act 2005</u>
<u>2.</u>	<u>Functions relating to exchange of information</u>	<u>Section 30 of the Gambling Act 2005</u>
<u>3.</u>	<u>Functions relating to occasional use notices</u>	<u>Section 39 of the Gambling Act 2005</u>
<u>4.</u>	<u>Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises</u>	<u>Section 304 of the Gambling Act 2005</u>
<u>5.</u>	<u>Power to make order disapplying section 279 or 282(1) of the 2005 Act in relation to specified premises</u>	<u>Section 284 of the Gambling Act 2005</u>
<u>6.</u>	<u>Power to institute criminal proceedings</u>	<u>Section 346 of the Gambling Act 2005</u>
<u>7.</u>	<u>Power to exchange information</u>	<u>Section 350 of the Gambling Act 2005</u>
	<u>Powers to license hackney carriages and private hire vehicles</u>	<u>(a) as to hackney carriages, the Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976; (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976</u>
	<u>Powers to license drivers of hackney carriages and private hire vehicles</u>	<u>Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976</u>
	<u>Power to license operators of private hire vehicles</u>	<u>Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976</u>
<u>8.</u>	<u>Power to issue entertainments licences.</u>	<u>Section 12 of the Children and Young Persons Act 1933, section 52 of, and Schedule 12 to, the London Government Act 1963, section 79 of the Licensing Act 1964, sections 1 to 5 and 7 of, and Parts I</u>

		<a href="#">and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982</a>
<a href="#">9.</a>	<a href="#">Functions relating to the determination of fees for premises licences</a>	<a href="#">Gambling (Premises Licence Fees) (England and Wales) Regulations 2007</a>
<a href="#">10.</a>	<a href="#">Functions relating to the registration and regulation of small society lotteries</a>	<a href="#">Part 5 of Schedule 11 to the Gambling Act 2005</a>
<a href="#">11..</a>	<a href="#">Power to fix fares for hackney carriages</a>	<a href="#">Local Government (Miscellaneous Provisions) Act 1976</a>
	<a href="#">Power to license sex establishments</a>	<a href="#">Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982</a>
	<a href="#">Power to license market and street trading</a>	<a href="#">Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982</a>
	<a href="#">Power to license and control scrap metal dealers</a>	<a href="#">Scrap Metal Dealers Act 2013</a>
	<a href="#">Power to license persons to collect for charitable and other causes</a>	<a href="#">Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939</a>
	<a href="#">Power to make an order to designate a public place under the Criminal Justice and Police Act 2001</a>	<a href="#">Criminal Justice and Police Act 2001</a>
	<a href="#">Power to license premises for acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis</a>	<a href="#">Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982</a>
	<a href="#">Power to obtain particulars of persons interested in land, where relevant to the other functions of the Committee</a>	<a href="#">Local Government (Miscellaneous Provisions) Act 1976</a>
	<a href="#">Power to license pleasure boats and pleasure vessels</a>	<a href="#">Section 94 of the Public Health Act (as amended) 1907</a>
	<a href="#">Power to license premises for the breeding of dogs</a>	<a href="#">Animal Welfare Act 2006</a>
	<a href="#">Power to authorise officers to inspect premises for the breeding of dogs</a>	<a href="#">Animal Welfare Act 2006</a>
	<a href="#">Power to register and license premises for the preparation of food</a>	<a href="#">Section 19 of the Food Safety Act 1990</a>
	<a href="#">Power to license land as a caravan site and attach and alter conditions to site licences</a>	<a href="#">Section 3(3) of the Caravan Sites and Control of Development Act 1960</a>
	<a href="#">Power to license dangerous wild animals, power to inspect premises and power to seize and dispose of animals without compensation</a>	<a href="#">Section 1 of the Dangerous Wild Animals Act 1976</a>
	<a href="#">Power to grant consent for the operation of a loudspeaker in streets or roads</a>	<a href="#">Schedule 2 to the Noise Nuisance and Statutory Act 1993</a>
	<a href="#">Power to license and inspect thereafter, pet shops</a>	<a href="#">Animal Welfare Act 2006</a>
	<a href="#">Power to license, and inspection of, riding establishments</a>	<a href="#">Animal Welfare Act 2006</a>
	<a href="#">Power to control use of moveable dwellings</a>	<a href="#">Section 269(1) of the Public Health Act 1936</a>
	<a href="#">Power to license zoos</a>	<a href="#">Section 1 of the Zoo Licensing Act 1981</a>
	<a href="#">Animal welfare powers – entry and search under warrant in connection with offence and inspection of premises and documents</a>	<a href="#">Animal Welfare Act 2006 (all functions insofar as they are non-executive functions)</a>



<u>Power to determine applications for personal licences.</u>	<u>Part 6 of the Licensing Act 2003</u>
<u>Power to determine applications for premises licences and club premises certificates.</u>	<u>Part 3 and 4 of the Licensing Act 2003</u>
<u>Power to determine applications for variation of premises licences and club premises certificates.</u>	<u>Part 3 and 4, Licensing Act 2003</u>
<u>Power to remove designated premises supervisors.</u>	<u>Licensing Act 2003</u>
<u>Power to determine applications for transfer of premises licences.</u>	<u>Licensing Act 2003</u>
<u>Power to review premises licence and club premises certificates.</u>	<u>Licensing Act 2003</u>
<u>Power to determine pre-subjections to temporary event notices.</u>	<u>Licensing Act 2003</u>
<u>Where representations have been received and not withdrawn, to determine an application for a premises licence.</u>	<u>Gambling Act 2005</u>
<u>Where representations have been received and not withdrawn, to determine an application for a variation to a premises licence.</u>	<u>Part 8, Gambling Act 2005</u>
<u>Where representations have been received and not withdrawn, to determine an application for a transfer to a premises licence.</u>	<u>Part 8, Gambling Act 2005</u>
<u>Where representations have been received and not withdrawn, to determine an application for a provisional statement.</u>	
<u>Where representations have been received and not withdrawn, to determine an application for a club gaming or club machine permit.</u>	<u>Gambling Act 2005</u>
<u>Power to cancel a club gaming or club machine permit.</u>	<u>Gambling Act 2005</u>
<u>Power to determine to give a counter notice to a temporary use notice.</u>	<u>Gambling Act 2005</u>
<u>Power to take action after a review has been heard under Section 201</u>	<u>Gambling Act 2005</u>
<u>Power to issue premises licences and to receive temporary use notices.</u>	<u>Gambling Act 2005</u>
<u>Power to dis-apply Section 279 and 282(1) of the Act.</u>	<u>Gambling Act 2005</u>
<u>Power to revoke premises licences for non-payment of fee or dis-apply Section 193 of the Act.</u>	<u>Gambling Act 2005</u>
<u>Power to determine prize gaming permits.</u>	<u>Gambling Act 2005</u>
<u>Power to determine licensed premises gaming machine permits.</u>	<u>Gambling Act 2005</u>

### General

- (a) The Committee is a committee of the Council appointed by the Council under Section 101(2) of the Local Government Act 1972;
- (b) The Council has arranged under Section 101(1) of that Act for the discharge by the Committee of the Council's functions as are within the Committee's terms of reference (set out below);
- (c) Certain functions are delegated by this Committee to Officers. Full details of which may be found in the Officer Scheme of Delegations which can be found in Part 4 of this Constitution;
- (d) Where a function or matter within the Committee's competence has been delegated to an Officer, the Committee may exercise that function or matter concurrently with the Officer to whom it has been delegated;

- (e) The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Constitution;
- (f) The Committee shall consist of 15 Members;
- (g) The Committee shall be quorate with 4 or more Members.
- (h) The Committee does not have the power to constitute a Sub-Committee.
- (i) Substitutes are permitted on Licensing and Control Committee A, provided they have had appropriate training.

### Terms of reference

Except for matters of policy and for those matters reserved to Full Council, to undertake all licensing functions, powers and duties conferred on the Council (except under the Licensing Act 2003 and the Gambling Act 2005), including but not limited to the matters set out below:

No	Delegation	Legislation
1	Powers to license hackney carriages and private hire vehicles	a) as to hackney carriages: Town Police Clauses Act 1847, as extended by section 171 of the Public Health Act 1875, and section 15 of the Transport Act 1985; and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 b) as to private hire vehicles: sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
2	Powers to license drivers of hackney carriages and private hire vehicles	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
3	Power to license operators of private hire vehicles	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976
4	Power to fix fares for hackney carriages	Local Government (Miscellaneous Provisions) Act 1976
5	Power to license sex establishments	Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982
6	Power to license market and street trading	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982
7	Power to license and control scrap metal dealers	Scrap Metal Dealers Act 2013
8	Power to license persons to collect for charitable and other causes	Police, Factories etc. Act 1916 and House to House Collections Act 1939
9	Power to make an order to designate a public place under the Criminal Justice and Police Act 2001	Criminal Justice and Police Act 2001
10	Power to license premises for acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing and electrolysis	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982
11	Power to obtain particulars of persons interested in land, where relevant to the other functions of the Committee	Local Government (Miscellaneous Provisions) Act 1976
12	Power to license pleasure boats and pleasure vessels	Section 94 of the Public Health Act (as amended) 1907
13	Power to license premises for the breeding of dogs	Animal Welfare Act 2006
14	Power to authorise officers to inspect premises for the breeding of dogs	Animal Welfare Act 2006

15	Power to register and license premises for the preparation of food	Section 19 of the Food Safety Act 1990
16	Power to license land as a caravan site and attach and alter conditions to site licences	Section 3(3) of the Caravan Sites and Control of Development Act 1960
17	Power to license dangerous wild animals, power to inspect premises and power to seize and dispose of animals without compensation	Section 1 of the Dangerous Wild Animals Act 1976
18	Power to grant consent for the operation of a loudspeaker in streets or roads	Schedule 2 to the Noise Nuisance and Statutory Act 1993
19	Power to license and inspect thereafter, pet shops	Animal Welfare Act 2006
20	Power to license, and inspection of, riding establishments	Animal Welfare Act 2006
21	Power to control use of moveable dwellings	Section 269(1) of the Public Health Act 1936
22	Power to license zoos	Section 1 of the Zoo Licensing Act 1981
23	Animal welfare powers — entry and search under warrant in connection with offence and inspection of premises and documents	Animal Welfare Act 2006 (all functions insofar as they are Non-Executive functions)
24.	Power to issue entertainments licences.	Section 12 of the Children and Young Persons Act 1933, section 52 of, and Schedule 12 to, the London Government Act 1963, section 79 of the Licensing Act 1964, sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982
25	For the avoidance of doubt Licensing and Control Committee 'A' shall not determine any matters arising from the Licensing Act 2003. All such matters shall be determined by Licensing and Control Committee 'B'.	

### Licensing and Control 'A' Sub-Committee

#### Membership:

3 members selected on each occasion by the Director for Communities from the 15 members of the Licensing and Control Committee A, which shall normally include the Chair or Vice-Chair of that committee.

#### Terms of reference:

Except for matters of policy, to undertake all licensing functions, powers and duties conferred on the Council (except under the Licensing Act 2003 and the Gambling Act 2005), including the matters set out below:

1. The Council's licensing and enforcement functions relating to individual licences, consents or permits for:
  - (a) hackney carriages and private hire drivers, vehicles, and private hire operators' licences (taxi licences)
  - (b) caravan sites
  - (c) animal welfare
  - (d) street trading
  - (e) public protection
  - (f) sex establishments where the Director of Communities considers the matter merits the Sub-Committee's attention.
2. In particular the Sub-Committees will consider and determine matters relating to licences, permits, approvals, orders, consents or similar authorisations under the above provisions

where the Director of Communities considers that the matter merits the Sub-Committee's attention.

**Commented [g21]:** As approved by the Worthing Licensing Committee 27.6.22.

## Licensing and Control Committee 'B'

### General:

- (a) This is a Committee of the Council appointed by the Council under Section 6 of the Licensing Act 2003;
- (b) The Council has arranged under Section 9 of that Act for the discharge by the Committee of such of the Council's functions as are within the Committee's terms of reference (set out below);
- (c) The Committee may establish one or more Sub-Committees in accordance with the provisions of the Licensing Act 2003; any such Sub-Committees are authorised to discharge all relevant functions under the Licensing Act 2003. A Sub-Committee shall consist of 3 Members of the Licensing Committee;
- (d) Certain functions are delegated by this Committee to Officers. Full details may be found in the Officer Scheme of Delegations;
- (e) Where a function or matter within the Committee's competence has been delegated to an Officer, the Committee may exercise that function or matter concurrently with the Officer to whom it has been delegated;
- (f) The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Constitution; and
- (g) The Committee shall consist of 15 Members.
- (h) Substitutes are not permitted on Licensing and Control Committee 'B' and substitutes on any Sub-Committee are only permissible from Licensing and Control Committee 'B'.
- (i) The quorum for Licensing and Control Committee 'B' shall be 4 or more Members.
- (j) The quorum for any Sub-Committee shall be 3.
- (k) Procedures adopted at hearings of Licensing and Control Committee 'B' and its sub-committees may be determined by that Committee subject to complying with all relevant regulations.
- (l) Licensing and Control Committee 'B' and any of its sub-committees are authorised to make exceptions to any such procedure where appropriate, subject to complying with all relevant regulations.

### Terms of Reference

#### Licensing Act 2003

Except for matters of policy, to undertake all functions, powers and duties conferred by the Licensing Act 2003, including but not limited to the matters set out below:

No.	Delegation	Legislation
1.	Power to determine applications for personal licences.	Part 6 of the Licensing Act 2003.
2.	Power to determine applications for premises licences and club premises certificates.	Part 3 and 4 of the Licensing Act 2003.
3.	Power to determine applications for variation of premises licences and club premises certificates.	Part 3 and 4, Licensing Act 2003.
4.	Power to remove designated premises supervisors.	Licensing Act 2003
5.	Power to determine applications for transfer of premises licences.	Licensing Act 2003
6.	Power to review premises licence and club premises certificates.	Licensing Act 2003
7.	Power to determine pre-subjections to temporary event notices.	Licensing Act 2003

## Gambling Act 2005

Except for matters of policy, to undertake all functions, save for the determination as to whether or not to issue a casino premises licence, powers and duties conferred by the Gambling Act 2005, including but not limited to the matters set out below.

No.	Power/Function	Legislation
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.	Where representations have been received and not withdrawn, to determine an application for a premises licence.	Gambling Act 2005
9.	Where representations have been received and not withdrawn, to determine an application for a variation to a premises licence.	Part 8, Gambling Act 2005
10.	Where representations have been received and not withdrawn, to determine an application for a transfer to a premises licence.	Part 8, Gambling Act 2005
12.	Where representations have been received and not withdrawn, to determine an application for a provisional statement.	Gambling Act 2005
13.	Where representations have been received and not withdrawn, to determine an application for a club gaming or club machine permit.	
14.	Power to cancel a club gaming or club machine permit.	
15.	Power to determine to give a counter notice to a temporary use notice.	
16.	Power to take action after a review has been heard under Section 201.	
17.	Power to issue premises licences and to receive temporary use notices.	
18.	Power to dis-apply Section 279 and 282(1) of the Act.	
19.	Power to revoke premises licences for non-payment of fee or dis-apply Section 193 of the Act.	
20.	Power to determine prize gaming permits.	
21.	Power to determine licensed premises gaming machine permits.	

## Licensing and Control 'B' Sub-Committee

### Membership:

3 Members and substitute(s) selected on each occasion by the Director of Communities from the 15 members of the Licensing and Control Committee B

### Terms of Reference:

1. To determine the following under the Licensing Act 2003 including the imposition of appropriate conditions on Licences:
  - (a) Applications for personal licences – if a Police objection
  - (b) Applications for personal licences with unspent convictions – all cases
  - (c) Applications for Premises Licences/Club Premises Certificates – if an adverse relevant representation subsists
  - (d) Applications for provisional statements – if an adverse relevant representation subsists
  - (e) Applications to vary Premises Licences/Club Premises Certificates – if an adverse relevant representation subsists
  - (f) Applications to vary Designated Premises Supervisors – if a Police objection
  - (g) Applications for transfer of Premises Licences – if a Police objection

- (h) Applications for Interim Authorities – if a Police objection
  - (i) Applications to review Premises Licences/Club Premises Certificates – if an adverse relevant representation subsists
  - (j) Decisions to object when Local Authority is a consultee and not the relevant authority considering the applications – all cases
  - (k) Determinations of an objection to a Temporary Event Notice – all cases
2. To determine the following under the Gambling Act 2005 including the imposition of appropriate conditions on licences:
- (a) Applications for premises licences – where representations have been received and not withdrawn
  - (b) Application for a variation to a licence – where representations have been received and not withdrawn
  - (c) Applications for a transfer of a licence – where representations have been received and not withdrawn
  - (d) Application for a provisional Statement – where representations have been received and not withdrawn
  - (e) Review of a premises licence
  - (f) Application for club gaming/club machine permits – where objections have been made and not withdrawn
  - (g) Cancellation of club gaming/club machine permits
  - (h) Decision to give a counter notice to a temporary use notice

## Overview and Scrutiny Committee

### General

- (a) The Committee is a committee of the Council appointed by the Council under Section 102(1) of the Local Government Act 1972;
- (b) The Council has arranged under Section 101(1) of that Act for the discharge by the Committee of such of the Council's functions as are within the Committee's Terms of Reference (set out [below in Article 6](#));
- (c) Certain functions are delegated by this Committee to Officers. Full details may be found in the Officer Scheme of Delegations which can be found in Part 4 of the Constitution;
- (d) The Committee exercises the scrutiny function of Worthing Borough Council, only in relation to matters which have been specifically reserved to be within the remit of Worthing Borough Council or its Cabinet, rather than being included under joint working arrangements as set out in the Joint Committee Agreement between Adur District Council and Worthing Borough Council, as may be found in Part 9 of the Constitution.
- (e) Where a functional matter within the Committee's competence has been delegated to an Officer, the Committee may exercise that function or matter concurrently with the Officer to whom it has been delegated;
- (f) The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Constitution; and
- (g) The membership of the Committee is 15 Elected Members;
- (h) The quorum required for this Committee is 5 or more Members.

### Terms of Reference

No.	Power/Function	Legislation
1.	To consider Call-Ins relating to decisions of the Worthing Cabinet in relation to a Worthing Borough Council only matter; and	
2.	To exercise the functions set out in Article 6.03-6.05.	

## **Joint Overview and Scrutiny Committee**

The Council is required to have an overview and scrutiny function which:

- Provides 'critical friend' challenge and holds to account the Executive policy and decision makers
- Drives improvement, finds efficiencies and new ways of delivering services
- Enables the voice and concerns of the public and its communities to be heard
- Will be carried out by councillors in an apolitical and non-partisan manner.

### **General**

- (a) The Committee is a committee of the Council appointed by the Council under Section 102(1) of the Local Government Act 1972;
- (b) The Council has arranged under Section 101(1) of that Act for the discharge by the Committee of such of the Council's functions as are within the Committee's Terms of Reference (set out below in Article 6);
- (c) The Committee exercises the scrutiny function of both Worthing Borough Council and Adur District Council in relation to all matters other than those specifically reserved to be within the remit of the individual Councils or their Executives.
- (d) Certain functions are delegated by this Committee to Officers. Full details may be found in the Officer Scheme of Delegations which can be found in Part 4 of the Constitution;
- (e) Where a functional matter within the Committee's competence has been delegated to an Officer, the Committee may exercise that function or matter concurrently with the Officer to whom it has been delegated;
- (f) The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Constitution;
- (g) The membership of the Committee is 16 Elected Members (8 appointed by the Council and 8 by the District Council of Adur); and
- (h) The current Chair and Vice Chair of the Council's Joint Overview and Scrutiny Committee will automatically represent the Council on the Greater Brighton Economic Board (Joint Committee) Scrutiny Panel and be consultees for any Call-In of decisions by the Greater Brighton Economic Board (Joint Committee).

### **Terms of Reference**

As set out in Article 6.

## **Joint Governance Committee**~~Joint Audit & Governance Committee~~

The Committee considers internal and external audit matters and issues such as the Council's anti-fraud and risk management arrangements; and is responsible for recommendations to the Full Councils in areas such as constitutional issues, Councillors' allowances, bylaws and elections.

### **General**

- (a) This Committee is a committee of the Council appointed by the Council jointly with Adur District Council under Section 101(5) of the Local Government Act 1972;
- (b) Certain functions are delegated by this Committee to Officers. Full details may be found in the Officer Scheme of Delegations found in Part 4 of the Constitution;
- (c) Where a functional matter within the Committee's competence has been delegated to an Officer, the Committee may exercise that function or matter concurrently with the Officer to whom it has been delegated;
- (d) The exercise of any functional matter within the Committee's competence is always subject to any relevant requirement of the Constitution;

- (e) The Joint Committee has 16 Elected Members (8 appointed by the Council and 8 by the District Council of Adur), and up to 3 Independent Persons. The Independent Persons will be co-opted non-voting members of the Committee. The Joint Committee shall also co-opt one Member of Lancing Parish Council and one Member of Sompting Parish Council to advise the Committee on Parish matters, when considering such matters. Parish representatives will not be entitled to vote at meetings.
- (f) The Joint Committee may establish one or more Sub-Committees in accordance with the Localism Act 2011, to determine standards matters, to make appointments of Joint Independent Remuneration Panel members, and to make recommendations to Full Council in respect of appointments of Independent Persons.
- (g) A Sub-Committee will consist of 6 Elected Members (3 appointed by the Council and 3 by the District Council of Adur) and 1 Independent Person. In addition 1 Parish representative may sit on the Sub-Committee when determining a standards matter relating to a Parish Councillor; the Parish Member cannot be from the same Parish as the Subject Member complained of and should be from the other Parish within the District of Adur. The Independent Person and the Parish representative will be co-opted non-voting Members of the Sub-Committee. The quorum of any Sub-Committee shall be 4.
- (h) The Committee and any Sub-Committee should be politically balanced.
- (i) A maximum of one Member of each Council's Executive may sit on the Joint Audit & Governance Committee, but they shall not be appointed as Chair or Vice-Chair.
- (j) Substitutes on the Joint Audit & Governance Committee are permitted. Substitutes on any Sub-Committee are only permitted from the Joint Audit & Governance Committee.

**Commented [g22]:** As per CIPFA guidance: A non-executive chair is important in order to promote the objectivity of the committee (especially its audit functions) and to enhance its standing in the eyes of the public.

## Terms of Reference

### Standards, Ethics and Probity

No.	Function/Matter	Legislation
1.	To lead on the Council's duties to design, implement, monitor, approve and review the standards of ethics and probity of the Council and its Councillors and Co-opted Members. The Committee's powers should include responding to consultation documents and the promulgation of Codes of Conduct but the adoption and revision of the local Members' Code of Conduct shall be reserved to the Council.	Chapter 7 of the Localism Act 2011
2.	To promote a culture of openness, ready accountability and probity in order to ensure the higher standards of conduct of Councillors and Co-opted Members.	
3.	To lead on all aspects of corporate governance by promoting the values of putting people first, valuing public service and creating a norm of the higher standards of personal conduct.	
4.	To oversee and manage a programme of guidance, advice and training on ethics, standards and probity for Councillors and Co-opted Members and on the Members' Code of Conduct.	
5.	To be responsible for the Council's Register of Members' Interests and to receive reports from the Monitoring Officer on the operation of the register from time to time.	Section 29, Localism Act 2011
6.	To be responsible for written guidance and advice on the operation of the system of declarations of Members' interests and to receive reports from the Monitoring Officer on the operation of the system of declarations from time to time.	
7.	To establish, monitor, approve and issue advice and guidance to Councillors and Co-opted Members on a system of dispensations to speak on, or participate in, matters in which they have interests and give dispensation in appropriate cases. Granting dispensations to Councillors and Co-opted Members from requirements relating to interests set out in the Code of Members' Conduct and the Localism Act 2011, in circumstances where the Monitoring Officer does not exercise their discretion.	Section 33 of the Localism Act 2011
8.	To exercise the functions of the Council in relation to the ethical framework, corporate governance and standards of conduct of joint committees and other bodies.	



9.	To establish a Standards Sub-Committee to receive reports following investigation on behalf of the Monitoring Officer into allegations of misconduct by Members and to determine appropriate action in respect of alleged breaches of the Members' Code of Conduct.	
10.	To support the Monitoring Officer and Chief Financial Officer (Section 151 Officer) in their statutory roles and the issuing of guidance on them from time to time.	
11.	To receive regular reports on the performance of the Corporate Complaints Process, Local Government Ombudsman referrals, Annual Governance Statement and Code of Corporate Governance and to recommend revisions to related policies and procedures, as appropriate.	
12.	To ensure adequate training and development for Elected Members.	
13.	To co-opt in an advisory capacity, any person who is an Independent Person at another Local Authority, to advise the Joint Audit & Governance Committee or its Sub-Committee, on such terms as the Joint Audit & Governance Committee may determine.	
14.	To receive an annual report from the Monitoring Officer on the local resolution and assessment of allegations of breach of the Member Code of Conduct, by Members of the Council, and any Parish Council in the District of Adur.	
15.	Dealing with allegations that a Member of a Parish Council within the District of Adur has failed or may have failed to comply with the relevant Parish Code and conduct, in accordance with the provisions of the Localism Act.	
16.	Any other functions imposed by statute.	

#### Audit and Accounts Activity

No.	Power/Function	Legislation
1.	To consider the Head of Internal Audit's Annual Report and opinion and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements.	
2.	To consider reports dealing with the management and performance of the providers of internal audit services.	
3.	To consider reports on the Internal Audit on the recommendations agreed with the Heads of Service which have not been implemented within a reasonable timescale.	
4.	To consider the External Auditor's Annual Letter, relevant reports (both financial and strategic), and the report of those charged with governance.	
5.	To consider specific reports as agreed with the External Auditor.	
6.	To comment on the scope and depth of external audit work and to ensure it gives value for money.	
7.	Power to undertake the Council's responsibilities with regard to External Auditors under Part 3 of the Local Audit and Accountability Act 2014.	
8.	To commission work from Internal and External Audit.	
9.	To review the Annual Statement of Accounts with specific emphasis on whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.	
10.	To receive Risk and Opportunity update reports three times a year.	
11.	<u>To report on internal and external audit activities in the previous fiscal year to both Adur and Worthing Full Councils on an annual basis.</u>	

#### Constitutional Framework

No.	Power/Function	Legislation
1.	To monitor and review the operation of the Constitution particularly in respect of financial procedures and protocols, codes of conduct and behaviour (including the Members Code of Conduct), procurement procedures and guidelines	

2.	To review any issue referred to it by the Chief Executive, a Director, or any Committee of the Council	
3.	To monitor the effective development and operation of risk management and corporate governance in the Council	
4.	To implement, monitor and review the Council's Whistle-Blowing Procedure, , Anti-Money Laundering Policy, Anti-Fraud and corruption Policy and the Council's complaints procedure	
5.	To oversee the production of the Council's Statement on Internal Control and to recommend its adoption	
6.	To consider the Council's arrangements for corporate governance and agreeing necessary actions to ensure compliance with best practice	
7.	To consider the Council's compliance with its own and other published standards and controls	
8.	Considering the annual report regarding complaints about the Council referred to the Local Government Ombudsman	
9.	To appoint persons to the role of members of the Joint Independent Remuneration Panel and to make recommendations to Full Council in respect of proposed appointments of Independent Persons for Standards matters.	

#### Other

No.	Power/Function	Legislation
1.	To determine matters relating to functions which are not Executive functions and are not the responsibility solely of Council or any other Committee.	
2.	To receive a report from the Joint Independent Remuneration Panel and make recommendations to Council.	

#### Joint Staff Committee

##### General

- (a) The Committee is a committee of the Council appointed by the Council under Section 102(1) of the Local Government Act 1972;
- (b) The Council has arranged under Section 101(1) of that Act for the discharge by the Committee of such of the Council's functions as are within the Committee's terms of reference (set out below);
- (c) Certain functions are delegated by this Committee to Officers. Full details may be found in the Officer Scheme of Delegations which can be found in Part 4 of the Constitution;
- (d) Where a functional matter within the Committee's competence has been delegated to an Officer, the Committee may exercise that function or matter concurrently with the Officer to whom it has been delegated;
- (e) The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Constitution; and
- (f) The membership of the Committee is 6 Elected Members (3 appointed by the Council and 3 appointed by the District Council of Adur).

##### Terms of Reference

No.	Function/Duty	Legislation
1.	Power to determine the terms and conditions on which all staff other than the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, hold office (including employment procedures).	Section 112 of the Local Government Act 1972. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

2.	The making of agreements with other Local Authorities for the placing of staff for the disposal of those other Authorities, to the extent that the staff are being placed at the disposal of the other Authority in relation to the discharge of functions which are not the responsibility of the Cabinet placing the staff.	Section 113(4) and (5), Local Government Act 1972
3.	Functions relating to Local Government pensions, etc.	Regulations under Section 7, 12 and 24 of the Superannuation Act 1972

## Joint Senior Staff Committee

### General

- (a) The Committee is a committee of the Council appointed by the Council under Section 102(1) of the Local Government Act 1972;
- (b) The Council has arranged under Section 101(1) of that Act for the discharge by the Committee of such of the Council's functions as are within the Committee's Terms of Reference (set out below);
- (c) Certain functions are delegated by this Committee to Officers. Full details may be found in the Officer Scheme of Delegations which can be found in Part 4 of the Constitution;
- (d) Where a functional matter within the Committee's competence has been delegated to an Officer, the Committee may exercise that function or matter concurrently with the Officer to whom it has been delegated;
- (e) The exercise of any function or matter within the Committee's competence is always subject to any relevant requirement of the Constitution; and
- (f) The membership of the Committee is 6 Elected Members (3 appointed by the Council and 3 appointed by the District Council of Adur);
- (g) The Membership of the Committee shall include at least one Cabinet or Executive Member and at least one Non-Executive Member from each Council.

### Terms of Reference

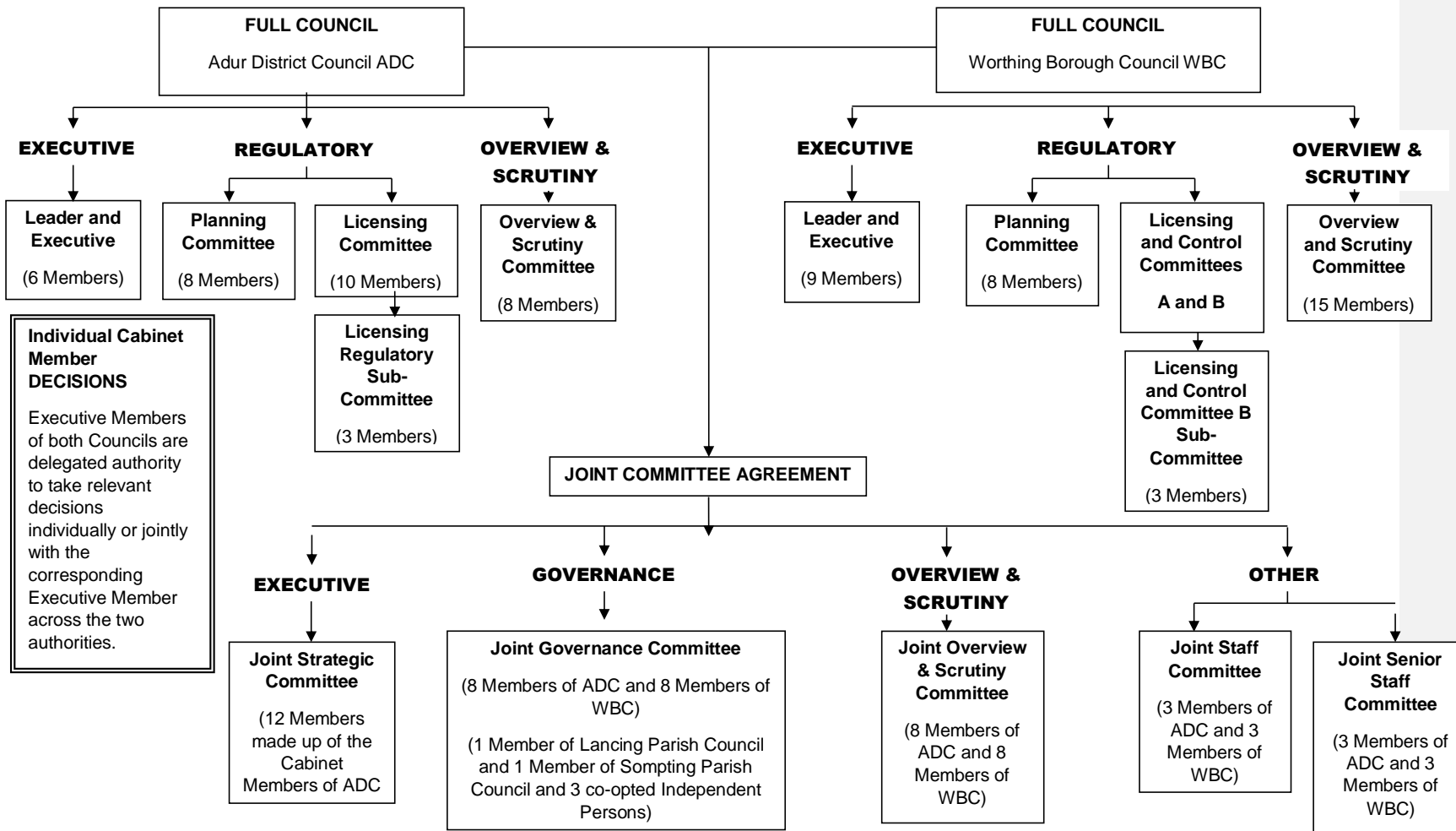
No.	Function/Duty	Legislation
1.	To be responsible for the recruitment and terms and conditions of the Chief Executive (Head of Paid Service), Chief Finance Officer and Monitoring Officer, and make recommendations on any proposed appointment, and terms and conditions, to the Council and Adur District Council.	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015
2.	All matters relating to the investigation, hearing and determination of any grievance against or allegation of misconduct by the Chief Executive, Chief Finance Officer or Monitoring Officer, including the appointment of the Independent Panel, the receipt of their report and the implementation of their recommendations. Where the Panel's recommendation is to dismiss the Chief Executive, the Chief Finance Officer or the Monitoring Officer, or where the Joint Senior Staff Committee proposes to dismiss, the power to approve any proposed dismissal is reserved to Full Council.	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
3.	<u>To be responsible for the function of the appointment of Non-Statutory Chief Officers and Deputy Chief Officers.</u>	<u>Local Authorities (Standing Orders) (England) Regulations 2001</u>

### Officers

- (a) Certain Officers of the Council have responsibility for decisions delegated to them in accordance with the Officer Scheme of Delegations, which can be found at Part 4 of the

Constitution, and expressly delegated to them from time to time by Members, such delegations to be recorded in writing and notified to the Monitoring Officer.

(b) The Officer Scheme of Delegations may be reviewed and varied from time to time.



Illustrative A-Z of Service Areas/Cabinet Portfolios & Committees  
(Approved version)

Service Area/Function	Responsible 'Head of'/ Director	Executive Member (ADC)	Cabinet Member (WBC)	Committee (if not specific to a Cabinet Member)
Abandoned Vehicles	Environmental Services	Environment	Regeneration	
Accountancy (technical and strategic)	Financial Services	Resources	Resources	
South Downs Leisure Trust - client role	Director for Communities	Environment	-	
Adur Consultative Forum (ACF)	Housing	Customer Services	-	
Adur Core strategy (now the Local Plan)	Planning and Development	Regeneration		
Adur Homes (including Management Board)	Housing	Customer Services	-	
Affordable Housing Provision	Housing	Customer Services	Citizen Services	
Air Quality	Wellbeing	Health and Wellbeing	Environmental Services	
Allotments	Environmental Services	Environment	Environmental Services	
Annual statement of Accounts	Director for Digital, Sustainability and Resources/Financial Services	-	-	Joint Governance
Anti-Social Behaviour in relation to tenants	Housing	Customer Services	Citizen Services	
Assembly Hall	Culture	-	Culture & Leisure	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Executive Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Asset Management	Business and Technical Services	Leader	Resources	
Audit Fees	Chief Financial Services	Resources	Resources	Joint Audit & Governance Committee
Audit Management	Chief Financial Services	-	-	Joint Audit & Governance Committee
Audit Service	Chief Financial Services	-	-	Joint Audit & Governance Committee
Beach Huts and Chalets	Environmental Services	Environment	Regeneration	
Beach Maintenance	Environmental Services	Environment	Regeneration	
Benefit Administration (Worthing)	Revenues and Benefits	-	Citizen Services	
Bereavement Services (formerly cemeteries and crematoria)	Environmental Services	Environment	Environmental Services	
Branding	Communications	Leader	Leader	
Budgets (including the overall allocation of Revenue and Capital)	Chief Financial Officer	Resources	Resources	Council Tax (revenue budget approved by Full Councils)
Building/Offices Cleaning	Business and Technical Services	Resources	Resources	
Building cleaning (Adur Homes)	Housing	Customer Services	-	
Building Control	Planning and Development	Regeneration	Regeneration	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Executive Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Bulky Waste	Environmental Services	Environment	Environmental Services	
Burials	Environmental Services	Environment	Environmental Services	
Bus shelters	Business and Technical Services	Environment	Regeneration	
Business Engagement and Partnerships	Place and Investment	Regeneration	Regeneration	
Business Rates	Revenues and Benefits	Resources	Citizen Services	
Business Continuity	Business and Technical Services	Health and Wellbeing	Regeneration	
Business Improvement District Levy	Revenues and Benefits	Resources	Resources	
Building Management (Worthing Town Hall, Portland House,)	Business and Technical services	Resources	Resources	
Capital Programme	Business and Technical services and Chief Financial Officer	Resources	Resources	
Capital Programme (Adur Homes)	Housing and Chief Financial Officer	Customer Services	-	
Chair of the Council	Wellbeing	-	-	
Chief Financial Officer	Finance	-	-	Statutory Role
Choice Based Lettings	Housing	Customer Services	Citizen Services	
Cinema (Ritz)	Culture		Culture & Leisure	



<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Executive Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
City Deal (strategic matters)		Leader	Leader	
Cleansing (Street)	Environmental Services	Environment	Environmental Services	
Clinical waste	Environmental Services	Environment	Environmental Services	
Coastal Protection and monitoring	Business and Technical services	Regeneration	Regeneration	
Coastal West Sussex	Planning and Development	Regeneration	Regeneration	
Commercial Waste	Environmental Services	Environment	Environmental Services	
Committee Management	Wellbeing	Leader	Leader	
Community Alarm and telecare service	Housing	Customer Services	-	
Community Safety and Anti Social Behaviour	Wellbeing	Health and Wellbeing	Community Wellbeing	
Concessions	Place and Investment	Regeneration	Regeneration	
Connaught Theatre	Culture	-	Culture & Leisure	
Conservation areas	Planning and Development	Regeneration	Regeneration	
Consultation (public)	Communications	Leader	Deputy Leader	
Contact Centre Services	Customer Contact and Engagement	Customer Services	Citizen Services	
Contracts & Procurement	Financial Services	Resources	Resources	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Executive Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Corporate Complaints	Customer Contact and Engagement	Leader	Leader	
Corporate Information Management (GIS)	Digital and Design	Resources	Resources	
Corporate Property Terriers	Technical and Business Services	Resources	Resources	
Corporate Property (not included in other portfolios)	Planning and Development	Resources	Resources	
Council sheltered Housing Schemes (Adur)	Housing	Customer Services	-	
Council Tax	Revenues and Benefits	Resources	Resources	
Councillor Code of Conduct (including Parish)	Legal (Monitoring Officer)	-	-	Joint Audit & Governance Committee/Standards Sub Committee
Customer Insight, Customer Experience. Process and Service Improvement	Customer Contact and Engagement	Customer Services	Citizen Services	
Dangerous Structures	Development and Planning	-	-	Planning Committee
Data Protection	Digital and Design	Resources	Resources	
Debtors	Chief Financial Officer	Resources	Resources	
Democratic Services	Wellbeing	Leader	Leader	
Devolution, strategic direction		Leader	Leader	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Executive Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Disability Facilities Grant and other Housing Grants	Housing	Customer Services	Citizen Services	
Digital Transformation	Digital and Design	Resources	Resources	
Dog Control	Environmental Services	Environment	Environmental Services	
Greater Brighton Economic Board (Joint Committee) - representative on and Strategic Direction		Leader	Leader	
Economic Development, Inward Investment & Business Retention, Growth Deal, City Region	Place and Investment	Regeneration	Regeneration	
Education Liaison, promotion etc.		Regeneration	Leader	
Elections	Returning Officer Customer Contact and Engagement	-	-	Returning Officer/some decisions reserved to Council (i.e. frequency of elections)
Emergency Planning	Business and Technical Services	Health and Wellbeing	Regeneration	
Empty Properties		Regeneration	Citizen Services	
Employee Relations	Strategic Human Resources	Resources	Resources	
Energy Management	Sustainability		Climate Emergency	
Engineering and Surveying	Business and Technical Services	Resources	Resources	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Executive Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Environmental Health (Protection)	Wellbeing	Health and Wellbeing	Environmental Services	
Events and Cultural Projects	Culture	Regeneration and/or Environment	Culture & Leisure	
Exchequer Services	Chief Financial Officer	Resources	Resources	
External Auditor's Annual Letter	Chief Financial Officer	-	-	Joint Audit & Governance Committee
EU and External Funding	Place and Investment	Resources	Resources	
Facilities Management (incl security, reprographics, porters, pool cars)	Business and Technical Services	Resources	Resources	
Fleet and Transport Maintenance	Environmental Services	Environment	Regeneration	
Flood Protection	Business and Technical Services	Regeneration	Environmental Services	
Food safety incl Enforcement Plan	Wellbeing	Health and Wellbeing	Environmental Services	
Foreshore Management	Environmental Services	Environment	Regeneration	
Fraud Investigation (Adur)	Chief Financial Officer	Resources	Resources	
Fraud Investigation (Worthing)	Chief Financial Officer	-	Resources	
Freedom of Information	Digital and Design	Resources	Resources	
Fuel Poverty	Wellbeing	Health and Wellbeing	Community Wellbeing	
Garage Management (Adur Homes properties)	Housing	Customer Services	-	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Executive Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Garden Waste	Environmental Services	Environment	Environmental Services	
Grounds Maintenance	Environmental Services	Environment	Environmental Services	
Grounds Maintenance (Adur Homes Properties)	Housing	Environment	-	
Hackney Carriage Licensing	Wellbeing	-	-	Licensing Committees
Health and Safety (corporate)	Business and Technical Services	Health & Wellbeing	Regeneration	
Help points/Customer services receptions	Customer Services and Engagement	Customer Services	Citizen Services	
Housing Systems support and monitoring (Adur Homes)	Housing	Customer Services	-	
Housing Voice (Adur)	Housing	Customer Services	-	
Information Security	Digital and Design	Resources	Resources	
Infrastructure delivery plans	Planning and Development	Regeneration	Regeneration	
Insurance	Chief Financial Officer	Leader	Resources	
Internal Audit	Chief Financial Officer	Resources	Resources	
Internal Audit Annual report and Opinion	Chief Financial Officer	-	-	Joint Audit & Governance Committee
Investments (treasury Management)	Chief Financial Officer	Resources	Resources	
IT Systems support	Digital and Design	Resources	Resources	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Executive Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Land Charges	Planning and Development	Resources	Resources	
Land Drainage	Business and Technical Services	Regeneration	Environmental Services	
Leasehold administration	Housing	Customer Services	-	
Leasehold Sheltered Scheme	Housing	Customer Services	-	
Learning and Development	Strategic Human Resources	-	-	
Legal Services	Legal	Resources	Resources	
Leisure Facilities (management of Adur sites)	Director for Communities (client)	Environment	-	
Leisure Facilities (management of Worthing sites)	Director for Communities (Client)	-	Culture & Leisure	
Licensing (Premises, personal, alcohol, gambling hackney carriages etc.)	Wellbeing	-	-	Licensing Committee
Listed Buildings	Planning and Development	-	-	Planning Committee
Local Development Plans	Planning and Development	Regeneration	Regeneration	
Local Land and Property Gazetteer	Planning and Development	Resources	Resources	
Local Strategic Partnership	Wellbeing	Health and Wellbeing	Community Wellbeing	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Executive Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Major Regeneration Projects	Planning and Development	Regeneration	Regeneration	
Mayoralty	Wellbeing		Leader	
Media	Communications	Leader	Leader	
Member Development & Services	Wellbeing	Leader	Leader	
Monitoring Officer	Legal	-	-	Statutory Role
Neighbour Disputes (dealing with Noise etc. via environmental health)	Wellbeing	Health and Wellbeing	Community Wellbeing	
Neighbour Disputes (dealing with Anti-Social Behaviour Team)	Wellbeing	Health and Wellbeing	Community Wellbeing	
Neighbour Disputes (dealing with Adur homes)	Housing	Customer Services	-	
Non-Domestic Rates (Adur)	Revenues and Benefits	Resources	-	
Non-Domestic Rates (Worthing)	Revenues and Benefits	-	Resources	
Non-Housing property repairs	Business and Technical Services	Resources	Resources	
Ombudsman	Customer Contact and Engagement	-	-	Joint Audit & Governance Committee
Open spaces	Environmental Services	Environment	Environmental Services	
Organisational Development	Strategic Human Resources	Resources	Resources	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Executive Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Parking Services	Customer Contact and engagement	Environment	Regeneration	
Parks Management	Environmental Services	Environment	Environmental Service	
Performance Management	Digital and Design	Leader	Leader	
Pest Control	Environmental Services	Health and Wellbeing	Environmental Services	
Places and Neighbourhoods	Wellbeing	Health and Wellbeing	Deputy Leader	
Place Shaping	Place and Investment	Regeneration	Deputy Leader	
Planning Policy	Planning and Development	Regeneration	Regeneration	
Private Hire Vehicle Licensing	Wellbeing	-	-	Licensing Committee
Procurement and Contracts	Finance	Resources	Resources	
Public conveniences (Including Cleaning) - contract management	Environmental Services	Environment	Environmental Services	
Recruitment and Selection of Chief Executive and Directors	Organisational Development	-	-	Joint Senior Staff Committee/Council
Recycling	Environmental Services	Environment	Environmental Services	
Refuse	Environmental Services	Environment	Environmental Services	
Remuneration (Members) - (Members Allowances)	Wellbeing			Joint Independent Remuneration Panel/Joint Audit & Governance Committee /Full Council



<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Executive Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Rent Accounting (Adur)	Housing	Customer Services	-	
Repairs and Maintenance (Adur Homes)	Housing	Customer Services	-	
Reprographics	Business and Technical Services	Resources	Resources	
Resident's Panels	Communications	Leader	Leader	
Risk Management	Digital and Design	Leader	Leader	
Revenues and Benefits (Adur)	Revenues and Benefits	-	-	
Revenues and Benefits (Worthing)	Revenues and Benefits	-	Citizen Services	
Road Nameplates	Planning and Development	Environment	Regeneration	
Safer Communities	Wellbeing	Health and Wellbeing	Community Wellbeing	
Safeguarding	Wellbeing	Health and Wellbeing	Community Wellbeing	
Scrutiny	Digital and Design			Joint Overview and Scrutiny Committee
Section 151 Role	Chief Financial Officer	-	-	Statutory Role
Senior Information Risk Owner	Director for Digital, Sustainability and Resources	-	-	
Sex Establishments	Wellbeing	-	-	Licensing Committees

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Executive Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Shops owned by the Council (Adur)	Business and Technical Services	Resources	-	
Skills and Enterprise/Education liaison		Regeneration	Leader	
South Downs Leisure Trust (client role)	Director for Communities	-	Environmental Services	
Strategy, Systems and Clienting (Housing)	Housing	Customer Services	Citizen Services	
Strategic Housing and Enabling	Housing	Customer Services	Citizen Services	
Street Cleansing	Environmental Services	Environment	Environmental Services	
Street Furniture	Business and technical Services	Environment	Regeneration	
Street and House to House Collections	Wellbeing	-	-	Licensing Committees
Street naming and Numbering	Planning and Development	Environment	Regeneration	
Supported Housing - sheltered housing and community alarm	Housing	Customer Services	Citizen Services	
Systems support and Development	Digital and Design	Resources	Resources	
Taxi and Private Hire	Wellbeing	-	-	Licensing Committee
Telephony	Digital and Design	Resources	Resources	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Executive Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Temporary Accommodation Management	Housing	Customer Services	Citizen Services	
Tenancy Services	Housing	Customer Services	-	
Tenant Participation	Housing	Customer Services	-	
Theatres	Culture	-	Culture & Leisure	
Think Family and Early Help	Wellbeing	Health and Wellbeing	Community Wellbeing	
Third Sector and Partnerships	Wellbeing	Health and Wellbeing	Community Wellbeing	
Town Centre Management (Lancing, Shoreham, Southwick)	Place and Investment	Regeneration	-	
Trade Waste	Environmental Services	Environment	Environmental Services	
Treasury Management	Chief Financial Officer	Resources	Resources	Joint governance
Tree Management	Planning and Development	-	-	Planning Committee
Tree Preservation Orders (TPOs)	Planning and Development	-	-	Planning Committee
Urban Realm	Place and Investment	Regeneration	Regeneration	
Visitors and Events (cultural - Environment) (business - Regeneration)	Place and Investment	Regeneration/Environment	Regeneration	
Waste Education	Environmental Services	Environment	Environmental Services	
Waste Management	Environmental Services	Environment	Environmental Services	

<b>Service Area/Function</b>	<b>Responsible 'Head of'/ Director</b>	<b>Executive Member (ADC)</b>	<b>Cabinet Member (WBC)</b>	<b>Committee (if not specific to a Cabinet Member)</b>
Waste Strategy and compliance	Environmental Services	Environment	Environmental Services	
Waste Transfer Licences	Environmental Services	Environment	Environmental Services	
Website and Online Service Development	Digital and Design	Resources	Resources	
Wellbeing Hub	Wellbeing	Health and Wellbeing	Culture & Leisure	
Whistle Blowing Procedure	Legal	-	-	Joint Governance
Worthing Foreshore Service	Environmental Services	-	Regeneration	
Worthing Museum and Art Gallery	Culture	-	Citizen Services	
Worthing Pier	Business and Technical Services	-	Regeneration	

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## PART 4 – PROCEDURE RULES

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### Council and Committee Procedure Rules

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#### **COUNCIL PROCEDURE RULES EFFECTIVE FROM 22<sup>ND</sup> APRIL 2020 TO 6<sup>TH</sup> MAY 2021**

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## **1.0 — INTRODUCTION**

~~This version of the Worthing Borough Council Procedure Rules will be effective from 22<sup>nd</sup> April 2020 until 6<sup>th</sup> May 2021, unless revoked sooner, by a decision of the Council, or under delegated authority by the Monitoring Officer or Chief Executive.~~

~~If not revoked sooner, on 7<sup>th</sup> May 2021, these Council Procedure Rules will be revoked automatically and the version approved by the Council and coming into effect on 1<sup>st</sup> June 2018 will continue to apply, unless the Council decides otherwise.~~

### **Introduction**

## 1.1 Interpretation

In these Council Procedure Rules the interpretation of words shall be in accordance with the definitions set out in Part 1 of the Constitution.

## 1.2 General

- (a) Any proposal to permanently alter these Council Procedure Rules (other than minor amendments made by the Monitoring Officer), other than a motion to implement a recommendation of the Joint Audit & Governance Committee, shall be in the form of a motion instructing the Joint Audit & Governance Committee to report upon such proposals. Any such motion, upon being seconded, shall be put to the vote without discussion. The Joint Audit & Governance Committee shall report to the next Ordinary Council Meeting upon any matter referred to it under this Council Procedure Rule.
- (b) These Council Procedure Rules embody the requirements of the mandatory Standing Orders, as provided for by the Local Government Act 1972, Local Government and Housing Act 1989 and the Local Government Act 2000, together with secondary legislation, where appropriate. These Council Procedure Rules, therefore, constitute the Council's statutory procedural standing orders, and should be interpreted accordingly.
- (c) Where any step or action under these Council Procedure Rules is prescribed to be performed by a Designated Officer, that Officer may nominate or authorise another Officer in their place.
- (d) In implementing and effecting these Council Procedure Rules, the Council will comply with their statutory obligations relating to the use, recording and retention of any personal data that it receives.

## 1.3 Notices

Any Notice required under these Council Procedure Rules may be given to the Director for Communities, Town Hall, Chapel Road, Worthing, BN11 1HA, or by email to: [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk)

The listing of names as signatories on such documents shall be deemed to be signatures.

## 1.4 Person Presiding's Decision Final

Any ruling of the person presiding at any meeting on any point of order, interpretation of these Council Procedure Rules, matters arising during the debate or with regard to the admissibility of an explanation, or otherwise, including any logistical arrangements for any meetings, shall be final and not open to discussion. However, in reaching their decision, the person presiding must give due consideration to the advice of professional Officers.

## Annual Meeting

### 2.1 Timing

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

### 2.2 Business

The Annual Council will:

- (a) Elect a **personMember**, other than a Cabinet Member, to be the Mayor of the Borough;
- (b) Appoint a person, other than a Cabinet Member, to be the Deputy Mayor of the Borough;
- (c) Elect the Leader, if the term of office of the previous Leader has come to an end;
- (d) Appoint the Leader of the **Main Opposition** ([see Procedure Rule 39](#));

- (e) Elect a personMember, other than a Cabinet Member, to preside if the Mayor is not present;
- (f) Receive apologies for absences;
- (g) Receive any declarations of disclosable pecuniary or personal interests;
- (h) Approve the Minutes of the last meeting;
- (i) Receive any announcements from the Mayor and/or Head of Paid Service;
- (j) Give a vote of thanks to the retiring Mayor and presentation of retiring Mayor's insignia;
- (k) In an election year, receive the return of the Returning Officer;
- (l) Establish such Committees as the Full Council considers appropriate to deal with matters which are neither reserved to the Full Council nor are Executive functions, including a Committee to consider Standards issues and an Overview and Scrutiny Committee, in accordance with Council Procedure Rule 2.3 below;
- (m) Appoint Members to the Committees of the Council in accordance with Council Procedure Rules 2.3 and 2.4 below;
- (n) Adopt any changes to the Constitution and agree the Scheme of Officer Delegations, other than those relating to Executive functions, as set out in Part 4 of this Constitution;
- (o) Approve a programme of Ordinary Meetings of the Council for the year, if not already agreed;
- (p) Consider any other business set out in the summons convening the meeting; and
- (q) Consider any business that the Mayor believes to be urgent, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact on the Council.

There is no opportunity for the public or Members question time at an Annual Meeting of the Full Council.

### 2.3 Selection of Councillors on Committees

At the Annual Meeting, the Council will:

- (a) Decide which Committees to establish for the Municipal Year;
- (b) Decide the size and Terms of Reference of those Committees;
- (c) Having received a report from the Director for Communities concerning the implementation of political balance rules, decide the allocation of the number of seats of those Committees to each Political Group.
- (d) Receive nominations of Councillors, and where appropriate co-optees, to serve on each Committee; and
- (e) Appoint Members to seats on those Committees;
- (f) Appoint the Chair and Vice-Chair of the Council's Committees.

In a year when there is no Election, Council Procedure Rules 2.3 (a), (b) and (c) above may not apply.

### 2.4 Appointment of Substitute Members to Committees and Sub-Committees

The Full Council may appoint as many substitutes as it wishes, subject to the following:

- (a) No substitutes will be appointed for Licensing Committee or any of its Sub-Committees when dealing with Licensing Act 2003 and Gambling Act 2005 applications;
- (b) Substitutes may only substitute for Members of the same political party except where a substitution is necessary for the Committee to operate effectively, and the Political Group does not have sufficient membership to appoint a substitute, or the substitute is not able to attend. In these circumstances the Director for Communities may, having regard to the rules of political proportionality, and in consultation with the Member who is unable to attend, invite any other Member who has been designated as a substitute for that Committee, to attend the Committee or Sub-Committee;
- (c) Substitutes must be identified at the time of their appointment, but this can be by:
  - (i) appointing 'all Members' as substitutes for a particular Committee; or
  - (ii) appointing named Members as substitutes for a particular Committee.



- (d) Any Member sitting as a substitute on a regulatory Committee or Sub-Committee must have undertaken appropriate training within the preceding two years. Any Member sitting as a substitute on any other Committee must have undertaken training as appropriate.
- (e) Cabinet Members may not be substituted on the Cabinet;
- (f) Substitute Members will have all the powers and duties of any Ordinary Member of the Committee. The Substitute Member will not be able to exercise any special powers or duties exercisable by the person for whom they are substituting (e.g. if they substitute for the Chair, they shall not automatically have the powers of the Chair, unless voted as Chair by that Committee);
- (g) Substitute Members may attend meetings in that capacity only:
  - (i) To take the place of an Ordinary Member for whom they are the substitute;
  - (ii) Where the Ordinary Member will be absent for the whole of the meeting;
  - (iii) After notifying the Head of Legal Services, or their representative, prior to them joining the meeting of the Committee, of the intended substitution.
- (h) Where substitutions take place after the Appointed Member has been provided with documents relating to the meeting, the Appointed Member is responsible for providing the Substitute Member with access to those documents.

## Ordinary Meetings

### 3.1 Full Council

Ordinary Meetings of the Full Council will take place in accordance with a programme decided by the Full Council at its Annual Meeting, or at any other time.

Ordinary Meetings will:

- (a) Elect a ~~person~~Member, who is not a Cabinet Member, to preside if the Mayor and Deputy Mayor are not present;
- (b) Receive apologies for absence;
- (c) Receive any declarations of disclosable pecuniary or personal interests from Members;
- (d) Approve the Minutes of the last meeting;
- (e) In accordance with Council Procedure Rule 11.0, receive deputations and questions from, and provide answers to, the public;
- (f) Deal with any issues arising under the Council's Petition Scheme;
- (g) Receive any announcements from the Mayor, Leader, Cabinet Members or the Head of Paid Service;
- (h) Receive any announcements from any Group Leader as to changes to appointment of Members on Committees;
- (i) Deal with any business from the last Council meeting;
- (j) Consider any business that the Mayor believes to be urgent, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact on the Council;
- (k) Consider the business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework and reports of the Overview and Scrutiny Committee for debate;
- (l) In accordance with Council Procedure Rule 13.0, receive the Leader's report on Executive decisions and receive questions and answers on that report;
- (m) In accordance with Council Procedure Rule 12.0, receive questions from, and provide answers to, Elected Members;
- (n) Consider motions on notice in accordance with Council Procedure Rules 14 and 15.

### 3.2 Cabinet and Committees

Ordinary Meetings of the Cabinet and Committees will take place in accordance with a programme of dates decided by themselves and noted by Full Council.

Ordinary Meetings will:

- (a) Elect a ~~person~~ **Member** to preside if the Chair and Deputy Chair are not present;
- (b) Receive any declarations of substitute membership in accordance with Council Procedure Rule 2.4 above;
- (c) Receive any declarations of disclosable pecuniary or personal interests from Members;
- (d) Approve the Minutes of the previous meeting;
- (e) In accordance with Council Procedure Rule 11.0, receive questions from, and provide answers to, the public;
- (f) Deal with any business from the last meeting;
- (g) Consider any other business specified on the agenda for the meeting; and
- (h) Consider any business that the Chair believes to be urgent, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact on the Council.

## Extraordinary Meetings

### 4.1 Full Council

Those listed below may require the Director for Communities to summons Members to Full Council Meetings in addition to Ordinary Meetings:

- (a) The Full Council by resolution;
- (b) The Mayor;
- (c) The Head of Paid Service;
- (d) Monitoring Officer;
- (e) Section 151 Officer;
- (f) Any 5 Members of the Council, if they have signed a requisition presented to the Mayor and they have refused to call a meeting or has failed to call a meeting within 7 calendar days of presentation of the requisition. Any such requisition will be deemed to have been presented to the Mayor, if emailed to the Director for Communities at: [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk)

Extraordinary Meetings of Full Council will:

- (a) Elect a ~~person~~ **Member**, who is not a Cabinet Member, to preside if both the Mayor and Deputy Mayor are not present;
- (b) Receive any declarations of disclosable pecuniary or personal interests from Members;
- (c) In accordance with Council Procedure Rule 11.0, receive questions from, and provide answers to, the public;
- (d) Consider the single item of business specified in the summons to the meeting (a single item may be made up of more than one part provided they all relate to a single subject); and
- (e) Consider any business that the Mayor believes to be urgent, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact on the Council.

### 4.2 Cabinet and Committees

Those listed below may request the Director for Communities to call meetings of the Cabinet or Committees in addition to Ordinary Meetings:

- (a) The Leader, in respect of Cabinet Meetings, and the Chair of the Committee, in respect of their Committee Meetings, at any time.
- (b) If a requisition signed by at least 2, or one quarter of the total number, of the voting Cabinet Members, whichever is the greater, has been presented to the Leader, and either they have refused to call a meeting or no such Meeting has been called within 7 calendar days of the presentation of the requisition, then any 2, or one quarter of the number, of the voting Cabinet Members, whichever is the greater, may call an Extraordinary Meeting of the Cabinet by notice in writing to the Director for Communities at [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk) specifying the business proposed to be transacted. The Director for Communities shall give notice to all Cabinet Members and all persons entitled to receive

papers. Timeframes set out in the Access to Information Procedure Rules must be complied with.

- (c) If a requisition signed by at least 2, or one quarter of the total number, of the voting Members of the Committee, whichever is the greater, has been presented to the Chair of the Committee, and either they have refused to call a meeting or no such Meeting has been called within 7 calendar days of the presentation of the requisition, then any 2, or one quarter of the number, of the voting Members of the Committee, whichever is the greater, may call an Extraordinary Meeting of the Committee by notice in writing to the Director for Communities at [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk) specifying the business proposed to be transacted. The Director for Communities shall give notice to all Members of the Committee and all persons entitled to receive papers. Timeframes set out in the Access to Information Procedure Rules must be complied with.

Extraordinary Meetings will:

- (a) Elect a ~~person~~ Member to preside if the Chair and Deputy Chair are not present;
- (b) Receive any declaration of Substitute Members in accordance with Council Procedure Rule 2.4;
- (c) Receive any declarations of disclosable pecuniary or personal interests from Members;
- (d) In accordance with Council Procedure Rule 11.0, receive questions from, and provide answers to, the public;
- (e) Consider any other business specified in the agenda for the meeting;
- (f) Consider any business that the Chair believes to be urgent, in that the matter to be determined has arisen since the publication of the agenda and failure to determine it at this meeting would cause significant adverse impact on the Council.

## Special Meetings

### 5.1 Full Council

A Special Meeting of the Full Council is one that is required by statute, e.g. for the appointment of honorary aldermen or alderwomen, and shall only consider a single substantive item of business. The meeting shall be convened for the specific statutory purpose which shall be contained in the summons. No other business may be transacted at that meeting.

Those listed below may require the Director for Communities to call a Special Meeting of the Full Council:

- (a) The Full Council by resolution;
- (b) The Mayor; and
- (c) The Head of Legal Services.

Special meetings will:

- (a) Elect a ~~person~~ Member, who is not a Cabinet Member, to preside if the Mayor and Deputy Mayor are not present;
- (b) Receive any declarations of disclosable pecuniary or personal interests from Members;
- (c) In accordance with Council Procedure Rule 11.0, receive questions from, and provide answers to, the public relating to the specific single item of business on the agenda; and
- (d) Consider the specific item of business for which the meeting has been convened.

### 5.2 Cabinet and Committees

There shall be no Special Meetings of the Cabinet or any Committee.

## Time and Location

### 6.1 Full Council

- (a) Meetings will usually be held at the Town Hall, Chapel Road, Worthing, commencing at 6:30 p.m. unless:
  - (i) The Full Council resolves otherwise; or
  - (ii) For some practical reason this is not possible or appropriate, in which case the meeting will be held at another location to be decided by the Director for Communities, after consulting the Mayor and the Leader.
- (b) If an emergency occurs, the Director for Communities may, after consulting with such of the Mayor, the Leader and Leaders of the Political Groups as may conveniently be contacted, vary any arrangement agreed by the Full Council for the holding of Full Council meetings.
- (c) No meeting of the Full Council shall, except in an emergency, be held on a Friday evening, Saturday, Sunday, Bank Holiday or day on which the Council shall have granted a general holiday for its employees.

## 6.2 Cabinet and Committees

- (a) Meetings of the Cabinet and Committees will usually be held at the Town Hall, Chapel Road, Worthing, unless:
  - (i) The Cabinet or Full Council (in the case of a Committee) resolves otherwise; or
  - (ii) For some practical reason this is not possible, or appropriate, in which case the meeting will be held either at another location to be decided by the Director for Communities after consulting with the Chair of the Cabinet and Committee; or
  - (iii) They are Joint Committees under a Joint Committee Agreement, in which case the time and location of the meeting is governed by that Agreement.
- (b) If an emergency occurs, the Director for Communities may, after consulting the Chair of the Cabinet or the Committee, as the case may be, and, so far as practicable, representatives of the Political Groups, vary any arrangements agreed by the Full Council, the Cabinet or the Committee, for the holding of meetings.

## Notice of and Summons to Meetings

- 7.1 At least 5 clear working days before the day of a meeting, the Director for Communities shall publish on the Council's website the time and location of the intended meeting. Where the meeting is called by Members of the Council, the notice shall be signed by those Members and shall specify the purpose proposed to be transacted there.
- 7.2 At least 5 clear working days before the day of a meeting, the Director for Communities will send a summons or agenda signed by them to every Member of the Council by electronic mail, by post, or by leaving it at their usual place of residence. The summons or agenda will give the date, time and location of each meeting, specify the business to be transacted and will be accompanied by such reports or shall provide access to such reports electronically.

## ~~7A.0 ATTENDANCE BY MEMBERS AT COUNCIL AND COMMITTEE MEETINGS~~

~~7A.1—Where a Council meeting is to be held in a physical location, as confirmed in the summons to the meeting, a Member will need to be physically present to be deemed to be in attendance at the meeting.~~

~~7A.2—Where a Council meeting is to be held remotely, as confirmed in the summons to the meeting, a Member will be deemed to be present and in attendance at the meeting if they are able during the meeting:~~

~~1.0 To hear and be so heard by the Members in attendance, and~~

~~2.0 To hear and be so heard by any members of the public entitled to attend the meeting, who do attend, remotely or otherwise, and exercise a right to speak, and~~

~~3.0 To be so heard by any other member of the public accessing the meeting remotely.~~

~~7A.3—Where the conditions set out in CPR 7A.2 above are not satisfied and maintained for the duration of any item on the agenda for a meeting held remotely, the Member will not be able to participate in the vote on any decision relating to that agenda item. This applies, for example, should a Member lose electronic connection to the meeting for a period of time.~~

## **Chairing**

### **8.1 Full Council**

- (a) The person presiding at a meeting of Full Council may exercise any power or duty of the Mayor.
- (b) If it is necessary to choose a Member of the Council (who cannot be a Cabinet Member) to preside in the absence of the Mayor or their Deputy, the Director for Communities, or the Head of Legal Services, or their representatives, shall preside and call for a motion that a Member of the Council take the Chair.
- (c) If there is any debate on this motion, then the Director for Communities, or the Head of Legal Services, or their representatives, shall have all the powers of the Mayor for the purposes of that debate.

### **8.2 The Cabinet and Committees**

- (a) The person presiding at a meeting of the Cabinet and Committees may exercise any power or duty of the Chair.
- (b) If it is necessary to choose a Cabinet Member or Committee, as the case may be, to preside in the absence of the Chair or their Deputy, the Director for Communities, or the Head of Legal Services, or their representatives, shall preside and call for a motion that a Member of the Council take the Chair.
- (c) If there is any debate on this motion, then the Director for Communities, or the Head of Legal Services, or their representatives, shall have all the powers of the Chair for the purposes of that debate.

## **Quorum**

### **9.1 Full Council**

- (a) The Quorum of a meeting will be 10 Members.
- (b) If during any meeting the person presiding declares that there is not a quorum present the meeting shall stand adjourned for 15 minutes.
- (c) If, after 15 minutes, the person presiding declares that there is still no quorum present the meeting shall end.
- (d) Notwithstanding any provision in these rules that notices of questions or motions shall lapse, the consideration of all business which is on the agenda of a meeting brought to an end under the previous paragraph, and which has not been completed before the meeting is brought to an end, shall be postponed to the next meeting, whether Ordinary or Extraordinary, insofar as is allowed by law.

### **9.2 The Cabinet and Committees**

- (a) The Quorum of a meeting will be one third of the whole number of Cabinet Members or Committee, as the case may be, (rounded up where necessary to the next whole number), save that:
  - (i) In the case of the Licensing Committee the quorum will be one quarter of the whole number of Members of the Committee (rounded up where necessary to the next whole number);
  - (ii) In no case shall the quorum of any other Committee be less than 3; and

- (iii) In no case shall the quorum of a Sub-Committee be less than 2.
- (b) If during any meeting the person presiding declares that there is not a quorum present the meeting shall stand adjourned for 15 minutes.
- (c) If, after 15 minutes, the person presiding declares that there is still no quorum present the meeting shall end.
- (d) Notwithstanding any provision in these rules that notices of questions or motions shall lapse, the consideration of all business which is on the agenda of a meeting brought to an end under the previous paragraph, and which has not been completed before the meeting is brought to an end, shall be postponed to the next meeting, whether Ordinary or Extraordinary, insofar as is allowed by law.

### 9.3 Joint Committees

The quorum of a Joint Committee shall be determined in accordance with the Joint Committee Agreement or arrangement under which it is constituted. However, if no such arrangements are set out within the Joint Committee Agreement, or arrangement under which a Joint Committee is convened, then Council Procedure Rule 9.2 above will apply.

#### Duration of Meetings

##### 10.1 General

- (a) Subject to (d) below, ~~where any meeting has lasted for 4 hours,~~ the person presiding shall interrupt ~~the proceedings~~ where any meeting has lasted for three hours (and hourly after that), and whereupon any Member speaking shall stop speaking. The person presiding shall, without discussion, take a vote on whether or not the Members wish the meeting to continue.
- (b) If the majority of Members present do not vote to continue the meeting, then the person presiding shall, without further discussion, take a vote on the item under discussion and then the meeting shall stand adjourned. The remaining business shall be considered at a time and date fixed at that time by the person presiding and if no such date is fixed, at the next Ordinary Meeting.
- (c) If the majority of Members present vote to continue the meeting, then a further vote on whether or not to continue the meeting will take place on an hourly basis thereafter.
- (d) Council Procedure Rule 10.1 (a), (b) and (c) do not apply to meetings dealing with matters arising under the Licensing Act 2003 and the Gambling Act 2005, Committee meetings dealing with staff appointments or staff appeals and Joint Governance Sub-Committee meetings dealing with code of conduct determination hearings.

**Commented [g23]:** 4 hours seems rather long before reviewing an extension of time for a meeting. Suggest it be reduced to three hours.

Note: this applies to committee as well as Council meetings.

#### Public Questions and Deputations

##### 11.1 Full Council

###### 11.1.1 General

- (a) Members of the public, who live, work or own property in the District may ask questions of any Cabinet Member at any Ordinary Council meeting and will be allowed a maximum of 5 minutes per person. This provision is subject to a maximum of 30 minutes being available for all public questions.
- (b) No discussion will take place in respect of any question.
- (c) Where notice has been given of the question in accordance with Council Procedure Rule 11.1.3, the questioner and the Member to whom the question is put are both present, and there is sufficient time, then an oral response will be provided. If not, a written response will be provided within 3 working days.
- (d) There will be no opportunity for the public to ask questions at an Annual meeting of the Full Council.

### 11.1.2 Order of Questions

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

### 11.1.3 Notice of Questions

To enable the Cabinet Member to provide the fullest and most accurate answer, notice that it is to be asked, together with a copy of it, should still be given to the Director for Communities in writing by email to be received no later than midday ~~on the second three clear~~ working days prior to the day of the meeting. Notice should be given by email to the Director for Communities, at [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk). Notice of questions must include the questioner's name, address and contact details.

**Commented [g24]:** Deadline brought forward throughout to allow time for preparation of answers.

Where a member of the public has failed to give notice of a question in accordance with this provision, the question may still be put, but the Cabinet Member to whom it is addressed may either choose to give a full response or respond by undertaking to provide a written response within 3 working days.

### 11.1.4 Number of Questions

At any one meeting, no person may submit more than a total of 2 questions, although each question may have more than one part, provided that each part relates to the same subject. No more than 2 questions can be asked on behalf of one organisation. ~~The member of the public may only ask questions for a maximum of 5 minutes, regardless of whether 1 or 2 questions are raised.~~

**Commented [g25]:** This doesn't seem fair or reasonable. Suggest delete.

### 11.1.5 Scope of Questions

Every question must relate to a matter for which the Council has responsibility and/or which specifically affects the Borough.

Where notice of a question is provided, The Director for Communities may reject a question if, in their opinion, it:

- (a) does not relate to a matter for which the Council has responsibility or does not affect the Borough;
- (b) is not a question for the Executive Council (in which case, it may be referred to the Cabinet or relevant Committee);
- (c) is defamatory, frivolous, vexatious or offensive;
- (d) refers to legal proceedings taken or anticipated by or against the Council;
- (e) is substantially the same as a question which has been put to a meeting of the Full Council in the past 6 months;
- (f) requires the disclosure of confidential or exempt information; or
- (g) Would more appropriately be responded to by the Council under the Freedom of Information Act 2000 or the Data Protection Act 1998.

### 11.1.6 Record of Questions

- (a) Where notice of a question is provided, The Director for Communities will as soon as possible send a copy of the question to the Cabinet Member to whom it is to be put. If the Director for Communities has rejected the question in accordance with 11.1.5 above, a copy of the question will still be sent to the relevant Cabinet Member, with reasons as to why it has been rejected.
- (b) Where notice of a question has been provided, copies of all such questions, save for those that have been rejected, will be circulated to all Members of the Council, and will be made available to the public attending the meetings via the Council's website.
- (c) Where a question is asked, without notice, the Director for Communities or their representative, will record a summary of the question in the minutes of the meeting.

### 11.1.7 Asking the Question at the Meeting

- (a) The Mayor will invite the questioner to put the question to the relevant Cabinet Member.
- (b) If a member of the public who has submitted notice of a question is unable to be present at the meeting, they may ask the Mayor to put the question on their behalf. If the Mayor puts the question, they will indicate either that a written reply will be given within 3 working days, or that, in the absence of the questioner, the question will not be dealt with.
- (c) The provisions of Council Procedure Rule 11.1.5 apply and the Mayor may reject a question at the meeting on those same grounds.

### 11.1.8 Supplemental Question

- (a) A member of the public who has put a question in person, may also put one supplementary question, without notice, to the Cabinet Member, who has replied to their original question. A supplementary question can be for a maximum of 2 minutes, subject to the overall 30 minutes allowed for public question time.
- (b) A supplementary question must arise directly out of the original question or the reply.
- (c) The Mayor may reject a supplementary question on any of the grounds in Council Procedure Rule 11.1.5 above.

### 11.1.9 Answers

- (a) Where notice has been given of a question, a verbal response will be provided with a maximum time limit of 5 minutes in total, subject to the maximum of 30 minutes available for public question time.
- (b) Where a supplemental question is asked, following a question on notice, a verbal response will be provided, with a time limit of 2 minutes, subject to a maximum of 30 minutes available for public question time.
- (c) Any question which cannot be responded to during Public Question Time, either because of the non-attendance of the Cabinet Member to whom it was to be put, or the non-attendance of the member of the public putting the question, will be dealt with by way of a written answer, to be provided within 3 working days of the meeting.
- (d) Where notice of a question has been provided, but it cannot be responded to during Public Question Time due to lack of time, it will be dealt with by way of a written answer, to be provided within 3 working days of the meeting.

### 11.1.10 Referral to the Cabinet or a Committee

Any Member of the Council may move that a matter raised by a question, be referred to either the Cabinet or a Committee. Once seconded, such a motion will be voted on without discussion.

## 11.2 The Cabinet and Committees

### 11.2.1 General

- (a) Members of the public, who live, work or own property in the Borough, may ask questions at any meeting of the Cabinet or a Committee on any matter which is before that meeting, or for which the Cabinet or that Committee has responsibility, subject to the matters referred to in 11.2.5.:
- (b) —
- (c) ~~A question cannot be put in relation to a specific planning application;~~
- (d) —
- (e) ~~A question cannot be put in relation to a specific application before a Licensing Committee or Sub-Committee;~~
- (f) —
- (g) ~~A question cannot be put in relation to a specific staffing appointment or appeal matter; and~~



~~(h)~~ —

~~(i)~~ — A question cannot be put in relation to a specific Standards determination matter;

~~(j)~~ —

~~(k)~~ — ~~(e)~~ There will be a maximum of 30 minutes available for public questions.

~~(l)~~ —

~~(m)~~(b) A member of the public will be allowed a maximum of 5 minutes to ask their each question, subject to ~~the a~~ maximum of 30 minutes being allowed in total for public question time.

~~(n)~~(c) Where notice of the question has been provided in accordance with Council Procedure Rule 11.2.3, the questioner is present and there is sufficient time, an oral response will be given. If the questioner is absent the question falls. If there is insufficient time, a written response will be provided within 3 working days of the meeting being held.

#### 11.2.2 Order of Questions

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

#### 11.2.3 Notice of Questions

- (a) To enable the Cabinet Member or Committee to provide the fullest and most accurate answer, notice that it is to be asked, together with a copy of it, should still be given to the Director for Communities in writing by email to be received no later than midday ~~on the second~~three clear working days prior to the day of the meeting. Notice should be given by email to the Director for Communities, at [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk). Notice must include the name, address and contact details of the questioner.
- (b) Where a member of the public has failed to give notice of a question in accordance with this provision, the question may still be put, but the Cabinet Member or Committee to whom it is addressed may either choose to give a full response or respond by undertaking to provide a written response within 3 working days.

#### 11.2.4 Number of Questions

At any one meeting, no person may submit more than 2 questions, although each question may have more than one part, provided that each part relates to the same subject, and no more than 2 questions can be asked on behalf of one organisation.

#### 11.2.5 Scope of Questions

- (a) Every question must relate to a matter for which the Cabinet, or that particular Committee, has responsibility.
- (b) Where notice of a question has been provided, the Director for Communities may reject a question if, in their opinion, it:
  - (i) is not about a matter for which the Cabinet or Committee has a responsibility;
  - (ii) is defamatory, frivolous, vexatious or offensive;
  - (iii) refers to legal proceedings taken or anticipated by or against the Council;
  - (iv) is substantially the same as a question which has been put to a meeting of the Full Council, the Cabinet or the same Committee in the past 6 months;
  - (v) requires the disclosure of confidential or exempt information;
  - ~~(vi)~~ would more appropriately be responded to by the Council under the Freedom of Information Act 2000 or the Data Protection Act 1998;
  - ~~(vii)~~ relates to a specific planning application;
  - ~~(viii)~~ relates to a specific application before a Licensing Committee or Sub-Committee;
  - ~~(ix)~~ relates to a specific staffing appointment or appeal matter;
  - ~~(x)~~ names or identifies individual service users, Officers or Members/staff of partner agencies;
  - ~~(xi)~~ makes or relates to allegations against, or comprises comments about, the conduct of individual Members or Officers;

~~(vi)~~(xii) relates to a specific Standards determination matter.

#### 11.2.6 Record of Questions

- (a) Where notice of a question is provided, the Director for Communities will as soon as possible send a copy of the question to the Member to whom it is to be put. Where the Director for Communities has rejected a question, a copy will still be sent to the relevant Member together with reasons for the rejection.
- (b) Where notice of a question is provided, copies of all questions, save for those which have been rejected, will be circulated to all Cabinet Members or Committee, as the case may be, and will be made available to the public attending the meetings, and made publicly available via the Council's website.

#### 11.2.7 Asking the Question at the meeting

- (a) The person presiding will invite the questioner to put the question to the meeting.
- (b) If a member of the public who has submitted notice of a question is unable to be present, they may ask the person presiding to put the question on their behalf. If the person presiding sees fit, they may group similar questions together and summarise them. If the person presiding puts the question, they will indicate either that a written reply will be given within 3 working days or, in the absence of the questioner, that the question will not be dealt with.

#### 11.2.8 Supplemental Question

- (a) A member of the public who has put a question in person, may also be allowed a maximum of 2 minutes to put one supplementary question, without notice, to the Cabinet or Committee, and a verbal response will be given
- (b) A supplementary question must arise directly out of the original question or the reply.
- (c) The person presiding may reject a supplementary question on any of the grounds in Council Procedure Rule 11.2.1 or 11.2.5 above.

#### 11.2.9 Written Answers

- (a) Any question which cannot be dealt with during Public Question Time, either because of the non-attendance of the Member to whom it was to be put, or due to the non-attendance of the questioner, will be dealt with by way of a written answer from the Leader of the Cabinet, relevant Member, or Chair of the Committee, to be provided within 3 working days of the meeting.
- (b) Where notice of a question has been provided, but it cannot be responded to during Public Question Time due to lack of time, it will be dealt with by way of a written answer, to be provided within 3 working days of the meeting.

### 11.3 Deputations

- (a) Deputations may be received at full Council meetings provided that:
  - (i) notice is received in writing by Democratic Services at least eight clear days before the meeting giving the subject to be raised, the contact details of the person or organisation who will be addressing the meeting, and signed by at least five registered local government electors of the [Borough][District];
  - (ii) the subject is not related to a specific planning, licensing or other application under consideration by the Council;
  - (iii) the subject does not raise an issue of conduct by Members or officers, or names or clearly identifies any individual;
  - (iv) the subject does not relate to legal proceedings or raise an issue in the nature of a complaint;

- (v) the subject does not relate to the appointment, promotion, dismissal, remuneration, conditions of service or conduct of officers;
- (vi) the subject relates to a power or duty exercised by the Council or seeks the support of the Council in influencing other public bodies;
- (vii) the subject is not, in the opinion of the Monitoring Officer, defamatory, vexatious, frivolous or offensive;
- (viii) the subject does not require the disclosure of confidential or exempt information;
- (ix) they are not on the same or a similar subject to a deputation heard in the last 6 months.
- (b) Requisitions for deputations shall not be accepted from, nor on behalf of, political parties, nor if bearing the name, insignia or other device of a political party.
- (c) Subject to the foregoing, Democratic Services Manager shall bring the requisition before the [Mayor][Chair], who having consulted the Leader, or in their absence the Deputy Leader, shall decide whether notice shall be given of the deputation on the agenda for a meeting of the Council. The Mayor must have regard to other business on the Council agenda in reaching such a decision; however a deputation will normally be accepted where there is an item on the Council agenda of the same subject matter.
- (d) A maximum of two deputations only will be permitted at any meeting and will be taken in the order they were received.
- (e) The number of each deputation shall not exceed five, of whom only one shall speak for no longer than five minutes, following which they may answer any questions from Members.
- (f) The relevant Cabinet Member shall be given the opportunity to respond to Council on the issues raised, and advise Council what actions will be taken as a result of the deputation. Should no response be given at the meeting to which the deputation is put, the Cabinet Member shall provide a response at the next ordinary meeting of Council together with a written response provided to the deputation spokesperson.
- (g) A maximum of 30 minutes shall be allocated to Deputations on the Council agenda.
- (h) There shall be no debate on any matter raised by the deputation, but any Member may move without notice a motion for the manner in which the Council should dispose of the item.
- (i) A deputation will fail to be presented if no one who has signed the deputation is present.

## Member Questions

### 12.1 Questions on Notice

- (a) Subject to Procedure Rule 12.2 below, a Member may ask the Mayor, a Cabinet Member, the Chair of any Committee, or the Council's representative on any outside body, a question at any Ordinary Council meeting, and at meetings of the Cabinet or a Committee, on any matter in relation to which the Council has power or which specifically affects the Borough, which is relevant to an item on the agenda of the Cabinet or committee.
- (b) except that no question may be asked on:
- (c) —
- (d) (i) a decision of the Planning Committee on a specific planning application;
- (e) (ii) a decision of the Joint Governance Committee on a Standards determination;
- (f) (iii) a decision of a Licensing Committee on a specific application, review or similar matter;
- and
- (g) (iv) a decision on a staffing appointment or appeal relating to an individual;
- (h) (v) a matter which is substantially the same as a question which has been put to a meeting of the full Council by a Member of that Council within the previous 6 month period.
- (i) —
- (b) Every question shall be put and answered without discussion.
- (c) No Member may ask more than one question at a meeting unless the time taken by questions has not exceeded 30 minutes, in which case second questions will be taken in the order that they are received.

(j)(d) The Chair shall invite questions from Members in such an order as to ensure that each Political Group and independent Members are permitted to ask a question in rotation, starting with the Main Opposition group.

## 12.2 Notice of Questions

- (a) A Member may only ask a question in accordance with Council Procedure Rule 12 if either:
- (i) they have given written notice of the question and a copy of the question, to the Director for Communities, by email to [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk), to be received by midday at least three clear<sup>2</sup> working days prior to the day of the meeting; or
  - (ii) the question relates to an urgent matter and they have obtained the consent of the Mayor and notice of, and a copy of, the question is given to the Director for Communities by midday on the day of the meeting, by email to [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk).

(b) The Director for Communities may reject a question if it:

- (i) is not about a matter:
  - for which the Council, the Cabinet or Committee to which it is addressed has a responsibility; or,
  - which particularly affects the Borough;
- (ii) is not submitted within the requisite timeframe;
- (iii) is a matter which is substantially the same as a question which has been put to a meeting of the full Council by a Member of that Council within the previous 6 month period.
- (iv) is defamatory, frivolous or offensive;
- (v) requires the disclosure of confidential or exempt information as defined in the Local Government Act 1972;
- (vi) relates to a day to day council function or the provision of a council service and has not been asked first of the relevant service area;
- (vii) is not related to policy or budget issues
- (viii) is a statement rather than a question;
- (ix) relates to an individual or the questioner's own particular circumstances;
- (x) is substantially the same as a question which has been put at a meeting of the Council in the past six months
- (xi) names or identifies individual service users, members of staff or members/staff of partner agencies;
- (xii) makes or relates to allegations against, or compromise comments about, the conduct of individual Members or Officers;
- (xiii) is a decision on a staffing appointment or appeal relating to an individual;
- (xiv) is a decision of the Planning Committee on a specific planning application;
- (xv) is a decision of the Joint Audit & Governance Committee on a Standards determination;
- (xvi) is a decision of a Licensing Committee on a specific application, review or similar matter.

## 12.3 Response

- (a) A written response will be prepared to the question and shall be read to the meeting. The response may take the form of:
- (i) a direct answer; or
  - (ii) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
  - (iii) where the reply cannot conveniently be given to the meeting, a written answer circulated within 3 working days of the meeting, to the questioner and all Members of the Council.

- ~~(b) Replies will be given to questions by the relevant Cabinet Member or their nominee, but shall not be the subject of any further debate.~~
- ~~(c) Answers should provide a full response to questions in a succinct way. If the reply cannot be given at the meeting, a written answer will be provided to the questioner and all Members of the Council within 5 working days of the meeting.~~

~~A written response will be prepared to the question and shall be read to the meeting.~~

~~The response may take the form of:~~

- ~~(a) a direct answer; or~~
- ~~(b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or~~
- ~~(c) where the reply cannot conveniently be given to the meeting, a written answer circulated within 3 working days of the meeting, to the questioner and all Members of the Council.~~

#### **12.4 Transferring the Response**

- (a) The person to whom a question has been put may ask another Member to respond or may decline to answer.
- (b) Any Member may move that a matter raised by a question under Council Procedure Rule 12 be referred to the Cabinet or a Committee. Once seconded, such a motion will be voted on without discussion.

#### **12.5 Supplementary Question**

- (a) A Member asking a question under Council Procedure Rule 12 may ask one supplementary question, without notice, to the Member who first replied to the original question.
- ~~(b) The supplementary question must arise directly out of the original question or the reply.~~
- ~~(c) The Chair may reject a supplementary question on any of the grounds set out in 12.2.~~

#### **12.6 Number and Order of Questions**

- (a) A Member may submit as many questions as they wish to any meeting but may only ask one question and one supplementary question at a time.
- (b) The Mayor shall invite questions from Members in such an order as to ensure that each Political Group and independent Members are permitted to ask a question in rotation, starting with the main opposition group.

#### **12.7 Duration of Question Time by Members**

The period of time allotted to Members' questions under Council Procedure Rule 12 shall not exceed 30 minutes, unless the Mayor exercises their discretion to extend it.

#### **12.8 Record of Questions and Answers**

- (a) Questions asked on notice ~~at Full Council~~ under Procedure Rule 12 will be recorded in the minutes, as will any written answer provided. ~~This includes any questions that are not answered at the meeting in the time allotted.~~
- (b) For the avoidance of doubt, neither supplementary questions nor answers shall be recorded.

### **Leader's Report**

#### **13.1 General**

- (a) The Leader shall prepare a report of the business of the Cabinet for each Ordinary Meeting of the Full Council. In presenting the report, the Cabinet will have 15 minutes to make any statements that they wish to make relating to the report.
- (b) Following the presentation of the Leader's report, any Member may ask a question of the Leader or Cabinet Member arising from the report, provided that the question is not one which is to be put under Council Procedure Rule 12.
- (c) This item of business shall not last longer than 15 minutes unless in the view of the Mayor, or on a motion moved by a Member, seconded and approved by Full Council without discussion, it is deemed appropriate to extend the time. In this event, the Mayor shall specify the duration of the extension.
- (d) Every question should be put and answered without discussion.
- (e) Following the presentation of the report and questions arising on that, the Mayor shall call Members to ask questions for which due notice has been given pursuant to Council Procedure Rule 12.

### **Main Opposition Priority Motion**

- (a) A Member nominated by the Main Opposition Leader may move a single Priority Motion on notice (in accordance with Procedure Rule 14).
- (b) The proposer may speak for up to five minutes, the seconder may speak for up to three minutes, and the Member responding on behalf of the Administration may speak for five minutes. No other questions or debate shall be allowed. The total time allowed for the item will be 15 minutes.

**Commented [g26]:** Suggested new item at Full Council for the Opposition.

### **Motions on Notice**

#### **14.1 Notice**

- (a) Except for motions that can be moved without notice under Council Procedure Rule 15, written notice of every motion, signed by at least one Elected Member of the Council, must be delivered to the Director for Communities not less than 10 clear working days before the date of the meeting.
- (b) If the notice of motion is sent by electronic means, an electronic signature will suffice, and it shall be received at least 10 clear working days before the day of the meeting at [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk). The Member must ensure they obtain an acknowledgement of its receipt.
- ~~(b) 14.1.2 An electronic signature will suffice. The Member must ensure they obtain an acknowledgement of its receipt.~~
- ~~(c)~~
- ~~(d)~~(c) The Director for Communities will date and number the motion in the order in which it is received.

#### **14.2 Scope**

- (a) Each motion must be clear and succinct, must clearly identify the matter to be debated and have a clear question to be put. Where the Councillor is aware of specific legal, regulatory or financial implications, these should be set out in the pre-amble. Motions must:
  - (i) be about matters for which the Council has a responsibility; and/or
  - (ii) specifically affect the Borough; and
  - (iii) be about a single issue.
- ~~(a)~~(b) Any amendments to motions must comply with (a)-(c) above and the procedure rule on amendments. Every motion shall be relevant to some matter in relation to which the Council has powers or duties or which affects the Borough.
- ~~(b)~~(c) Where a motion is received, the Director for Communities may reject it if, in their opinion, the motion:
  - (i) is not relevant either to some matter in relation to which the Council has powers or duties or it does not affect the Borough; or

- (ii) is defamatory, frivolous, unlawful, vexatious or offensive; or
- (iii) refers to legal proceedings taken or anticipated by or against the Council; or
- (iv) is substantially the same as or is to rescind, a motion which has been received and accepted in the past 6 months (see Procedure Rule 22; or
- (v) requires the disclosure of confidential or exempt information; or
- (vi) names or identifies specific service users, members of staff or members of staff of partner organisations without the Councillor demonstrating they have provided consent;
- (v)(vii) relates to the Member's own personal circumstances; or
- (v)(viii) is improper, out of order or not relevant.
- ~~(e)~~(d) Where a motion is rejected by the Director for Communities, they shall return the motion to the Member of the Council who sent it, stating that it will not be inserted on the agenda and providing reasons.
- ~~(e)~~(e) Where the Council is in the process of consulting with the public on a proposal, or responding to a formal consultation process, no notice of motion expressing support or objecting to the proposals shall be accepted.
- ~~(e)~~(f) All accepted notices of motion shall be sent, via a report, direct to Full Council by the Director for Communities. Such report will include the procedure for consideration and determination of the motion.
- ~~(f)~~(g) The decision of the Director for Communities will be final.

### 14.3 Motions set out in Agenda

- (a) Accepted motions for which notice has been given will be listed on the agenda, subject to the exception below, in the order in which notice was received by the Director for Communities, unless the Member giving notice of the motion gives advance written notice that they intend to propose to defer the motion until the next meeting, or withdraw the motion.
- (b) Such accepted motions will be placed on the agenda immediately before the consideration of exempt information items.
- (c) The maximum number of accepted notices of motion to be presented at a Council meeting shall be as follows:
  - (i) The three largest Political Groups: two per Group
  - (ii) Any other Group: one per Group
- (d) If the three largest groups cannot be determined due to equality in numbers, then each Group with a membership of 5 or more may present two motions.
- (e) Any Member not belonging to a Political Group may present not more than one motion on notice.
- (f) Where Members of a Political Group submit more than the permitted maximum number of notices of motion the Group shall decide which of these it wishes to table. In the absence of such a decision, notices of motion from Members of a Group shall be taken in the order in which they are received up to the permitted maximum number.
- (g) No more than one motion may be proposed by a member for each meeting.
- (h) A councillor may alter a motion that they have moved, in which case the amendment becomes part of the substantive motion without debate. Only alterations which could be made as an amendment may be made.

~~14.3.5 Where Members of a Political Group submit more than the permitted maximum number of notices of motion the Group shall decide which of these it wishes to table. In the absence of such a decision, notices of motion from Members of a Group shall be taken in the order in which they are received up to the permitted maximum number.~~

### ~~14.4 Procedure for Consideration and Determination of a Motion~~

~~Motions shall be dealt with as set out below:~~

- ~~(a) If any part of the subject matter of any motion comes within the remit of the Cabinet, upon being moved and seconded, it shall be noted by Council and referred without debate to the Cabinet for consideration and determination.~~

- ~~(b) If any part of the subject matter of any motion comes within the remit of any Regulatory Committee (i.e. Planning and Licensing), upon being moved and seconded, it shall be noted by Council and referred without debate to such Committee for consideration and determination.~~
- ~~(c) Subject to rules 14.4.1 and 14.4.2, if any part of the subject matter of any motion comes within the remit of any other Council committee, upon being moved and seconded, it shall be noted by Council and referred without debate to the relevant Committee for consideration and determination.~~
- ~~(d) Where the subject matter of a motion:
 
  - ~~(i) is not within the remit of the Cabinet, a Regulatory Committee or any other Council Committee; and~~
  - ~~(ii) does not incur any Council expenditure; and~~
  - ~~(iii) does not include a proposal for the Council to take any substantive action and is merely declaratory;~~
 then it may be considered by the Full Council at the meeting at which it appears in the agenda.~~

**14.4.5 Where the subject matter of a motion:**

- ~~(i) is not within the remit of the Executive, a Regulatory Committee or any other Council Committee; and~~
- ~~(ii) does not incur any Council expenditure; and~~
- ~~(iii) does include a proposal for the Council to take substantive action and is more than declaratory;~~

~~then it may be considered by a future meeting of the Full Council.~~

**14.45 Speaking to propose a Motion**

- ~~(a) If a motion on the agenda at Full Council is to be referred automatically to the Cabinet, a Regulatory Committee or another Council Committee, in accordance with Council Procedure Rule 14.4, the proposer of the motion will confirm to the Mayor their proposal of the motion as set out in the report before Council without a speech.~~
- ~~(b) If a motion on the agenda at Full Council is to be referred automatically to the Cabinet, a Regulatory Committee or another Council Committee, in accordance with Council Procedure Rule 14.4, the seconder of the motion will confirm to the Mayor their seconding of the motion as set out in the report before Council without a speech.~~
- ~~(c) If a motion to be automatically referred has been signed by only one Member, the Mayor will invite another Member present to second the motion without a speech. If the motion is not seconded it falls without debate.~~
- ~~(d) If a motion on the agenda at Full Council is not to be referred automatically in accordance with Council Procedure Rule 14.4, it shall be proposed and seconded in accordance with the rules of debate set out at Council Procedure Rule 16.~~
- ~~(e) If a motion on the agenda is not to be automatically referred and has been signed by only one Member, the proposer may speak for a maximum of 2 minutes without the motion being seconded. If the motion is then not seconded it shall fall.~~

~~If a motion set out on the agenda is not moved by a Member who gave the notice or by some other Member on their behalf, it shall be treated as withdrawn and shall not be moved without fresh notice unless postponed by the Council.~~

**14.65 Attendance of mover at meeting of the Cabinet or a Committee**

- ~~(a) Where a motion has been referred by Full Council to the Cabinet or a Committee, the mover, or the seconder in the absence of the mover, shall be entitled to attend the relevant meeting of the Cabinet or Committee and to explain the motion.~~



- (b) The Member may answer questions from the Cabinet or Committee, for the purposes of clarification, prior to any debate and may sit with the Committee for the item in question.
- (c) The Member may not partake in the debate, nor vote upon the item.

~~14.7 Motions similar to those previously rejected and Motions to rescind a decision~~

~~14.7.1 — For procedures relating to Motions brought similar to those previously rejected and Motions attempting to rescind a Council decision, reference is made to Council Procedure Rule 22.~~

~~15.0 Motions and Amendments without Notice~~

**15.1 General**

The following motions and amendments may be moved without notice:

- (a) To appoint a person to preside at the meeting at which the motion is moved;
- (b) In relation to the accuracy of the minutes;
- (c) To change the order of business in the agenda;
- (d) To refer something to an appropriate body or individual including referring any matter for consideration by the Cabinet or a Committee;
- (e) To assign to a Committee or Member a matter arising from an item on the summons for the meeting;
- (f) To receive reports or adopt recommendations from the Cabinet, Committee or Officers, and any resolutions arising from them;
- (g) To withdraw a motion;
- (h) To extend the time limit for speeches;
- (i) To amend a motion;
- (j) To postpone consideration of a motion;
- (k) To proceed to the next business;
- (l) To take an immediate vote on a motion;
- (m) To adjourn a debate;
- (n) To adjourn a meeting;
- (o) That the meeting continue beyond **34 hours** in duration;
- (p) To suspend a particular Council Procedure Rule;
- (q) To authorise the sealing of documents;
- (r) To exclude the public and press in accordance with the Access to Information Procedure Rules (see Council Procedure Rule 16.14);
- (s) To not hear further a Member named under Council Procedure Rule 32.3 or to exclude them from the meeting under Council Procedure Rule 32.4;
- (t) To invite a Member to withdraw in accordance with the Members' Code of Conduct;
- (u) To give the consent of the Council where its consent is required by this Constitution;
- (v) To carry out a statutory duty of the Council which, by reason of special circumstances, the person presiding is of the opinion should be considered at the meeting as a matter of urgency;
- (w) Motions relating to communications and announcements from the Chair, Leader, Cabinet Members and/or Head of Paid Service in accordance with Council Procedure Rule 3;
- (x) Motions relating to vote by way of ballot.

**Commented [g27]:** Suggest reducing to 3 hours. See comment above.

**Rules of Debate**

For rules of debate relating to the consideration and determination of the annual budget, reference is made to the Budget Procedure Rules found in Part 4 of the Constitution.

**16.1 Management of debate**

- (a) The person presiding shall have the control of any debate and will use their discretion to ensure the effective, efficient, fair and orderly conduct of the business.
- (b) The person presiding will normally follow the rules set out in this Council Procedure Rule 16 but their interpretation, application or waiver of these rules of debate will be final.

#### 16.2 No speeches until motion seconded

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

#### 16.3 Right to require motion in writing

Unless notice of the motion has already been given, the person presiding may require it to be written down and handed to them before it is discussed.

#### 16.4 Full Council - Seconder's speech

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

#### 16.5 Full Council - Content and length of speech

- (a) Speeches must be directed to the question under discussion or be a personal explanation or point of order.
- (b) Subject to (c) and (d) below, no speech shall exceed 35 minutes in length.
- (c) The speech of the proposer of a motion (but not an amendment), when proposing the motion or when exercising their right of reply at the close of debate on a motion, shall not exceed 105 minutes.
- (d) The time limits at (b) and (c) above may be extended with the consent of the Council which shall be given or refused without debate.

**Commented [g28]:** To allow more business to be transacted and more speakers to be heard, I suggest this time be reduced to 3 minutes.

**Commented [g29]:** Suggest reduce to 5 minutes.

#### 16.6 The Cabinet and Committees - Content of speech

- (a) Speeches must be directed to the question under discussion or be a personal explanation or point of order.
- (b) The person presiding shall exercise principles of good chairship in conducting meetings; regulating proceedings fairly, objectively and without bias. In particular, they shall ensure that the meeting has a structured debate with clear proposals moved and seconded and debated in the order moved.
- (c) The Chair shall announce the motion (as amended if appropriate) immediately before any vote and confirm the decision of the Cabinet or Committee.

#### 16.7 Full Council - When a Member may speak again

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

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

#### 16.8 The Cabinet and Committees– When a Member may not speak again

A Member who has spoken on a motion may not speak again whilst it is the subject of debate subject to the person presiding at their discretion:

- (a) determining that the Member has spoken sufficiently on the matter; or
- (b) determining that the matter has been debated sufficiently and calling for a vote.

#### **16.9 Amendments to Motions**

- (a) An amendment shall be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual, including the Cabinet or a Committee, for consideration or reconsideration;
  - (ii) to give guidance to the Cabinet or a Committee on a subject determined under delegated powers;
  - (iii) to amend the wording, as long as the effect is not to negate the motion or introduce a new proposal into the debate.
- (b) If they deem it necessary, the person presiding shall read out the amended motion before the amendment is put.
- (c) Only one amendment may be moved and discussed at any one time and no further amendment shall be moved until the amendment under discussion has been disposed of, except with the agreement of the proposer and seconder of the subsisting proposed amendment, to amend that proposal with a view to achieving agreement.
- (d) A Member may give notice of their intention to move a further amendment, and its nature, before a vote is taken on the amendment under consideration.
- (e) If an amendment is lost, other amendments to the original motion may be moved, provided that no such amendment may have a similar effect to one previously determined by the meeting unless it is supported by more than 50% of Members present.
- (f) If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the substantive motion to which any further amendments may be moved.
- (g) After an amendment has been carried, the person presiding will read out the amended motion before accepting any further amendments.
- (h) After all amendments have been considered and determined there shall be an opportunity for further debate on the original motion, as amended or otherwise, as the case may be, prior to the taking of a vote.

#### **16.10 Alteration of Motion**

With the consent of their seconder and of the meeting, which shall be signified without discussion, a Member may alter:

- (a) a motion of which they have given notice, or
  - (b) a motion or an amendment which they have moved,
- provided that the alteration is one which could be made as an amendment to the motion.

#### **16.11 Withdrawals of Motions and Amendments**

- (a) A Member may withdraw a motion or amendment with the consent of their seconder and of the meeting, which shall be signified without discussion.
- (b) No Member may speak on the motion after the mover has asked permission for its withdrawal unless permission to withdraw is refused.

#### **16.12 Full Council - Right of Reply**

- (a) When Full Council debates reports and recommendations received from the Cabinet or its Committees, the appropriate Cabinet Member or Committee Chair shall have the right to sum up at the end of any debate on the report.
- (b) Subject to the above, the mover of a motion has a right of reply at the end of the debate on the motion immediately before it is put to the vote.
- (c) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

- (d) The mover of the amendment shall have a right of reply immediately after the reply on the amendment by the mover of the original motion.
- (e) A Member exercising a right of reply shall confine themselves to answering previous speakers and shall not introduce new matters or material. The person presiding's ruling on this shall be final and not open to discussion.

#### **16.13 Person presiding may sum up debate**

- (a) The person presiding may, if they think fit, sum up the debate before putting a motion or amendment to the vote; and
- (b) if such debate involves questions of a legal, administrative or technical nature, they may request the appropriate Officer to draw the attention of the meeting to any relevant factors.

#### **16.14 Motions which may be moved during debate**

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to postpone consideration of a motion;
- (d) to adjourn the debate;
- (e) to adjourn the meeting;
- (f) that the meeting continue beyond 43 hours in duration;
- (g) to proceed to the next business;
- (h) to take an immediate vote on the motion:
  - (i) to not hear from a Member named under Council Procedure Rule 32.3 or to exclude them from the meeting under Council Procedure Rule 32.4;
  - (ii) to exclude the public and press in accordance with the Access to Information Rules.

#### **16.15 Closure Motions**

- (a) A Member may move, without comment, the following motions at the end of a speech of another Member:
  - (i) to proceed to the next business;
  - (ii) to take an immediate vote on a motion;
  - (iii) to adjourn a debate;
  - (iv) to adjourn the meeting;
  - (v) to exclude the public from the meeting;
  - (vi) that a Member be not further heard.
- (b) On the seconding of a motion referred to above, the person presiding shall proceed as follows:
  - (i) On a motion to proceed to the next business, which is seconded, unless in their opinion the matter before the meeting has been insufficiently discussed, the person presiding shall give the mover of the original motion the right of reply and then put their motion to the vote. If the procedural motion is carried, then the question before the Council is dropped and no decision on it has been taken.
  - (ii) On a motion to take an immediate vote on a motion, which is seconded, unless in their opinion the matter before the meeting has been insufficiently discussed, the person presiding shall first put the procedural motion to the vote. If the motion is passed, the Chair will give the mover of the original motion or amendment their right of reply before putting it to the vote.
  - (iii) On a motion to adjourn the debate or to adjourn the meeting, which is seconded, if in the opinion of the person presiding the matter before the meeting has not been sufficiently discussed and cannot reasonably be so discussed, on that occasion, they shall put the adjournment motion to the vote without giving the mover of the original motion or amendment their right of reply. A Member moving the adjournment of the debate of the meeting must limit their observations to that question and no amendment can be

proposed to that motion, unless it relates to the time of the adjournment. On resuming an adjourned debate, the Member who moved the adjournment is entitled to speak first.

- (iv) On a motion to exclude the public, unless the motion appears on the agenda, the person presiding shall ascertain the grounds for the motion and seek the advice of the Monitoring Officer as to whether members of the public may lawfully be excluded. If members of the public may be lawfully excluded, the person presiding will allow the mover of the original motion a right of reply on the proposal to exclude the public and then put the motion to the vote. If it is passed, the person presiding may, at their discretion, either immediately require the public to leave the room in which the debate is being held or adjourn the debate until some convenient time later in the meeting when the public shall have been excluded.
- (v) On a motion that a named Member be not further heard, which is seconded, the person presiding shall put the motion to the vote without discussion from any Member. If it is passed, the named Member shall not be permitted to speak again during the meeting on any motion or amendment relating to the same matter.

#### **16.16 Certainty of Resolutions**

Before a vote is taken, the motion or resolution, as amended, is to be written down and read out by the Chair or their representative.

#### **16.17 Point of Order**

- (a) A point of order shall only relate to:
  - (i) an alleged breach of these Council Procedure Rules; or
  - (ii) an alleged breach of the law.
- (b) During a meeting, a Member may rise on a point of order at any time and the person presiding shall hear them immediately, subject to Council Procedure Rule 32.2.
- (c) The Member must indicate the Council Procedure Rule or law and the way in which they consider it has been breached. The ruling of the person presiding on the matter will be final and is not open to discussion.

#### **16.18 Personal Explanation**

- (a) A personal explanation shall be confined to some material part of an earlier speech by the Member, which may appear to have been misunderstood in the present debate. The ruling of the person presiding on the admissibility of a personal explanation will be final and is not open to discussion.
- (b) A Member may indicate a desire to make a personal explanation at any time.

#### **16.19 Officers**

- (a) Other than in relation to Rule 18, no Officer, other than:
  - (i) the Head of Paid Service;
  - (ii) the Head of Legal Services, or their representative, in their role as adviser to the Council meeting;
  - (iii) the Monitoring Officer or Deputy Monitoring Officer, acting in that capacity;
  - (iv) the Section 151 Officer or Deputy Section 151 Officer, acting in that capacity;
  - (v) the Director for Communities or their representative as to the recording of any part of the meeting;may be called upon to speak at a meeting of Full Council, without the consent of both the Mayor and Head of Paid Service or a Director. However, with such consent, an Officer, other than those listed above, may contribute by way of advice, guidance or presentations on any report under consideration.
- (b) Officers holding statutory positions shall not be prevented from addressing the Council where they see fit to do so and so far as they act within the law.

## **16.20 Notice of Adjourned Meetings**

Any motion to adjourn a debate or a meeting may specify the location, date and time at which the adjourned debate or meeting shall take place. If such specification is not given, the venue, date and time of the adjourned debate or meeting shall be determined by the Mayor or Committee Chair as appropriate, or Director for Communities.

## **16.21 Committee Recommendations and Reports**

Any recommendations by, or reports from, a Committee at Full Council will be taken in date order, unless otherwise required, and for the purpose of any debate or amendment or other motion, each recommendation shall be treated as if it was a separate motion by the Chair of the Committee or other Member moving the report that the same be adopted by the Council.

## **16.22 Recommendations of the Cabinet**

Each recommendation of the Cabinet will be moved in turn by the Leader. After the recommendation has been moved and seconded the matter may be debated. The rules about motions and amendments set out above in these Council Procedure Rules will apply to each recommendation.

## **16.23 Offensive amendments or motions**

If at any meeting the person presiding is of the opinion that any motion, amendment or business proposed to be moved or transacted is of a defamatory, frivolous, vexatious or offensive nature, they may, either before or after the same has been brought forward, put to the vote a motion (upon which no discussion shall be allowed) that the motion, amendment or business in question not be entertained or further permitted. If such a motion is seconded, a vote will be taken. If such a motion is carried, the matter will be considered as disposed of at that meeting.

## **Matters Affecting Officers**

17.1 If any question arises at a meeting of Full Council, the Cabinet or a Committee at which the public are in attendance as to the appointment, promotion, dismissal, remuneration, pension matters, conditions of service or conduct of any person employed by the Council, such question shall not be the subject of discussion until Full Council, the Cabinet or the Committee, as the case may be, has decided whether or not the power of exclusion of the public under Section 100A of the Local Government Act 1972 shall be exercised.

## **Officer Reports**

18.1 Where any matter is subject to a first report to Full Council, the appropriate Officer may:

- (a) introduce the report;
- (b) answer questions for the purpose of clarification; and
- (c) provide advice during the debate.

18.2 The Officer may decline to answer a question which they perceive to be political in nature.

## **Overview and Scrutiny Reports to Full Council**

19.1 Where an Overview and Scrutiny Committee prepares a single report to Full Council, the Cabinet or a Committee, the Chair of the Overview and Scrutiny Committee shall present the report to the meeting as appropriate and shall be available to answer questions in relation to the report.

19.2 At a meeting of the Cabinet or a Committee, the Chair of the Overview and Scrutiny Committee shall be entitled to sit with Cabinet Members or Committee during the consideration of the report for the purposes of answering questions/clarifying matters contained within the report.

19.3 Where there is a minority report, as well as a majority report, from an Overview and Scrutiny Committee, those Members supporting the minority report shall select one of their number to present that report and/or answer questions on it.

19.4 The Member selected under (c) above shall have the same rights/privileges with regard to attendance at Full Council, the Cabinet or the relevant Committee as the Chair of the Overview and Scrutiny Committee.

19.5 If the Chair of the Overview and Scrutiny Committee is a supporter of the minority report, then the Vice Chair or another Member supporting the majority report shall have the same rights/privileges as the Chair, had they supported it.

#### **Joint Audit & Governance Committee Reports to Full Council**

20.1 Full Council shall receive such reports of the Joint Audit & Governance Committee as shall be referred to it by the Committee.

20.2 When receiving such reports or minutes, the Chair or Vice Chair of the Committee, whether they are an Elected Member of the Council or co-opted Member of the Committee, shall be entitled to:

- (a) present the report or minute;
- (b) answer any questions relating to the report or minute;
- (c) propose, or agree any amendment to, the motion, proposal or recommendation.

#### **Representatives on Outside Bodies**

21.1 Members who are appointed to outside bodies as representatives of the Council are encouraged to post a report of such meetings that they attend in the Members' Newsletter.

21.2 Where a Member who is a representative on an outside body is of the view that a matter to be considered by that body is of such importance as to require that they are informed as to the Council's opinion on that item, the Member shall be entitled to request the Director for Communities to place the item on the agenda of the appropriate meeting of Full Council, the Cabinet or a Committee. The Member may address Full Council, the Cabinet or a Committee as in Council Procedure Rule 14.6.

#### **Previous Decisions and Motions**

##### **22.1 Motion to rescind a previous decision**

Subject to Rule 22.3 below:

(a) Motions on Notice

Where a Motion on Notice is submitted, to rescind a decision made at a meeting of Full Council within the past 6 months, the Director for Communities shall reject it, unless the Motion is signed by at least 10 Members of the Council.

(b) Motions proposed during debate

If a Motion or Amendment is raised during a debate, at Full Council, to rescind a decision made at a meeting of the Full Council within the previous 6 months, the Chair shall reject it.

##### **22.2 Motions similar to one previously rejected**

Subject to Rule 22.3 below:

(a) Motions on Notice

Where a Motion on Notice is submitted, which is substantially the same as one previously rejected by the Director for Communities within the previous 6 months, it shall again be rejected by the Director for Communities, unless it is signed by at least 10 Members of the Council, in which case it shall be accepted, subject to the provisions of Council Procedure Rule 14.

- (b) Motions arising during debate at Full Council  
If a Motion or amendment is raised during debate, at a meeting of the Full Council, which is similar to one rejected within the previous 6 months, the Chair shall reject it.

### 22.3 Exceptions

- (a) Rules 22.1 and 22.2 shall not apply:
  - (i) to motions moved in pursuance of a recommendation of the Cabinet or a Committee; or
  - (ii) to motions to carry out any statutory duty of the Council which, in the opinion of the person presiding, is of an urgent nature.
  - (iii) where a decision has been made by another body since the Council's decision, which significantly affects the decision and necessitates reconsideration of the matter.
- (b) The ruling of the person presiding as to whether any motion or amendment comes within the terms of Council Procedure Rules 22.1 and 22.2 will be final.

### Petitions

23.1 Petitions, other than statutory petitions such as for an elected Mayor, shall be managed in accordance with the Council's Petition Scheme set out in Part 5 of the Constitution.

### Voting

Voting at Meetings of Joint Committee will be dealt with in accordance with the procedures set out in the Joint Committee Agreement.

### 24.1 Majority

- (a) Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.
- (b) The person presiding will ascertain the numbers voting for, against or abstaining on any question, shall announce those numbers, and declare the result.
- (c) The person presiding's declaration as to the result will be final.
- ~~(d) If a Member is not present continuously for the duration of the item on the agenda, they are unable to cast a vote and if they are present when the vote is taken, must indicate that they are abstaining from the vote.~~

### 24.2 Casting vote

- (a) The casting vote can only be used if the person presiding has already cast their deliberative vote. So if the person presiding puts the issue to the vote, but does not vote themselves and there is a tie, then the casting vote does not apply because they have not yet exercised their deliberative vote.
- (b) If, after the person presiding has exercised their deliberative vote there is a tie, then the casting vote can be exercised.
- (c) If there are equal numbers of votes for and against, the person presiding, having cast their deliberative vote, may exercise a second or casting vote. There will be no restriction on how they choose to exercise a casting vote, save that it will be exercised in accordance with the law.
- (d) If there are equal numbers of votes for and against and the person presiding chooses not to exercise their casting vote, then the matter to be determined shall fall.

### 24.3 Show of hands



Unless a ballot or recorded vote is demanded under Rules 24.4 and 24.5, or a recorded vote is required under 24.6, the person presiding will take the vote by show of hands or by the use of such electronic voting system as the Council shall determine or, if there is no dissent, by the affirmation of the meeting.

#### 24.4 Ballot

- (a) A ballot is a vote whereby Members signify their vote in writing on a piece of paper issued to them individually for that purpose and the vote of individual Members is not identified as being by that Member.
- (b) The vote will take place by ballot if a majority of Members present at the meeting demands it, and there has been no valid request for a recorded vote in accordance with rule 24.5 below.
- (c) Such demand to be made by motion without notice, moved, seconded and voted on without debate.
- (d) The person presiding will announce the numerical result of the ballot immediately the result is known.

#### 24.5 Recorded Vote

- (a) On the request of any Member of the Council made before the vote is taken and upon 5 other Members signifying their support by standing, the voting on any question shall be by roll-call and shall be recorded in the minutes of the meeting to show how each Member present and voting cast their vote. The name of any Member present and abstaining from voting will also be recorded.
- (b) A demand for a recorded vote will override a demand for a ballot.

#### 24.6 Recorded vote – Budget Decision meeting

Whenever the Full Council votes on the determination of the calculation of the budget and the setting of any precepts, the vote of each individual Member shall be recorded.

#### 24.7 Right to require individual vote to be recorded at Full Council

Where immediately after a vote is taken at a meeting of the council, a committee, joint committee or sub-committee any Member so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast their vote for the question or against the question or whether they abstained from voting.

~~Immediately after a vote is taken, and before the next agenda item has commenced, any Member may require that the minutes show whether they voted for or against the motion or whether they abstained from voting.~~

**Commented [g30]:** Mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993, Sch.2 para.1.

#### 24.8 Voting on appointments

Where there are appointments to be made (including appointments to outside bodies, to Leader, or to the position of Mayor or Deputy Mayor) and there are more nominations than positions to which appointments are to be made, the following rules will apply:

- (a) if practicable then the vote shall be by simple majority;
- (b) Where there are 3 or more candidates seeking appointment to a single position, there shall be a vote for each candidate and:
  - (i) if one of the candidates receives more than half of all the votes cast in the election, that candidate is to be appointed.
  - (ii) if no candidate receives more than half of all of the votes cast then the candidate with the least number of votes will be eliminated and a new vote taken. The process will continue until there is a majority of votes for one person.

## Confidentiality of Papers

25.1 Save as provided by the Local Government Act 1972, all summonses, agendas, reports and other documents shall be treated as confidential unless and until they become public in the ordinary course of the Council's business.

## Minutes

### 26.1 Signing the Minutes

- (a) The person presiding will sign and initial each page of the minutes of the proceedings at the next suitable meeting.
- (b) The person presiding will move that the minutes of the previous meeting are a correct record, provided that the previous meeting took place more than 10 clear working days prior to the day of the meeting.
- (c) The only part of the minute that can be discussed is their accuracy.
- (d) Any questions as to their accuracy as a record of a meeting shall be raised by motion. If no such question is raised, or if it is raised then as soon as it has been disposed of, the person presiding shall sign the minutes.
- (e) Where there is no Ordinary Meeting of a Committee or Sub-Committee expected to take place within a period of 6 months after a meeting for which draft minutes have been prepared then:
  - (i) in respect of a Committee, Full Council may agree the accuracy of the minutes;
  - (ii) in respect of a Sub-Committee, the parent Committee or Full Council may agree the accuracy of the Minutes;
  - (iii) in respect of Committees or Sub-Committees which have ceased to meet and their functions have been subsumed in another Committee or Sub-Committee, the new Committee or Sub-Committee or Full Council may agree the accuracy of the minutes;
  - (iv) in respect of Joint Committees, minutes will be dealt with in accordance with the provisions of the Joint Committee Agreement.
- (f) In respect of a Committee or Sub-Committee, convened to determine a specific licensing, standards or staffing matter, the Chair of that decision-making body may agree the accuracy of the record of the meeting.

**Commented [GW31]:** Sch.12 Pt.6 Para.41(2) Local Government Act 1972

### 26.2 No requirement to sign minutes of previous meeting at Extraordinary Meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an Extraordinary Meeting, then the next following meeting being an Ordinary Meeting will be treated as a suitable meeting for the signing of minutes.

### 26.3 Form of minutes – Non-Cabinet meetings

- (a) The minutes will contain a summary of any debate setting out the main points that were considered by the meeting and the wording of the final decision.
- (b) Any further reports or information commissioned with the agreement of the meeting will be recorded in the minutes.

### 26.4 Form of Records of decisions – Cabinet Meetings

Records of decisions shall contain a:

- (a) summary of the options considered;
- (b) summary of the reasons for the decision;
- (c) the decision; and
- (d) date for Call-In;

and will comply with the requirements of the Cabinet Procedure Rules.

### **Status of Draft Decisions and Minutes**

- 27.1 It should be noted that until such time as the Full Council, the Cabinet or a Committee whose record is set out in a draft record or minute confirm that record or minute as an accurate record of their decision, they are a working draft only.
- 27.2 Subject to Council Procedure Rule 26.1 above, only the body whose record is set out in the draft record or minute may alter or amend the record or minute.
- 27.3 If a Member wishes to propose a recommendation to Full Council that differs from that set out in a draft record or minute then it must be done by way of an amendment to the motion before the Full Council and not as an amendment to the minute or record.

### **Recording of Meetings**

#### **28.1 Recording by the Council**

The Council may make such arrangements as it decides are appropriate for the recording, broadcasting and publication of meetings.

#### **28.2 Recording by the public**

- (a) This Council Procedure Rule should be read in conjunction with the Protocol for Public/Press Recording of Public Council Meetings and Social Media Policy which can be found in Part 5 of the Constitution.
- (b) A member of the public may make sound or visual recordings at any meeting of the Council and may make such arrangements as they wish to broadcast the recordings, subject to the following:
- (i) no visual recording should be made of persons in the public gallery;
  - (ii) no visual recording should be made of any person under 18;
  - (iii) no recording shall be made of any meeting or part of a meeting which is considering matters that the Members have agreed are exempt under the Access to Information Rules or which are confidential;
  - (iv) no recording shall be carried out in a manner that causes disruption to the meeting or distracts the attention of the public from the content of the meeting;
  - (v) no oral commentary or report shall be made during the meeting;
  - (vi) their compliance with the statutory provisions of the General Data Protection Regulations and any other legislation surrounding the recording and use of personal data and its retention.
- (c) Where a member of the public does not comply with this Rule, the person presiding shall require them to stop recording. If the member of the public fails to cease recording, then the person presiding shall consider whether or not action should be taken under Council Procedure Rule 31 below.

#### **28.3 Recording by a Member**

A Member of the Council may also make sound or visual recordings provided that they comply with Council Procedure Rule 28.2 and the Protocol for Public/Press Recording of Public Council Meetings and Social Media Policy in Part 5 of the Constitution. If they fail to do so, the person presiding shall require them to stop recording and if they fail to cease as requested, then the person presiding shall consider whether or not action should be taken in accordance with Council Procedure Rule 32 below.

### **Record of Attendance**

- 29.1 The names of all Members present during the whole or part of a meeting shall be recorded.

29.2 Any omission may be remedied at the absolute discretion of the Monitoring Officer, or by the amendment of draft minutes of a meeting prior to confirmation, at the next or subsequent meeting in accordance with Council Procedure Rule 26.

### **Exclusion of the Public**

30.1 The public shall be admitted to all Meetings of the Council unless members of the public are excluded either in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution or Council Procedure Rule 31.

### **Disturbance by the Public**

#### **31.1 Removal of member of the public**

- (a) If a member of the public interrupts proceedings, causes a disturbance or behaves improperly, or offensively, or by wilfully obstructing the business of the Council, or fails to comply with Council Procedure Rule 28 above, the person presiding will warn the person concerned.
- (b) If the member of the public, having been warned under (a) above, continues their conduct, the person presiding will order their removal from the meeting room.

#### **31.2 Clearance of part of the meeting room**

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

#### **31.3 General disturbance**

If there is a general disturbance making orderly business impossible, the person presiding may adjourn the meeting for as long as they think necessary.

### **Members' Conduct**

#### **32.1 Full Council - Addressing the Council**

- (a) All Members must stand and address the Mayor when speaking during a Full Council meeting, unless they are physically unable to do so, or the Mayor uses their discretion to waive this Rule.
- (b) If more than one Member stands, the Mayor will ask one to speak and any other Members must sit.
- (c) All Members, other than the speaker, must remain seated whilst a Member is speaking unless they wish to make a point of order in accordance with Council Procedure Rule 16.17 or a point of personal explanation in accordance with Council Procedure Rule 16.18.

#### **32.2 Chair standing**

When the Chair of any Council or Committee Meeting stands during a debate, any Member speaking at the time must stop and sit down. The Meeting is to be silent whilst the Chair of the meeting speaks.

#### **32.3 Member not to be heard further**

- (a) If a Member persistently disregards the ruling of the person presiding by continued irrelevance or repetitions or by behaving improperly or offensively or by wilfully obstructing the business of the Council, the person presiding may direct the Member to stop speaking.

- (b) If following a direction from the person presiding to stop speaking, the Member continues to speak, the person presiding may move that the Member be not heard further. If seconded, the person presiding shall put the motion to the vote without discussion and if passed, the Member shall not be permitted to speak on the same matter again, during the meeting.

#### 32.4 Member to leave the meeting

- (a) If a Member persistently disregards the ruling of the person presiding by continued irrelevance or repetitions or by behaving improperly or offensively or by wilfully obstructing the business of the Council, the person presiding may request them to leave for the remainder of the meeting or for any lesser period.
- (b) If following a request to leave the meeting, the offending Member does not leave the meeting, the person presiding may move that the Member named leave the meeting.
- (c) The motion shall be put and if seconded, will be voted upon without discussion.
- (d) If carried, the person presiding shall give directions for the removal of the Member and such other directions as are necessary for restoring order to the proceedings.

#### 32.5 General disturbance

If there is a general disturbance making orderly business impossible, the person presiding may adjourn the meeting for as long as they think necessary.

#### 32.6 Electronic devices

This Council Procedure Rule should be read in conjunction with the Protocol for Public/Press Recording of Public Council Meetings and Social Media Policy which can be found in Part 5 of the Constitution.

- (a) Subject to (b) below, Members may at any Meeting use any device for:
  - (i) the recording of the meeting;
  - (ii) the sending or receiving of communications in relation to the meeting;
  - (iii) the publication of the contents of the meeting.
- ~~(b)~~ Paragraph (a) above is subject to the following restrictions, namely that:
  - (i) such device does not emit any audible warning or other disruptive signal;
  - (ii) the Member does not record or communicate any matter or information relating to the contents of any Meeting or part of a meeting which is in relation to information which is confidential or which the Members have agreed to exclude the press and public in accordance with the Access to Information Procedure Rules.
  - (iii) the use of the device does not disrupt the meeting or distract members of the public or other Members from the content of the meeting;
  - (iv) it is not permissible to record an oral commentary during the course of the meeting;
  - (v) they comply with statutory provisions of General Data Protection Regulations and any other legislation relating to the recording, use of and retention of personal data.

~~(b)~~(c) Where a Member's use of a device does not comply with this Rule then the person presiding at the meeting shall consider whether or not action should be taken in accordance with this Rule.

#### Delegation to the Leader, Committees and Officers

##### 33.1 Matters to be delegated

- (a) The Council may delegate matters from time to time to the Cabinet and Committees as it sees fit or as legislation prescribes.

- (b) The Council may delegate matters from time to time to Officers as it sees fit or as legislation prescribes, in addition to those delegated by Council under the Scheme of Officer Delegations.
- (c) In relation to any matter determined by the Cabinet, a Committee or an Officer acting under delegated authority, the delegator may give guidance as to the manner in which the same or a similar matter shall be dealt with in future, providing that such guidance shall not have the effect of:
  - (i) causing the Council to breach the rules of natural justice; or
  - (ii) prejudicing the determination by the delegatee of any matter required to be judged on its individual merits; or
  - (iii) fettering the discretion of the Cabinet in respect of matters delegated to it by legislation.

## **Attendance of Members at the Cabinet or Committees of which they are not Members**

### **34.1 Attendance by mover of motion**

A Member of the Council who has moved a motion which has been referred to the Cabinet or a Committee shall be given notice by the Director for Communities of the meeting at which it is proposed that the motion be considered. They shall have the right to attend the meeting whilst the motion is being considered, to explain the motion and answer questions.

### **34.2 Attendance by Representative on Outside Body**

Where a Member has requested the Director for Communities to place an item on the agenda in accordance with Council Procedure Rule 21, they shall have the right to attend that meeting whilst that item is under consideration.

### **34.3 Attendance of Members at Meetings**

- (a) A Member of the Council shall have a right to attend Meetings of the Cabinet or a Committee on which they have not been appointed to serve, and be present, in the public gallery throughout the public part of the meeting.
- (b) A Member of the Council is entitled to remain in attendance, in the public gallery during the confidential part of any Meeting or where the public have been excluded from the meeting in accordance with the Access to Information Procedure Rules, provided that they have a need to know about the matter under consideration, and they do not have a disclosable pecuniary interest or other relevant interest in the matter. It is assumed that every Member will have need to know about the matter under consideration, although this presumption is rebuttable and advice should be taken from the Monitoring Officer.
- (c) A Member of the Council who is not a Cabinet Member or a Committee and has a disclosable pecuniary interest or other relevant interest in any item under consideration at a particular Meeting is not entitled to be present in any part of the room where the meeting is taking place during that particular part of the meeting where that item is to be discussed, unless a dispensation has been granted by the Monitoring Officer.
- (d) Council Procedure Rule 34.3 does not apply to Meetings of:
  - (i) the Joint Audit & Governance Committee when it goes into closed session to determine a Member Code of Conduct matter;
  - (ii) the Licensing Committee or Sub-Committee when they go into closed session to determine an individual quasi-judicial case;
  - (iii) any Committee when it goes into closed session to determine the capability or conduct of an individual Officer under the Council's disciplinary or grievance procedures.
  - (iv) any Committee considering the appointment of a Council Officer.
- (e) No Member is entitled to attend Meetings referred to in (d) above unless they are appointed as a Member of that Committee or are substituting for such a Member.

### **34.4 Speaking by Members at Meetings**

- (a) Subject to (c) and (d) below, a Member of the Council shall have the right to attend meetings of the Cabinet or a Committee on which they have not been appointed to serve, and address the meeting provided that:
  - (i) the Member has, prior to the commencement of the meeting, notified the person presiding of their desire to address it and they are then invited by the person presiding to address it;
  - (ii) The person presiding shall have total discretion as to whether or not to invite such a Member to address the meeting.
- (b) A Member who is not a Member of the Planning Committee may not address that Committee in respect of any planning application, unless a similar right is granted within the Constitution (Protocol on Public Speaking at Planning Committee in Part 5) to the applicant, any objector and any supporter.
- (c) A Member who is not sitting as a Member of the Licensing Committee or the Licensing Sub-Committee may not address that Committee or Sub-Committee unless they have a right to speak under relevant statutory regulations.
- (d) A Member who is not sitting as a Member of the Joint Audit & Governance Committee may not address that Committee or Sub-Committee when hearing a Code of Conduct determination, unless they are representing or acting as a witness for either the Monitoring Officer, Investigating Officer, or the Subject Member.

#### **34.5 Executive Leader**

- (a) Subject to (b) below, the Leader, or Deputy Leader in their absence, may attend any Committee meeting and speak on any item under consideration as of right, unless they have a disclosable pecuniary interest or other relevant interest in the matter.
- (b) Paragraph (a) above does not apply to Meetings of:
  - (i) the Joint Audit & Governance Committee when considering an individual case relating to Member conduct;
  - (ii) the Licensing Committee or Sub-Committee when meeting in closed session to determine an individual case; or
  - (iii) the Planning Committee, when considering a planning application;
  - (iv) any Committee considering the conduct of an individual Officer under the Council's disciplinary or grievance procedure;
  - (v) any Committee dealing with the appointment of a Council Officer.

#### **34.6 Voting**

A Member of the Council, attending a meeting of the Cabinet or a Committee on which they have not been appointed to serve, and is not acting as a Substitute Member, is not entitled to vote on any item under consideration.

#### **Exercise of Powers and Functions**

35.1 No individual Member, Officer or group of Members or Officers, or both, shall be entitled to exercise any power or function of the Council save as already or hereafter delegated to them by the Council, the Cabinet, a Committee or another Officer exercising a power or fulfilling a function on behalf of the Council or as detailed in this Constitution.

35.2 Whilst the Chair of a Committee and Cabinet Members can expect to be consulted on matters affecting their areas of responsibility, they shall not have power to act on behalf of, or bind, the Council, unless the Council or the Leader has given them specific delegated powers to do so.

#### **No Confidence in the Chair of a Committee**

36.1 At any Meeting of a Committee, a Member of that Committee may move that 'the meeting has no confidence in the Chair'. If seconded, the motion shall, after debate, be put and, if carried by a majority of at least two thirds of the Members present, the Chair shall immediately stand down and the remainder of the meeting shall be chaired by the Vice-Chair or, in their absence, or if they were acting as the Chair and the subject of the vote, by a Member elected for that purpose by the meeting.

36.2 During the consideration of a motion under (a) above, the Chair shall cease to be Chair of the Committee and shall be an Ordinary Member of the Committee. The Director for Communities, the Head of Legal Services, or their representative, will act as Chair of the Committee during consideration of the motion.

36.3 Following a successful vote of no confidence in the Chair, they shall not officiate at any subsequent Meeting of the Committee prior to the next meeting of the Full Council. At that Meeting, the Council shall consider whether or not to confirm the vote of no confidence. If by a simple majority they decide to confirm the vote, the office of Chair of the relevant Committee shall be declared vacant and a new Chair shall be elected by the Council. If the Council does not confirm the vote by a simple majority, the Member remains as Chair of the Committee.

## **Appointment and Term of Office of the Executive Leader**

### **37.1 Election of the Executive Leader**

- (a) The Council shall elect a Leader at each Annual Meeting where the term of office of the Leader has come to an end due to the fact that their term of office as a Borough Councillor has ended.
- (b) The Councillors present at that Annual Meeting shall nominate one or more persons to be Leader from among the Elected Members. Any nomination which is not seconded, shall not be considered further.
- (c) Where there is only one Elected Member nominated and seconded, then the Mayor shall provide an opportunity for a debate before calling for a vote which shall require a majority of those present and voting to determine whether the Member shall be elected as Leader.
- (d) Where there are two Elected Members nominated and seconded then, following the opportunity for debate, the Mayor shall call for a vote and the Member who receives the largest number of votes shall be elected as Leader.
- (e) Where there are three or more candidates seeking appointment to a single position, there shall be a vote for each candidate and:
  - (i) if one of the candidates receives more than half of all the votes cast in the election, that candidate is to be appointed;
  - (ii) if no candidate receives more than half of all of the votes cast then the candidate with the least number of votes will be eliminated and a new vote taken. The process will continue until there is a majority of votes for one person.
- (f) The Motion shall be subject to the rules of debate in Council Procedure Rule 16 and voting shall be in accordance with Council Procedure Rule 24.

### **37.2 Removal**

- (a) If a Member wishes at a meeting of Full Council to move a motion to remove the Leader, the Member must give at least 10 clear working days' notice to the Director for Communities.
- (b) The motion must be signed by the mover and seconder.
- (c) The Director for Communities shall place the motion on the agenda for the next Meeting of the Council, provided that such Meeting is not a Special Meeting. The motion before the Council shall be considered after the receipt of any declarations of interest, approval of minutes of the last Meeting and questions and statements by the public.
- (d) The motion shall be subject to the rules of debate in Council Procedure Rule 16 and voting shall be in accordance with Council Procedure Rule 24.

### **37.3 Consequence of a Motion to Remove the Executive Leader**



Where a motion to remove the Executive Leader is carried, then the Leader shall cease to be Leader with immediate effect. The Council shall proceed to elect a new Executive Leader at that Meeting or the next Meeting of the Full Council, provided it is not a Special Meeting.

#### **37.4 Term of Office**

- (a) The Executive Leader shall hold the office of Leader in accordance with Article 7 of the Constitution.
- (b) Should the Executive Leader resign from their appointment, an Extraordinary Meeting will be called to deal with the appointment of a new Executive Leader in accordance with this Procedure Rule. The Deputy Leader will assume the role of Leader until such appointment is made.

#### **Appointment of Emergency Liaison Member**

~~38.1 Where the Leader makes an appointment as Executive Member for Health and Wellbeing or a similar portfolio, that Member shall be appointed as the Emergency Liaison Member.~~

~~38.2 The position of Emergency Liaison Member attracts no Executive power, responsibility or responsibility allowance.~~

#### **Leader of the Main Opposition**

38.1 Where there is a Political Group or combination of Political Groups forming the Administration, the Leader of the Main Opposition shall be the leader of the next largest Political Group;

38.2 Where the next largest Political Group does not wish to nominate a Member to be the Leader of the Main Opposition, the Council shall not appoint any Member to that office;

38.3 If there is equality in the number of Members in all opposition groups, there will be no appointment to the role of Leader of the Main Opposition; e.g. if there are two opposition groups with equal membership;

38.4 If there is no opposition group, and there is an equal number of opposition Members, there will be no appointment to the role of Leader of the opposition, e.g. if there are two individual opposition Members, representing different parties.

38.5 At the Annual Council each year, the Full Council shall ~~appoint a~~ note the Leader of the Main Opposition, who shall be entitled to receive any Special Responsibility Allowance payable to that office.

#### **Suspension and Amendment of Procedure Rules**

##### **39.1 Amendment**

Any motion to add to, amend or revoke any of these Council Procedure Rules will, when proposed and seconded, stand adjourned without discussion and be referred to the Joint Audit & Governance Committee for consideration and recommendation to the following Meeting of the Council, unless a report has been received, on the proposal, from the Joint Audit & Governance Committee.

##### **39.2 Suspension**

- (a) Save as set out at 40.2 (c) below, these Council Procedure Rules cannot be suspended.

- (b) The person presiding may, at their absolute discretion, amend the order of business of any meeting.
- (c) Only Council Procedure Rules 11.1 (as to the length of time), 11.4, 12.7, 12.8, 16.5, 16.7, and 16.19, may be suspended by motion on notice or without notice. Suspension of Council Procedure Rules shall be determined for each individual item of business, and will only be effective for the duration of that Meeting.

**Commented [g32]:** Need to check and insert the correct paragraph numbers.

### **Urgent Business**

- 40.1 Subject to (b) and (c) below, if, having consulted the Monitoring Officer and the Section 151 Officer, the Chief Executive is of the opinion that urgent action is required, in accordance with the Scheme of Officer Delegations, before a decision could be taken by Full Council, the Cabinet or a Committee having appropriate authority, they may take the decision in accordance with their urgency power as set out in the Officer Scheme of Delegations.
- 40.2 If the decision is one which would normally be taken by:
  - (a) Full Council, the Chief Executive will consult with the Leader and the Leader of the Main Opposition;
  - (b) The Cabinet, the Chief Executive will consult with the Leader;
  - (c) A Committee, the Chief Executive will consult with the Leader, Leader of the Main Opposition and Chair of the Committee.
- 40.3 Every such decision shall be reported to the next available Ordinary Meeting of Full Council, the Cabinet or the Committee that would have normally taken the decision.

### **Mayor of the Council**

#### **41.1 Appointment**

- (a) The Council shall elect a Mayor at each Annual Council Meeting.
- (b) The existing Mayor shall take the Chair for the item on the agenda, unless they are conflicted, when the Deputy Mayor will take the Chair for the single item of business. If the Mayor and Deputy Mayor are both conflicted the Head of Legal Services or their representative will take the Chair for the appointment of the Mayor.
- (c) The Councillors present at that Annual Meeting shall propose one or more persons to be Mayor from among the Elected Members. Any proposal which is not seconded, shall not be considered further.
- (d) Where there is only one Elected Member proposed and seconded, then the Mayor shall provide an opportunity for a debate before calling for a vote which shall require a majority of those present and voting to determine whether the Member shall be elected as Mayor.
- (e) Where there are two Elected Members proposed and seconded, then a debate on the proposals will follow, then the Mayor shall call for a vote and the Member who received the largest number of votes shall be elected as Mayor.
- (f) Where there are three or more Elected Members proposed and seconded, following a debate on the proposals, the Mayor shall call for a vote for each Member proposed and:
  - (i) If one of the proposed Members receives more than half of all the votes cast in the election, that Member is to be appointed as Mayor;
  - (ii) If no Member receives more than half of all the votes cast then the Member with the least number of votes will be eliminated and a new vote taken. The process will continue until there is a majority of votes for one person, who shall be appointed as Mayor.
- (g) The voting will be in accordance with Council Procedure Rule 24.

#### **42.2 Removal**

~~If a Member wishes at a meeting of Full Council to move a motion of no confidence in the Mayor of the Council, the Member must give not less than 10 clear working days' notice in writing to the Director for Communities.~~

The motion must be signed by the mover and seconder.

The Director for Communities shall consider the motion in accordance with the provisions of Council Procedure Rule 14.

If accepted, the Director for Communities shall place the motion on the agenda for the next Meeting of the Council, provided that such meeting is neither a Special Meeting nor Annual Council. This may be at an Extraordinary Meeting of the Council if the provisions of Council Procedure Rule 4 have been complied with. The motion before the Council shall be considered as the first item of business after the receipt of any declarations of interest, approval of minutes of the last Meeting and questions by the public.

During the consideration of such a motion, the Mayor shall cease to be Mayor of the Council and shall be an ordinary Member of the Council. The Head of Legal Services, or their representative, will act as Mayor of the Committee during consideration of the motion.

After debate, the motion shall be put to the vote and if carried by a majority of at least two thirds of the Members present, the Mayor shall immediately stand down and the remainder of the meeting shall be chaired by the Deputy Mayor.

#### **42.3 Consequence**

Where a motion of no confidence in the Mayor of the Council is carried, then the Mayor shall cease to be Mayor of the Council with immediate effect. The Council shall proceed to elect a new Mayor at that meeting of the Council. The item of the appointment of the new Mayor will be chaired by the Head of Legal Services or their representative.

**Commented [g33]:** The Council Chair (Mayor) serves for a year and cannot be removed during their term of office other than by resignation or disqualification: s.3(2) LGA 1972.

## Budget Procedure Rules

### 4.01.0 SUMMARY

- 1.1 The Council has a duty under Chapter III of the Local Government Finance Act 1992 to set a lawful budget in a timely manner.
- 1.2 Members have a fiduciary duty to Council Tax payers.
- 1.3 This means they have a duty to facilitate the setting of a lawful budget; a process that requires flexibility and compromise.
- 1.4 Failure to set a lawful budget in time may lead to a loss of revenue, significant additional administrative costs, as well as reputational damage.
- 1.5 Failure to set a budget may lead to intervention from the Secretary of State under section 15 Local Government Act 1999.

### 2.0 THE LEGAL DUTY

- 2.1 Section 30(6) and 31A(11) of the Local Government Finance Act 1992 provides that the Council has to set its budget before 11 March in the financial year preceding the one in respect of which the budget is set. This means the Council has a duty to set the budget before 11 March each year.
- 2.2 If the budget is set after that date, the Act says the failure to set a budget within the deadline does not, in itself, invalidate the budget. However, such delay may have significant financial, administrative and legal implications, including potential individual liability of any Member who contributed to the failure to set a budget.
- 2.3 Section 66 of the 1992 Act provides that failure to set a Council tax (or delay in setting a Council tax) shall not be challenged except by an application for judicial review. The Secretary of State and any other person with an interest or 'standing' may apply for judicial review.

### 3.0 FINANCIAL IMPLICATIONS OF DELAY

- 3.1 Delay in setting the Council Tax means a delay in collecting the tax due not only to the Council, but also the precepting authorities such as West Sussex County Council, the Police, and others such as Parish Council (where appropriate) on whose behalf the Council acts as a collection authority.
- 3.2 The Council has a legal duty to provide a range of statutory services (such as refuse collection, homelessness prevention etc.) and is not absolved from its duty because of the late setting of the Tax. It also has to pay the monies due to the precepting authorities whether or not it collects any Council Tax.
- 3.3 Even if the Council sets the budget before the deadline but much later than the planned Budget Council Meeting, there is still likely to be some disruption to the administrative arrangements relating to the collection of Council Tax (such as printing, posting, delivery of demands) that have cost implication.

### 4.0 DUTY TO TAKE ADVICE OF THE CHIEF FINANCIAL OFFICER

- 4.1 Sections 25 to 28 of the Local Government Act 2003 impose duties on the Council in relation to how it sets and monitors its budget. These provisions require the Council to

make prudent allowance for the risk and uncertainties in its budget and regularly monitor its finances during the year. The legislation leaves discretion to the Council about the allowances to be made and action to be taken.

- 4.2 Section 25 also requires the Council's Chief Financial Officer to make a report to Full Council when it is considering its budget and Council Tax. The report must deal with the robustness of the estimates and the adequacy of the reserves allowed for in the budget proposals, so Members will have authoritative advice available to them when they make their decisions on the Cabinet's budget proposals and any alternative proposals.
- 4.3 The section, and the Constitution, requires Members to have regard to the report in making their decisions. Any decision that ignores this professional advice, including the implications of delay, is potentially challengeable.

## 5.0 THE BUDGET FRAMEWORK

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

**Commented [g34]:** Set out procedure for budget consultation.

## 6.0 ANNUAL PROCESS FOR SETTING THE BUDGET

The process by which the budget shall be set is as follows:

- 6.1 The Budget Strategy for the forthcoming year is considered and agreed by the Council in July each year.
- 6.2 In December each year detailed financial proposals to meet that Budget Strategy for the forthcoming year are considered by Joint Strategic Committee, after having been considered by the Council's Joint Overview and Scrutiny Committee by way of consultation.
- 6.3 These proposals are fed, by the Chief Financial Officer, into the draft budget proposals for the Council and the draft Budget Strategy is updated accordingly.
- 6.4 In January each year the Joint Strategic Committee will meet to consider the draft budget for the joint services of the Council, which it wishes to provide jointly with Adur District Council. The decisions in relation to joint services are then used to produce the revenue estimates and draft budget proposals for Worthing Borough Council which will be considered by a meeting of the Cabinet in early February.
- 6.5 The meeting of the Cabinet will recommend a draft budget to the Council, and level of Council Tax. The Director for Communities will then refer them, at the earliest opportunity, to the Council for decision.
- 6.6 The Cabinet meeting held to determine the Cabinet's budget proposals to Council must be held a minimum of 12 working days prior to the Council meeting being held to consider the budget for the Council

## 7.0 THE BUDGET SETTING COUNCIL MEETING

- 7.1 The Cabinet's proposals will be presented to the Council under cover of a report from the Chief Financial Officer, together with a budget pack and professional financial advice upon the proposal.
- 7.2 The Council will be asked to agree to suspend Council Procedure Rules for the meeting, where they conflict with these Budget Procedure Rules, to allow these Budget Procedure Rules to prevail.

- 7.3 The agenda for the Budget Setting Council Meeting will be limited to the following substantive items:
- (a) Consideration of the Leader's recommendations for the Budget, Capital Programme, Borrowing Policy, Council Tax, and the limits defining key financial decisions
  - (b) Other items the Chair agrees be taken as urgent.
- 7.4 The Budget Setting Council Meeting will be held in February each year to set the budget for the forthcoming year. At the Budget Setting Council Meeting, the Cabinet submits to the Council for its consideration in relation to the following financial year:
- (a) Estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;
  - (b) Estimates of other amounts to be used for the purposes of such a calculation;
  - (c) Estimates of such a calculation; or
  - (d) Amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992.
- 7.5 The Cabinet will propose its recommendations relating to the above matters to the Council, which if seconded, will be debated by Full Council, in accordance with the provisions below and voted upon.
- 7.6 The Council may:
- (a) Adopt the Cabinet's proposals; or
  - (b) Amend them in accordance with the provisions set out below; or
  - (c) Refer them back to the Cabinet for further consideration.
- 7.7 Budget proposals can only be submitted to the Council by the Cabinet; others can propose amendments to the Cabinet's proposals. The decision, on any amendment to the budget and on the budget, (as amended, if applicable), will be made by way of a recorded vote in accordance with Council Procedure Rule 24 and statutory requirements of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014. The Leader must confirm that they accept the budget as agreed by Council or it has to be resubmitted to Council with the Cabinet's revised proposals, causing an inevitable delay.
- 7.8 If the Council accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision, and the Leader's verbal confirmation will be sought at the meeting that the Leader accepts the budget as agreed by the Council.
- 7.9 The decision will be publicised in accordance with Article 4 and a copy shall be given to the Leader (see 7.31 and 7.32, below).
- 7.10 Any Elected Member may put forward amendments to the Cabinet's budget proposal, to the Council. However Members should not put forward proposals that would mean setting an unlawful budget and they must take Officer advice to ensure their proposals are in order. To this end any proposed amendments must be evaluated by the Chief Financial Officer, or an Officer appointed by them for the purpose, to determine the service, financial and legal implications of implementing the amended proposals. The amended proposals are required to be submitted to the Chief Financial Officer, via the Democratic Services Manager by email to [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk), by no later than 12 noon 10 clear working days before the Budget Setting Council Meeting, excluding the date of the meeting itself.
- 7.11 Any proposed amendment to any matter on the Council Meeting Agenda, other than the budget, which would have, or would be likely to have, a significant effect on the Cabinet's

proposed budget, must also be submitted to the Chief Finance Officer by no later than 12 noon 10 clear working days before the Council Budget Setting Meeting, excluding the date of the meeting itself.

- 7.12 The amended proposals, once received by the Chief Financial Officer, will be held confidentially and not shared with other political parties, by the Finance Officers involved, with the exception that any amendments received for an Elected Member who is part of a Group will be shared with the relevant Group Leader. All amended proposals will be considered by Finance Officers by no later than 12 noon 5 clear working days before the day of the Council meeting, excluding the day of the meeting itself. Finance Officers will confirm the legality and impact of all proposed amendments. Any that in the Chief Financial Officer's opinion are unlawful shall be rejected. The Chief Financial Officer will then share all amended proposals, together with Finance sign off and comments, with the Chief Executive, Monitoring Officer and Director for Digital, Sustainability and Resources, by 5pm 5 clear working days before the day of the Council meeting, excluding the day of the meeting itself.
- 7.13 All proposed amendments will be shared with all Elected Members, by email, by the Chief Financial Officer by 12 noon 3 clear working days before the Council meeting, excluding the day of the meeting itself.
- 7.14 Following a period for negotiation, any minor amendments to proposed amendments, will be allowed up to 9am on the day of the meeting, provided they do not have substantial impact and are agreed with the Chief Financial Officer. By noon on the day of the Council meeting Democratic Services Officers will circulate copies of all remaining proposed amendments to all Members of the Council, by email, in case any have been withdrawn. At the Council meeting, the Mayor will refuse to accept any proposals for amendment that have not been through the above process, and signed off as being lawful proposals by the Council's Finance Officers.
- 7.15 At the Budget Setting Council meeting, the Cabinet will propose their budget, with the Leader having an unlimited time for their speech. The proposal will need to be seconded and the Member seconding has 5 minutes available for this purpose, or where proposed amendments have been circulated, 10 minutes. The seconder may speak at the time of seconding or reserve their speech for later on in the debate.
- 7.16 The Leader of the next largest Group on the Council will have the right to speak first on the Cabinet's proposal and may propose any amendment which has been signed off by the Chief Financial Officer, and has 15 minutes maximum for their speech. The proposal will need to be seconded and the Member seconding the amendment has 10 minutes for this purpose and may make their speech at the time of seconding or reserve it for later in the debate on this amendment.
- 7.17 The Leader of the next largest Group will have the right to speak next on the earlier proposals put before Council, and may have 15 minutes to propose their own amendment, provided it has been signed off by the Chief Financial Officer, which shall need to be seconded with the seconder having a maximum of 10 minutes for this purpose and the right to reserve their speech until later in the debate.
- 7.18 This process continues until the Leader of each Group and any ungrouped Members who have moved amendments, have had the opportunity to speak, and the budget and all proposed amendments have been proposed and seconded.
- 7.19 The matter, being both the Cabinet's proposed and seconded budget and all amendments that have been proposed and seconded, is then open to one full debate from all Members

of the Council. Each Member may speak only once on this item, other than the Executive Leader, and any Group Leader or Member not in a Group who has submitted an amendment, who has a right of reply. Each speaker, other than as set out above, has a maximum of 5 minutes to speak where it is only the Cabinet's proposed budget under consideration, or 10 minutes where amendments have also been proposed and seconded.

- 7.20 The debate is managed by the Mayor who has control of the debate and may use their discretion to ensure the effective, efficient, fair and orderly conduct of the business. The Mayor's interpretation of these procedure rules and their application will be final.
- 7.21 At the end of the debate if any Member seconding a proposal (the substantive proposal or a proposed amendment) has reserved their seconder's speech to later in the debate, their speeches, of a maximum of 10 minutes where there are amendments, or otherwise 5 minutes, will be taken in the reverse order in which the motions were proposed and seconded.
- 7.22 When the debate has concluded, the Executive Leader, as the proposer of the substantive motion, and any Group Leader or ungrouped Member who has proposed an amendment, will have a right of reply. Each speaker will be taken in the reverse order in which the motions were proposed and seconded, with the Leader having the last right of reply on behalf of the Cabinet. Any speaker with a right of reply has up to 10 minutes to respond.
- 7.23 When the debate has concluded, the Mayor will if they think fit, sum up the debate before putting the amendments to the vote. In doing so they may request the Chief Financial Officer to draw the attention of the meeting to any relevant factors.
- 7.24 The Mayor will then put the amendments to the vote in the order of the amendments proposed by the largest Opposition Group Leader first, followed by the next largest etc. Each amendment will be voted on in turn, with a recorded vote being taken, and administered by the Democratic Services Officer, on each amendment.
- 7.25 Any vote (including procedural and on amendments) relating to budget setting and council tax decisions made by Full Council must be undertaken by a recorded vote.
- 7.26 Section 106 of the Local Government Finance Act 1992 bars a Councillor from voting on the Council's budget if they have an outstanding council tax debt of over two months. If a Member is present at any meeting at which relevant budgetary matters are discussed, they must disclose that s.106 applies and may not vote. Failure to comply is a criminal offence.
- 7.27 Some proposed amendments may impact on others and there may be inter dependencies between them. For example, if one amendment is lost it may result in others automatically being lost, whilst some amendments may have no impact on others and may stand alone regardless of the outcome of voting on other amendments. The Chief Financial Officer will advise accordingly and the Mayor may adjourn the meeting to facilitate the provision of that advice.
- 7.28 Following the conclusion of the voting on the amendments, the Chief Financial Officer will confirm how the individual amendments that have been carried affect the Council Tax proposal as necessary.
- 7.29 There may be a need for a short adjournment to allow for the preparation of the Council Tax resolutions to reflect the budget proposals as amended/if amended to be printed and circulated prior to the substantive vote.
- 7.30 Once the amendments have each been voted upon and determined, the Chief Financial



Officer will clarify any amendments that have been agreed and how they affect the budget proposal. The Mayor will then put the substantive motions, as amended if they have been amended, to the Council for a vote. A recorded vote will be taken and recorded by the Democratic Services Officer present.

- 7.32 If the budget proposal is accepted without amendment by Council, the Council may make a decision which has immediate effect. If the budget proposal is amended, and is approved as amended by Full Council, the Leader will be asked by the Mayor if they accept the budget as agreed by Council.
- 7.26 (a) If the Executive Leader confirms that they do accept the budget proposals as amended by Council, the Council decision will have immediate effect.  
(b) If the Executive Leader does not accept the budget proposal as amended and agreed by the Council, the matter will be referred back to the Cabinet for further consideration and revised Cabinet proposals will need to be submitted to Council at a future meeting; this will cause an inevitable delay to the lawful setting of the budget and the Council Tax and the associated consequences of such a delay will need to be considered.

## Cabinet Procedure Rules

### Introduction

- 1.1 These Cabinet 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 Cabinet 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 Constitution, particularly:
  - (a) Scheme of Delegation;
  - (b) Access to Information Procedure Rules;
  - (c) Overview and Scrutiny Procedure Rules;
  - (d) Members' Code of Conduct;
  - (e) Officers' Code of Conduct;
  - (f) Protocol on Member/Officer Relations;
  - (g) Code of Corporate Governance;
  - (h) Article 12 concerning decision-making.
- 1.4 If primary or secondary legislation is introduced which supersedes these Cabinet Procedure Rules, statutory legislation will prevail.
- 1.5 These Cabinet Procedure Rules must be read in accordance with the Joint Committee Agreement.

### How the Cabinet Operates

#### 2.1 Who May Make Executive Decisions

- 2.1.1 The arrangements for the discharge of Executive functions are to be determined by the Leader who may arrange for the discharge of any of the Cabinet functions to:
  - (a) the Cabinet;
  - (b) Cabinet Member;
  - (c) a Cabinet committee;
  - (d) an Officer of the Council;
  - (e) an Area Committee;
  - (f) another body in accordance with joint working arrangements;
  - (g) another Local Authority;
  - (h) a Ward Member to the extent that the function is exercisable in relation to their Ward.

#### 2.2 Delegation of Executive Functions

- 2.2.1 The Head of Legal Services 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 Constitution. The document 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 Cabinet;

- (b) the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- (c) the terms of reference and composition of such Cabinet Committees as may be appointed and the names of Cabinet 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 Cabinet Members appointed to any Joint Committee for the forthcoming year; and
- (e) the nature and extent of any delegation to Officers or Ward Members, with details of any limitation on that delegation, and the title of the Officer or name of the Ward Member to whom the delegation is made.

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

- 2.3.1 The Leader may discharge any Executive function, or may arrange for any Executive function to be delegated to the Cabinet, an individual Cabinet Member, a Cabinet committee, an Area Committee, a Ward Member or an Officer.
- 2.3.2 Where the Cabinet is responsible for an Executive function, it may delegate further to a Cabinet committee, an Officer or another body in accordance with joint working arrangements.
- 2.3.3 Unless the Cabinet directs otherwise, a Cabinet committee or Cabinet Member may delegate further to an Officer.
- 2.3.4 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**

- 2.4.1 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 Member Code of Conduct in Part 5 of this Constitution. If a dispensation is not granted, the matter should be referred to a meeting of the Cabinet as a whole, or where appropriate, another body in accordance with joint working arrangements.
- (b) If every Cabinet Member has a conflict of interest in exercising an Executive function, this should be dealt with in accordance with the Council's Member Code of Conduct 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 Cabinet committee, an individual Cabinet Member, a Ward 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 Member Code of Conduct in Part 5 of this Constitution.

### **Forward Plan of Executive Key Decisions and/or Executive Exempt Decisions**

- 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 Cabinet, collectively or individually, and to Officers.

## **Cabinet Meetings**

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

- 4.1.1 Subject to the Access to Information Procedure Rules, the Cabinet may not make an exempt or key decision unless details have been included in the Forward Plan.

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

- 4.2.1 The Cabinet will meet at least 8 times per year at times as ~~agreed~~determined by the ~~Council Leader~~ and at such other times as they shall determine. Some of these meetings will be held as the Cabinet 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 Cabinet's recommendation to Council on its budget. The Cabinet 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 Cabinet**

- 4.3.1 Subject to (a) and (b) below, meetings of the Cabinet will be held in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution.
- (a) Exempt Information – where the Cabinet 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 Cabinet 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 Cabinet breaching a legal obligation to third parties about the keeping of confidential information, the meeting should be held in private. Confidential information means:
    - (i) Information provided to the Council or Cabinet by a Government department on terms which forbid the disclosure of the information to the public; and
    - (ii) Information which is prohibited from being disclosed by any enactment or by a Court Order.

### **4.4 Quorum**

- 4.4.1 The quorum for a meeting of the Cabinet shall be 3 Cabinet Members, or at a meeting held under joint arrangements, as provided for under the Joint Committee Agreement.

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

- (a) Executive decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a Cabinet committee, 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 Cabinet 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 Cabinet meetings must be made in accordance with Article 12 of the Constitution.

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

- 4.6.1 The Leader, or in their absence the Deputy Leader, will preside. In the absence of both the Leader and Deputy Leader, another Cabinet Member will be appointed to preside.
- 4.6.2 The person presiding at a meeting held under joint arrangements is determined in accordance with the Joint Committee Agreement.

#### **4.7 Business of the Cabinet**

- 4.7.1 At each meeting of the Cabinet, 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 Cabinet;
  - (c) questions by the public in accordance with Council Procedure Rules;
  - (d) matters referred to the Cabinet by Overview and Scrutiny or by the Council (or under Joint Committee arrangements) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of 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 Cabinet, 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 Cabinet**

- 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 Head of Legal Services.
- 4.8.2 The Officer's report shall set out the following:
- (a) The Cabinet 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 Cabinet 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 email to the Cabinet Members and all Members of the Council; and
  - (b) make the report publicly available on the Councils' website.

#### **4.9 Decisions of Cabinet meetings**

- 4.9.1 Subject to the provisions of the Access to Information Procedure Rules, after a decision has been taken by the Cabinet, either draft minutes of the meeting or a Record of Decision will be prepared by the Director for Communities and published on the Councils' website, 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 5pm on the third working day, following the day of the meeting of the Cabinet, the Director for Communities shall publish the draft minutes or Record of Decision by email 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.

#### **Individual Cabinet Member Decisions**

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

- 5.1.1 Subject to the Access to Information Procedure Rules, the Individual Cabinet 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 Cabinet Member**

- (a) Details of Executive decision-making by Individual Cabinet Members under joint arrangements are contained in the Joint Committee Agreement.
- (b) All decisions made by Individual Cabinet 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 Cabinet Members must be made in accordance with Article 12 of the Constitution.

### **5.3 Written Reports for Individual Cabinet 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 Head of Legal Services.

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

- (a) The Cabinet 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 Cabinet 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 email to the Individual Cabinet Member and all Members of the Council; and
- (b) make the report publicly available on the Councils' website.

### **5.4 Timescales**

5.4.1 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 Cabinet 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.

5.4.2 The Cabinet 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**

5.5.1 Prior to taking the decision, the Cabinet 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 Cabinet Member shall disclose it by recording the interest at the beginning of

their record of decision. If a disclosable pecuniary interest, the Cabinet 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 Cabinet Member**

- 5.6.1 The Leader can either make the decision on a report referred to them by an Individual Cabinet Member in accordance with Rule 5.5 above, or may refer the report to the next full meeting of the Cabinet for discussion and decision. The Leader will record a decision to defer an item to a meeting of the Cabinet on the Decision Notice and it will be actioned by the Director for Communities.
- 5.6.2 If the Leader is exercising their 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**

- 5.7.1 At any time, and for any reason, the Leader may temporarily, or permanently, withdraw the delegation of an Executive function to an Individual Cabinet Member and exercise the delegation in person.
- 5.7.2 Where the Leader temporarily removes a delegation to an Individual Cabinet Member for a particular decision, this must be recorded on the Decision Notice. Where the Leader removes a delegation to an Individual Cabinet Member on a permanent basis, the Monitoring Officer must be notified in writing.

## **5.8 Decisions of Individual Cabinet Members**

- 5.8.1 Subject to the provisions of the Access to Information Procedure Rules, after a decision has been taken by a Cabinet Member and the Record of Decision provided to the Director for Communities, they 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 5pm 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 email 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.

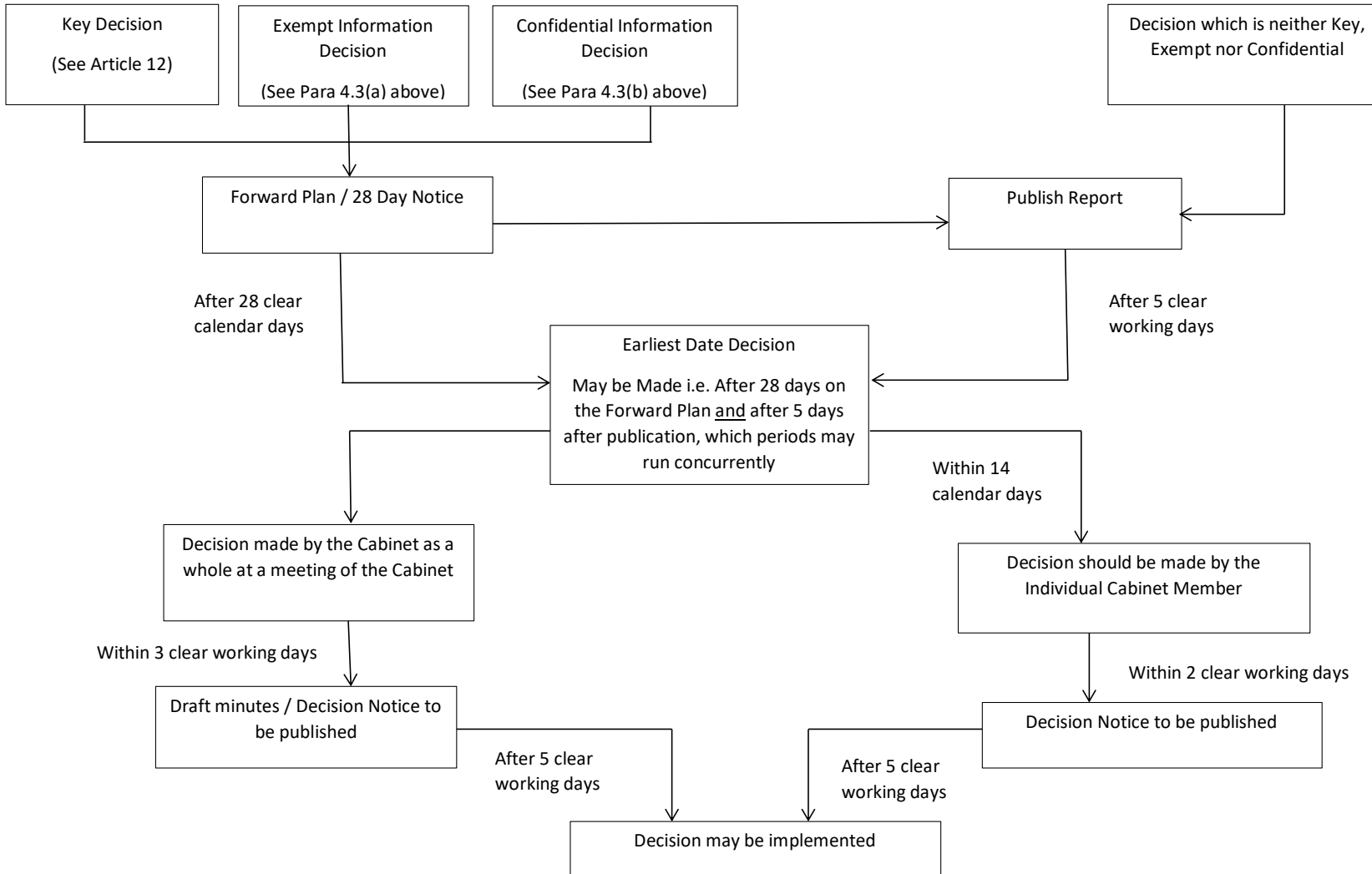
5.8.4 The report author will ensure that all background papers listed in a report are made publicly available, by at least 5 working days prior to the earliest date upon which the decision may be taken.

### **Executive Decisions Taken By Officers**

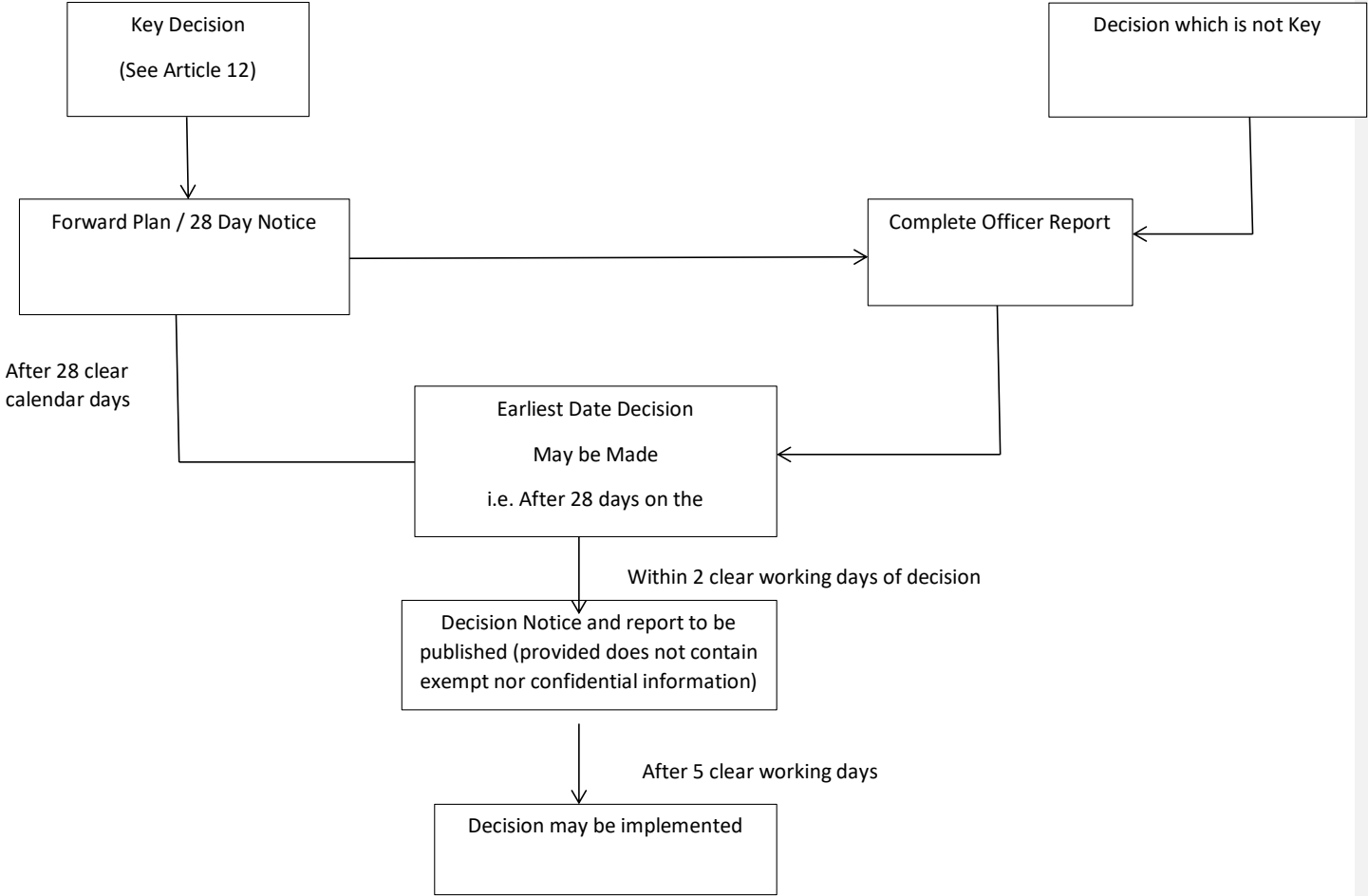
#### **6.1 Decision-making by an Officer**

6.1.1 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**



## Overview and Scrutiny Procedure Rules

### Arrangements for the Worthing Overview and Scrutiny Committee

- 1.1 The Council will have an 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.

### Terms of Reference

- 2.1 The general terms of reference of the Overview and Scrutiny Committee are as set out in Part 3 of the Constitution. The Worthing Borough Council Overview and Scrutiny Committee shall exercise the scrutiny function of the Council in relation to all matters reserved to Worthing Borough Council, as opposed to those included within the remit of the Joint Committee Agreement which are scrutinised by the Adur and Worthing Joint Overview and Scrutiny Committee.

### Membership

- 3.1 The Overview and Scrutiny Committee will comprise 15 Elected Members from Worthing Borough Council and shall not include Cabinet Members. ~~Any Member (except Cabinet Members) may be a Member of the 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 in which they have pecuniary or personal interest, or any other actual or perceived conflict of interest, e.g. a close relationship with a decision-maker.

3.2 When selecting members to serve on scrutiny committees, consideration should be given to a member's experience, expertise, interests, ability to act impartially, ability to work as part of a group and capacity to serve. What should be considered when forming the committee is that, as a group, it possesses the requisite expertise, commitment and ability to act impartially to fulfil its functions.

- 3.3 The Chair of the Overview and Scrutiny Committee shall be appointed by the Council. In addition to consideration of experience, expertise, interests and the ability to act impartially, the Chair should have the ability to work as part of a group, to lead and build a sense of teamwork and consensus among committee members.

### Co-Opted Members

- 4.1 Co-opted Elected Members

Subject to 10.2 below, the Overview and Scrutiny Committee 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. The Overview and Scrutiny Committee may appoint no more than two non-voting Co-opted Members to any particular meeting.

- 4.2 Co-opted Unelected Members

Subject to 10.2 below, the Overview and Scrutiny Committee 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. The 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.

**Commented [g35]:** As suggested by Cllr McGregor to reflect MHCLG guidance.

**Commented [GW36]:** NOTE: Members of the Working Group were unable to agree on this paragraph, so it is deferred to the Joint Governance Committee for determination.

Alternative suggestion:

"The Chair of the Overview and Scrutiny Committee shall be appointed by the Council. The Chair will first be offered to a member of a Political Group that does not form part of the Administration or an ungrouped Member, with the Vice Chair being drawn from any other Political Group."

Chairs should guard the committee's independence but avoid the committee being, and being viewed as, a de facto opposition to the Executive. (MHCLG guidance 2019)

Legally, the Chairing and membership of overview and scrutiny committees is a matter for a council's Annual General Meeting in May. Practically, Chairing is entirely at the discretion of the majority party. Majority parties can, if they wish, reserve all committee chairships (and vice-chairships) to themselves. This is the case in about 50% of councils. Around 20% of councils allocate chairships politically proportionately. The practice of reserving all positions of responsibility to the majority party can harm perceptions of scrutiny's credibility and impartiality. (CfGS)

**Commented [g37]:** Under Sch.A1 Para.11 of the Local Government Act 2000, a local authority may permit an elected or unelected co-opted member of an overview and scrutiny committee to vote at meetings of the committee, subject to the local authority having in place a scheme to give effect to this. Such a scheme is not currently in place.

## **Meetings**

- 5.1 The Committee will meet to consider Call-Ins relating to decisions of the Worthing Cabinet in relation to a matter reserved to the Cabinet of Worthing Borough Council.
- 5.2 In addition, Extraordinary meetings may be called from time to time as and when appropriate. An Extraordinary meeting of the Worthing Overview and Scrutiny Committee may be called by the Chair, requesting in writing that the Director for Communities call an Extraordinary Meeting; or by any four Committee Members, signing a requisition, and presenting it to the Chair, 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.

## **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 Cabinet 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 Worthing Overview and Scrutiny Committee selected when establishing the Terms of Reference under paragraph 6.1 above. 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 Borough of the matter under review;
- (d) As resolved by the 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 Council 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 Chair.

### **6.6 Substitutes**

Substitutes are not allowed, although the Working Group may invite other Members from the Worthing Overview and Scrutiny Committee to assist it for a particular meeting. Any change to the permanent membership of a Working Group should be approved by the Worthing Overview and Scrutiny Committee.

## **Quorum**

- 7.1 The quorum for the Overview and Scrutiny Committee shall be determined in accordance

with Council Procedure Rule 9.

### Work Programme

- 8.1 The Overview and Scrutiny Committee will be responsible for determining its own annual work programme and in doing so they shall take into account the wishes of all Members on that Committee, regardless of Political Group. It will be reported to Council for noting at the April meeting every year, for the following municipal year.
- 8.2 When determining whether to include an item on the Overview and Scrutiny draft Work Programme, Members should be guided by:
- (a) The Council's 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).
- 8.3 During the municipal year, items may be added to the 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 Chair in accordance with the criteria set out in paragraph 8.2 above, who will make their recommendations to the next Overview and Scrutiny Committee for consideration and determination, following receipt of an 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.
- 8.4 The Director for Digital, Sustainability and Resources will consult with the Chair of the Overview and Scrutiny Committee throughout the year to monitor the Work Programme, and will report to the Committee on a regular basis.
- 8.5 After consideration of an Officer report, the Overview and Scrutiny Committee will be responsible for setting the scope of the work of any Working Group established to assist the 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.

### **Agenda Items**

- 9.1 Agendas will be published in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution by the Director for Communities, in consultation with the Chair of the Committee.
- 9.2 A Member of the 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 below. Should the Chair 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 the next available 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) a local crime and disorder matter within the meaning of the Police and Justice Act 2006;
  - (b) any matter relating to a planning or licensing decision;
  - (c) where a person has a right of recourse to a review or appeal; or
  - (d) where, in the opinion of the Director for Communities, the matter is vexatious, discriminatory or not reasonable.

9.3 Any Member of the Council who is not a Member of the 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, they will consult with the Chair of the Committee who will follow the procedure set out in paragraph 9.2 above. Should the Chair 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 or not it will be included on the Work Programme of the Overview and Scrutiny Committee. If the Committee decides not to include the item in the 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.

9.4 The Council, the Cabinet or any Committee may request that the Overview and Scrutiny Committee undertakes scrutiny or policy development work on their behalf. The Overview and Scrutiny Committee shall respond, as soon as its Work Programme permits, to such requests. Where the 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 Overview and Scrutiny Committee at its next available (in accordance with Access to Information Procedure Rules) meeting.

9.5 A member of the public may request that an item be added to the agenda of the Overview and Scrutiny Committee. Any such request shall be considered by the Chair and, unless inappropriate to do so, shall be dealt with in accordance with paragraph 9.3 above.

#### **Policy Review and Development**

- 10.1 The Overview and Scrutiny Committee may make proposals to the Council, its Committees or the Cabinet for policy development, in so far as they relate to matters within that body's terms of reference.
- 10.2 The Overview and Scrutiny Committee may hold inquiries and investigate the available options for future direction in policy development and may appoint advisors 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 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.

#### **Reports from the Overview and Scrutiny Committee**

- 11.1 Once it has formed recommendations, the Director for Digital, Sustainability and Resources will prepare a formal report incorporating the views of the Overview and Scrutiny Committee and submit it to the relevant body.
- 11.2 The Council, the Cabinet or the Committee shall consider any report of the Director for Digital, Sustainability and Resources submitting the views of 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.
- 11.3 Alternatively the minute from a meeting of Overview and Scrutiny Committee may be referred to the Council, its Cabinet or a Committee. In cases where the minutes of the previous meeting have not been agreed by the Overview and Scrutiny Committee a draft minute shall

be prepared by the Director for Communities in consultation with the Chair prior to the meeting of the Cabinet, Committee or Council.

### **Minority Reports**

12.1 Where the Overview and Scrutiny Committee cannot agree on a single, final report to the Council, its Cabinet or a Committee, then one minority report may be submitted with the majority report. In order for a minority report to be produced, no fewer than three voting members of the Committee must support such a proposal.

12.2 In order that a minority opinion can be expressed where the Overview and Scrutiny Committee does not achieve a consensus on an issue, these rules make provision for minority reports to be produced by Members of such a committee. This means that although a majority report is issued representing the Overview and Scrutiny Committee's majority view, any Member of the Committee may propose an alternative view which may then be published in a minority report. In order for a minority report to be produced, no fewer than three voting Members of the Committee must support such a proposal.

### **Procedure for dealing with Minority Reports**

12.3 At the conclusion of an inquiry and at the point of agreeing a final report detailing the Adur Overview and Scrutiny Committee's conclusions and recommendations, Members may be unable to reach a general consensus. Members in the minority may wish to express a view different from that of the majority. In these circumstances, Members with a minority view may choose to submit a minority report.

12.4 The intention to submit a minority report must be declared within the Overview and Scrutiny Committee meeting at the time the majority report is agreed. Such an intention must be recorded in the minutes of the meeting and referred to in the final report as part of the Overview and Scrutiny Committee's resolutions. Where the Overview and Scrutiny Committee has agreed its final report and there has been no declared intention to produce a minority report, a minority report cannot then be subsequently submitted.

12.5 Where the intention to produce a minority report has been recorded in the minutes, Democratic Services will contact the appropriate Members to confirm submission dates. The minority report should be delivered to the Democratic Services within 5 working days after the Overview and Scrutiny Committee meeting.

12.6 In order that a minority report is given the opportunity to be noted in context by the Council, Cabinet or Committee, where it has been produced within the agreed timescale it will be attached as an appendix to the majority report.

12.7 The Director of Communities will determine if a minority report should be exempt from publication, in which case the usual procedures for the publication of exempt reports apply.

12.8 The drafting and submission of the minority report remains the responsibility of the Members who have proposed it and not Democratic Services. The report will include details of the Members who have submitted the minority report, as well as its issues and any alternative recommendations.

12.9 It is normally expected that the Overview and Scrutiny Committee will have taken into account all the relevant information available and as such a minority report will be based on the same evidence as a majority report.

### **Rights of Overview and Scrutiny Committee Members to Documents**

13.1 In addition to their rights as Councillors, Members of the Overview and Scrutiny Committee

**Commented [g38]:** A means of dissenting from decisions within the Overview & Scrutiny Committee. This is available to MPs in House of Commons select committees, allowing anyone who disagrees with a majority view within a committee to put observations and objections on record.



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.

#### **Members and Officers Giving Account**

- 14.1 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 in connection to a Call-In of a decision 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.
- 14.2 When requesting Officers and Members of the Council to attend, sufficient notice of the meeting should be provided to them as referred below.
- 14.3 Where any Member or Officer is required to attend the Overview and Scrutiny Committee under this provision, the Chair of the Committee will inform the Director for Digital, Sustainability and Resources, who shall inform the Member or Officer in writing, giving at least 5 working days' notice of the meeting at which they are required to attend. The notice will state the nature of the Call-In on which they are 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.
- 14.4 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall in consultation with the Member or Officer arrange an alternative date for attendance.

#### **Attendance by Others**

- 15.1 The Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions in connection with the Call-In relevant to the meeting. 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.

#### **Party Whip**

- 16.1 Applying the party whip is defined as any instruction given by or on behalf of a Political Group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the council, or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should they speak or vote in any particular manner.
- 16.2 When considering any matter in respect of which a member of the Overview and Scrutiny Committee is subject to a party whip, the member must declare the existence of the whip and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

#### **Call-In of a Decision**

- 17.1 An Executive decision (if not yet implemented) is subject to Call-In when made by:
- (a) the Cabinet as a whole body;
  - (b) an Individual Cabinet Member; or
  - (c) an Officer or Ward Member with delegated authority from the Cabinet;

and the decision has been published on the Council's 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.~~

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.

~~15.3 A decision may be called in:~~

~~15. if it conflicts with Council policy;~~

~~16. if it conflicts with the Council's Budget Strategy;~~

~~17. 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.~~

17.3 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 of Worthing Borough Council, in total, submit to the Monitoring Officer in writing, by email to 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 detailed reasons for the Call-In.

(b) Upon receipt of the request, the Monitoring Officer shall consult with the Chair, or Vice-Chair 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 Chair 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 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 Chair, call a meeting of the 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.

17.4 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.

#### **Prevention of Exemption from Call-in Procedure**

17.5 ~~A matter may not be Called-In if it has already been considered by the Scrutiny Committee or if the decision is urgent and any delay would prejudice the interest of the council or the public in the opinion of the Monitoring Officer. 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 the Council incurring significant additional expenditure or loss of significant additional income; or

(b) be highly likely to result in significant damage to the Council's reputation; or

(c) prevent the Council from meeting its legal obligations.

17.6 The agreement of Chair of the Overview and Scrutiny Committee must be obtained in writing in advance of making the decision, by way of completion of a Notice by the Director for Communities, 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 the Chair of the

**Commented [g39]:** These restrictions are unduly onerous and prevent most decisions from being called-in, which is not in keeping with the spirit or purpose of the legislation.

Overview and Scrutiny Committee, the Vice-Chair's consent shall be required. In the absence of the Chair and Vice Chair, the consent of the Mayor or, in their absence, the Deputy Mayor, shall be required.

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

17.8 Decisions taken in accordance with this Procedural Rule must be reported to the next available Meeting of Worthing Borough Council.

#### **Call-In Procedure**

17.9 Having considered the decision, the 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, or refer the matter to Full Council. 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 before making a final decision and implementing it.

17.10 Once the reconsidered decision is published following the Call-In procedure, the decision cannot be called in again and may be implemented immediately.

17.11 If the matter was referred to Full Council and the Council does not object to a decision that has been made, then no further action is necessary, and the decision will be effective in accordance with the provision below. However, if Full Council does object, it will refer the decision back to the decision-maker, together with its views on the decision. The decision-maker shall then reconsider the matter as soon as possible, amending the decision or not, before making a final decision and implementing it. If Full Council does not meet, or if it does but does not refer the decision back to the decision-maker, the decision will become effective on the date of the council meeting or expiry of the period in which the council meeting should have been held, whichever is the earlier. Once a decision-maker has reconsidered the matter following Call-In, no further Call-In of that matter will be allowed.

## Joint Overview and Scrutiny Procedure Rules

### 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.

### 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. (Separate arrangements are in place for the scrutiny function relating to those matters determined by the individual Executives and reference should be made to the Worthing Borough Council Overview and Scrutiny Procedure Rules).

### Membership

- 3.1 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. No Member may be involved in scrutinising a decision in which they have been directly involved, for example as a decision-maker or advisor.

3.2 When selecting members to serve on scrutiny committees, consideration should be given to a member's experience, expertise, interests, ability to act impartially, ability to work as part of a group and capacity to serve. What should be considered when forming the committee is that, as a group, it possesses the requisite expertise, commitment and ability to act impartially to fulfil its functions.

3.3 The Worthing Chair of the Joint Overview and Scrutiny Committee shall be appointed by the Council. In addition to consideration of experience, expertise, interests and the ability to act impartially, the Chair should have the ability to work as part of a group, to lead and build a sense of teamwork and consensus among committee members.

### Co-opted Members

#### Co-opted Elected Members

- 4.1 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 Elected 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 Elected Members to any particular Meeting. A Working Group is not limited to these numbers.

#### Co-opted Unelected Members

- 4.2 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 Unelected 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

**Commented [g40]:** As suggested by Cllr McGregor to reflect MHCLG guidance.

**Commented [GW41]:** NOTE: Members of the Working Group were unable to agree on this paragraph, so it is deferred to the Joint Governance Committee for determination.

Alternative suggestion:

"The Worthing Chair of the Joint Overview and Scrutiny Committee shall be appointed by the Council. The Chair will first be offered to a member of a Political Group that does not form part of the Administration or an ungrouped Member, with the Vice Chair being drawn from any other Political Group."

Chairs should guard the committee's independence but avoid the committee being, and being viewed as, a de facto opposition to the Executive. (MHCLG guidance 2019)

Legally, the Chairing and membership of overview and scrutiny committees is a matter for a council's Annual General Meeting in May. Practically, Chairing is entirely at the discretion of the majority party. Majority parties can, if they wish, reserve all committee chairships (and vice-chairships) to themselves. This is the case in about 50% of councils. Around 20% of councils allocate chairships politically proportionately. The practice of reserving all positions of responsibility to the majority party can harm perceptions of scrutiny's credibility and impartiality. (CiGS)

Committee may appoint no more than two non-voting Co-opted Unelected 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.

**Commented [g42]:** Under Sch.A1 Para.11 of the Local Government Act 2000, a local authority may permit an elected or unelected co-opted member of an overview and scrutiny committee to vote at meetings of the committee, subject to the local authority having in place a scheme to give effect to this. Such a scheme is not currently in place.

### Meetings

- 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 Chairs, 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 Chairs, 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.

### 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 Cabinet 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 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.
- 6.3 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.

### Membership

- 6.4 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.
- 6.5 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.

### Officer Attendance at Working Groups

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

#### **Quorum**

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

#### **Chairing**

- 6.8 Each Working Group will select its own Chair.

#### **Substitutes**

- 6.9 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.

#### **Quorum**

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

#### **Chairing**

- 8.1 The Chairs and Vice-Chairs 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.

#### **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.
- 9.2 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).
- 9.3 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.
- 9.4 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 Chairs 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.

- 9.5 The Director for Digital, Sustainability and Resources will consult with the Joint Chairs 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.
- 9.6 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.

#### **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 Chairs 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 Chairs of the Committee who will follow the procedure set out in paragraph 9.2 above. Should the Chairs 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 Cabinet 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 Chairs, and unless inappropriate to do so, shall be dealt with in accordance with paragraph 9.3 above.

#### **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 Cabinet 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.

### Reports from the Joint Overview and Scrutiny Committee

- 12.1 Once it has formed recommendations, the Director for Digital, Sustainability 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 Cabinet(s) or the Committee shall consider any report of the Director for Digital, Sustainability 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 Cabinet 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 Chair prior to the meeting of the Cabinet(s), Committee(s) or Council(s).

### Minority Reports

- 12.4 Where the Joint Overview and Scrutiny Committee cannot agree on a single, final report to the Council, its Cabinet or a Committee, then one minority report may be submitted with the majority report. In order for a minority report to be produced, no fewer than three voting members of the Joint Committee must support such a proposal.

- 12.5 In order that a minority opinion can be expressed where the Joint Overview and Scrutiny Committee does not achieve a consensus on an issue, these rules make provision for minority reports to be produced by Members of the Joint Committee. This means that although a majority report is issued representing the Joint Overview and Scrutiny Committee's majority view, any Member of the Joint Committee may propose an alternative view which may then be published in a minority report. In order for a minority report to be produced, no fewer than three voting Members of the Joint Committee must support such a proposal.

### Procedure for dealing with Minority Reports

- 12.6 At the conclusion of an inquiry and at the point of agreeing a final report detailing the Joint Overview and Scrutiny Committee's conclusions and recommendations, Members may be unable to reach a general consensus. Members in the minority may wish to express a view different from that of the majority. In these circumstances, Members with a minority view may choose to submit a minority report.

- 12.7 The intention to submit a minority report must be declared within the Joint Overview and Scrutiny Committee meeting at the time the majority report is agreed. Such an intention must be recorded in the minutes of the meeting and referred to in the final report as part of the

**Commented [g43]:** A means of dissenting from decisions within the Overview & Scrutiny Committee. This is available to MPs in House of Commons select committees, allowing anyone who disagrees with a majority view within a committee to put observations and objections on record.



Joint Overview and Scrutiny Committee's resolutions. Where the Joint Overview and Scrutiny Committee has agreed its final report and there has been no declared intention to produce a minority report, a minority report cannot then be subsequently submitted.

12.8 Where the intention to produce a minority report has been recorded in the minutes, Democratic Services will contact the appropriate Members to confirm submission dates. The minority report should be delivered to the Democratic Services within 5 working days after the Joint Overview and Scrutiny Committee meeting.

12.9 In order that a minority report is given the opportunity to be noted in context by the Council, Cabinet or Committee, where it has been produced within the agreed timescale it will be attached as an appendix to the majority report.

12.10 The Director of Communities will determine if a minority report should be exempt from publication, in which case the usual procedures for the publication of exempt reports apply.

12.11 The drafting and submission of the minority report remains the responsibility of the Members who have proposed it and not Democratic Services. The report will include details of the Members who have submitted the minority report, as well as its issues and any alternative recommendations.

12.12 It is normally expected that the Joint Overview and Scrutiny Committee will have taken into account all the relevant information available and as such a minority report will be based on the same evidence as a majority report.

#### **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.

#### **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.

#### **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.

15.2 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.

15.3 Where any Member or Officer is required to attend the Joint Overview and Scrutiny

Committee under this provision, the Joint Chair of the Committee will inform the Director for Digital, Sustainability and Resources, who shall inform the Member or Officer in writing, giving at least 5 working days' notice of the meeting at which they are required to attend. The notice will state the nature of the item on which they are required to attend to give account and whether any papers are required to be produced for the 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.

- 15.4 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.

#### 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.

#### Call-In of a Decision

- 17.1 A decision is subject to Call-In when it is:
- (a) a decision of the Joint Strategic Committee or sub-committee;
  - (b) a Joint Individual Cabinet Member decision; or
  - (c) a decision made by an Officer or Ward Member with delegated authority from the Cabinet 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, but not yet implemented.

(In respect of a decision made by:

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

~~a. — 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.~~

- 17.3 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 Chairs, or Vice-Chairs 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 Chair 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 Chairs, 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.
  - (e) If the Monitoring Officer, following consultation with the Joint Chairs of the Joint Overview and Scrutiny Committee, rejects the request for Call-In, they shall provide a report to the Joint Overview and Scrutiny Committee providing details of the request for Call-In of a decision and reasons given for the request being rejected. Such report will be received by the next Joint Overview and Scrutiny Committee meeting, following the determination of the request for Call-In, or if that is impracticable, then to the following meeting.
- 17.4 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.

#### **Prevention of Exemption from Call-in Procedure**

- 17.5 A matter may not be called-in if it has already been considered by the Joint Scrutiny Committee or if the decision is urgent and any delay would prejudice the interest of the council or the public in the opinion of the Monitoring Officer. 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 or both Councils incurring significant additional expenditure or loss of significant additional income; or
  - (b) be highly likely to result in significant damage to either or both Councils' reputation;
  - or
  - (c) prevent either or both Councils from meeting their legal obligations.
- 17.6 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 Chair 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 Chairs of the Joint Overview and Scrutiny Committee, a Vice-Chair's consent shall be required. In the absence of both Chairs and Vice Chairs, the consent of a Civic Head (Council Mayor) or, in their absence, the Deputy Mayor, shall be required.
- 17.7 The Record of Decision and Notice that the decision is exempt from Call-In, shall state that in the opinion of the Joint Chairs of Joint Overview and Scrutiny Committee the decision is one which is urgent, with reasons, and therefore not subject to Call-In.
- 17.8 Decisions taken in accordance with this Procedural Rule must be reported to the next available Meeting of each Full Council.

#### **Call-In Procedure**

- 17.9 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, or refer the matter to the Full Council of either or both Councils. 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 before making a final decision and implementing it.

17.10 Once the reconsidered decision is published following the Call-In procedure, the decision cannot be called in again and may be implemented immediately.

17.11 If the matter was referred to a Full Council and that Council does not object to a decision that has been made, then no further action is necessary, and the decision will be effective in accordance with the provision below. However, if the Full Council does object, it will refer the decision back to the decision-maker, together with its views on the decision. The decision-maker shall then reconsider the matter as soon as possible, amending the decision or not, before making a final decision and implementing it. If the Full Council does not meet, or if it does but does not refer the decision back to the decision-maker, the decision will become effective on the date of the council meeting or expiry of the period in which the council meeting should have been held, whichever is the earlier. Once a decision-maker has reconsidered the matter following Call-In, no further Call-In of that matter will be allowed.

### **Procedure at 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 11.2.1;
- (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 Cabinets 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; and
- (c) That the meeting be conducted so as to maximise efficiency.
- (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 Cabinet, Council or Committee as appropriate, and shall make its findings public, subject to Access to Information Procedure Rules.

### **Communications Strategy**

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 Chairs 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.

## Licensing Sub-Committee Hearings Procedure Rules

**Commented [g44]:** Worthing does not currently have these procedure rules. Suggest include.

### **1.0 GENERAL**

1.1 These Procedure Rules are subject to the provisions of the Licensing Act 2003 (Hearings) Regulations 2005 as amended ('the Regulations'). Where appropriate, the provisions of the Regulations have been incorporated into these rules.

1.2 Worthing Borough Council is the Licensing Authority for the purposes of the Licensing Act 2003 within the Borough of Worthing.

### **2.0 COMPOSITION OF THE LICENSING COMMITTEE**

2.1 The Composition of the Licensing Committee and its Sub-Committee are set out in Part 3 of the Constitution.

2.2 Licensing Committee Members are bound by the Council's Procedure Rules and the Member Code of Conduct. Members must not predetermine or show bias in any matter and must declare any interests at the start of every meeting.

2.3 The Licensing Committee comprises Members who have been trained in the preceding two years and do not have interests in licensing matters that are likely to debar them from consideration of, or voting on, any particular issue.

2.4 Members are selected for Sub-Committees subject to availability in an alphabetical order and in consultation with the Chair of the Licensing Committee. Sub-Committees are chaired by the Chair or Vice-Chair of the Committee. In the absence of the Chair or Vice-Chair, a Chair will be selected from amongst the Sub-Committee Members by simple majority vote.

### **3.0 NOTICE OF HEARING**

3.1 The Council shall notify the parties involved of the date, time and place at which the hearing is to be held ('the Notice of Hearing') in accordance with the provisions of the Regulations.

3.2 The Notice of Hearing shall be accompanied by information regarding the following:

- (a) the rights of a party provided for in paragraphs 4.1 and 8.5 below;
- (b) the consequences if a party does not attend or is not represented at the hearing;
- (c) the procedure to be followed at the hearing;
- (d) any particular points on which the Licensing Committee will want clarification from a party at the hearing.

### **4.0 RIGHTS OF ATTENDANCE, ASSISTANCE AND REPRESENTATION**

4.1 Subject to paragraphs 6.2 and 6.4 below, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

4.2 For the avoidance of doubt a party may be assisted or represented by their Ward Councillor. Any Councillor undertaking such a role would take no part in the determination of the matter before the Sub-Committee.

4.3 Upon receipt of the Notice of Hearing and within the period of time prescribed by the Regulations and specified in the Notice of Hearing, each party shall advise the Council in writing:

- (a) whether they intend to attend and/or be represented at the hearing, giving the name and contact details of the representative if applicable;
- (b) whether they consider a hearing to be unnecessary.

4.4 In a case where a party wishes any person (other than the person they intend to represent them at the hearing) to appear at the hearing, the party shall submit a written request (normally at least 5 clear working days prior to the hearing) for such other person to attend at the hearing, giving their name and a brief description of the point or points on which they may be able to assist the Sub-Committee, in relation to the application.

4.5 A party who wishes to withdraw any representations they have made may do so:

- (a) by giving notice to the Licensing Section; or
- (b) orally at the hearing.

## **5.0 RIGHT TO DISPENSE WITH A HEARING IF ALL PARTIES AGREE**

5.1 This section does not apply to Review Hearings.

5.2 Subject to paragraph 5.1 above, the Sub-Committee may dispense with holding a hearing if all persons (as required by the Act) agree that such a hearing is unnecessary, other than the Licensing Authority itself.

5.3 If the Licensing Authority agrees that a hearing is unnecessary, it shall forthwith give notice to the parties that the hearing has been dispensed with.

## **6.0 HEARING TO BE HELD IN PUBLIC**

6.1 Subject to paragraph 6.2 below, the hearing shall take place in public.

6.2 The Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public.

6.3 For the purposes of paragraph 6.2 a party and any person assisting or representing a party, may be treated as a member of the public.

6.4 The Sub-Committee may require any person attending the hearing who is in their opinion behaving in a disruptive manner to leave the hearing and may:  
(a) refuse to permit that person to return; or  
(b) permit them to return only on such conditions as the Sub-Committee may specify; but such a person may, before the end of the hearing, submit to the Sub-Committee, in writing, any information which they would have been entitled to give orally had they not been required to leave.

## **7.0 REPORT**

7.1 A report will be put before the Sub-Committee, prepared by the Director for Communities, a copy of which will be sent to Members, Officers and the Applicant in advance of the hearing.

7.2 The report will also be published on the Councils' website, in accordance with the Council's Access to Information Procedure Rules.

## **8.0 PROCEDURE AT THE HEARING**

8.1 The Sub-Committee will seek to focus the hearing on the steps needed to promote the particular Licensing Objectives which have given rise to the specific representations and will avoid straying into undisputed areas.

8.2 The order of business shall be at the discretion of the Chair, but will normally proceed in accordance with procedures put before the meeting and sent to the Applicant prior to the meeting. The procedure will be explained at commencement of the hearing.

- 8.3 Each Party will be given a maximum of 20 minutes to make their representations; all comments should be focused, relevant and avoid repetition.
- 8.4 Cross examination shall not be permitted unless the Sub-Committee considers that cross examination is necessary for it to consider the representations, application or notice as the case may require.
- 8.5 Where there is more than one representation raising the same or similar grounds, the Sub-Committee may request that only one party addresses them on behalf of the parties who have made the representations in question.
- 8.6 In considering any representations made by a party, the Sub-Committee may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.
- 8.7 The Sub-Committee shall disregard any information given or evidence produced by a party which is not relevant to:
- (a) their application, representations or notice (as applicable); and
  - (b) the promotion of the Licensing Objectives or, in relation to a hearing to consider a notice given by a Chief Officer of Police, the crime prevention objective.
- 8.8 At the Hearing, a party may choose to amplify and to rely upon written representations or documents that form part of the published papers. Parties may not produce or rely upon further representations or documents without the permission of the Chair. The Sub-Committee will not normally allow representations or documents which are produced for the first time at the hearing or at short notice.
- 8.9 Hearsay evidence may be admitted before the Sub-Committee, but consideration will always be given to the weight, if any, to be attached to such evidence, depending upon the circumstances in which it arises.
- 9.0 ROLE OF THE LEGAL ADVISOR**
- 9.1 The Sub-Committee may seek advice or clarification of any procedural, technical or legal matter from the Legal Advisor at any time during the course of the hearing.
- 9.2 The Legal Advisor will provide the Sub-Committee with any advice it requires properly to perform its functions, whether or not the Sub-Committee requested that advice, on:
- (a) questions of law;
  - (b) questions of mixed fact and law;
  - (c) matters of practice and procedure;
  - (d) the range of options available to the Sub-Committee;
  - (e) any relevant decisions of higher Courts;
  - (f) relevant national guidance or policy;
  - (g) other issues relevant to the matter before the Sub-Committee;
  - (h) the appropriate decision-making structure to be applied in any given case.
- 9.3 The Legal Advisor will assist the Sub-Committee, where appropriate, as to the formulation of reasons and the recording of those reasons.
- 9.4 The Legal Advisor will play no part in making findings of fact but may assist the Sub-Committee by reminding it of the evidence taken from their own, or the Democratic Services Officer's notes.
- 9.5 The Legal Advisor may ask questions of witnesses and the parties in order to clarify the evidence and any issues in the case.

9.6 The Legal Advisor is under a duty to ensure that every case is conducted fairly.

9.7 When advising the Sub-Committee the Legal Advisor should:

- (a) ensure that they are aware of the relevant facts;
- (b) invite representations from the parties on the advice;
- (c) provide the parties with the information necessary to enable them to make such representations.

9.8 The Legal Advisor may assist Members during the course of their deliberations, either when asked to do so, or if they realise there is a point of law on which they may need assistance but on which they omitted to advise them in open session.

#### **10.0 ROLE OF THE DEMOCRATIC SERVICES OFFICER**

10.1 The role of the Democratic Services Officer shall be to undertake the procedural arrangements to hold the meeting according to the Council's Procedure Rules, make a record of the proceedings, summarise and record decisions and to provide help and assistance to members of the public attending hearings.

10.2 The Democratic Services Officer will not ordinarily remain with the Members of the Sub-Committee when they retire to make their deliberations but may do so at the request of the Chair or the Legal Advisor.

#### **11.0 DETERMINATION OF APPLICATIONS**

11.1 The Sub-Committee will give appropriate weight to:

- (a) the representations (including supporting information) presented by all the parties;
- (b) national guidance;
- (c) the Worthing Brough Council Licensing Policy;
- (d) the steps that are necessary to promote the Licensing Objectives in s.4(2) of the Licensing Act 2003.

11.2 The Sub-Committee shall normally make its determination in any case at the conclusion of the hearing, or within 5 working days thereafter.

11.3 Where a hearing has been dispensed with in accordance with paragraph 5 of these Procedure Rules, the Sub-Committee will make its determination within the period of ten working days beginning with the day Notice is given to the parties.

11.4 The determination shall be sent to all parties within 5 working days of a decision being made by the Sub-Committee.

#### **12.0 FAILURE OF PARTIES TO ATTEND THE HEARING**

12.1 If a party has informed the Licensing Authority that they do not intend to attend, nor be represented at the hearing, the hearing may proceed in their absence.

12.2 If a party who has not so indicated fails to attend or be represented at a hearing the Sub-Committee may:

- (a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date; or
- (b) hold the hearing in the party's absence.

12.3 Where the Sub-Committee holds the hearing in the absence of a party, it shall consider at the hearing of the application, representations or notice made by that party.

#### **13.0 ADJOURNMENTS**



13.1 Subject to the provisions of the Regulations, the Sub-Committee may:

(a) adjourn the hearing to a specified date;

(b) arrange for a hearing to be held on specified additional dates where it considers it necessary for its consideration of any representations or notice made by a party.

13.2 Where the Sub-Committee adjourns the hearing to a specified date it shall forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

13.3 Similarly, when the Sub-Committee arranges for the hearing to be held on a specified additional date, it shall notify the parties of the additional date, time and place at which the hearing is to be held.

#### **14.0 RECORD OF PROCEEDINGS**

14.1 A record of the hearing (Minutes) shall be kept for 6 years from the date of determination or, where an appeal is brought against the determination, the disposal of the appeal.

14.2 A recording will be made of the open part of the hearing and will be placed on the Council's website within 10 clear working days of the hearing.

#### **15.0 WAIVER OF PROCEDURE RULES**

15.1 Except where prescribed by the Regulations, the Chair may in any particular case dispense with or modify these Rules.

15.2 In particular, the Chair may extend a time limit provided for in the Regulations for a specified period where it considers this to be necessary and/or in the public interest.

15.3 Where the Chair has extended a time limit it shall forthwith give a notice to the parties stating the period of time of the extension and the reasons for it.

#### **16.0 QUALIFIED PRIVILEGE**

16.1 Statements made in Sub-Committee meetings are subject to the general principles of the law of defamation. However, the Sub-Committee's proceedings are regarded in law as a 'privileged occasion' to which the doctrine of qualified privilege attaches to statements made in the Sub-Committee's proceedings (quasi-judicial in nature) providing the following criteria are met:

(a) any opinions expressed are honestly held;

(b) opinions/statements are based on the facts of the matter;

(c) opinions/statements are on a matter of public interest;

(d) a clear distinction is made between what is fact and what is opinion;

(e) there is no malice.

#### **17.0 HUMAN RIGHTS**

17.1 The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a Local Authority to act in a way which is incompatible with a Convention right. The Sub-Committee will have regard to the Human Rights Act when exercising its licensing functions, and in particular to the following provisions:

Article 1: Every person is entitled to the peaceful enjoyment of their possessions;

Article 6: In the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;

Article 8: Everyone has the right to respect for their home and private and family life.

## **18.0 EQUALITIES**

18.1 All decisions will be made in accordance with the Council's equalities duty pursuant to the Equalities Act 2010 and other legislation.

## **19.0 RIGHT OF APPEAL**

19.1 The Applicant has a right of appeal against to the Magistrates' Court a decision, within 21 days beginning with the day on which the applicant was notified of the decision of the Licensing Authority:

- (a) to reject the Application for a premises licence; or
- (b) to impose conditions on the premises licence; or
- (c) to exclude a licensable activity; or
- (d) to refuse to specify a person as a Premises Supervisor.

## **19.2 Person making relevant representations and Chief Officer of Police**

A person who made relevant representations and the Chief Officer of Police has a right of appeal to the Magistrates' Court against a decision, within 21 days beginning with the day on which the person was notified of the decision of the Licensing Authority:

- (a) to grant a premises licence; or
- (b) in relation to the conditions imposed; or
- (c) in relation to the licensable activities authorised; or
- (d) the person specified as Premises Supervisor.

## **Member Complaints and Standards Sub-Committee Procedure Rules**

### **1.0 INTRODUCTION**

- 1.1 This procedure is only to be used for the assessment and investigation of complaints of alleged failures by Members to comply with the Council's Member Code of Conduct.

### **2.0 MAKING A COMPLAINT**

- 2.1 Complaints should be made in writing to the Monitoring Officer.

### **3.0 INITIAL ASSESSMENT OF COMPLAINT**

3-433.1 On receipt of a complaint, the Monitoring Officer will notify the Subject Member that a complaint has been received (unless the Monitoring Officer considers that it would be contrary to the public interest or would prejudice the consideration of the complaint to do so).

3-443.2 The Monitoring Officer will make an initial assessment of the complaint within 20 working days of receipt of all relevant information. In making an initial assessment, the Monitoring Officer may consult with an Independent Person, and inform the Group Leader.

3-453.3 Having carried out an initial assessment of a complaint, the Monitoring Officer will decide on one of the following courses of action:

- (a) Decide to take no further action
- (b) Decide to resolve the complaint informally
- (c) Decide to refer the complaint for investigation

### **4.0 DECISION TO TAKE NO ACTION**

- 4.1 Where the Monitoring Officer decides to take no further action in respect of the complaint, the Complainant and the Subject Member shall be advised of that decision in writing. The Monitoring Officer may decide to take no action if, for example:
- (a) The Code of Conduct was not engaged (the Member was not acting as a Member at the time of the alleged breach of Conduct took place);
  - (b) Where the matter took place more than six months ago (except in exceptional circumstances **or in the public interest**);
  - (c) Where the allegations are anonymous;
  - (d) The complaint appears to be malicious, vexatious, politically motivated, tit for tat, or is so minor that there is no overriding public benefit in carrying out an investigation;
  - (e) Where a challenge made to an expression of fact or opinion made during a debate at a council meeting is fundamentally a challenge to the underlying merits of a Council determination (e.g. a planning application).
- 4.2 These are just some examples, but the list is not exhaustive. The Monitoring Officer (in consultation with the Independent Person, if necessary) may decide that a complaint does not merit further consideration for any other reason which appears to them to be relevant.

## 5.0 PARISH COUNCIL MEMBERS

- 5.1 If the Complainant is a Parish Council Member and the Subject Member (or one of them) is a Member of the same Parish Council, the Monitoring Officer may, in consultation with the Independent Person, refer the entire complaint to the Sussex Association of Local Councils (SALC) if appropriate. SALC will appoint a Panel to hear your complaint and decide whether it is sufficiently serious to be put through the procedure set out below or whether it should be settled in some other way within the Parish Council.
- 5.2 Where the Monitoring Officer has taken the decision that the complaint does not merit further consideration or is to be referred to SALC, if appropriate, for mediation/ conciliation the Monitoring Officer will inform the Complainant of that decision and the reasons for that decision.

~~5.3 In the alternative, any formal complaints about the conduct of a Parish Council Member towards a clerk should be made by the chair or by the Parish Council as a whole, rather than the clerk in all but exceptional circumstances.~~

## 6.0 DECISION TO RESOLVE COMPLAINT INFORMALLY

- 6.1 Where the Monitoring Officer decides to resolve the complaint informally, the Complainant, ~~and~~ the Subject Member ~~and their~~ Political Group ~~leader (if any)~~ shall be advised of that decision in writing. In deciding to resolve the complaint informally, the Monitoring Officer may pursue any of the following courses of action:
- (a) Provide further training and guidance to the Subject Member
  - (b) Mediate between the Complainant and the Subject Member
  - (c) Require the Subject Member to write a personal apology to the Complainant
  - (d) Write an advisory letter to the Member or such other action agreed between the Monitoring Officer and the Independent Person.
- 6.2 If informal resolution is able to resolve the complaint, then no further action is required.
- 6.3 Where informal resolution does not resolve the complaint, the Monitoring Officer may, following consultation with the Independent Person, decide to refer the complaint for investigation.

## 7.0 DECISION TO INVESTIGATE COMPLAINT

- 7.1 Where the Monitoring Officer decides to refer the complaint for investigation, the Complainant and the Subject Member shall be advised of that decision in writing. The Monitoring Officer shall also advise the Chair of the Joint Audit & Governance Committee that a complaint has been referred for investigation.
- 7.2 Where the Monitoring Officer decides to refer the complaint for investigation, the Subject Member shall be provided with the details of an Independent Person should they require guidance on the process for investigation of the complaint. The Independent Person shall be a different Independent Person to the one that the Monitoring Officer has previously consulted with.
- 7.3 Within 14 days of deciding to refer the complaint for investigation, the Monitoring Officer shall appoint an Investigating Officer to investigate the complaint. The Investigating Officer may be an officer of the Council, an officer of another local authority, or an external person.

## **8.0 INVESTIGATION OF COMPLAINT**

- 8.1 The Investigating Officer shall be instructed to investigate the complaint and to report to the Monitoring Officer. The purpose of the investigation is to establish the facts of the case and to form a view on whether there has been a breach of the Members Code of Conduct.
- 8.2 The Complainant and the Subject Member shall cooperate fully with the Investigating Officer, including attending any meetings or interviews and providing all relevant information and documents to the Investigating Officer.
- 8.3 The Subject Member may be accompanied by a friend or an adviser when attending any meeting or interview as part of the investigation of the complaint.
- 8.4 The Investigating Officer may pursue any of the following actions as part of the investigation:
- (a) -Interviewing the Complainant
  - (b) -Interviewing the Subject Member
  - (c) -Interviewing other relevant witnesses
  - (d) -Requesting copies of any documents relevant to the investigation
- 8.5 The Investigating Officer shall produce a draft report of their findings and send a copy to the Monitoring Officer, the Complainant and the Subject Member. The Investigating Officer shall allow 14 days for comments on the draft report and shall take any comments into consideration when producing the final report.
- 8.6 If during the course of the investigation, the Investigating Officer identifies other breaches of the Code of Conduct the Monitoring Officer shall be advised accordingly.
- 8.7 The Investigating Officer shall endeavour to complete the investigation within 2 months of appointment.
- 8.8 The Investigating Officer shall send a copy of the final report to the Monitoring Officer. The report shall include copies of any statements or documents obtained during the course of the investigation.

## **9.0 POST INVESTIGATION PROCEDURES**

- 9.1 Where the Investigating Officer concludes that there has not been a breach of the Code of Conduct, the Monitoring Officer shall take no further action and the Complainant and the Subject Member shall be advised of that decision in writing.
- 9.2 Where the Investigating Officer concludes that there has been a breach of the Code of Conduct, the Monitoring Officer shall refer the report to the Standards Sub-Committee for consideration.

## **10.0 STANDARDS SUB-COMMITTEE**

- 10.1 Where a Standards Sub-Committee is required the procedure for the hearing set out in the Appendix to this procedure shall apply.
- 10.2 The Standards Sub-Committee shall have the power to decide whether or not to impose a sanction where there has been a finding of a breach of the Member Code of Conduct.

10.3 The Standards Sub-Committee will have the benefit of any advice from the Independent Person.

10.4 The Standards Sub-Committee may decide not to impose a sanction or it may impose one or more of the following sanctions:

- (a) The Monitoring Officer to send a formal letter to the Subject Member.
- (b) The Subject Member to make a public apology at Full Council. In the event of an apology not being made, the Subject Member may be censured at a meeting of the Full Council.
- (c) The Monitoring Officer to provide further training and guidance to the Subject Councillor.
- (d) The Subject Member to write a personal apology to the Complainant.
- ~~(d)~~(e) The Subject Member be excluded from the Council offices (with the exception of attending formal meetings), and/or providing them with a single point of contact.
- ~~(e)~~(f) A recommendation to the relevant Group Leader that the Subject Member should be removed from the Cabinet or a not sit on a particular Committee (or Sub-Committee, or Working Group or External Body) for a period of time and for the relevant Group Leader to appoint a temporary replacement to the relevant Committee.

## Appendix

### Standards Sub-Committee Procedure

#### 1. Terms of Reference

The Standards Sub-Committee is responsible for considering reports of an Investigating Officer into complaints that there has been a breach of The Council's Code of Conduct. The hearing shall be conducted in public whenever possible, unless circumstances require the hearing to be in private, such as personal details, or not in the public interest.

#### Membership

A Standards Sub-Committee shall consist of three District/Borough Councillors (wherever possible who should be drawn from different Political Groups and have no connection with the subject Member). The Standards Sub-Committee shall be advised by the Monitoring Officer, who will be accompanied by the Independent Person. The Independent Person will be present to give independent advice to the Monitoring Officer, or to the Sub-Committee.

#### 2. Procedure

##### Pre-hearing process

The Monitoring Officer will liaise with Democratic Services to arrange for the Standards Sub-Committee to meet to hear the complaint within three months of receiving the Investigating Officer's report. Sufficient notice will be given to all parties to the Sub-Committee hearing regarding the date fixed for the hearing.

The Monitoring Officer will require the Subject Member to give their response to the Investigating Officer's report as to what facts are agreed or facts likely to be in contention at the Standards Sub-Committee.

If the Subject Member wishes to rely on evidence at the Standards Sub-Committee, then that information should be provided to the Monitoring Officer, in writing.

The Standards Sub-Committee will not allow new arguments or evidence to be presented at the hearing.

If there are two complaints that relate to the same Member or to the same incident/occasion, then the Monitoring Officer may decide that they be considered together.

The Subject Member should be provided with the Investigating Officer's report and any evidence which will be heard at the hearing.

The Monitoring Officer should provide the Members of the Standards Sub-Committee with a report that summarises the allegation. This should include a list of agreed facts, and disputed issues should be outlined.

### **The Standards Sub-Committee**

The Standards Sub-Committee will normally take place in public. If the Subject Member is a Parish Member, a Parish Member unconnected with the complaint, who is a Co-opted Member of the Joint Audit & Governance Committee, will attend in an advisory capacity, in addition to the three voting Members of the Sub-Committee.

One of the Independent Persons will be invited to attend the hearing and will be asked to comment on whether there has been a breach of the Code of Conduct and on appropriate sanctions.

If the Subject Member does not attend the hearing, the Standards Sub-Committee may adjourn the hearing or may continue to reach a decision on the basis of the Investigating Officer's report, and if it decides to do so, any evidence that it hears.

Whilst the Standards Sub-Committee is a meeting of the Council, it is not a court of law. It does not hear evidence under oath. The rules of natural justice should nevertheless be carefully followed and the Standards Sub-Committee will have due regard to the seriousness of the proceedings for those involved, the Council and the public, and will adhere at all times to the Equalities Act 2010.

The Standards Sub-Committee will decide disputed issues and whether the Subject Member has breached the Code of Conduct on the 'balance of probabilities'.

### **Representation**

The Subject Member may choose to be represented, at their own cost. The Standards Sub-Committee may refuse to allow any person to remain at the hearing if they are disruptive. The Standards Sub-Committee will have the discretion to hear opening or closing arguments from the Subject Member and the Investigating Officer, if they feel this will assist them in reaching a decision.

### **Evidence**

The Standards Sub-Committee will control the procedure and evidence presented at a hearing, including the number of witnesses and the way they are questioned. All matters relating to the evidence and procedure are within its discretion. However, no motion to dismiss the complaint should be made before consideration of all the facts and evidence.

Generally, the Subject Member is entitled to present their case as they see fit.

Witnesses of facts that are disputed would normally be expected to attend to be questioned. Character witnesses, if appropriate, will provide written evidence which will be read at the hearing.

Witnesses may be questioned by the Standards Sub-Committee, the Independent Person, the Investigating Officer and the Subject Member.

The onus is on the Subject Member to ensure the attendance of the witnesses on whom they rely to give evidence to assist them. The Standards Sub-Committee can limit the number of witnesses or the issues which can be covered by them.

Neither the Standards Sub-Committee nor the Subject Member will have any power to compel witnesses to give evidence.

### **Making Findings of Fact**

- (a) The Chair introduces the Sub-Committee and any other persons present, including the Monitoring Officer, the Independent Person, the Investigating Officer and a Democratic Services Officer.
- (b) The Subject Member introduces any person who is acting as their representative and any witnesses to be called on their behalf.
- (c) The Chair shall explain the procedure that shall be followed.
- (d) The Investigating Officer is invited to present their report and to call any witnesses.
- (e) The Subject Member may ask questions of the Investigating Officer and/or any witnesses which are to be put through the Chair.
- (f) The Members of the Sub-Committee may ask questions of the Investigating Officer.
- (g) The Subject Member is invited to respond to the Investigating Officer's report and to call any witnesses.
- (h) The Investigating Officer may ask questions of the Subject Member or any witnesses which are to be put through the Chair.
- (i) The Members of the Sub-Committee may ask questions of the Subject Member.
- (j) The Chair may request advice from the Monitoring Officer, and/or the Independent Person.

### **Decision**

- (a) The Sub-Committee shall adjourn to consider whether there has been a breach of the Members Code of Conduct. The Sub-Committee may request the presence of the Democratic Services Officer during their deliberations. The Monitoring Officer may assist in settling out the reasons for their decisions.
- (b) The Sub-Committee shall reconvene to orally deliver its decision.
- (c) If the Sub-Committee decides that there has been a breach of the Code of Conduct then the Sub-Committee shall consider whether a sanction should be imposed.

### **Sanctions**

- (a) The Chair shall invite representations from the Investigating Officer as to whether a sanction should be imposed.
- (b) The Chair shall invite representations from the Subject Member as to whether a sanction should be imposed.
- (c) The Chair shall ask the Monitoring Officer if they wish to express an opinion as to whether a sanction should be imposed, and whether to comment on the appropriate sanctions.
- (d) The Chair shall ask the Independent Person if they wish to express an opinion as to whether a sanction should be imposed, and whether to comment on the appropriate sanctions.
- (e) The Sub-Committee shall adjourn to consider whether to impose a sanction.
- (f) The Sub-Committee may request the presence of the Democratic Services Officer during their deliberations.

### **Sanctions- mitigating/aggravating circumstances**



- (a) The Standards Sub-Committee should consider all the mitigating and aggravating circumstances that appear to be relevant. For example, it may wish to consider:
- (i) What were the actual and potential consequences of the breach?
  - (ii) How serious was the breach?
  - (iii) What is the attitude of the Subject Member now? Have they apologised?
  - (iv) Has the Subject Member previously been dealt with for a breach of the Code of Conduct?
- (b) The following are examples of mitigating and aggravating factors, (but these are not exhaustive):

#### **Mitigating Factors**

- (a) An honest but mistaken belief that the action was not a breach of the Code of Conduct
- (b) A previous record of good service
- (c) Evidence that they were suffering from ill health at the time of the breach

#### **Aggravating Factors**

- (a) Dishonesty
- (b) Continuing to deny the factors or blaming other people
- (c) Evidence of a failure to follow advice or warnings.

The priority of the Standards Sub-Committee should be to ensure there are no further breaches of the Code of Conduct and that public confidence is maintained.

#### **The Decision**

- (a) The Sub-Committee shall reconvene to orally deliver its decision in respect of a sanction.
- (b) The Chair will explain that written notice of the decision and the reasons for it shall be sent to all parties within 14 days of the date of the hearing, including the Parish Council, if the Subject Member is a Parish Council Member.
- (c) The Chair will formally close the hearing.

#### **Appeals**

There is no right of appeal for the Complainant or the Subject Member against a decision of the Monitoring Officer or the Standards Sub-Committee.

#### **Withdrawal of a complaint**

In the event that a Complainant withdraws a complaint at any time prior to a decision having been made by the Standards Sub-Committee, the Monitoring Officer may, following consultation with the Independent Person if necessary, decide that no further steps be taken in respect of that complaint but shall, in taking such decision, take into account any issues that may arise under paragraph 2.1 of the Code of Conduct, particularly any intimidation.

#### **Explanation of the roles**

##### **Monitoring Officer**

The Monitoring Officer is a statutory role appointed by Council under s.5 of the Local Government and Housing Act 1989, and in relation to the Member Code of Conduct, is the responsible person. The Monitoring Officer is also responsible for the operation of the Constitution. When a complaint is received, it is the Monitoring Officer's responsibility to check the form is completed correctly and will decide whether the complaint can move forward or not, in accordance with this Code of Conduct Complaints procedure.

References to the Monitoring Officer should be read to include any representative of the Monitoring Officer. The Monitoring Officer has a key role in ensuring the smooth running of the pre-hearing and hearing process; who will remain neutral throughout and will provide independent advice to the Standards Sub-committee.

#### **Independent Person**

The Independent Person is a statutory role under s. 28 of the Localism Act 2011 and appointed by Council. The role of the Independent Person is to advise the Standards Sub-Committee as to whether in their opinion there has been a breach of the Code of Conduct and whether, and what sanctions could be imposed. The Independent Person may be consulted by the Monitoring Officer at the initial assessment stage of the complaint. The role also includes giving advice to the Subject Member as to procedural points in the process.

#### **Investigating Officer**

May be a Council Officer, an officer from another council or an external investigator. Following the initial assessment, The Monitoring Officer, may appoint an Investigating Officer to carry out an investigation into the complaints made by the Complainant against the Subject Member in respect of misconduct by a Council Member.

#### **Standards Sub-Committee**

The role of the Standards Sub-Committee is to hear the Code of Conduct complaints that have been referred to them by the Monitoring Officer. Decide on whether or not there has been a breach of the Code of Conduct, and then decide on if and what sanction(s) should be imposed.

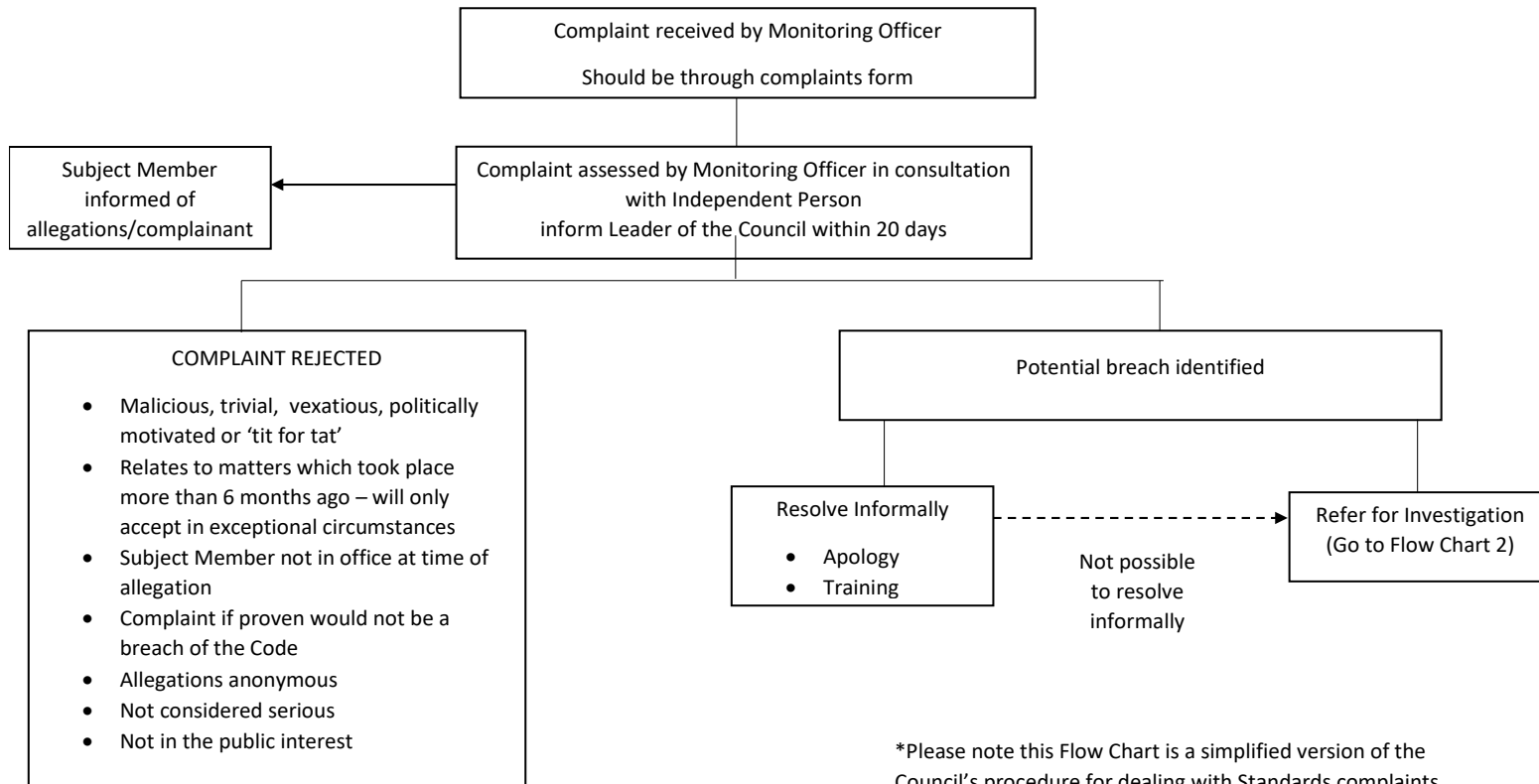
The Independent Person is invited to attend all meetings of the Standards Sub-Committee and their views are sought and taken into consideration before a decision is made by the Standards Sub-Committee as to whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of a failure to comply with the Code of Conduct.

#### **Revisions of Arrangements for dealing with breaches of the Member Code of Conduct**

The Council may by resolution agree to amend the arrangements for dealing with breaches of the Member Code of Conduct and has delegated to the Monitoring Officer the right to depart from these arrangements where they consider it is expedient to do so in order to secure the effective and fair consideration of any matter.

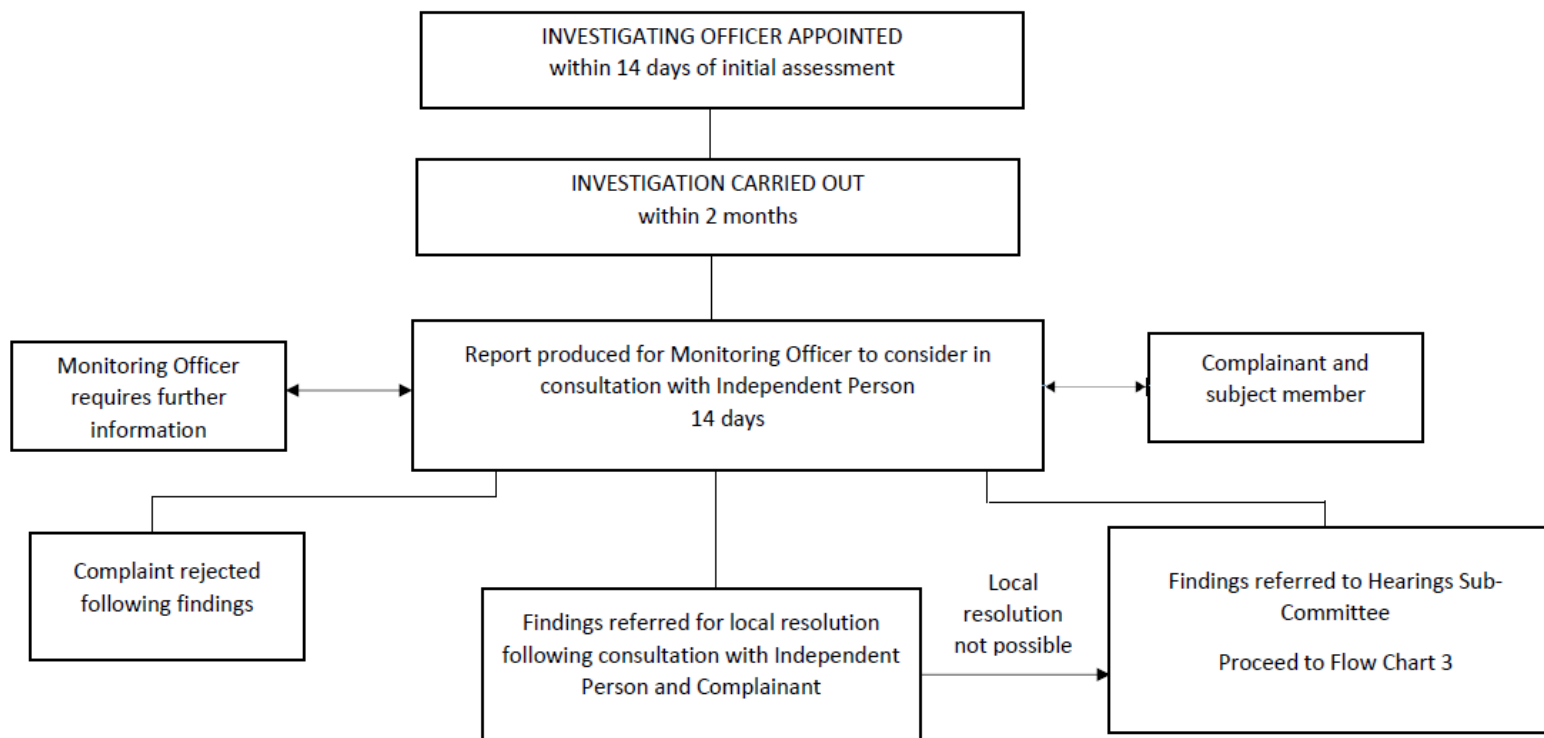
**See the flow charts for ease of reference and to show the time-line**

**FLOW CHART FOR STANDARDS COMPLAINTS – 1. ASSESSMENTS\***



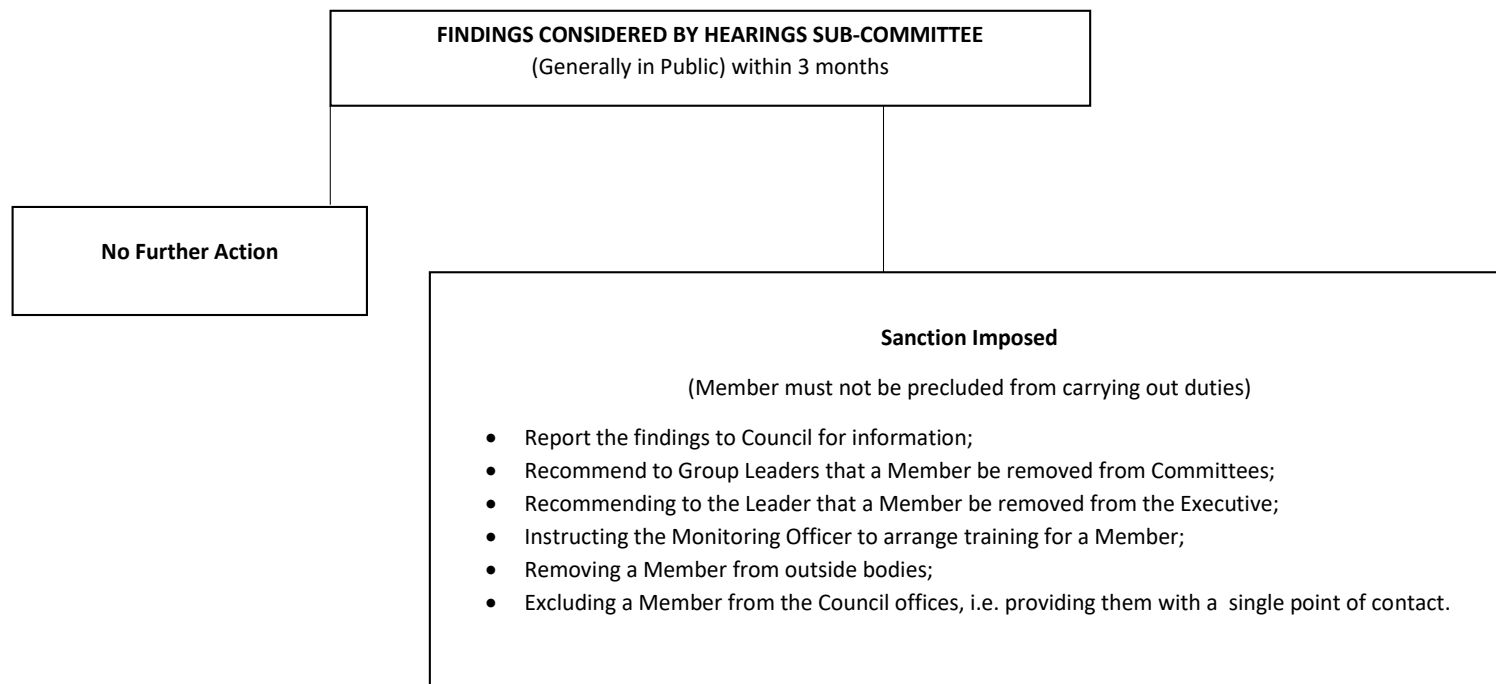
\*Please note this Flow Chart is a simplified version of the Council's procedure for dealing with Standards complaints, the detail of which should be referred to where appropriate

**FLOW CHART FOR STANDARDS COMPLAINTS – 2. INVESTIGATION**



Adur subject member – Adur Hearings sub-committee  
 Worthing subject member – Worthing Hearings sub-committee

**FLOW CHART FOR STANDARDS COMPLAINTS – 3. HEARING**



## Joint Independent Remuneration Panel Procedure Rules

Adur District Council and Worthing Borough Council ('the Councils') have established a Joint District/Borough Independent Remuneration Panel ~~and a Joint Parish Independent Remuneration Panel~~ ('the Panels') to make recommendations on remuneration levels for Borough ~~and District and Parish~~ Councillors.

**Commented [g45]:** This is unnecessary and has never met. Suggest delete.

### 1.0 TERMS OF REFERENCE

- 1.1 The Panel shall, ~~unless a Council has adopted a scheme under (f) below which has been in place for less than 4 years, by 31<sup>st</sup> January 2015 and thereafter by the 30<sup>th</sup> November each year, including 2015,~~ produce a report making recommendations to each of the ~~Borough, District and Parish~~ Councils as to:
- the amount of the basic allowance which should be payable to their Elected and Co-opted Members ~~for the following municipal year~~;
  - the responsibilities, roles or duties where special responsibility allowance should be payable and the amount of such allowances ~~(District and Borough Councils only)~~;
  - the amount of any travelling and subsistence allowance which should be payable to their Elected and Co-opted Members
  - whether dependants' carers' allowance should be payable and the amount of such allowance;
  - whether payment of allowances may be backdated in cases where a scheme is amended at a time which would affect allowances payable in that year;
  - whether adjustments to the level of allowances may be determined according to an index, and which index and for how long before its use is reviewed (subject to a maximum of 4 years);
  - those items of expenditure that Elected and Co-opted Members may reclaim as expenses; and
  - any other Members' allowances or reimbursement matters reasonably falling within the remit of the Panel; this may include relevant bodies on matters of joint working and parity;
  - such other functions as may be allocated to the Panels by statute, from time to time.
- 1.2 The Panel's Reports shall be submitted to the Councils by way of the Joint Audit & Governance Committee.

### 2.0 PANEL MEMBERSHIP AND APPOINTMENT

- ~~2.1 The Membership of the Joint District/Borough Independent Remuneration Panel and the Joint Parish Independent Remuneration Panel shall be the same~~
- 2.1 The Panel shall consist of ~~6 Members~~ a minimum of three persons appointed by the Joint Audit & Governance Committee or a Sub-Committee thereof;
- 2.2 The following persons cannot be appointed to the Panels, namely a person:
- who is a Member or Co-opted Member of either of the Councils ~~or a Parish Council in respect of which the Panel makes recommendations~~; or
  - is disqualified from being or becoming a Member of either of the Councils ~~or a Parish Council in respect of which the Panel makes recommendations~~;
- 2.3 Appointment to the Panel shall be for a period of not more than 4 years.
- 2.4 A Member of the Panels may be reappointed following the end of their term of appointment provided that the Councils carry out a recruitment process involving public advertisement;
- 2.5 The Members of the Panels shall receive the following allowances, to be reviewed every 4 years:

Chair: £100 per Meeting attended;  
Panel Member: £75 per Meeting attended;

In the absence of the Chair to the meeting, another Panel Member chairing the meeting should receive the payment of £100, in place of their usual £75 payment.

- 2.6 Wherever possible the Panel Members shall be treated as separate and individual consultants who are responsible for their own tax, National Insurance, etc.
- 2.7 A person specification shall be drawn up and agreed by the Joint Audit & Governance Committee, to ensure that the candidates who are appointed:
- (a) are able to demonstrate a high degree of personal integrity;
  - (b) are not Members of any Local Authority and are not disqualified from being or becoming a Member of a Local Authority;
  - (c) have the appropriate level of skill, knowledge and understanding of setting remunerations;
  - (d) have the necessary time and commitment for the role;
  - (e) will disclose the extent of their connections to any political party or other group and whether these are such as to risk the effective discharge of the Panel's functions were the candidate to be appointed.
- 2.8 Terms of appointment shall include a provision that a Member of the Panels may be removed from office by a resolution of the Joint Audit & Governance Committee, or a Sub-Committee thereof following a finding by that Committee or Sub-Committee that the Member of the Panels:
- (a) is disqualified from being a Member of the Panels or is guilty of conduct which brings the office into disrepute (e.g. being found guilty of a criminal offence, an act of dishonesty or other serious misconduct);
  - (b) is guilty of a lack of diligence or incompetence; or
  - (c) becomes an Elected or Co-opted Member or an employee of a Local Authority.

### 3.0 PANEL OPERATING RULES

- 3.1 The Panel shall:
- (a) appoint its own Chair at the first Meeting and, thereafter, at the first Meeting in each Municipal year;
  - (b) require a quorum of 3 at all Meetings;
  - (c) meet a minimum of once in each Municipal year, with such additional Meetings as are necessary to fully discharge the functions of the Panels; and
  - (d) otherwise devise its own rules for the conduct of Meetings providing that such rules are consistent with legislative requirements and good governance practice.

### 4.0 DELEGATED FUNCTIONS

- 4.1 The Panel shall have the following delegated functions:
- (a) To research Members' Allowances schemes in other relevant Authorities;
  - (b) To gather evidence from interested persons and relevant organisations;
  - (c) To conduct interviews with relevant persons; and
  - (d) To produce the Annual Report to the Councils, via the Joint Audit & Governance Committee, in line with the Terms of Reference of the Panels.
- 4.2 Note
- (a) A copy of the relevant Report shall be provided to the relevant Council;
  - ~~(b) b) — once having received the Report, the Council shall, as soon as reasonably practicable, ensure that copies of that Report are available for inspection by members of the public at the principal office of the Authority, at all reasonable hours; and~~

- ~~(e)~~(b) Having received the Report, each Council shall publish in one or more newspapers circulating in its area, a notice which:
- (i) states that it has received recommendations from an Independent Remuneration Panel in respect of its scheme;
  - (ii) describes the main features of that Panel's recommendations;
  - (iii) specifies the recommended amounts of each allowance mentioned in the Report in respect of that Council;
  - (iv) states that copies of the Panel's Report are available at the principal office of the Council for inspection by members of the public at such times as may be specified by the Council in the notice; and
  - (v) specifies the address of the principal office of the Council at which such copies are made available.
- ~~(d)~~(c) Each Council shall supply a copy of any Report made by the Panels, where possible electronically, to any person who requests a copy. Where a hard copy is provided, the Council may charge such reasonable copying and postage fees, as may be determined from time to time.



## **Access to Information Procedure Rules**

### **1.0 SCOPE**

These Procedure Rules apply to all Meetings of the Council, its Committees Joint Committees and Sub-Committees and formal meetings of the Cabinet, (together called 'Meetings').

### **2.0 PRINCIPLES**

#### **2.1 Interpretation**

These Rules will be interpreted, where possible, in accordance with the following guiding principles:

- (a) Openness: the right of the public to gain access to Meetings and documents;
- (b) Transparency: the provision of information so that the public know who is responsible for making a particular decision, when and where, and have an explanation or justification for a decision;
- (c) Accountability: the public can measure the actions taken against policies and plans on which those responsible were elected to office.

### **3.0 RIGHT OF THE PUBLIC TO ATTEND MEETINGS**

Members of the public may attend all Meetings subject only to the exceptions in these rules and in any statutory provisions.

### **4.0 NOTICES OF MEETINGS**

The Council will give at least 5 clear days' notice of any Meeting by posting details of the meeting at the designated office and on the website. Except where there is a Key Decision and/or Confidential/Exempt Decision, in which case the 28 day Notice provisions in Access to Procedure Rule 13 shall apply.

### **5.0 RIGHT OF THE PUBLIC TO DOCUMENTS**

The Council will make copies of the agenda and reports available to the public for inspection at the designated office and on the Council's website at least 5 clear days before any scheduled meeting.

### **6.0 SUPPLY OF DOCUMENTS & CHARGING**

#### **6.1 Supply of Documents**

The Council will supply, usually in electronic form, copies of:

- (a) any Agenda or Report which is available for public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the Agenda; and
- (c) if the Director for Communities thinks fit, copies of any other non-exempt documents supplied to Councillors in readiness for a meeting.

Such documents will be made available to the public by the Council publishing them on their website.

#### **6.2 Charging**

The Council reserves the right to make a reasonable charge for postage and copying of hard copy documents to members of the public.

### **7.0 ACCESS TO DOCUMENTS FOLLOWING A MEETING**

## 7.1 Agendas, Reports and Minutes

The Council will make available copies of the following for 6 years from the date of a meeting:

- (a) the Minutes of the meeting or Records of Decisions taken, (together with reasons), for all Meetings of the Cabinet, excluding any part of the Minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information, unless the reason for the exemption or confidentiality has ceased to apply;
- (b) a summary of any proceedings not open to the public where the Minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the Agenda for the meeting; and
- (d) Reports relating to items when the meeting was open to the public but excluding any part of such a Report which disclosed exempt or confidential information, unless the reason for the exemption or confidentiality has ceased to apply.

## 7.2 Background Papers

The Report Author will set out in every Report a list of those documents (called background papers) relating to the subject matter of the Report which in their opinion:

- (a) disclose any facts or matters on which the Report or an important part of the Report is based; and
- (b) which have been relied on to a material extent in preparing the Report but does not include published works or those which disclose exempt or confidential information (as defined in Access to Information Rule 9), unless the exemption no longer applies.

The Council will make available for public inspection for four years after the date of the meeting a copy of each of the documents on the list of background papers.

## 8.0 SUMMARY OF THE PUBLIC'S RIGHTS

These Access to Information Procedure Rules are a written summary of the public's rights to attend Meetings and to inspect and obtain copy documents. These form part of the Constitution and are available at the Council's designated offices and on the Councils' website.

## 9.0 EXCLUSION OF THE PUBLIC FROM THE WHOLE OR PART OF A MEETING

### 9.1 Confidential information

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

The public must be excluded from Meetings or parts of Meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed. The Committee or Sub-Committee will be required to pass a resolution to exclude the public where confidential information will be disclosed.

### 9.2 Exempt information

Exempt information means information falling within one or more of the following 7 categories (subject to any condition):

	CATEGORY	CONDITION
1.	Information relating to any individual.	In accordance with the Data Protection Act 1998.
2.	Information which is likely to reveal the identity of an individual.	In accordance with the Data Protection Act 1998.
3.	Information relating to the financial or business affairs of any particular	Includes information relating to the Authority's own financial or business affairs. It does not include

	person (including the Authority holding that information).	information which is required to be registered under the Companies Act 1985, the Friendly Society Acts 1974 and 1992, the Industrial and Provident Societies Acts 1965-1978, the Building Societies Act 1986 or the Charities Act 1993 as such information will be in the public domain in any event.  The 'financial affairs or business affairs' include past, present and contemplated activities.
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the Authority or a Minister of the Crown and employees of, or office holders under, the Authority.	'Employee' means a person employed under a contract of service with the Council and would not therefore include a consultant or a temporary member of staff employed through an agency or a company. Information about such a person, however, may well be covered under the exemptions in paragraphs 1, 2 and 3 but it will depend on the individual matter.  'Labour relations matter' means matters which may be the subject of a trade dispute within the meaning of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 or any dispute about such a trade dispute. This is therefore fairly narrow and does not appear to include normal staff negotiations which are not part of a dispute.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6.	Information which reveals that the Authority proposes <ul style="list-style-type: none"> <li>• to give under any enactment a notice under or by virtue of which requirements are imposed on a person, or</li> <li>• to make an order or direction under any enactment.</li> </ul>	
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

The public may be excluded from Meetings or parts of Meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information will be disclosed. The Committee or Sub-Committee will be required to determine whether or not to pass a resolution to exclude the public where exempt information will be disclosed.

### 9.3 Human Rights Act 1998

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

- (a) It is in the interests of morals, public order or national security in a democratic society, to hear the matter in private; or

- (b) Where the interests of juveniles or the protection of the private life of the parties requires that the matter should be heard in private; or
- (c) Where in the opinion of the meeting, due to special circumstances, publicity would prejudice the interests of justice.

#### **9.4 Town and Country Planning (General) Regulations 1992**

Information cannot be deemed exempt if it relates to proposed development for which the Local Planning Authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning (General) Regulations 1992.

#### **9.5 Public Interest Test**

Paragraphs 1-7 of the exemptions (Access to Information Rule 9.2) are subject to the public interest test. In determining whether this information should remain exempt, the report writer and the decision-maker will have to decide whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In respect of all Council, Cabinet, Committee, Joint Committee and Sub-Committee Reports, writers will, therefore, need to give consideration to exempt information and the public interest test, and if they determine that the document should not be published, they will need to explain why they consider the public interest test is best served by the information remaining exempt. The fact that a document is exempt, together with reasons, will appear in the Report and the Agenda relating to that item. The Monitoring Officer will ultimately determine whether Reports and related documents are exempt or not and their decision will be final.

Where the public may be excluded from a meeting or part of a meeting due to an exempt Report being considered, the Members of the meeting will need to consider the public interest test, having given due consideration to any legal advice provided.

There is no legal definition of 'public interest', but the following should be considered relevant considerations in favour of disclosure:

- (a) The information would assist public understanding of an issue that is subject to current public debate.
- (b) Proper debate cannot take place without wide availability of all the relevant information.
- (c) The issue affects a wide range of individuals or companies.
- (d) Facts, analysis and costings behind major policy decisions.
- (e) Allowing individuals to understand decisions made by public authorities affecting their lives and, in some cases, assisting individuals in challenging those decisions.
- (f) Accountability for proceeds of sale of assets in public ownership.
- (g) Openness and accountability for tender processes and prices.
- (h) Public interest in public bodies obtaining value for money.
- (i) Public health or public safety.
- (j) Damage to the environment.
- (k) Contingency plans in an emergency.
- (l) Promoting accountability and transparency for decisions taken by public authorities and the spending of public money.

A practice of applying 'Exempt' status to a report without reasons being set out and consideration of the public interest is not acceptable.

#### **10.0 NON-DISCLOSURE OF REPORTS TO THE PUBLIC**

##### **10.1 Reports containing Confidential Information**

Reports containing confidential information will not be disclosed to the public.

## **10.2 Reports containing Exempt Information**

If the Monitoring Officer determines that a Report contains exempt information in accordance with Access to Information Rule 9, having applied the public interest test, they may refuse to disclose to the public any Reports which in their opinion relate to items during which, in accordance with Rule 9, the meeting is likely to exclude the public. Such Reports will be marked 'Not for publication' together with the category of information likely to be disclosed.

## **11.0 THE CABINET**

Access to Information Rules 12 to 22 inclusive apply to the Cabinet only.

If the Cabinet meets to take a Key Decision then it must also comply with Access to Information Rules 1 to 10 inclusive above, unless Rule 14 (general exception) or Rule 15 (special urgency) apply. A Key Decision is as defined in Article 12.03 of Part 3 of the Constitution.

If the Cabinet, or any Cabinet Member, meets with an Officer, to determine a Key Decision, within 28 clear days of the date according to the Forward Plan by which it is to be decided, then it must also comply with Access to Information Rules 1 to 10 inclusive above, unless Rule 14 (general exception) or Rule 15 (special urgency) apply. This requirement does not apply to Officer/Member briefings or any non-decision making meetings.

## **12.0 EXECUTIVE KEY DECISIONS**

Subject to Access to Information Rule 14 (general exception) and Access to Information Rule 15 (special urgency), a Key Decision may not be taken unless:

- (a) a Notice (known as the 28 Day Notice of Key and/or Confidential/Exempt Decisions which will be taken in private) has been published in connection with the matter in question;
- (b) at least 28 clear days have elapsed since the publication of the Notice in which the decision was first included; and
- (c) where the decision is to be taken at a meeting of the Cabinet, notice of the meeting has been given in accordance with Access to Information Rule 4.

## **13.0 THE 28 DAY NOTICE OF EXECUTIVE KEY AND/OR CONFIDENTIAL/ EXEMPT DECISIONS**

### **13.1 Period Covered**

A 28 Day Notice of Key and/or Confidential/Exempt Decisions (which will be taken in private) will be prepared by the Director for Communities and updated when a new Notice is made and published, which will be at least 28 clear days prior to any regular scheduled meeting of the Cabinet.

At least 5 clear working days prior to the day of any private Meeting of the Cabinet, the Director for Communities shall publish a further Notice on the Agenda for the meeting and the Council's website confirming the Cabinet's intention to hold all or part of the meeting in private, a statement of the reasons for privacy and details of any representations received by the Council as to why the meeting should be held in public and the Cabinet's response to those representations.

### **13.2 Notice**

The Notice will contain matters which the Director for Communities considers will be the subject of a Key Decision and/or a private decision (Confidential/Exempt) to be taken by the Cabinet, individual Cabinet Members, an Officer, or under joint arrangements in the course of the discharge of an Executive function during the period covered by the Notice. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a Key Decision/private decision is to be made;

- (b) where the decision-maker is an individual, their name and title, and where the decision-maker is a body, its name and details of Membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) a list of the documents submitted to the decision-maker for consideration in relation to the matter;
- (e) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (f) the identity of the principal groups whom the decision-maker proposes to consult before taking the decision;
- (g) the means by which any such consultation is proposed to be undertaken;
- (h) the steps any person might take who wishes to make representations to the Cabinet or decision-maker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (i) the reasons why the matter will be confidential/exempt.

The Notice must be produced and published at least 28 clear days before the day upon which the decision is to be taken, whether by a meeting or an individual Cabinet Member.

#### **14.0 EXCEPTIONS**

If a matter which is likely to be a Key Decision/private decision has not been included in the 28 Day Notice of Key and/or Confidential/Exempt Decisions, then subject to Access to Information Rule 15 (special urgency), the decision may still be taken if:

- (a) the decision needs to be taken by such a date that it is impracticable to defer the decision until 28 clear days' notice has been given by Notice;
- (b) the Director for Communities has, in writing, informed the Chair of the Overview and Scrutiny Committee (or both Chairs where a matter is being dealt with under the Joint Committee Agreement), or if there is no such person, each member of the Overview and Scrutiny Committee, by Notice, of the matter to which the decision is to be made;
- (c) the Director for Communities has made copies of that Notice available to the public, on the Councils' website or at the offices of the Council; and
- (d) at least 5 clear working days have elapsed since the Director for Communities complied with (b) and (c).

Where such a decision is taken by the Cabinet, it must be taken in public, subject to the provisions of Access to Information Rules 9 and 13.

#### **15.0 URGENT ITEMS**

##### **15.1 Executive Key and/or Confidential/Exempt Decisions which are urgent**

If by virtue of the urgency of a matter, Access to Information Rule 14 cannot be complied with, then the decision can only be taken if the Director for Communities, on behalf of the decision-maker, obtains the agreement, in writing, of the Chair of the Overview and Scrutiny Committee (or both Chairs where a matter is being dealt with under the Joint Committee Agreement), that the taking of the decision cannot be reasonably deferred. Electronic confirmation, via email, will suffice and will be sufficient authority for Democratic Services Officers to complete the signature requirement to the appropriate notice. If the Chairs are unable to act, then in their absence, the agreement of the Vice-Chairs of the Overview and Scrutiny Committee will be sought. If neither the Chairs nor Vice-Chairs are available, in their absence, the agreement of the Mayor of the Council will suffice (and if not available, the Deputy Mayor).

##### **15.2 Other Decisions which are urgent**

Only items on an Agenda which has been published 5 clear days before the day of a meeting can be considered at that Meeting. However, the Chair of the meeting is able to add urgent items to the Agenda at the meeting. Urgent items are narrowly defined as being those items that by reason

of special circumstance have arisen since the despatch of the Agenda and which were not known of at the time the Agenda was published, provided that 15.1 above is complied with.

Urgent items cannot be dealt with as 'any other business' or 'matters arising' items.

## **16.0 REPORT TO FULL COUNCIL**

### **16.1 Joint Overview and Scrutiny Committee**

The Council's Joint Overview and Scrutiny Committee can require that the Cabinet submit a Report to Full Council, within such reasonable time period as the Committee specifies, if they consider that a Key Decision has been taken which was not:

- (a) included in the 28 Day Notice of Key and/or Confidential/Exempt Decisions; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement under Access to Information Rule 15.

When directed to do so by either of the Chairs of the Joint Overview and Scrutiny Committee, or by any 5 Members of that Committee, the Director for Communities will serve notice in writing upon the Leader requiring such a report, on behalf of the Joint Overview and Scrutiny Committee, or the Cabinet, to be submitted to Full Council. Alternatively, the Joint Overview and Scrutiny Committee may pass a resolution at their Meeting to require such a Report of the Cabinet to Full Council within a specified time period.

### **16.2 Cabinet's Report to Full Council**

The Cabinet will prepare a Report for submission to the next available Meeting of the Council, when required to do so in accordance with Access to Information Rule 16.1. However, if the next Meeting of the Council is within 7 days of receipt of the written Notice, or the resolution of the Committee, requiring the Report, then the Report may be submitted to the meeting after that.

The Report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a Key Decision, the reasons for that opinion.

### **16.3 Reports on Special Urgency Decisions**

The Leader shall include in their Report to Full Council, in accordance with Council Procedure Rule 13 a summary of any Executive decisions taken in the circumstances set out in Access to Information Rule 15 (special urgency) taken since the previous meeting of Full Council.

## **17.0 RECORD OF DECISIONS**

After any Meeting of the Cabinet, whether held in public or private, a record of every decision taken at that Meeting will be produced as soon as is practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that Meeting, in accordance with the Cabinet Procedure Rules.

## **18.0 ATTENDANCE AT PRIVATE MEETINGS OF THE CABINET**

All Cabinet Members will be served Notice of all private Meetings of the Cabinet, and all such Members are entitled to attend such a meeting.

Members are entitled to attend Meetings in accordance with Council Procedure Rules.

The Head of the Paid Service, the Chief Financial Officer and the Monitoring Officer, and their representatives are entitled to attend any Meeting of the Cabinet.

The Cabinet may not meet unless the Director for Communities has been given reasonable notice that a meeting is to take place. A private Cabinet Meeting may only take place in the presence of the Director for Communities or their representative with responsibility for recording and publishing the decisions.

## **19.0 DECISIONS BY INDIVIDUAL CABINET MEMBERS**

### **19.1 Decision Reports**

Where an individual Cabinet Member receives a Report which they must consider prior to making any decision, then they will not make the decision until at least 5 working days after the day of receipt of that report.

Except that if the decision is a Key Decision and/or Confidential/Exempt Decision, the 28 day Notice provisions in Access to Information Rule 13 shall apply.

### **19.2 Provision of Copies of Reports to Overview and Scrutiny Committees**

When providing such a Report to an individual Cabinet Member, the Director for Communities will provide a copy of it to the Chairs and Vice Chairs of the Overview and Scrutiny Committee and the Joint Overview and Scrutiny Committee as soon as reasonably practicable. At the same time the Director for Communities will make the Report publicly available, by publishing on the Councils' website, unless deemed confidential or exempt in accordance with Access to Information Rule 9 above.

### **19.3 Record of Individual Cabinet Member Decision**

As soon as reasonably practicable after an Executive decision has been taken by an individual Cabinet Member, or a Key Decision has been taken by an Officer, the Director for Communities will prepare a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Access to Information Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of decisions by individual Cabinet Members, subject to Access to Information Rule 9.

## **20.0 OVERVIEW AND SCRUTINY COMMITTEE ACCESS TO DOCUMENTS**

### **20.1 Right to Documents**

Subject to Access to Information Rule 20.2, Overview and Scrutiny Committee and the Joint Overview and Scrutiny Committee (and their Sub-Committees and Working Groups) will be entitled to copies of any document which are in the possession or control of the Cabinet (or its Committees) and which contain material relating to:

- (a) any business transacted at a public or private Meeting of the Cabinet or its Committees; or
- (b) any decision taken by an individual Cabinet Member; or
- (c) any decision taken by an Officer of the Authority exercising an Executive function.

Copies of documents requested under this Rule must be supplied within 10 working days of receipt of the request.

### **20.2 Limitation**

Subject to Access to Information Rule 21, the Overview and Scrutiny Committee and the Joint Overview and Scrutiny Committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or



intend to scrutinise, or is accessible in accordance with Access to Information Rule 21.4 below.

## **21.0 ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS BY MEMBERS**

### **21.1 Documents Relating to Business to be Transacted at a Public Meeting**

All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet or its Committees which contains material relating to any business to be transacted at a public Meeting. Any document must be available for inspection at least 5 clear days before the day of the meeting except:

- (a) where the meeting is convened at shorter notice, the document must be available for inspection when the meeting is convened; and
- (b) where an item is added to the Agenda at shorter notice, a document that would be required to be available must be available for inspection when the item is added on the Agenda.

All such documents will be made available by publishing on the Councils' website.

### **21.2 Documents Relating to Business to be Transacted at a Private Meeting**

Any document which is in the possession or under control of the Cabinet and contains material relating to any business transacted at a private Meeting will be available for Members to inspect at the offices of the Democratic Services section, subject to Access to Information Rule 21.4 below. This Rule does not provide a right to copy such documents.

Where access is restricted to a document under this provision, the restriction is determined by the Director for Communities, having taken account of the advice of the Monitoring Officer.

### **21.3 Disclosure of Documents after the Decision**

Any document which is in the possession or under control of the Cabinet and contains material relating to:

- (a) any business transacted at a public Meeting;
- (b) any decision made by an individual Cabinet Member in accordance with Executive Arrangements;
- (c) any decision made by an Officer in accordance with Executive Arrangements;

must be available for inspection by a Member immediately after the meeting concludes, or where an Executive decision is made by an Officer, immediately after the decision has been made (and in any event, within 24 hours).

### **21.4 Access to Confidential and Exempt Information**

The entitlement to access to, or inspection of, documents does not extend to a document that contains confidential or exempt information unless the exemption solely relates to paragraphs 3 or 6 of the exemptions in Access to Information Rule 9.2 (except where the information relates to any terms proposed by or to the Authority in the course of negotiations of contract).

Nothing in these Rules requires the disclosure of confidential information that breaches the obligation of confidence.

Nothing in these Rules requires the disclosure of a document, or part of a document where advice had been provided by a political adviser or assistant.

Members will therefore often be able to access Reports which are exempt, but there may be occasions when information:

- (a) is highly sensitive and involves complex negotiations;
- (b) relates to a significant litigation risk;

- (c) relates to sensitive personal information where the data subject would reasonably expect such information to be restricted only to decision-makers.

## **22.0 CONFIDENTIALITY OF COUNCIL BUSINESS**

### **22.1 Confidential Information**

Any item of business at Full Council, a Committee or Sub-Committee which is deemed to be confidential shall require that the relevant body's discussion in relation to the item be kept confidential and may only be disclosed to, and discussed by, the following:

- (a) Elected Members of the Council;
- (b) other persons appointed under Section 102 of the 1972 Act as Members of Committees or Sub-Committees;
- (c) such Officers of the Council as are concerned with the matter in the course of their duties including the Monitoring Officer and the Chief Financial Officer;
- (d) such other persons to whom in the opinion of the Monitoring Officer, the item of business or Report ought to be disclosed in order to comply with the Human Rights Act 1998 or any rule of law or to avoid maladministration by the Council;

and there shall be no further disclosure of such Report, item of Council business or discussion thereof to any other person whatsoever.

The business referred to in this Rule consists of any item of Council business which has been agreed as being confidential by the Council, its Committees or Sub-Committees, or by the Monitoring Officer in accordance with the Local Government Act 1972.

Information which has been deemed to be confidential may at some point in the future cease to be confidential and may be disclosed. Advice should be sought from the Monitoring Officer in respect of confidential information.

### **22.2 Working Party**

Subject to the Council Procedure Rules, a member of a working party set up by the Council shall not disclose a matter dealt with by or brought before the working party, without its permission until the proceedings of that working party have been reported to the Council or to the Committee or Sub-Committee which set it up, or the working party shall otherwise have concluded action on that matter.

## **23.0 ADDITIONAL RIGHTS TO INFORMATION**

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

## Officer Employment Procedure Rules

### 1.0 INTRODUCTION

#### 1.1 Definitions

In these Rules:

- 1.1.1 'The 2001 Regulations' means the Local Authorities (Standing Orders) (England) Regulations 2001; 'The 2015 Regulations' means the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 1.1.2 'Appointor' means, in relation to the appointment of a person as an Officer of the Authority, the Authority or, where a Committee, Sub-Committee or Officer is discharging the function of appointment on behalf of the Authority, that Committee, Sub-Committee or Officer, as the case may be;
- 1.1.3 'Disciplinary Action' in relation to an Officer of the Council means any action occasioned by alleged misconduct which, if proven, would, according to the Council's usual practice, be recorded on the member of staff's personal file. This includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Authority has undertaken to renew such a contract;
- 1.1.4 'Dismissor' means, in relation to the dismissal of an Officer of the Authority, the Authority or, where a Committee, Sub-Committee or another Officer is discharging the function of dismissal on behalf of the Authority, that Committee, Sub-Committee or other Officer, as the case may be;
- 1.1.5 'Head of Paid Service' means the Officer designated under Section 4(1) of the Local Government and Housing Act 1989;
- 1.1.6 'Chief Finance Officer' means the Officer having responsibility, for the purposes of Section 151 of the Local Government Act 1972, for the administration of the Council's financial affairs;
- 1.1.7 'Monitoring Officer' means the Officer designated under Section 5(1) of the Local Government and Housing Act 1989;
- 1.1.8 'Directors' means those Officers who shall report directly to the Chief Executive and shall have managerial responsibility for a directorate consisting of not less than 4 services;
- 1.1.9 'Statutory Chief Officer' means, for the purposes of these provisions, the Chief Finance Officer;
- 1.1.10 'Non-Statutory Chief Officer' means a person for whom the Head of Paid Service is directly responsible or a person who, with respect to all or most of the duties of their post, is required to report directly or is directly accountable to either the Head of Paid Service or to the Council itself or any Committee or Sub-Committee of the Council; except a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services;
- 1.1.11 'Deputy Chief Officer' means a person who, with respect to all or most of the duties of their post, is required to report directly or is directly accountable to one or more of the Statutory or Non-Statutory Chief Officers; except a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services;

1.1.12 'Joint Senior Staff Committee' means a Committee set up in accordance with the Adur District Council and Worthing Borough Council Joint Committee Agreement dated 27th July 2007, as amended from time to time. For the purposes of these Procedure Rules, at least one Cabinet Member of each Council must be a Member of this Committee.

## 1.2 General

Other than as set out elsewhere in these Officer Employment Procedure Rules, the function of recruitment, appointment, disciplinary action and dismissal in respect of all staff other than the Head of Paid Service, the Chief Finance Officer, and the Monitoring Officer, will be discharged, on behalf of the Council, by the Head of Paid Service or an Officer nominated by the Head of Paid Service. Such functions will be carried out in accordance with the Council's Staffing Policies, as adopted from time to time.

## 1.3 Posts

For ease of reference, the posts which fall under the relevant definitions in these Officer Employment Procedure Rules, at the time of writing, are as follows:

Definition	Relevant Post
Head of Paid Service	Chief Executive
Statutory Chief Officer	Chief Finance Officer
Monitoring Officer	Head of Legal Services
Non-Statutory Chief Officers	Directors Head of Communications Head of Policy
Deputy Chief Officers	All staff, other than clerical, who are direct reports of: Directors Chief Finance Officer Head of Communications Head of Policy

## 2.0 RECRUITMENT

### 2.1 Declarations

A candidate for any employment with the Council, or a staff member involved in a transfer, promotion or disciplinary matter, shall disclose whether they are related to, or cohabits with, any Member or other Officer who may have an influence on the decision. Failure to make such a disclosure may result in any appointment being rescinded and, in the case of an employee, disciplinary action.

The requirements of any Code of Conduct relating to Members' interests shall apply to the appointment, transfer, promotion, discipline and other matters relating to staff.

### 2.2 Support for Appointment

Canvassing of any Member of the Council, or any person appointed to discharge any function in relation to a Committee or Officer of the Council shall disqualify the candidate concerned in such canvassing for that appointment. The purport of this paragraph shall be included in any form of application issued in relation to any proposed appointment.

A Member of the Council shall not solicit for any person any appointment under the Council and shall not provide any written testimonial of a candidate's ability, experience or character for submission to the Authority.

All vacancies on the Council's staffing establishment that are to be filled shall be advertised internally.

## **2.3 Confidentiality**

The Council, the Cabinet, a Committee, a Sub-Committee or a Panel shall, unless there are exceptional circumstances which dictate otherwise, resolve to exclude the press and public under Section 100A of the 1972 Act where matters relating to the appointment, promotion, dismissal or discipline, severance, salary or conditions of an individual member of staff are to be discussed.

## **2.4 Recruitment of Head of Paid Service, Statutory Chief Officer, Non-Statutory Chief Officers, Deputy Chief Officers and Monitoring Officer.**

2.4.1 Where the Council proposes to appoint a Head of Paid Service, Monitoring Officer, Statutory Chief Officer, Non-Statutory Chief Officer or Deputy Chief Officer, and it is not proposed that the appointment will be made exclusively from among their existing Officers, the Head of Paid Service or their delegate will:

- (a) draw up a statement specifying:
  - (i) the duties of the Officer concerned; and
  - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) advertise the post in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) send a copy of the statement mentioned in paragraph (a) above to any person on request.

2.4.2 Where a post has been advertised as provided in paragraph 2.4.1, the Joint Senior Staff Committee or Head of Paid Service, or their delegate, in accordance with paragraph 3 below, will:

- (a) interview all qualified applicants for the post; or
- (b) select a short list of such qualified applicants and interview those included on the short list; or
- (c) if no qualified person has applied, the Council will make further arrangements for advertisement in accordance with paragraph 2.4.1(b).

## **3.0 APPOINTMENT**

### **3.1 Power to Appoint**

3.1.1 Subject to paragraph 3.1.2 and 3.2 below, the Joint Senior Staff Committee will be responsible for the function of recommending to Full Council the appointment of the Head of Paid Service, Chief Finance Officer and Monitoring Officer.

3.1.2 The power to approve the appointment of the Head of Paid Service, Chief Finance Officer and Monitoring Officer shall be exercised by Full Council, subject to the consultation required under paragraph 3.2.2 where, for the purposes of this paragraph, 'the Committee' is to be read as 'Full Council'.

3.1.3 The Head of Paid Service, or their nominated representative, shall be responsible for the function of the appointment of Non-Statutory Chief Officers and Deputy Chief Officers. The Head of Paid Service's nominated representative may include an Officer of the Council of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence.

### **3.2 Consultation Procedure for Appointment**

3.2.1 Except as provided for in paragraph 3.1.2, paragraph 3.2.2 applies to the appointment of Non-Statutory Chief Officers and Deputy Chief Officers.

3.2.2 An offer of appointment to any of those Officers must not be made by the Appointor until:

- (a) The Appointor has notified the Monitoring Officer of the name of the person to whom the Appointor wishes to make the offer and any other particulars which the Appointor considers are relevant to the appointment, including evidence and reasons for the choice of preferred candidate;
- (b) The Monitoring Officer has notified every Cabinet Member of the Council of:
  - (i) the name of the person to whom the Appointor wishes to make the offer, and the reasons why they are the Appointor's preferred candidate, including evidence;
  - (ii) any other particulars relevant to the appointment which the Appointor has notified to the Monitoring Officer; and
  - (iii) the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Monitoring Officer; and
- (c) either:
  - (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the Monitoring Officer that neither they nor any other Cabinet Member has any objection to the making of the offer; or
  - (ii) the Monitoring Officer has notified the Appointor that no objection was received by them within that period from the Leader; or
  - (iii) the Appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

### 3.3 Appointment of Senior Officers

Post	Appointment	Conditions
Head of Paid Service	Joint Senior Staff Committee	Requires approval of Full Council
Chief Finance Officer	Joint Senior Staff Committee	Requires approval of Full Council
Monitoring Officer	Joint Senior Staff Committee	Requires approval of Full Council
Non-Statutory Chief Officers	Head of Paid Service or nominee	Requires consultation with the Cabinet
Deputy Chief Officers	Head of Paid Service or nominee	Requires consultation with the Cabinet

## 4.0 DISCIPLINARY ACTION

### 4.1 Investigation of alleged misconduct

- 4.1.1 This paragraph applies to Disciplinary Action in respect of the Head of Paid Service, Statutory Chief Officer, Monitoring Officer, Non-Statutory Chief Officers and Deputy Chief Officers, subject to the express provisions in paragraph 4.2 relating to the Head of Paid Service, Monitoring Officer and Statutory Chief Officer.
- 4.1.2 Subject to paragraph 4.2 the Joint Senior Staff Committee will investigate and consider any alleged misconduct in respect of the Head of Paid Service, Chief Finance Officer and Monitoring Officer, and decide, following receipt of the report of the Independent Panel, upon any Disciplinary Action to be taken, as necessary, in accordance with any Council Staffing Policies which have been adopted by the Council from time to time.
- 4.1.3 Subject to paragraphs 4.1.2 and 4.2, the Head of Paid Service or their nominated representative, will investigate any alleged misconduct in respect of Non-Statutory Chief Officers and Deputy Chief Officers, as necessary, in accordance with any Council Staffing Policies which have been adopted by the Council from time to time. The Head of Paid Service's nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence. Pending the outcome of such investigation the Non-Statutory Chief Officer or Deputy Chief Officer may be suspended by the Head of Paid Service or their nomination representative. Such suspension will be for no longer than is necessary to investigate the allegations and will be on full pay, other than in exceptional circumstances.

## **4.2 Head of Paid Service, Monitoring Officer and Chief Finance Officer**

- 4.2.1 The Council's Head of Paid Service, Monitoring Officer and Chief Finance Officer cannot be dismissed by the Authority unless the procedure set out in paragraph 4.2 is complied with.
- 4.2.2 Where an allegation of misconduct in respect of the Head of Paid Service, Monitoring Officer or Chief Finance Officer requires an investigation, an Independent Panel will be formed for this purpose.
- 4.2.3 Pending the report of such an Independent Panel the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer may be suspended by the Joint Senior Staff Committee whilst the alleged misconduct by the Officer is investigated. Any such suspension will be for a maximum period of two calendar months and will be on full pay.
- 4.2.4 In consulting an Independent Panel to deal with such allegations of misconduct, the Joint Senior Staff Committee will invite Independent Persons who have been appointed for the purposes of the Members' Conduct Regime under Section 28(7) of the Localism Act 2011 to form an Independent Panel. An Independent Panel will be formed if two or more Independent Persons accept the invitation. If it has not been possible to appoint such a Panel following invitations to the Council's appointed Independent Persons, then further invitation may be made to Independent Persons appointed by another Council.
- 4.2.5 The role of the Independent Panel is to:
- (a) Investigate the alleged misconduct;
  - (b) Prepare a report setting out the conclusions of their investigation, and any advice, views or recommendations as to any proposed disciplinary or other action, including dismissal.
- 4.2.6 In carrying out its investigation the Panel may:
- (a) Inspect any documents relating to the conduct of the relevant Officer which are in the possession of the Council, or which the Council has the power to authorise them to inspect; and
  - (b) Require any Officer or Elected Member to answer questions concerning the conduct of the relevant Officer.
- 4.2.7 If the recommendation of the Independent Panel is disciplinary action, other than dismissal, the Panel will report back to the Joint Senior Staff Committee, which will consider the report and may impose disciplinary action other than dismissal.
- 4.2.8 Where the Independent Panel or the Joint Senior Staff Committee recommends dismissal, the matter must be dealt with by a meeting of the Full Council. At least 20 working days after the Independent Panel has been appointed, a meeting of each Full Council (Adur District Council and Worthing Borough Council) will be held.
- 4.2.9 The Council meeting must receive the report of the Independent Panel. Before taking a vote at such a Council meeting on whether or not to approve such a proposed dismissal, the Council must take into account:
- (a) Any advice, views or recommendations of the Panel;
  - (b) The conclusions of any investigation into the alleged misconduct;
  - (c) Any representations from the relevant Officer or their representative.
- 4.2.10 A Head of Paid Service, Chief Finance Officer or Monitoring Officer attending a Council meeting where proposed disciplinary action against them is being considered, is entitled to make both oral and written representations to Council, as is their representative, who may be a colleague, a Union representative, a companion or a lawyer.

## **4.3 Disciplinary Action of Senior Officers**

Post	Investigation	Notes	Appeal
Head of Paid Service, Chief Finance Officer and Monitoring Officer	Independent Panel who presents findings to Joint Senior Staff Committee who have the power to impose disciplinary action other than dismissal.	Decision to dismiss must be taken by Council	None
Non-Statutory Chief Officers and Deputy Chief Officers	Head of Paid Service or their representative	Decision to dismiss may only be taken <u>by the Joint Senior Staff Committee</u> following consultation with the Cabinet.	Head of Paid Service or their representative

## 5.0 DISMISSAL

### 5.1 Power to Dismiss

5.1.1 Full Council will be responsible for the function of dismissal of the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.

5.1.2 Subject to paragraph 5.2, the Head of Paid Service, or a representative nominated by them, shall decide upon any disciplinary action to be taken, following a disciplinary hearing, and shall be responsible for the function of dismissal of Non-Statutory Chief Officers and Deputy Chief Officers. The Head of Paid Service's nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence. Such nominated representative may not be the same individual responsible for the investigation into alleged misconduct as identified at paragraph 4.1.3 and must be wholly independent from that individual.

### 5.2 Consultation Procedure for Dismissal

5.2.1 Paragraph 5.2.2 applies to the dismissal of the Non-Statutory Chief Officers and Deputy Chief Officers.

5.2.2 Notice of the dismissal of any of those Officers in paragraph 5.2.1 must not be given by the Dismissor until:

- (a) the Dismissor has notified the Monitoring Officer of the name of the person whom the Dismissor wishes to dismiss and any other particulars which the Dismissor considers are relevant to the dismissal, including a summary of the evidence heard at the disciplinary hearing and the reasons for the proposed decision;
- (b) the Monitoring Officer has notified every Cabinet Member of the Council of:
  - (i) the name of the person whom the Dismissor wishes to dismiss and the reasons for the decision;
  - (ii) any other particulars relevant to the dismissal which the Dismissor has notified to the Monitoring Officer; and
  - (iii) the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Monitoring Officer; and
- (c) either:
  - (i) the Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the Monitoring Officer that neither they nor any other Cabinet Member has any objection to the dismissal;
  - (ii) the Monitoring Officer has notified the Dismissor that no objection was received by them within that period from the Leader; or



- (iii) the Dismissor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

### 5.3 Appeals

5.3.1 Non-Statutory Chief Officers and Deputy Chief Officers who feel that the outcome of Disciplinary Action against them is wrong or unjust may appeal in accordance with any relevant Council Staffing Policies to the Head of Paid Service or their nominated representative. The Head of Paid Service's nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence. Such nominated representative must not be the same individual responsible for the disciplinary action or the dismissal, identified at paragraph 5.1.2, and nor may they be the same individual responsible for the investigation of alleged misconduct identified at paragraph 4.1.3 and must be wholly independent from those individuals.

5.3.2 The Head of Paid Service, Chief Finance Officer and Monitoring Officer shall have no right of appeal against disciplinary action within the Councils.

### 6.0 SPECIAL SEVERANCE PAYMENTS

6.1 In deciding whether it is good value to make any payments on termination of employment that are additional, discretionary sums paid on top of statutory and contractual redundancy or severance terms, e.g. under the terms of a settlement agreement, enhancement of standard pension benefits, PILON payments, etc ('Special Severance Payments'), the Council must demonstrate the economic rationale (including the availability of budgetary resources) and seek legal advice on the prospects of successfully defending an Employment Tribunal claim.

6.2 Special Severance Payments must be approved as follows:  
(a) £100,000 and over (and in all cases for the Head of Paid Service) - Full Council;  
(b) £20,000-£100,000 - the Head of Paid Service with the Leader's approval;  
(c) Under £20,000 - according to the Scheme of Officer Delegation.

6.3 The Council will include in its annual accounts all severance payments and pension strain costs made in connection with termination of employment or loss of office.

## **Officer Scheme of Delegations**

### **1. GENERAL PRINCIPLES**

#### **Introduction**

- 1.1 These delegations are made under the powers contained in the Local Government Act 1972 (as amended), Section 101 and by reference to section 100G and the Local Government Act 2000, Sections 14,19 and 20, the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and all other enabling powers.
- 1.2 An officer or other person is authorised to exercise such powers as are shown in the Scheme of Delegations including those reasonably applied or incidental to the matters specified in respect of the functions of the Council.

#### **When a Post is Vacant or a Post-holder is Absent**

- 1.3 For the purposes of this Scheme, if the post of an officer to whom a function is delegated (or which they have been appointed as a Proper Officer) is vacant or if the post-holder is absent on leave (of whatever type), unless the function is exercisable by an officer who has the appropriate sub-delegation or the Council otherwise decides the following shall apply:
- 1.4 In the case of the Chief Executive, the delegation shall be exercisable by an Acting Chief Executive (to include an Interim Chief Executive) or any one of the Directors, provided that the Acting Chief Executive or Director has the requisite professional qualification, experience and knowledge, where such is required.
- 1.5 In the case of a Director, the delegation shall be exercisable by the Chief Executive or another Director, provided that the Chief Executive or Director has the requisite professional qualification, experience and knowledge, where such is required.
- 1.6 In the case of the Section 151 Officer, the delegation shall be exercisable by a Deputy Section 151 Officer in relation to matters which are the responsibility of the Section 151 Officer.
- 1.7 In the case of the Monitoring Officer, the delegation shall be exercisable by a Deputy Monitoring Officer in relation to matters which are the responsibility of the Monitoring Officer.
- 1.8 In the case of Heads of Service, the delegation shall be exercisable by the Chief Executive or a Director, provided that the Chief Executive or Director has the requisite professional qualification, experience and knowledge, where such is required.
- 1.9 Any post specifically referred to shall be deemed to include any successor post, or a post which includes within the job description, elements relevant to any particular delegation, which were also present in the earlier post and shall include anyone acting up or seconded.

#### **All Decisions made by Officers**

- 1.10 Where decisions are taken by officers under delegated powers the following conditions and rules shall apply:
- 1.11 All delegations shall be exercised in accordance with the Constitution, all relevant policies and procedures of the Council and all relevant legislative provisions, subject to paragraph 4 below.
- 1.12 Any officer exercising a delegation shall only do so where provision has been made for any expenditure within the relevant budget or otherwise in accordance with the Financial

#### Procedure Rules.

- 1.13 Any officer exercising a delegation shall not do so in a manner which is contrary to any resolution of Full Council, Cabinet, an Individual Cabinet Member or a Committee.
- 1.14 Any officer exercising a delegation shall do so having regard to Health & Safety requirements.
- 1.15 Any officer exercising a delegation shall do so having regard to Equalities requirements.
- 1.16 Any officer exercising a delegation shall do so having regard to Data Protection requirements.
- 1.17 Any officer exercising a delegation is responsible for carrying out any consultation necessary under this Scheme. Such consultation shall be in writing, unless due to urgency that is not practicable, in which case there may be oral consultation which may be confirmed, by the Officer undertaking the consultation to the consultee in writing, as soon as reasonably practicable and, in any event, within 5 working days.
- 1.18 Any officer to whom a delegation is given may waive their right to exercise the delegation and refer the matter to the original delegate for a decision or to Full Council, Cabinet, an Individual Cabinet Member or relevant Committee, as appropriate.
- 1.19 Where an officer has the authority to take decisions, any action taken to implement such decisions may be taken in the name of (but not necessarily personally by) that officer, or any other officer authorised by that officer in accordance with paragraph 6 below.
- 1.20 Any decision which could subject the Council to legal liability shall be taken in consultation with the Head of Legal Services.
- 1.21 Any decision which has financial implications other than those budgeted for shall be taken in consultation with the Chief Financial Officer.
- 1.22 Unless specifically stated, no delegation authorises the taking of decisions as to whether or not legal action should be taken by or on behalf of the Council.
- 1.23 Officers shall not have the power to exercise any delegation where an individual officer is required by law to hold a relevant qualification and they do not hold that qualification.
- 1.24 Officers shall not have the power to exercise any delegations which fall outside the individual's actual authority as determined by their post.
- 1.25 Officers shall not have the power to exercise any delegations in a situation where an individual officer is prevented, for whatever proper reason, from exercising such power.
- 1.26 Subject to any express instructions to the contrary from the delegated body, any power to approve also includes the power to refuse, and the power to impose appropriate conditions.
- 1.27 Functions, matters, powers, authorisations, delegations, duties and responsibilities, shall be construed in a broad and inclusive fashion, and shall include the doing of anything which is calculated to facilitate, or is conducive, or incidental, to the discharge of anything specified.

#### Emergency Powers

- 1.28 For the purposes of this Scheme, an emergency is defined as a situation which poses an immediate risk to Council services or the wellbeing of residents, for which urgent action is needed and which cannot be dealt with using the Councils usual processes and

~~procedures, where immediate action is necessary and where inaction may lead to loss of life, serious injury to a person or animal, or significant damage to or significant loss of property.~~

**Commented [g46]:** Changed to be consistent with other references in the Constitution.

1.29 In cases of emergency ~~an officer~~ **the Chief Executive** may, if justified by all of the circumstances, exercise delegations **to take urgent action on behalf of the Council** in a manner which is not in accordance with **usual** Council policies or procedures and/or where provision has not been made in any budget, in order to prevent or mitigate the emergency **(see 2.1.2 below).**

**Commented [g47]:** Changed to be consistent with other references in the Constitution.

1.30 A written record of the reasons for exercising emergency powers and deviating from the policies and procedure and/or causing expenditure without a relevant budget shall then be provided as soon as practicably possible to the Monitoring Officer and the Section 151 Officer by the relevant officer.

### Sub-Delegations

1.31 Where an Officer is authorised to act, either under this Scheme or by a specific resolution of Full Council, Cabinet, an Individual Cabinet Member or a Committee, they may further delegate the authority to exercise a specific power to another Officer, whilst still retaining the delegation themselves.

1.32 Before making a sub-delegation, the delegating officer must give consideration to and be satisfied that the officer to whom they are sub-delegating is of an appropriate level bearing in mind the nature of the delegation.

1.33 Any such sub-delegation is subject to the existing consultation and limitation requirements, and further consultation or limitation can be applied when sub delegating.

1.34 All sub-delegations must be made in writing and a copy provided to the Monitoring Officer within five working days. The Monitoring Officer shall maintain a central register of sub-delegations which shall be available on the intranet.

1.35 No sub-delegations may be further delegated, unless there is express permission from the original delegating officer that the specific power can be delegated further. Such permission should be included in the written record of the sub-delegation provided under paragraph 1.5.4. When deciding whether to permit further sub-delegation, the same consideration should be given as outlined in paragraph 1.5.2.

1.36 In the event that a post to which a delegation or function is given ceases to exist and its responsibilities are transferred to another post temporarily or permanently then the delegations given under this scheme shall be exercisable by the post to which the responsibilities have been transferred. There should be written confirmation of the change in responsibilities from the line manager, which shall be provided to the Head of Legal Services to be retained with the central copy of the scheme of delegations.

1.37 Where an officer is authorised to act, either under this Scheme or by a specific resolution of Full Council, Cabinet, an Individual Cabinet Member or a Committee, they may further delegate the authority to exercise a specific power on behalf of this Council to an Officer of another Council, whilst still retaining the delegation themselves. All other provisions of paragraph 1.5 of this Scheme must be complied with when exercising this provision.

### Proper Officers/Authorised Officers

1.38 Those officers designated as Proper Officers, authorised officers, appropriate person or any other statutory description of officer listed in this Scheme shall exercise the powers, and have the responsibilities, attributed to them by legislation.

1.39 The Chief Executive and any other officer expressly authorised by this Scheme may appoint any appropriate officer to be a Proper Officer, authorised officer, appropriate person or any other statutory description of officer (unless legislation requires the appointment to be made by Full Council) and written confirmation of such appointment shall be provided to the Monitoring Officer within five working days and made available on the intranet.

#### Interpretation

1.40 Any reference to an Act, Order or other legal provision shall include a reference to any modification or re-enactment thereof and any reference to any Directive, Act, Order or other legal provision shall include any Regulations, Orders, Rules, Instruments, Directions, Statutory Guidance or other legal provision made thereunder.

1.41 'Appropriate Director' shall mean the Director responsible for the function to which the particular exercise of the delegation applies.

1.42 'Appropriate Head of Service' shall mean the Head of Service responsible for the function/service to which the particular exercise of the delegation applies.

1.43 'Consultation' shall mean seeking the comments of the person(s) to be consulted. Consultation shall not mean obtaining the consent of the person(s) to be consulted. A written record of the consultation shall be retained by the officer.

1.44 'The Council' shall mean The Borough Council of Worthing or the District Council of Adur, as appropriate.

## 2. DELEGATIONS: GENERAL FUNCTIONS – CHIEF EXECUTIVE, DIRECTORS & HEADS OF SERVICE

Subject to the foregoing, there are delegated to the Chief Executive, Directors and/or Heads of Service those matters detailed in column 2 subject to the consultation requirements set out in column 3 and the limitations in column 4 below.

2.1 No	Chief Executive Delegation	Consultation	Limitations
2.1.1	The taking of any action required in connection with the organisation or holding of neighbourhood, parish, district, county, Parliamentary, police commissioner elections or referenda.		
2.1.2	To take Urgent action on behalf of the Council.  'Urgent' means a matter of pressing importance requiring swift action given the gravity of the situation, to prevent damage (or further damage) to life, limb, infrastructure or the financial integrity of the Councils.	The relevant Leader, or in their absence, the relevant Deputy Leader or the Leaders, or in their absence the Deputy Leaders, where appropriate.	A report on the use of urgency powers to be taken to the first available Council meeting. So far as applicable, any decisions/ actions taken shall only take effect on a temporary basis until a Committee/ Member decision has

2.1.3	<u>The approval of Special Severance Payments between £20,000-£100,000</u>	<u>Consultation with and approval of the Leader</u>	been made. <u>Subject to demonstrating the economic rationale (including the availability of budgetary resources) and seeking legal advice on the prospects of successfully defending an Employment Tribunal claim</u>
<b>2.2</b>	<b>Chief Executive and all Directors</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
2.2.1	Grant, review, renew and cancel authorisations under the Regulation of Investigatory Powers Act, 2000 in accordance with the Council's surveillance policy.		
2.2.2	Incur expenditure on the reception and entertainment by way of official courtesy of persons representative of or connected with local government or other public services whether inside or outside the United Kingdom.		In accordance with the Financial Procedure Rules.
<b>2.3</b>	<b>Director for Communities</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
2.3.1	The taking of a decision as to whether or not the Council will tolerate unlawful encampments for a specified period and purpose, and to keep that decision under constant review.		
2.3.2	To determine matters relating to the failure of a Member to attend meetings for a period in excess of 6 months		
2.3.3	To be the Councils' lead Officer responsible for Safeguarding matters		
<b>2.4</b>	<b>Director for Digital, Sustainability and Resources</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
2.4.1	To respond to requests under Data Protection and Freedom of Information legislation		With the exception of requests for review and appeals
2.4.2	To act as the Senior Information Risk Owner for both Councils in respect of the function of Information Security.		
2.4.3	To be the Councils' Senior Responsible Officer for matters related to the Regulation of Investigatory Powers Act 2000.		
2.4.4	To be the link officer with the Commissioner for Local Administration in England ('Local Government Ombudsman')	Monitoring Officer (to reflect the statutory role of the Monitoring Officer in respect of maladministration)	

		) and the appropriate Head of Service	
2.4.5	To authorise payments or the provision of other benefits under s.92 Local Government Act, 2000 (payments in cases of maladministration) or by way of local settlement in relation to Local Government Ombudsman complaints.	Appropriate Head of Service, Monitoring Officer and, if over £1000, Chief Financial Officer	
<b>2.5</b>	<b>Director for Economy</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
2.5.1	To manage the relationship between Worthing Borough Council and Worthing Theatres Trust		
2.5.2	To manage the relationship between Worthing Borough Council and South Downs Leisure Trust		
2.5.3	To manage the relationship between Adur District Council and South Downs Leisure Trust		
<b>2.6</b>	<b>Chief Executive, all Directors and all Heads of Service</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
	<b>General</b>		
2.6.1	To manage the functions for which they are responsible.		
2.6.2	To make minor amendments to any Policy, Strategy, Consultation or similar document and sign notices, other than legal notices, arising from any decision of the Council.		
2.6.3	To respond to consultations.	<u>The Leader and relevant Cabinet Member (in respect of Executive matters) or the relevant committee (in respect of non-Executive matters)</u>	
2.6.4	To dispose of lost or uncollected property	Head of Legal Services	
2.6.5	To procure goods and services	Head of Business & Technical Services (Procurement)	<u>In accordance with Contract Standing Orders</u>
2.6.6	To exercise powers and determine all matters relating to the supply of goods and services to other local authorities and public bodies in respect of the functions for which they are responsible.	Head of Legal Services Chief Financial Officer	
2.6.7	To carry out minor development for which planning permission is not required.	Head of Growth (Planning)	
	<b>Contracts</b>		
2.6.8	To do all matters in relation to procurement and the letting of contracts.	Where specified in Contract Standing Orders,	In accordance with Contract Standing Orders

		Head of Business & Technical Services (Procurement) Head of Legal Services	
	<b>Financial</b>		
2.6.9	To take any action authorised by Financial Standing Orders.		
2.6.10	To manage budgets allocated to the functions for which they are responsible, including authority to incur expenditure on items included in the approved Revenue Estimates or Capital Programme, except where the Council has placed a reservation on any such item.		In accordance with Financial Standing Orders
2.6.11	To write off amounts as irrecoverable	Where specified in Financial Standing Orders, Chief Financial Officer Cabinet Member for Resources	In accordance with Financial Standing Orders
2.6.12	To determine grant applications in relation to the functions for which they are responsible, other than award of grants to voluntary sector organisations.	Head of Legal Services	
2.6.13	To vary, in exceptional circumstances, fixed fees and charges.	Relevant Cabinet Member	
2.6.14	To determine charges for the use of relevant services and events not covered by the annual review of fees and charges	Relevant Cabinet Member	
2.6.15	To submit bids to outside bodies for grant funding.	Chief Financial Officer Head of Legal Services	
	<b>Assets</b>		
2.6.16	To dispose of surplus assets (other than land and buildings) which are not of historical significance, interest or value.	<a href="#">In consultation with the relevant Cabinet Member</a>	<a href="#">In accordance with the Financial Procedure Rules</a>
	<b>Land</b>		
2.6.17	To manage land, property (including rent reviews) and other assets allocated to the functions for which they are responsible.		
2.6.18	To vary the terms and conditions of leases and licences or negotiate the surrender of leases and licenses.		
2.6.19	To give landlord's consent for uses, subject to planning permission.		
	<b>Legal</b>		
2.6.20	To make application for warrants of entry to land or property under the provisions of any legislation, other than warrants for possession of land or property, in relation to functions for which they are responsible.	Where practicable, with the Head of Legal Services	
2.6.21	To sign, issue and serve all notices required by statute or otherwise to be given by the Council and all necessary advertisements, in relation to functions for which they are responsible.		
2.6.22	To issue fixed penalty notices and community penalty notices		



	where permitted by statute in relation to the functions for which they are responsible.		
	<b>Licences, notices, etc.</b>		
2.6.23	The determination of any application for permissions, consents or licences or for registration within the functions for which they are responsible.		Except where they are reserved to Council, Cabinet, Cabinet Member or Committee
2.6.24	The issue and service of any notice or requisition for information concerned with matters within the functions for which they are responsible.		
2.6.25	The carrying out of works in default following non-compliance with any notice concerned with matters within the functions for which they are responsible.		
2.6.26	The management of any internal appeal, challenge or objection process against or in support of any of the Council's decisions, other than before a court or tribunal.	Head of Legal Services	
	<b>Planning</b>		
2.6.27	To make application for all consents required in relation to planning permission in respect of Council land or property in relation to the functions for which they are responsible.		
2.6.28	To make application for all consents required in relation to Building Regulation Approval in respect of Council land or property in relation to the functions for which they are responsible.		
	<b>Cultural Facilities &amp; Activities</b>		
2.6.29	To exercise the Council's functions relating to the provision and management of cultural facilities and activities.		
	<b>Staffing matters</b>		
2.6.30	To determine and take action in relation to all staff matters in accordance with the Officer Procedure Rules.	Where specified in the Officer Procedure Rules, Head of Legal Services Head of Human Resources	In accordance with Officer Procedure Rules and all Council policies and procedures.  To exclude the determination of redundancies (voluntary or otherwise) and the determination of termination of contracts of employment on the grounds of efficiency of the service.
2.6.31	<u>The approval of Special Severance Payments under £20,000</u>		<u>Subject to demonstrating the economic</u>

			<a href="#">rationale (including the availability of budgetary resources) and seeking legal advice on the prospects of successfully defending an Employment Tribunal claim</a>
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### 3. DELEGATIONS: SPECIFIC FUNCTIONS – HEADS OF SERVICE

Subject to the foregoing, there are delegated to the Officer(s) listed below those matters detailed in column 2 subject to the consultation requirements in column 3 and limitations in column 4 below.

3.1 No	Head of Housing Delegation	Consultation	Limitations
3.1.1	To determine and take all action in relation to the management and maintenance of the Council's housing accommodation including the letting, transfer, exchange and repossession of dwellings, garages, open spaces and parking spaces.		
3.1.2	To exercise the Council's functions relating to homeless persons.		With the exception of requests for reviews under s.202 Housing Act 1996.
3.1.3	To determine applications for Housing Grants (not Social Housing Grants) and the taking of all steps concerned with certification of payment of the same.		
3.1.4	To devise, manage and maintain the Housing Register maintained by the Council under the relevant statutory provisions in accordance with the Council's Housing Allocations Policy.		
3.1.5	To nominate people on the Council's Housing Register to properties managed by Adur Homes and the Registered Social Landlords in accordance with the Council's Housing Allocations Policy.		
3.1.6	To exercise the Council's regulatory functions in relation to Caravan sites, Fitness and Standards of Housing and Houses in Multiple Occupation.		
3.1.7	To determine and where appropriate give consent for alterations or		

	extensions to former Council houses and flats.		
3.1.8	To lease property or land in connection with the Council's housing function, for the purpose of providing emergency and temporary accommodation.	To be exercised only after consultation with the relevant Leader, the Cabinet Member for Resources and the Chief Financial Officer.	
<b>3.2</b>	<b>Head of Wellbeing</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.2.1	To implement the Council's policies regarding Community Safety and the redirection of crime and disorder.		
3.2.2	To take any action to combat anti-social behaviour including the issue of fixed penalty notices and community protection notices.		
3.2.3	To exercise the Council's regulatory functions relating to: Amenities on the highway Environmental protection Food Safety and Hygiene Gambling Gaming permits Hackney Carriages and Drivers Health and Safety at Work House to house collections Highway management * Licensable activities under the Licensing Act 2003 Lotteries Leisure Boats Private Hire Vehicles drivers and operators Public Health (including airports and port health) Public Safety Registration Plates Scrap metal dealers Shops and Sunday trading Street Collections Street Trading ** Drainage, Water and Sewerage Animal Boarding Licenses Pet Shops The Breeding of Dogs Sex Establishments Hypnosis Electrolysis Acupuncture Semi-permanent skin colouring Tattooing Cosmetic piercing	* Adur DC in relation to Highways Maintenance - the relevant Cabinet Member  ** Adur DC in relation to Street Trading - the relevant Cabinet Member	

3.2.4	To determine whether or not a simple caution should be administered following an investigation into an alleged criminal offence	Head of Legal Services	There must be a full admission It must be a minor matter It must be in the public interest It must be a first offence Copy to be sent with reasons to the Head of Legal Services To exclude the administration of the caution.
3.2.5	All matters relating to the investigation of matters under the Health & Safety at Work legislation.	Head of Legal Services	Duly appointed inspectors
3.2.6	To convene meetings of Full Council, Cabinet, Cabinet Members, Committees and other bodies.	Mayor, Leader, Cabinet Member or Chair as appropriate	
3.2.7	To cancel meetings of Full Council, Cabinet, Cabinet Members, Committees and other bodies.	Mayor, Leader, Cabinet Member or Chair as appropriate	
3.2.8	To exercise the Councils' regulatory functions relating to Animal Welfare.		
<a href="#">3.2.9</a>	<a href="#">To exercise the Councils' regulatory functions relating to burials, issuing exclusive rights of burial, rights to erect memorials, cremations and the maintenance of churchyards.</a>		
<a href="#">3.2.10</a>	<a href="#">To manage (including the authority to agree usage) and maintain burial grounds and crematoria within the Council's control.</a>		
<a href="#">3.2.11</a>	<a href="#">To charge fees for medical referees</a>		
<b>3.3</b>	<b>Head of Environmental Services</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.3.1	To exercise the Council's functions relating to the provision and management of recreational facilities.		
3.3.2	To manage (including the authority to agree usage) and maintain all the parks, pleasure grounds, gardens, open spaces, commons, recreational facilities, <del>burial grounds, crematorium</del> and nature reserves within the Council's control.	Adur DC the relevant Cabinet Member in cases where the authority is required to agree usage	
<del>3.3.3</del>	<del>3.3.4 To charge fees for medical referees</del>	<del>3.3.5-</del>	<del>3.3.6-</del>
<del>3.3.7</del> <a href="#">3.3</a>	To exercise the Council's regulatory functions relating to Pest Control		
<del>3.3-83</del> <a href="#">3</a>	All matters related to the Council's powers and duties in relation to the coast, rivers and harbours.		

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<a href="#">3.3.93.3</a>	All matters relating to pleasure boats, boatman's licences, fisherman's agreements.		
<a href="#">3.3.103.</a>	To determine as landowner or landlord applications for licences, consents and permissions in respect of the Council's parks and foreshore buildings or land.	Cabinet Members for Resources and Cabinet Members for Environment	
<a href="#">3.3.113.</a>	To collect, remove, recycle and dispose of waste.		
<a href="#">3.3.123.</a>	To collect, remove, recycle and dispose of litter.		
<a href="#">3.3.133.</a>	To collect, remove, recycle and dispose of abandoned or unauthorised vehicles.		
<a href="#">3.3.143.</a>	To determine and communicate the Council's position relating to Goods Vehicle Operators licences.		
<a href="#">3.3.153.</a>	To authorise the waiving or reduction of charges for special refuse collections, commercial waste collections, green waste collections and clinical waste collections.		
<a href="#">3.3.163.</a>	To undertake vehicle testing and issue Ministry of Transport Certificates and to make appropriate charges, and to waive and reduce such charges.		
<a href="#">3.3.173.</a>	To take any action to combat anti-social behaviour including the issue of fixed penalty notices or community penalty notices for littering, fly tipping, breach of public space protection orders, unlawful camping and dog fouling		
<a href="#">3.3.183.</a>	To issue fixed penalty notices upon commercial traders for unlawful management of commercial waste		
<a href="#">3.3.193.</a>	To exercise the Council's regulatory functions in respect of street trading		
<a href="#">3.3.203.</a>	To undertake all matters related to the inspection and maintenance of Council owned trees	Where a tree is subject to a Tree Preservation Order, only to be exercised in consultation with the Head of Planning and Development	
<a href="#">3.3.213.</a>	To undertake all matters relating to the design, installation, inspection and maintenance of all Council owned play areas	In respect of design and installation to be exercised only in consultation with the Head of Business and Technical Services	
<a href="#">3.3.223.</a>	To act on behalf of Worthing Borough Council as Trustee of Highdown Gardens Trust and Chalk Pit Charity Trust		Limited to being exercised in respect of day to day management activities and administrative matters only.

<a href="#">3.3.233.</a>	To act on behalf of Adur District Council as Trustee of Adur Recreation Ground and The Green		Limited to being exercised in respect of day to day management activities and administrative matters only.
<b>3.4</b>	<b>Head of Revenues &amp; Benefits</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.4.1	To determine any applications for Housing Benefit, Council Tax Support or similar benefits.		
3.4.2	To make payments of Housing Benefit and Council Tax Support or similar benefits		
3.4.3	To take all necessary actions relating to the demand, collection and the recovery of Council Tax Rates, National Non-Domestic Rates and any other local levy or collected taxes.		
3.4.4	To determine entitlement to mandatory, discretionary and other rate relief applications, including National Non-Domestic Rate relief.		
3.4.5	To serve on the Valuation Officer notice of objection to any proposals for alteration of the Valuation List.		
3.4.6	To make proposals for the alteration of the Valuation List or for inclusion of particular properties in the Valuation List.		
3.4.7	To sign off Valuation Agreements.		
<b>3.5</b>	<b>Head of Customer and Digital Services</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.5.1	All matters relating to on and off street parking	In respect of Adur District Council, consultation with the relevant Cabinet Member	
<b>3.6</b>	<b>Head of Planning and Development</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.6.1	All matters relating to the naming and numbering of streets.	Relevant Planning Committee Adur DC - relevant Cabinet Member, Ward member and where practicable the Planning Committee	
3.6.2	To issue and serve notices pursuant to the Building Act 1984 and Building Regulations and to carry out works in default.		
3.6.3	To decide all Building Regulations applications in accordance with Building Regulations current at time of deposit.		
3.6.4	To determine all relevant charges in		

	accordance with the Building (Prescribed Fees) Regulations 2010 as amended		
3.6.5	<p>To determine applications for Planning permission, listed building consent, conservation area consent, express consent to display advertisements, hazardous substances consent pursuant to the Planning Acts, including:</p> <p>a. development specified in the GPDO where expressed planning permission is required by reason of limitations or conditions by that order; and</p> <p>b. determinations in connection with prior notification procedure under T&amp;CP (General Permitted Development) Order.</p>		<p>The delegation shall not be exercised in relation to:</p> <p>a. applications requiring the Secretary of State to be notified under the Town and Country (Development Plans and Consultations) (Departures) Direction 2009;</p> <p>b. applications for development requiring an environmental impact assessment but excluding applications for a screening or scoping opinion in connection with an environmental impact assessment;</p> <p>c. applications comprising 'major' development within the meaning of the T&amp;CP (General Permitted Development) Order, other than applications for amendments to major developments where those amendments are either minor or non-material. Members will be notified when such minor or non-material amendments to major applications have been approved;</p> <p>d. applications for development which conflicts materially with the Local Plan;</p> <p>e. applications materially affecting ancient monuments, and sites of special scientific interest;</p> <p>f. applications made by or on behalf of jointly with or promoted by the Council, a</p>

			<p>parish Council, West Sussex County Council any other local authority;</p> <p>g. where the application has been made by a Member of Adur District Council or Worthing Borough Council, or by an Officer of either Council who is either the Chief Executive, a Chief Officer, Deputy Chief Officer, Planning Services Manager or Planning Policy Manager, or who works within the Planning and Development Section</p> <p>h. where a member of the Council not more than 28 days after validation of an application requests otherwise, subject to providing valid planning reasons.</p>
3.6.6	To determine applications for consent pursuant to the conditions and limitations under the Planning Acts.		
3.6.7	To determine the Council's stance in respect of and respond to consultation opinions concerning matters including, but not limited to, Neighbourhood Plans and WSCC planning applications, unless they are for 'major' development within the meaning of the T&CP (General Development Procedure) Order <u>(other than those where the proposed amendment is minor or non-material).</u>	In respect of Neighbourhood Plans, in consultation with Relevant Cabinet Member.  <u>Members will be notified when minor amendments to 'major' applications have been approved.</u>	
3.6.8	To determine applications for lawful development certificates (Town and Country Planning Acts Sections 191 and 192).	Head of Legal Services where necessary.	
3.6.9	To give, make and confirm any Order or Direction under the Planning Acts		
3.6.10	To issue, serve, modify and withdraw any Notice under the Planning Acts and to carry out works in default including ruins and dilapidated buildings and neglected sites (Building Act 1984, Section 79).		
3.6.11	To determine applications and to take any action under Anti-Social		



	Behaviour Act (2003) Part 8 (High Hedges).		
3.6.12	Subject to the limitations imposed above to determine the Council's stance in respect of and respond to consultations and opinions concerning matters referred to above.		
3.6.13	All matters relating to the Planning (Hazardous Substances) Act, 1990.		
3.6.14	To issue and serve notices in relation to breaches of conditions in relation to planning permissions.		
3.6.15	To negotiate and enter into planning or other agreements regulating or controlling the use of development of land.	Head of Legal Services	Not where the determining body for any associated planning application is a committee.
3.6.16	To make minor amendments in planning or other agreements regulating or controlling the use or development of land where the determining body for any associated planning application is a committee.	Head of Legal Services	
3.6.17	To issue serve modify or withdraw any enforcement action or notices under the Planning Acts, etc.	Head of Legal Services	
<b>3.7</b>	<b>Chief Financial Officer</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.7.1	To take any action relating to borrowing in accordance with the Council's borrowing strategy.		
3.7.2	To borrow by way of bank overdraft from the Council's current bankers subject to annual review by the bank and the Cabinet Member for Resources.	Cabinet Member for Resources	£1,000,000
3.7.3	To make payments into the insurance fund.		
3.7.4	To make payments in respect of any claims where the Council's insurers may be involved.		
3.7.5	To invest available funds on appropriate terms and in accordance with the Council's investment strategy.		
3.7.6	To make payment of any sums due from the Council.		
3.7.7	To make repayments to the West Sussex County Council Pension Fund from those reserves earmarked for pensions contributions.		
3.7.8	To write off debts.		In accordance with the Financial Procedure Rules
3.7.9	To investigate allegations of housing benefit or council tax benefit fraud.		Not exercisable in respect of ADC.

3.7.10	To investigate and report upon any allegations of fraud or dishonesty.		
3.7.11	In respect of housing benefit and council tax fraud, to determine whether or not a simple caution or administrative penalty should be administered following an investigation into an alleged criminal offence.	Head of Legal Services	Not exercisable in respect of ADC. There must be a full admission It must be a 1st offence It must be for sums less than £500 It must be in the public interest It must not be a complex fraud or attempted fraud Copy to be sent with reasons to EHC&CS
3.7.12	In respect of housing benefit and council tax fraud, to administer simple cautions and administrative penalties.		Not exercisable in respect of ADC.
3.7.13	To settle any claims where the Council's Insurers may be involved.	Head of Legal Services and any other relevant Officer.	
3.7.14	<a href="#">To approve the recommended scale of Returning Officer's Expenditure for Local Government Elections, Polls and Referendums in West Sussex, as proposed by the Returning Officer for West Sussex County Council.</a>		
<b>3.8</b>	<b>Head of Human Resources</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.8.1	To confirm the appointment of staff on the satisfactory completion of probationary period.	Appropriate Head of Service	
3.8.2	To implement decisions arising from the Council's pay and grading procedure.		
3.8.3	To implement any nationally agreed pay settlements.	Chief Financial Officer	
3.8.4	To maintain a register of politically restricted posts and ancillary matters.		
3.8.5	To comply with all legislation and government guidance on transparency in pay within the Council, including taking the annual Pay Policy Statement to Council		
3.8.6	To execute settlement agreements between the Council and its employees or former employees in circumstances where redundancy or termination of contract on the grounds of efficiency of the service have been approved.	Head of Legal Services	
3.8.7	To make minor, consequential and administrative amendments to the	Chairs of the Joint Staff Committee	

	Councils' Human Resources Policies		
<b>3.9</b>	<b>Head of Legal Services and Monitoring Officer</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.9.1	<p>Legal Proceedings:</p> <p>a. To determine what, if any legal action should be taken following any investigation into a criminal matter (except in relation to Health &amp; Safety at Work).</p> <p>b. To institute, prosecute or terminate any proceedings which the Council is empowered to undertake in or before any Court, Tribunal, Inquiry or by way of Fixed Penalty Notice or Community Penalty Notice (except in relation to Health &amp; Safety at Work).</p> <p>c. To defend or settle any proceedings brought against the Council (except in relation to Health &amp; Safety at Work).</p> <p>d. To take any action incidental or inclusive to or which would facilitate any action under this paragraph.</p> <p>e. To administer simple cautions.</p> <p>f. To determine whether or not any legal proceedings should be taken in any particular case or set of circumstances.</p>		In respect of settling legal proceedings a confidentiality clause may not be included unless the prior written agreement has been obtained from the Leader (or Deputy Leader in their absence) and the Leader of the Main Opposition (or Deputy in their absence).
3.9.2	To appoint and instruct legal service providers including external Solicitors and Barristers.		
3.9.3	To determine whether or not a simple caution or other alternative to prosecution should be administered following an investigation into an alleged criminal offence.		
3.9.4	To settle any claims where the Council's Insurers may be involved.	Chief Financial Officer	
3.9.5	To negotiate and enter into planning or other agreements regulating or controlling the use of development of land.	Head of Planning & Development	Not where the determining body for any associated planning application is a committee.
3.9.6	To make minor amendments to planning or other agreements regulating or controlling the use or development of land where the determining body for any associated planning application is a committee.	Head of Planning & Development	
3.9.7	To issue, serve, modify or withdraw any enforcement action or notices under the Planning Acts, etc.	Head of Planning & Development	

3.9.8	To carry out or authorise the carrying out of works in default under any statutory provisions (including Notices concerning ruinous and dilapidated or dangerous buildings and neglected sites.		
3.9.9	To determine applications under the Local Government (Miscellaneous Provisions) Acts 1982 Section 37 in respect of Temporary Markets.		
3.9.10	To give, make and confirm any Order or Direction under the Planning Acts including Tree Preservation Orders (and associated applications for consent for works) and notification of works to trees in conservation areas.	Head of Planning & Development	Not to confirm if there are any objections
3.9.11	To exercise the Council's powers relating to temporary road closures.		
3.9.12	To seal any document on behalf of the Council.		
3.9.13	To negotiate and agree the terms of any contract.		In accordance with the Contract Procedure Rules.
3.9.14	To sign any contract on behalf of the Council.		In accordance with the Contract Procedure Rules.
3.9.15	To authorise the attendance of officers at Court under any statutory provision.		
3.9.16	To authorise service of any statutory requisition for information as to interests in land.		
3.9.17	To execute any legal document on behalf of the Council.		
3.9.18	All matters relating to consultations with Sussex Police and other bodies in relation to Anti-Social Behaviour.		
3.9.19	All matters relating to the consecration of land.		
3.9.20	To issue, serve, suspend or withdraw any notices in respect of any matter for which the Council has power to act.		
3.9.21	To respond to requests for review under Data Protection and Freedom of Information legislation.		
3.9.22	All matters relating to the investigation of matters under the Health & Safety at Work legislation.		
3.9.23	To make minor or consequential amendments to the Constitution.		
3.9.24	To make orders relating to Public Spaces Protection Order in accordance with the Anti-social Behaviour, Crime and Policing Act 2014.		

3.9.25	To grant dispensations in respect of Disclosable Pecuniary Interests in accordance with the Localism Act 2011.		
3.9.26	To determine the approval of the Adur District Council and Worthing Borough Council Crest/Coat of Arms in appropriate circumstances.	In consultation with the Leader.	
3.9.27	To act as the Councils' Co-ordinator in respect of all Regulation of Investigatory Powers Act 2000 matters	In accordance with the Councils' Surveillance Policy	
<b>3.10</b>	<b>Head of Business &amp; Technical Services</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.10.1	To take any action necessary with regard to the Council's Emergency Planning functions.		
3.10.2	To manage the improvement, refurbishment, maintenance and new build provision of the Council's non-housing property portfolio not specifically the responsibility of other officers.		
3.10.3	To exercise the Council's powers in respect of water supply, sewerage and drainage.		
3.10.4	To exercise the Council's powers in respect of land drainage.	Adur DC - relevant Cabinet Member	
3.10.5	To exercise the Council's powers affecting the design or maintenance of highways		
3.10.6	All matters relating to coastal and dredging licence applications		Such development must be permitted in a General Permitted Development Order or have been granted planning permission
3.10.7	All matters related to the Council's powers and duties in relation to the coast, rivers and harbours		
<b>3.11</b>	<b>Head of Place &amp; Economy</b>		
<b>No</b>	<b>Delegation</b>	<b>Consultation</b>	<b>Limitations</b>
3.11.1	To approve and grant seasonal concession licence agreements on behalf of the Councils	In consultation with the relevant Cabinet Member, the Head of Legal Services and the Head of Planning & Development	
3.11.2	To approve non animal related Circuses	In consultation with Head of Environmental Services and the relevant Cabinet Member	To be limited to a maximum of 3 per year in Adur District Council.  To be limited to a maximum of 3 per year in Worthing Borough Council

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3.11.3	To exercise the Councils' regulatory functions relating to markets, <a href="#">filming permits, public art and bus shelter advertising</a>	Head of Legal Services	
3.11.4	To manage the function of Events Management	In consultation with the Council's Head of Communications and Emergency Planning Officer, and where the event is expected to be attended by 500 people or more, the Leader of the relevant Council.	
3.11.5	<a href="#">Effective running of Colonnade House</a>	<a href="#">In consultation with the relevant Executive Member</a>	
3.11.6	<a href="#">Overseeing the successful delivery of Public Realm projects</a>	<a href="#">In consultation with the relevant Executive Member</a>	
<b>3.12</b>	<b>Head of Major Projects &amp; Investment</b>		
3.12.1	To manage the improvement, refurbishment, maintenance and new build provision of the Council's non-housing property portfolio not specifically the responsibility of other officers.		
3.12.2	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 functions.	Where acquisition of land is purchased through the Strategic Investment Fund, the delegation is to be exercised in consultation with the Leader, Cabinet Member for Resources and the Chief Financial Officer	
3.12.3	To dispose of land in connection with the Council's functions and to grant leases, easements, licences and wayleaves of, in, or over buildings or land in connection with the Council's functions.		Disposal of land is only authorised where the value is £50,000 or less
3.12.4	To determine as landowner or landlord applications for licences, consents and permissions in respect of the Council's buildings or land.	Cabinet Member for Resources	
3.12.5	To acquire property or land in connection with the Council's housing function, for the purpose of providing emergency and temporary accommodation.	To be exercised only after consultation with the relevant Leader, Cabinet Member for Resources, Chief Financial Officer and Head of Housing.	

## Proper Officer and Authorised Officer Functions

The Council designates Proper Officers to carry out functions allocated by law. Power to appoint Proper Officers is delegated to the Chief Executive, following consultation with the Monitoring Officer, unless legislation requires the appointment to be made by Full Council.

The following Proper Officer and/or authorised officer functions listed in column 3 are assigned to the officers and deputies in columns 4 and 5.

<b>Functions relating to Officers</b>			
<b>Act</b>	<b>Function</b>	<b>Officer</b>	<b>Deputy</b>
<a href="#">s.2(4) Local Government and Housing Act 1989</a>	To maintain a list of politically restricted posts	Head of Human Resources	
<a href="#">s.3A Local Government and Housing Act 1989</a>	To determine applications for exemption from the list of politically restricted posts	Chief Executive in consultation with the Monitoring Officer	Head of Legal Services
<a href="#">s.4 Local Government and Housing Act 1989</a>	Head of Paid Service	Chief Executive	Nominated Director
<a href="#">s.5 Local Government and Housing Act 1989</a>	Monitoring Officer	Head of Legal Services	Senior Solicitors
<a href="#">Sch.1, Part II, Paras.5-6 Local Authorities (Standing Orders) (England) Regulations 2001</a>	Notification to Cabinet and objections to be considered concerning appointment or dismissal of Head of Paid Service, Chief Officers or Deputy Chief Officers	Monitoring Officer	Deputy Monitoring Officer(s)
	Any reference to the Clerk of a council which, by virtue of the Local Government Act 1972, is to be construed as a reference to the Proper Officer of the Council	Monitoring Officer	Deputy Monitoring Officer(s)
	Any reference to the Treasurer of a council which, by virtue of the Local Government Act 1972, is to be construed as reference to the Proper Officer of the Council	Chief Financial Officer	

<b>Functions relating to Democratic Process</b>			
<b>Act</b>	<b>Function</b>	<b>Officer</b>	<b>Deputy</b>
<a href="#">s.8 Representation of the People Act 1983</a>	Electoral Registration Officer	Chief Executive	Director for Digital, Sustainability and Resources
<a href="#">s.35 Representation of the People Act 1983</a>	Returning Officer	Chief Executive	Officer(s) appointed in writing by the Returning Officer
<a href="#">s.52 Representation of</a>	Deputy Electoral Registration Officer	Director for Digital, Sustainability and	Head of Customer and Digital Services

<a href="#">the People Act 1983</a>		<a href="#">Resources</a>	
<a href="#">s.67(7)(b) Representation of the People Act 1983</a>	<a href="#">Receive declarations and give public notice of election agents' appointments</a>	<a href="#">Director for Digital, Sustainability and Resources</a>	<a href="#">Head of Customer and Digital Services</a>
<a href="#">ss.81, 82 and 89 Representation of the People Act 1983</a>	<a href="#">To receive, inspect and publish returns and declarations of election expenses</a>	<a href="#">Director for Digital, Sustainability and Resources</a>	<a href="#">Head of Customer and Digital Services</a>
<a href="#">Sch.29 Para.4 Representation of the People Act 1983</a>	<a href="#">Undertake duties at council elections which are required to be undertaken not by the Returning Officer but by the Proper Officer</a>	<a href="#">Chief Executive</a>	<a href="#">Director for Digital, Sustainability and Resources</a>
<a href="#">s.131 Representation of the People Act 1983</a>	<a href="#">Providing accommodation for holding election count</a>	<a href="#">Chief Executive</a>	<a href="#">Director for Digital, Sustainability and Resources</a>
<a href="#">s.83 Local Government Act 1972</a>	<a href="#">Declarations of acceptance of office</a>	<a href="#">Chief Executive</a>	<a href="#">Director for Communities</a>
<a href="#">s.84 Local Government Act 1972</a>	<a href="#">Receipt of resignations</a>	<a href="#">Chief Executive</a>	<a href="#">Director for Communities</a>
<a href="#">s.86 Local Government Act 1972</a>	<a href="#">To declare any vacancy in office</a>	<a href="#">Chief Executive</a>	<a href="#">Director for Communities</a>
<a href="#">s.88(2) Local Government Act 1972</a>	<a href="#">Convene a meeting to fill a vacancy of a chair</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">s.89(1) Local Government Act 1972</a>	<a href="#">Receive from two electors notices of casual vacancies of Councillors</a>	<a href="#">Chief Executive</a>	<a href="#">Director for Digital, Sustainability and Resources</a>
<a href="#">s.100B(2), (7)(c) and 100H Local Government Act 1972</a>	<a href="#">Excluding from the public reports which are not likely to be considered in open session; and provision to the press/public of other documents provided to members where the Proper Officer thinks fit</a>	<a href="#">Monitoring Officer</a>	<a href="#">Deputy Monitoring Officer(s)</a>
<a href="#">s.100C(2) Local Government Act 1972</a>	<a href="#">Where part or the whole of the report has been exempt the Proper Officer shall make a written summary of the proceedings or a part to provide a record without disclosing the exempt information.</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">s.100D(1)(a) and (5)(a) Local Government Act 1972</a>	<a href="#">Compilation of list of background documents relied upon to a material extent in producing the report or disclosing important facts</a>	<a href="#">Author of report</a>	



<a href="#">s.100F(2) Local Government Act 1972</a>	<a href="#">Deciding whether documents for inspection in connection with Committees contain exempt information under a paragraph of Schedule 12A</a>	<a href="#">Monitoring Officer</a>	<a href="#">Deputy Monitoring Officer(s)</a>
<a href="#">Sch.29 Para.4(1)(b) Local Government Act 1972</a>	<a href="#">Adaptation, modification and amendment of enactments</a>	<a href="#">Monitoring Officer</a>	<a href="#">Deputy Monitoring Officer(s)</a>
<a href="#">s.41 Local Government Miscellaneous Provisions Act 1976</a>	<a href="#">To certify copies of Resolutions Orders reports or Minutes of the Council or any Predecessor Authority</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">ss.15-17 Local Government and Housing Act 1989</a>	<a href="#">Undertake all matters relating to the formal establishment of Political Groups, and give effect to the wishes of Political Groups in making appointments of members to committees</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Regs.8-10, 13-15 and 17 Local Government (Committees and Political Groups) Regulations 1990</a>	<a href="#">Receipt of notice re Political Groups; give effect to the wishes of Political Groups in making appointments of members to committees</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Part 3 Local Government Act 1974</a>	<a href="#">Local Government Ombudsman functions, including giving public notice of reports</a>	<a href="#">Director for Digital, Sustainability and Resources in consultation with Monitoring Officer</a>	<a href="#">Head of Customer and Digital Services</a>
<a href="#">Sch.2 Para.54 Local Elections (Principal Areas)(England and Wales) Rules 2006</a>	<a href="#">Registration officer for the retention and destruction of documents following an election</a>	<a href="#">Chief Executive</a>	<a href="#">Director for Digital, Sustainability and Resources</a>
<a href="#">Local Authorities (Referendum) (Petitions) (England) Regulations 2011</a>	<a href="#">Publish the verification number of local government electors for the purpose of petitions under s.34 Local Government Act 2000</a>	<a href="#">Director for Digital, Sustainability and Resources</a>	<a href="#">Head of Customer and Digital Services</a>
<a href="#">Local Authorities (Conduct of Referendums) (England) Regulations 2012</a>	<a href="#">Proper Officer function</a>	<a href="#">Director for Digital, Sustainability and Resources</a>	<a href="#">Head of Customer and Digital Services</a>
<a href="#">s.29 Localism Act 2011</a>	<a href="#">Establish and maintain a register of members' and co-opted members' interests</a>	<a href="#">Monitoring Officer</a>	<a href="#">Deputy Monitoring Officer(s)</a>
<a href="#">s.30-31 Localism Act 2011</a>	<a href="#">Receipt of members' and co-opted members' declarations of interests and changes to those</a>	<a href="#">Monitoring Officer</a>	<a href="#">Deputy Monitoring Officer(s)</a>

	<u>interest within 28 days</u>		
<u>s.32 Localism Act 2011</u>	<u>Sensitive interests</u>	<u>Monitoring Officer</u>	<u>Deputy Monitoring Officer(s)</u>
<u>s.33 Localism Act 2011</u>	<u>Dispensations from restrictions under s.31(4)</u>	<u>Monitoring Officer</u>	<u>Deputy Monitoring Officer(s)</u>
<u>Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012</u>	<u>Functions relating to the recording and publication of information relating to Executive decisions; inform the relevant Overview and Scrutiny Committee Chairs or the Committee Members of decisions to be made where it has been impracticable to comply with the publicity requirements (in the Forward Plan) and publish notices relating to this; publish a written statement of Executive decisions and background papers; determine whether certain documents contain exempt or confidential information; grant dispensations in respect of conflicts of interest declared by a Cabinet Member making a decision, or declared by a Cabinet Member consulted by a member or officer taking such a decision</u>	<u>Director for Communities</u>	<u>Head of Wellbeing</u>
<u>s. 21A Local Government Act 2000 (as amended)</u>	<u>Decision making in respect of Councillor Call for Action</u>	<u>Director for Communities</u>	<u>Head of Wellbeing</u>
<b><u>Functions relating to Finance</u></b>			
<b><u>Act</u></b>	<b><u>Function</u></b>	<b><u>Officer</u></b>	<b><u>Deputy</u></b>
<u>All legislation prior to 1 April 1972; s.151 Local Government Act 1972; and ss.114-116 Local Government Finance Act 1988</u>	<u>Proper Officer in relation to references to Treasurer or District Treasurer; the officer responsible for the proper management of the Council's financial affairs and for making reports to Cabinet/Council</u>	<u>Chief Financial Officer</u>	<u>Deputy s.151 Officer(s)</u>
<u>All legislation prior to 1 April 1972</u>	<u>Proper Officer in relation to declarations and certificates with regard to securities</u>	<u>Chief Financial Officer</u>	<u>Deputy s.151 Officer(s)</u>
<u>s.115(2) Local Government Act 1972</u>	<u>For receipt of monies due to the Council from Officers</u>	<u>Chief Financial Officer</u>	<u>Deputy s.151 Officer(s)</u>
<u>s.146(1) Local Government Act 1972</u>	<u>Sign the statutory declaration to enable the transfer of securities in the event of a change in the</u>	<u>Chief Financial Officer</u>	<u>Deputy s.151 Officer(s)</u>

name or status of the council			
<b>Functions relating to Legal Processes</b>			
<b>Act</b>	<b>Function</b>	<b>Officer</b>	<b>Deputy</b>
<a href="#">s.229 Local Government Act 1972</a>	<a href="#">To certify photographic copies of documents to be a true copy (other than those under Public Records Act 1958)</a>	<a href="#">Head of Legal Services</a>	<a href="#">Senior Solicitor(s)</a>
<a href="#">s.234 Local Government Act 1972</a>	<a href="#">To sign Notices Orders or other documents authorised or required by or under any Enactment</a>	<a href="#">Head of Legal Services</a>	<a href="#">Senior Solicitor(s)</a>
<a href="#">s.236 Local Government Act 1972</a>	<a href="#">To send copies of Byelaws to Parish and Community Councils to which they apply.</a>	<a href="#">Head of Legal Services</a>	<a href="#">Senior Solicitor(s)</a>
<a href="#">s.238 Local Government Act 1972</a>	<a href="#">Certification of printed copies of bylaws</a>	<a href="#">Head of Legal Services</a>	<a href="#">Senior Solicitor(s)</a>
<a href="#">s.36 Freedom of Information Act 2000</a>	<a href="#">Non-disclosure where potential to prejudice the effective conduct of public affairs</a>	<a href="#">Head of Legal Services</a>	<a href="#">Senior Solicitor(s)</a>
<a href="#">Sch.12 Para.4(2)(b) Local Government Act 1972</a>	<a href="#">Signing and serving summonses to attend meetings of the council</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Sch.12 Para.4(3) Local Government Act 1972</a>	<a href="#">Receive written notice from a Member of the address to which a summons to the meeting is to be sent</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Sch.12 Para.25 Local Government Act 1972</a>	<a href="#">Certifying copy resolutions of the council passed before 1975 disapplying public health statutes</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<b>Court Representation</b>			
<a href="#">Every Solicitor, Barrister or Chartered Legal Executive employed or engaged by the Council (irrespective of their job title) shall be authorised to appear on its behalf before any Court, Tribunal or other hearing before which they have a Right of Audience and to exercise the powers given by the relevant professional body.</a>			
<a href="#">In addition to the powers delegated in Section 3 above and the rights to appear in Court detailed in paragraphs 4.4.7, the following Officers in column 4 are authorised to appear on behalf of the Council and to conduct proceedings in Court in relation to the functions mentioned in column 3.</a>			
<a href="#">There may be Officers other than those listed in 4.7 who are authorised to appear in Court on behalf of the Council by virtue of the Monitoring Officer's delegation at 3.8.16 to provide such authorisation. Any authorisations made under delegation 3.8.16 will be recorded in writing and shall be provided to the Monitoring Officer within five working days and made available on the intranet.</a>			
<b>Act</b>	<b>Function</b>	<b>Officer</b>	<b>Deputy</b>
<a href="#">s.223 Local Government Act 1972 and s.60 County Courts Act 1984</a>	<a href="#">In respect of possession matters and for any purpose for which the Council is empowered to authorise Officers to appear on its behalf</a>	<a href="#">Legal Assistants Trainee Solicitors</a>	

<a href="#">s.223 Local Government Act 1972</a>	<a href="#">In respect of National Non-Domestic Rating or Council Tax matters</a>	<a href="#">Head of Revenues and Benefits</a>	<a href="#">Revenues &amp; Benefits Operations Manager, Revenues and Recovery Team Leader, Court Officer</a>
<a href="#">Part 9 Insolvency Rules 1986</a>	<a href="#">Examination of persons concerning company and individual insolvency</a>	<a href="#">Head of Revenues and Benefits (in consultation with Monitoring Officer)</a>	
<a href="#">Part I Health and Safety at Work etc. 1974</a>		<a href="#">Head of Wellbeing (in consultation with Monitoring Officer)</a>	
<b>Functions in relation to Public Health</b>			
<b>Act</b>	<b>Function</b>	<b>Officer</b>	<b>Deputy</b>
<a href="#">s.79 Public Health Act 1936 &amp; Schedule 29 Part 1 Local Government Act 1972</a>	<a href="#">Removal of Noxious Matter</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">s.84 Public Health Act 1936 &amp; Schedule 29 Part 1 Local Government Act 1972</a>	<a href="#">Verminous Articles</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">s.85 Public Health Act 1936 &amp; Schedule 29 Part 1 Local Government Act 1972</a>	<a href="#">Verminous People</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Part XI Local Government Miscellaneous Provisions Act 1982</a>	<a href="#">Public Health</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Part 1 Section 46 Care Act 2014</a>	<a href="#">Removal of people in need</a>	<a href="#">Director for Communities</a>	<a href="#">Officers of Health Authority etc. authorised under Section 113 (1A) of the Local Government Act 1972</a>
<a href="#">s.37 Public Health Act 1961</a>	<a href="#">Verminous Articles</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">ss.48 and 59 Public Health (Control of Disease) Act 1984 (as amended)</a>	<a href="#">Infectious diseases and dead bodies; preparation of certificate to Justice of Peace for removal of body to mortuary and for burial; authentication of documents</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Sch.14 Paragraph 25(7) Local Government Act 1972</a>	<a href="#">To certify copies of Resolutions applying or disapplying provisions of the Public Health Act 1875 to 1925</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>

<a href="#">Food Safety Act 1990 (as amended)</a>	<a href="#">Food Safety and authentication of documents</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">s.40 Anti-Social Behaviour Act 2003</a>	<a href="#">Closure order in respect of noisy premises where public nuisance</a>	<a href="#">Chief Executive</a>	<a href="#">Director for Communities</a>
<a href="#">s.78 Building Act 1984</a>	<a href="#">Authorise action in relation to dangerous structures</a>	<a href="#">Appropriate Director</a>	<a href="#">Appropriate Head of Service</a>
<a href="#">European Communities Act 1972</a>	<a href="#">Food Safety</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Animal Welfare Act 2006 (as amended) &amp; Pet Animals Act 1983</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Caravan Sites and Control of Development Act 1960</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Animal Boarding Establishments Act 1963</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Riding Establishments Act 1964 and 1970</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Scrap Metal Dealers Act 2013</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Animal Welfare Act 2006 and 1991 &amp; Breeding and Sale of Dogs (Welfare) Act 1999</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">s.41 Local Government (Miscellaneous Provisions) Act 1976</a>	<a href="#">Certifying copy resolutions and minutes of proceedings</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Zoo Licensing Act 1981</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Parts II, III VII, VIII and XI Local Government (Miscellaneous Provisions) Act 1982</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Public Health (Control of Disease) Act 1984 and regulations made thereunder</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Control of Pollution (Amendment) Act 1989</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>

<a href="#">Clean Neighbourhoods and Environment Act 2005</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Health Act 2006 Chapter 1</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Part 4 Anti-social Behaviour, Crime and Policing Act 2014</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Parts 1, 2, 2A and 3 Environmental Protection Act 1990</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Part 4 Environment Act 1995</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">s.108 Environment Act 1995</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Part 1 &amp; Part 3 Prevention of Damage by Pests Act 1949</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Control of Pollution Act 1974</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Dangerous Wild Animals Act 1976</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Refuse Disposal (Amenity) Act 1978</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Town Police Clauses Act 1847</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Housing Act 1985, 1989 and 2004</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Clean Air Act 1993</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Pollution Prevention and Control Act 1999</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Environmental Damage (Prevention and Remediation) Regulations 2015</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Health and Safety at Work 1974</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Animal Welfare Act 2006</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">s.59 Building Act 1984</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">House to House Collections Act 1939</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">Police, Factories, etc. (Miscellaneous</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>

<a href="#">Provisions) Act 1916</a>			
<a href="#">Hypnotism Act 1952</a>		<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<b>Miscellaneous Functions</b>			
<b>Act</b>	<b>Function</b>	<b>Officer</b>	<b>Deputy</b>
<a href="#">s.100G Local Government Act 1972</a>	<a href="#">Maintain a list of members</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">s.100G Local Government Act 1972</a>	<a href="#">Maintain a list of delegations to officers and the like</a>	<a href="#">Monitoring Officer</a>	<a href="#">Deputy Monitoring Officer(s)</a>
<a href="#">s.146(1)(a) Local Government Act 1972</a>	<a href="#">Statutory Declaration re Change of Name of the Authority in connection with Companies</a>	<a href="#">Monitoring Officer</a>	<a href="#">Senior Solicitor(s)</a>
<a href="#">s.191(2) Local Government Act 1972</a>	<a href="#">Receive applications from Ordnance Survey for assistance in surveying disputed boundaries</a>	<a href="#">Director for Economy</a>	
<a href="#">s.210 Local Government Act 1972</a>	<a href="#">In respect of powers with regard to charities</a>	<a href="#">Director for Communities</a>	<a href="#">Head of Wellbeing</a>
<a href="#">s.225 Local Government Act 1972</a>	<a href="#">Deposit of documents in accordance with Standing Orders of either House of Parliament, Enactment or Statutory Instrument</a>	<a href="#">Monitoring Officer</a>	<a href="#">Senior Solicitor(s)</a>
<a href="#">s.248 Local Government Act 1972</a>	<a href="#">To keep the roll of Freeman of City or Town in District</a>	<a href="#">Chief Executive</a>	<a href="#">Director for Communities</a>
<a href="#">ss.69, 70-71 Data Protection Act 2018</a>	<a href="#">Designated Data Protection Officer</a>	<a href="#">Senior Information Governance Officer</a>	
<a href="#">Any other provisions for which arrangements are not specifically made under this Scheme of Delegation</a>	<a href="#">Any other legislation whether made before or after this list was approved and requiring a Proper Officer or authorised officer where not otherwise stated in the Council's approved scheme of delegations from time to time</a>	<a href="#">Chief Executive</a>	
<b>Functions in relation to Entry of Land/Premises</b>			
<a href="#">The Chief Executive, Directors, Head of Legal Services, Senior Solicitors, Solicitors, Senior Legal Executives, Legal Executives and Emergency Planning Officer shall be authorised to enter land or premises in relation to any function of the Council, subject to any applicable statutory constraints.</a>			
<a href="#">In addition to the powers delegated in Section 3 above, the following Officers in column 4 are authorised to enter land or premises for or in connection with their duties and pursuant to the functions mentioned in column 3, subject to any applicable statutory constraints.</a>			
<a href="#">An Officer authorised to enter land is also authorised to seek a warrant to enter.</a>			
<a href="#">An Officer authorised to enter land may take with them such other persons and equipment as may be necessary.</a>			
<a href="#">The right to enter given by paragraph 4.7 shall extend to the exercise of the power to make inspections, to provide samples and to examine and seize goods.</a>			

<b><u>Environmental Health, Housing etc.</u></b>			
<b><u>Act</u></b>	<b><u>Function</u></b>	<b><u>Officer</u></b>	<b><u>Deputy</u></b>
	<u>Animal Welfare</u> <u>Caravan Sites</u> <u>Environmental Protection</u> <u>Food Safety and Hygiene</u> <u>Health and Safety at Work</u> <u>Housing</u> <u>Licensing Act 2003</u> <u>Pest Control</u> <u>Public Health</u> <u>Public Safety</u> <u>Scrap Metal Dealers</u> <u>Shop Acts</u> <u>Street Trading</u> <u>Sunday Trading</u> <u>Gambling Act 2005</u> <u>Animal Boarding Licences</u> <u>Pet Shops</u> <u>The Breeding of Dogs</u> <u>Zoo Licensing</u> <u>Sex Establishments</u> <u>Hypnosis</u> <u>Dangerous Wild Animals Act</u> <u>1976</u> <u>Riding Establishments Act 1964</u> <u>and 1970</u> <u>Drainage including s.59 Building</u> <u>Act 1984</u>	<u>Director for</u> <u>Communities and</u> <u>such others as shall</u> <u>be delegated in</u> <u>writing by them from</u> <u>time to time</u>	<u>Head of Wellbeing</u>
<b><u>Planning</u></b>			
<u>ss.178, 196A,</u> <u>196B, 324 &amp; 325</u> <u>Town and Country</u> <u>Planning Act 1990</u>		<u>Director for</u> <u>Economy/Director</u> <u>for Communities, as</u> <u>appropriate</u>	
<u>s.88 Planning</u> <u>(Listed Buildings</u> <u>and Conservation</u> <u>Areas) Act 1990</u>		<u>Planning Services</u> <u>Manager</u> <u>Development</u> <u>Control Manager</u>	
<u>s.36 Planning</u> <u>(Hazardous</u> <u>Substances) Act</u> <u>1990</u>		<u>Principal Planning</u> <u>Officers</u> <u>Senior Planning</u> <u>Officers</u> <u>Planning assistants</u> <u>Senior Enforcement</u> <u>Officer</u> <u>Enforcement</u> <u>Assistant</u>	
<u>Part 8 Anti-Social</u> <u>Behaviour Act</u> <u>2003</u>		<u>Director for</u> <u>Communities</u> <u>Planning Services</u> <u>Manager</u> <u>Development</u> <u>Control Manager</u>	



		<u>Principal Planning Officers</u> <u>Senior Planning Officers</u> <u>Planning assistants</u> <u>Senior Enforcement Officer</u> <u>Enforcement Assistant</u> <u>Senior Technical Officer (Parks)</u>	
<b><u>Building Control</u></b>			
<u>s.95 Building Act 1984</u>	<u>General power of entry in relation to building regulations</u>	<u>Head of Building Control and Land Charges</u> <u>Principal Building control Surveyor</u> <u>Senior Building control surveyor</u> <u>Building control surveyor</u> <u>Fire Safety Officer</u>	
<b><u>Local Taxation</u></b>			
	<u>Collection of Local Taxes</u>	<u>Director for Digital, Sustainability and Resources, Head of Revenues and Benefits, Revenues and Recovery Inspector/Collectors</u>	
<b><u>Land Drainage and Sewerage Undertaking</u></b>			
<u>Water Industry Act 1991</u>		<u>Principal Engineer</u> <u>Senior Engineer</u>	
<u>Land Drainage Act 1991</u>			

## Joint Councils Contract Standing Orders

### 1. Standing Order 1

#### 1.1. Introduction and Purpose

These Contract Standing Orders (CSO) are applicable to all the Council's Officers (and its appointed consultants) when procuring contracts for works, services and goods. They provide a legal framework to ensure a uniform and transparent approach to procurement, and enable the Council to achieve best value for money.

#### 1.2. Creating a Contract

A contract is created where there is an offer, acceptance, consideration and a legal intention between the parties; where these criteria exist a contract can be created orally or in writing. Officers entering into pre-contract negotiations with a Supplier, should declare all communications whether by telephone or by email to be 'subject to executed contract'. For the form of contract see CSO 12.1.

#### 1.3. Pre-procurement considerations

##### 1.3.1 Request for Quote or Tender

A request for quotation (RFQ) is the process used by Officers who know what they want and are seeking pricing information to achieve best value, for a defined scope of work, services, or goods. An RFQ can be used providing the value is below £100,000 (inclusive of VAT) and the processes set out at CSOs 8, 9 and 10 are followed.

An invitation to tender (ITT) is used when the Council wants to invite suppliers to bid on the delivery of works, services or goods and enables the Council to evaluate additional criteria such as the supplier's technical solutions, delivery methodology, skill sets, as well as quality and price. See CSOs 8.3 and 8.4.

##### 1.3.2 Assessing the total Contract Value

Prior to procuring, Officers must assess the total contract value of their contract.

The Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2021 and [PPN 10/21](#), require the total value of all public contracts to be calculated including VAT, although the Council is generally able to recover the VAT element of a contract payment.

The total contract value includes the whole life-cycle cost, including any recurring revenue or capital expense, as well as all one-time charges including professional service fees, onboarding and exit fees.

Where the Council is procuring on behalf of other public bodies as well as itself, then the contract value shall be determined as the combined sum for all public bodies even if our Council is only paying one part of the overall cost.

Where the contract is procured in "lots", e.g. based on geographical area or by particular type of requirements, then the contract value shall be the total value of all the combined lots.

##### 1.3.3 Budget

Officers must ensure that they have a sufficient and approved budget in place prior to commencing the procurement project. If the contract involves the supply of assets under lease finance arrangements, the Lease must be signed off by the Chief Financial Officer or their appointed deputy.

#### **1.3.4 Authority**

Officers must have Member Authority to enter into the contract (see CSO 2). The type of Member authority required will depend upon the value of the contract, and whether or not budget is already in place. If in doubt, Officers should take advice from the Council's Legal, Finance, or Procurement Services.

#### **1.3.5 Decisions Pathway**

In addition to the requirement for budget and authority, Officers must consider good governance and the decision making process and always make sure that they have taken advice from Democratic or Legal Services. A Member or Officer Decision notice will need to be published prior to your contract, and any delay in following the decisions pathway will delay the execution of the contract.

Some decisions will also be a [Key Decision](#) and will require additional information to be placed on the forward plan for a minimum of 28 days prior to the publication of a decision notice.

#### **1.3.6 TUPE Transfers**

Where the Council outsources services and re-procures for those services, TUPE may apply to that procurement with eligible staff being able to transfer from the outgoing service provider to the incoming service provider. Sufficient information (compliant with data protection legislation) will need to be included in the procurement process with an assessment of the cost impact on the incoming supplier. If in doubt, always contact Legal Services and Human Resources for advice.

#### **1.3.7 Council Policies**

Depending upon the nature of the procurement, the Council may require the contractor to adopt or mirror certain policies during contract performance. Specific provisions may need to be built into the contract documents e.g. additional clauses, Health and Safety, Safeguarding, or Data Protection where personal data may be transferred.

#### **1.3.8 Reserving below threshold procurement by Location, SME, VCSEs**

Below threshold procurements can be reserved by supplier location, or for suppliers that are Small and Medium sized Enterprises (SMEs); or for Voluntary, Community and Social Enterprises (VCSEs) as enabled by the Cabinet Office [PPN 11/20](#), for the benefit of local businesses and communities.

These options should be considered on a case-by-case basis, and can be exercised on their own or together. For example, Officers may wish to reserve a procurement for suppliers based in a particular location as well as for SMEs and VCSEs, or may choose to reserve to location only or to SMEs only.

Reserving by location could also be UK-wide to support domestic supply chains and promote resilience and capacity, or where appropriate, by county to tackle economic inequality and support local recruitment, training, skills and investment. Where a county reservation is to be applied, only a single county (or borough for London) may be reserved. Supplier location should be described by reference to where the supplier is based or established and has substantive business operations and not by location of corporate ownership.

Any requirement to reserve the procurement under this CSO must follow up to date Cabinet Office guidance, and must be clearly set out in the tender documents, using the standardised definitions of SME/VCSE and supplier location outlined in the associated guidance.

#### **1.3.9 Financial Thresholds (inclusive of VAT)**

**All figures referred to in these CSO are inclusive of VAT.**

The following table provides VAT exclusive figures for the financial thresholds within these CSOs.

Thresholds inclusive VAT	Thresholds exclusive VAT	VAT
£5,000.00	<b>£4,166.67</b>	£333.33
£10,000.00	<b>£8,333.33</b>	£1,666.67
£25,000.00	<b>£20,8333.33</b>	£4,166.67
£100,000.00	<b>£83,333,33</b>	£16,666.67
£250,000.00	<b>£208,333.33</b>	£41,666.67

Public Procurement Thresholds as of 1<sup>st</sup> January 2022 (always check the thresholds as they are subject to change).

Category	Thresholds inclusive VAT	Thresholds exclusive VAT	VAT
Goods and Services	£213,477.00	<b>£177,897.50</b>	£35,579
Works	£5,336,937.00	<b>£4,447,447.50</b>	£889,489.50

How to calculate a figure inclusive of VAT – (for a VAT rate of 20%) Divide the VAT inclusive figure by 1.2% to find the figure less VAT

### 1.3.10 Procurement Procedures Chart

Total Value (inclusive of VAT)	Procurement Route	Receipt of Quotes/Tenders	Delegated Authority for Contract Approval and Award	Method of Contract Completion	Transparency Code Obligations
Up to £25,000 (unless CSO 5.2 applies)	Two written quotations or if impractical one quote with evidence of value for money	Via post or email to department by Head of Service or appointed deputy	Head of Service	Signature and/or purchase order raised	Publish details of all contracts over £5,000 in Council's Contracts Register
From £25,000 up to but not including £100,000	Three written quotations or tenders. Opportunity (open) to be published on Contracts Finder	Quotes/Tenders submitted via portal and electronically opened after closed date and time has passed. Evaluated by a minimum of two officers	Head of Service	Signed by one Council officer with Authority	Advertise an opportunity on Contracts Finder. Publish details of the Contract Award on Contracts Finder. Complete the Council's Contracts Register
From £100,000 up to but not including the public	Advertise Open invitation to tender (ITT) on the Council's portal and	Tenders submitted via portal and electronically opened once	Where provision has been made in the approved	Below £250,000 signed under hand by one authorised	Advertise the opportunity on Contracts Finder. Publish details of the

procurement thresholds	Contracts Finder. Other media can also be used. Unless the exemption to the Open process in CSO 5.5 applies	closing date and time has passed. Evaluated by a minimum of two officers	budget. For contracts below £250,000, in consultation with Executive Members. For contracts of £250,000 or more, with Executive Member authority pursuant to delivery of an Executive Member Report	Officer; £250,000 or greater sealed and signed by one authorised Officer (witnessed as required) or signed by two authorised Officers	Contract Award on Contracts Finder. Complete the Council's Contract Register
From the Public Procurement Threshold and above	Advertise relevant Procurement Procedure by on the Council's portal. Advertise on Contracts Finder and Find a Tender system Other media may also be used	Tenders submitted via Council's portal and electronically opened once closing date and time has passed. Evaluated by a minimum of two officers	Executive Member, Executive, or relevant Committee	Sealed and signed by one authorised Officer (witnessed as required) or signed under hand by two authorised Officers	Advertise all tenders on FTS and then Contracts Finder. Publish details of Contract Award on Find a Tender. Complete the Council's Contracts Register

#### 1.4. Incorporating Social Value in all procurement procedures

- 1.4.1. For all above threshold contracts, social value and the ability to improve the economic, environmental and social wellbeing of the Council's area is mandatory and must be given not less than 10% of the total evaluation score.
- 1.4.2. For below threshold procurements social value must be considered, and incorporated, where the social value requirements are related and proportionate to the subject matter of the contract.
- 1.4.3. Examples of what can be incorporated as social value are set out in the table below.

##### 1.4.4. Social Value Themes and Outcomes examples

##### 1.4.5. (Procurement Policy Note – Taking Account of Social Value in the Award of Central Government Contracts Action Note [PPN 06/20](#) September 2020)

Themes (for social value)	Policy Outcomes (what can be achieved)	Delivery objectives - what good looks like (consider for evaluation criteria)
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COVID-19 recovery	Help local communities to manage and recover from the impact of COVID-19	<p>Activities that, in the delivery of the contract:</p> <ul style="list-style-type: none"> <li>- Create employment, re-training and other return to work opportunities for those left unemployed by COVID-19, particularly new opportunities in high growth sectors.</li> <li>- Support people and communities to manage and recover from the impacts of COVID-19, including those worst affected or who are shielding.</li> <li>- Support organisations and businesses to manage and recover from the impacts of COVID-19, including where new ways of working are needed to deliver services.</li> <li>- Support the physical and mental health of people affected by COVID-19, including reducing the demand on health and care services.</li> <li>- Improve workplace conditions that support the COVID-19 recovery effort including effective social distancing, remote working, and sustainable travel solutions.</li> </ul>
Tackling economic inequality	Create new businesses, new jobs and new skills	<p>Activities that, in the delivery of the contract:</p> <ul style="list-style-type: none"> <li>- Create opportunities for entrepreneurship and help new, small organisations to grow, supporting economic growth and business creation.</li> <li>- Create employment opportunities particularly for those who face barriers to employment and/or who are located in deprived areas.</li> <li>- Create employment and training opportunities, particularly for people in industries with known skills shortages or in high growth sectors.</li> <li>- Support educational attainment relevant to the contract, including training schemes that address skills gaps and result in recognised qualifications.</li> <li>- Influence staff, suppliers, customers and communities through the delivery of the contract to support employment and skills opportunities in high growth sectors.</li> </ul>
	Increase supply chain resilience and capacity	<p>Activities that:</p> <ul style="list-style-type: none"> <li>- Create a diverse supply chain to deliver the contract including new businesses and entrepreneurs, start-ups, SMEs, VCSEs and mutuals.</li> <li>- Support innovation and disruptive technologies throughout the supply chain to deliver lower cost and/or higher quality goods and services.</li> <li>- Support the development of scalable and future-proofed new methods to modernise delivery and increase productivity.</li> <li>- Demonstrate collaboration throughout the supply chain, and a fair and responsible approach to working with supply chain partners in delivery of the contract.</li> <li>- Demonstrate action to identify and manage cyber security risks in the delivery of the contract including in the supply chain.</li> <li>- Influence staff, suppliers, customers and communities through the delivery of the contract to support resilience and capacity in the supply chain</li> </ul>
Fighting climate change	Effective stewardship of the environment	<p>Activities that:</p> <ul style="list-style-type: none"> <li>- Deliver additional environmental benefits in the performance of the contract including working towards net zero greenhouse gas emissions.</li> <li>- Influence staff, suppliers, customers and communities through the delivery of the contract to support environmental protection and improvement.</li> </ul>

Equal opportunity	Reduce the disability employment gap	Activities that: - Demonstrate action to increase the representation of disabled people in the contract workforce. - Support disabled people in developing new skills relevant to the contract, including through training schemes that result in recognised qualifications. - Influence staff, suppliers, customers and communities through the delivery of the contract to support disabled people.
	Tackle workforce inequality	Activities that: - Demonstrate action to identify and tackle inequality in employment, skills and pay in the contract workforce. - Support in-work progression to help people, including those from disadvantaged or minority groups, to move into higher paid work by developing new skills relevant to the contract. - Demonstrate action to identify and manage the risks of modern slavery in the delivery of the contract, including in the supply chain.
Wellbeing	Improve health and wellbeing	Activities that: - Demonstrate action to support the health and wellbeing, including physical and mental health, in the contract workforce. - Influence staff, suppliers, customers and communities through the delivery of the contract to support health and wellbeing, including physical and mental health.
	Improve community integration	Activities that: - Demonstrate collaboration with users and communities in the co-design and delivery of the contract to support strong integrated communities. - Influence staff, suppliers, customers and communities through the delivery of the contract to support strong, integrated communities.

## 2. Standing Order 2: Authorisation to Contract

- 2.1.1 The Director, Heads of Service or their delegated nominee shall have authority to enter into contracts provided that:
- 2.1.2 There is sufficient approved revenue or capital budget to fund the proposed contract throughout its duration (see CSO 1.3.2 and 1.3.3);
- 2.1.3 That the processes under these CSO have been followed correctly;
- 2.1.4 That the Procurement Department has been consulted in advance for contracts over £25,000 (inclusive of VAT);
- 2.1.5 That Member authority has been obtained (this may be from the Joint Strategic Committee; Executive Members for the particular service; or under a delegated authority).
- 2.1.6 The contract formalities have been compiled with at CSO 12;
- 2.1.7 That the Decisions Pathway has been followed (see CSO 1.3.5).

## 3. Standing Order 3: Special Circumstances and Emergencies

- 3.1 This CSO cannot be used for a contract that is over the public procurement threshold. For urgent contracts over the threshold Officers would need to consult with the Monitoring Officer and the Chief Executive Officer.

**3.2** A 'Special Circumstance' or 'Emergency' is defined as a situation which poses an immediate risk to Council services or the wellbeing of residents, for which urgent action is needed and which cannot be dealt with using the Councils usual processes and procedures.

**3.3** Exemption from any of the provisions of these Standing Orders may only be made as follows:

**3.3.1** For contracts under £100,000 (inclusive of VAT) approval must be sought from the Monitoring Officer and the s151 Finance Officer and the Director for Service should publish an Officer Decision Notice;

**3.3.2** For contracts over £100,000 (inclusive of VAT) and below the Public Procurement Threshold the Monitoring Officer, the s151 Finance Officer must approve the award and the Director for Service (or their delegated nominee) must consult with appropriate Executive Members or their Leader, (or the Joint Strategic Committee) who must be satisfied that the matter is Urgent or is a Special Circumstance having regard to the above definition, and if so satisfied, a direct award under this CSO exemption will be authorised.

**3.3.3** Where the exemption at 3.3.2 is so authorised, the Director for Service or their delegated nominee must ensure that:

- a) An Officer Decision awarding the contract is recorded by Democratic Services on the Decisions Pathway and/or in the minutes of the Committee giving the approval and the rules relating to Key Decisions in the Access to Information Rules are followed; and
- b) Unless committee approval is already obtained, the use of this CSO is to be reported as soon as practicable to the next Joint Strategic Committee following the consultation with the Executive Members and the publication of the Officer Decision.
- c) If it is impracticable for the Director or their delegated nominee to consult with the relevant Members, then the Director shall, when submitting the report to the next Joint Strategic Committee to explain the emergency, additionally give reasons as to why the Director was not able to consult with the relevant Members at the time.

**3.4** Advice should always be taken from the Monitoring Officer and Democratic Services as to the requirement to make any public notice in the Forward Plan of Key Decisions/28 Day Notice.

**3.5** For the avoidance of doubt, recruitment of temporary or agency staff to cover sickness or vacancies is included under this CSO.

#### **4. Standing Order 4: Publishing Contract Notices**

##### **4.1 Publishing a Contract Opportunity Notice**

**4.1.1.** The Council advertises a contract opportunity when it carries out an open invitation to tender (ITT) or open request for quotation (RFQ) for a contract with a value of, or greater than £25,000 (inclusive of VAT).



**Open** means that the opportunity is advertised to all suppliers whether nationally or within a geographic location and in these circumstances the contract must be published on the UK's National Contracts Finder website.

Where the Council advertises a contract opportunity it shall publish the information on the UK National Contracts Finder website within 24 hours of the time when it first advertises the contract opportunity on the Council's portal, see Regulation 110 (3) Public Contract Regulations 2015.

- 4.1.2.** The Council does not advertise an opportunity (and shall not be required to publish an opportunity on UK National Contracts Finder) where it carries out a closed ITT or closed RFQ process and only makes the opportunity available to a number of particular suppliers who have been selected for that purpose (whether ad hoc or by virtue of their membership of some closed category such as a framework agreement or DPS) and regardless of how it draws that opportunity to the attention of those suppliers.
- 4.1.3.** A regular report presenting information from the Contracts Register shall be presented to the Council's Procurement Working Group by the Director for Service or their nominated representative identifying all those contracts due to expire and the proposed action to be taken. The report identifying these contracts should be presented in a timely fashion to allow for sufficient time to re-procure, if necessary.

If you need guidance on publishing a contract opportunity, always seek advice from the Procurement Department or Legal Services.

## **4.2 Publishing a Contract Award Notice**

- 4.2.1.** UK National Contracts Finder - Cabinet Office [PPN09/21](#) requires Officers to publish a Contract Award Notice for all contracts with a value of, or greater than, £25,000 (inclusive of VAT) regardless of how the contract was procured and whether or not a contract opportunity was advertised. The Notice must be published within 90 calendar days from the date of completion.
- 4.2.2.** Officers are responsible for notifying the Procurement Department when a Contract Award Notice is to be published and must provide all information required for the award notice to the Procurement Department.
- 4.2.3.** The Council's Contracts Register - in addition to the requirement to publish on UK National Contracts Finder, a Council Contract Register for all contracts of, or greater than, £5,000 (inclusive of VAT) shall be kept and maintained by the Council's Procurement Department on behalf of the Director for Digital, Sustainability and Resources. The Register shall be open to inspection by any Member of the Council or public.
- 4.2.4.** All Officers completing contracts over £5,000 (inclusive of VAT) are responsible for providing the following information (as appropriate) to the Council's Procurement Department to ensure the Contracts Register is kept up to date:
- a) Contract Reference Number
  - b) Title of Agreement

- c) Department Responsible
- d) Description of Contract
- e) Contract Start Date
- f) Contract End Date
- g) Contract Extension period (if applicable)
- h) Contract Review Date
- i) Contract Value
- j) Irrecoverable VAT
- k) Supplier Name
- l) Supplier Type (legal standing of the organisation)
- m) Procurement process used

## **5. Standing Order 5: Financial Limits and Procedures**

### **5.1 Contracts for a value up to but not including £25,000 (inclusive of VAT)**

- 5.1.1.** For purchases up to (but not including) £25,000 (inclusive of VAT), two written quotes are to be obtained. Where it is impracticable to obtain two written quotes due to the specialist nature of supply, one quote can be obtained providing there is written record that value for money has been considered, and the quote represents value for money.
- 5.1.2.** A written contract is required (see CSO 12). Any Finance Lease or Finance arrangement, must also be checked in advance by Financial Services.
- 5.1.3.** Contracts under CSO 5.1 do not need to be signed by Legal Services and can be signed by an Officer with sufficient budget, authority and has followed the Decisions Pathway (see CSO 1.3.5).

### **5.2 Exemption from Obtaining Two Written Quotes**

- 5.2.1.** Where the proposed purchase is for works, goods or services is below £5,000 (inclusive of VAT) and the purchase is for reactive maintenance and minor works to Council buildings or structures within the Council's ownership and responsibility, the procuring officer need only obtain one written or oral quote.
- 5.2.2.** Use of the exemption at clause 5.2.1 is to be monitored. Where the aggregate value of the contracts reactive maintenance and minor works with any one supplier reaches £25,000 (inclusive of VAT) in the aggregate or in any four year period, then the procuring officer will obtain two quotes prior to any further instruction to the same supplier to ensure value for money.
- 5.2.3.** In the event the aggregate spend has reached £25,000 (inclusive of VAT) and the procuring officer has obtained two quotes to ensure value for money as required by CSO 5.2.2, if the same supplier has provided the most economically advantageous quote, the procuring officer may re-apply the procedure at clause 5.2.1 up to a further spend of £25,000 (inclusive of VAT) for reactive maintenance and repairs.

**5.3 Contracts for a value of £25,000 (inclusive of VAT) up to but not including £100,000 (inclusive of VAT)**

- 5.3.1** Where the estimated value of a contract is from and including £25,000 (inclusive of VAT) but below £100,000 (inclusive of VAT), the Director or their delegated nominee is to obtain three written quotes or carry out a tender process. The Procurement Department can advise on the most appropriate route.
- 5.3.2** Unless the exemption at CSO 5.4 applies to this CSO, all quotations and tenders must be published on the Council's e-portal.
- 5.3.3** All quotes or tenders pursuant to this CSO shall be invited and received through the e-portal in accordance with CSO 9.
- 5.3.4** Quotes or tenders should only be evaluated in accordance with the criteria stated by the Council in the original RFQ or ITT documentation. The evaluation process and reasons for the evaluation decision should be clearly documented and retained on file. If in doubt, seek advice from the Procurement Department.

**5.4 Exemption to Obtaining Three Quotes or Tenders**

- 5.4.1** Where in the opinion of the relevant Director, Head of Service, or their delegated nominee, it is impracticable to follow the procedure set out at CSO 5.3, due to the specialist nature of supply or the nature of any warranty that exists, then an exemption to obtaining three quotes will apply providing the reasoning for reaching the decision to use the exemption is recorded by the relevant Officer and approved by Legal, Finance, and Procurement Services in advance of the contract.

**5.5 Contracts for a value of £100,000 (inclusive of VAT) up to but not including the Public Procurement Threshold**

- 5.5.1** Where the estimated value of the contract is from £100,000 (inclusive of VAT) but below the procurement threshold, the Director for Service or their delegated nominee shall follow an open tender process unless the exemption to **the open** process at 5.6 applies.
- 5.5.2** For below threshold contracts, an open process can be reserved by supplier location; small and medium sized enterprises (SMEs); voluntary and community groups and Social Enterprises (VCSEs). See CSO 1.3.8.
- 5.5.3** An open procedure under this CSO requires the publication of:
- a. A notice on the Council's Portal;
  - b. A contract opportunity notice on Contracts Finder within 24 hours of the publication on the Portal. The contract opportunity notice will be automatically created through the Portal using the information provided.
- 5.5.4** In addition to the mandatory notices, Officers may consider giving notice of the procurement in a local publication, trade journal and/or on the Council's web site.

**5.5.5** Instead of an open procurement a Framework Agreement may be used see CSO 7.1 and 7.2. When using a framework or a dynamic purchasing system there is no need to publish a contract opportunity notice on National Contracts Finder.

## **5.6 Exemption to the Open Process**

**5.6.1** This exemption is only to be used in limited circumstances where approval is obtained from the Chief Financial Officer and the Head of Legal Services.

**5.6.2** An Open Process need not be followed, nor will a contract opportunity notice need to be published on National Contracts Finder, if it has been agreed by the Chief Financial Officer and Head of Legal Services that the invitation to tender is to be made available to only a limited number of suppliers who have been selected for the purpose. In such circumstances, the tender process should invite a minimum of five tenderers unless the Chief Financial Officer and Head of Legal Services agree that it is impractical to do so.

## **6. Standing Order 6: Above Threshold Procurements**

### **6.1 Tendering Procedures**

**6.1.1.** When awarding public contracts, the Council shall apply one of the following procedures, always contact the Procurement Department for advice on the appropriate procedure:

#### **6.1.2. Open Procedure**

In which all interested suppliers may respond to the advertisement published on the Council's Portal and the UK Find a Tender website by submitting a tender for the contract.

#### **6.1.3. Restricted Procedure**

The Council will publish a qualitative selection questionnaire and only those tenderers that pass the selection are invited to submit a tender for the contract.

#### **6.1.4. Competitive Dialogue Procedure (for developing solutions in dialogue)**

A qualitative selection is made of those who respond to the advertisement and the contracting authority enters into dialogue with potential bidders, to develop one or more suitable solutions for its requirements and on which chosen bidders will be invited to tender.

#### **6.1.5. Competitive Procedure with Negotiation (for improving bidders' offers)**

A qualitative selection is made of those who respond to the advertisement. The Council may then open negotiations with the tenderers to seek improved offers and evaluate modified tender responses.

#### **6.1.6. Innovation Partnership Procedure (for developing innovative solutions)**

A qualitative selection is made of those who respond to the advertisement and the contracting authority uses a negotiated approach to invite suppliers to submit ideas to develop innovative works, supplies or services aimed at meeting a need for which there is no suitable existing 'product' on the market. The contracting authority is allowed to award partnerships to more than one supplier.

### **6.2 Maintaining a Record of the Procurement Process**

**6.2.1.** Whichever above threshold procedure is to be used the procuring Officer must keep a Regulation 84 Report detailing each step of the procurement. The Report should be ongoing and specify:

- a) What process was used;
- b) Which stage has been reached;
- c) The names of selected and rejected tenderers;
- d) how the tenderers were evaluated and why;
- e) reasons for selection and rejection;
- f) details of any known subcontractors;
- g) circumstances justifying the use of the tender procedure chosen;
- h) conflicts of interest identified and action taken;
- i) all details specific to negotiation or dialogue with the supplier.

**6.2.2.** The Procurement Department will provide a template for the Report and it is the Officer's responsibility to ensure the Report is kept up to date.

**6.2.3.** These mandatory Regulation 84 Reports may be fully disclosable in any procurement challenge, or may also be requested by a Cabinet Office Minister. Officers should not disclose any information from the Report, without first obtaining legal advice.

**6.2.4.** The Report is not required for contracts under a framework agreement.

**6.2.5.** For contracts below threshold the Regulation 84 Report is not mandatory, but it is deemed good practice for Officers to keep a Report for reasons of transparency.

## **7. Standing Order 7: Frameworks, Dynamic Purchasing Systems and Consortia Organisations**

### **7.1 Framework Agreements**

A Framework Agreement is a collective of suppliers that have already tendered through a compliant procurement process, and have been selected (on quality and cost criteria) for their ability to provide either works, goods or services to the Council. The Framework will enable the Council to hold a mini-competition to obtain best value, or it will enable a direct call-off to a single supplier.

The Framework Agreement has established call-off contract terms to be used between the Council and the Supplier, and there will be Framework rules and guidance on how to use the Framework and what amendments if any can be made to the call-off terms.

### **7.2 Dynamic Purchasing Systems (DPS)**

The DPS is similar to a Framework Agreement but new suppliers can apply to join at any time providing they meet the DPS criteria. A mini competition must always be held with the DPS.

### **7.3 Consortia Procurements**

Consortia bidding is the term used to describe the situation where a number of economic operators come together to submit a bid for a contract in a procurement

process and could be a useful process for major projects requiring a mix of professional skills.

## **8. Standing Order 8: Preparation of the Procurement Documents**

### **8.1 Request for Quotation and Specification Documents**

- 8.1.1.** The Request for Quotation (RFQ) - Officers must ensure that they are using the most current version of the RFQ document which has been approved by the Procurement Department as it contains necessary protections to the Council during the RFQ process.

The RFQ document can be varied from being 100% price based or can be reviewed on a combined price and quality assessment. The Procurement Department can give a guidance on using and completing the RFQ.

- 8.1.2.** The Specification accompanies the RFQ and must clearly and concisely set out the Officer's needs, having regard to the nature of the works goods or services to be procured.
- 8.1.3.** Contract Terms and Conditions - it is preferable for each RFQ to attach the Council's terms and conditions of contract which are appropriate to the nature of the works, goods or services being procured. Officers will need to contact legal services in advance of publishing the RFQ for advice on contract terms and conditions.

### **8.2 Invitation to Tender and Specification Documents**

- 8.2.1. The Invitation to Tender (ITT)** - Officers must ensure that they are using the most current version of the ITT document which has been approved by the Procurement Department as it contains necessary protections to the Council during the tender process. The Procurement Department can give a guidance on completing the ITT.

In all cases, every invitation to tender shall include the following:

- a) A statement that the tendering process will be conducted through the Council's Portal;
- b) Full instructions on how to submit a tender to this system;
- c) The deadline for submission of tenders to this system;
- d) A Tender submission schedule which contains:
  - FOI Exemption Form
  - Form of Tender
  - Collusive Tendering Certificate
  - Mandatory and Discretionary Exclusion Grounds
  - Supplier's selection questionnaire
- e) The ITT shall also include the evaluation criteria against which the tenderers will be scored and the weighting (or score) to be applied to each criterion with an explanation of the scoring mechanism. All criteria must be capable of being objectively assessed, clear and concise. Criteria will include price

(which usually carries a score of not less than 30%) and Social Value (with a score of 10%). The remaining criteria (60%) usually address the quality of the goods works or services to be delivered. Please see CSO 8.3 for example evaluation criteria.

- 8.2.2.** Fully detailed Specification - Officers must ensure that they have a fully detailed specification setting out exactly what it is the Council wants to purchase which provides all specific and technical requirements.
- 8.2.3.** Contract Terms and Conditions - Each ITT is to attach an appropriate form of contract as approved by Legal Services.

### **8.3 Establishing the Most Economically Advantageous Tender (MEAT) or other approved Assessment**

- 8.3.1.** The criteria for considering MEAT must:
  - a) Be agreed in advance and applied equally to all tenders;
  - b) Be relevant and appropriate to the subject matter of the tender;
  - c) Be objectively identifiable capable of being objectively scored;
  - d) Not be anti-competitive or capable of distorting competition;
  - e) Be listed in a decreasing order of importance having regard to the weightings attributed to them starting with the highest scoring criteria first.
- 8.3.2.** Weighting must be given to each criterion used, which reflects the importance of each element of the contract.
- 8.3.3.** Where any weighted criterion has sub-criteria to be considered this must be disclosed in advance in the ITT and relevant sub-weightings attributed to the sub-criteria.
- 8.3.4.** Price must be a criterion and normally must have a weighting of not less than 30%. Where the award requires adopting a price weighting of less than 30%, this will need to be justified to, and agreed with, the Procurement Department.
- 8.3.5.** Social value is to be given a weighting of not less than 10% unless the Procurement Department agrees otherwise.
- 8.3.6.** The remaining criteria used must reflect the quality and available social value of the purchase, and be broken down appropriately to consider all aspects of required quality appropriate for the tender.

*An example evaluation scoring could be 30% price, 60% quality and 10% social value totalling 100%. Quality and Social Value would most likely have sub-criteria with their total weightings not exceeding 60% and 10% respectively.*

### **8.4 Examples of criteria for establishing MEAT:**

- 8.4.1.** Costs - the whole lifecycle cost should be evaluated - see CSO 1.3.2
- 8.4.2.** Social value - for Social Value criteria - see CSO 1.4
- 8.4.3.** Quality - Examples include: technical and professional merit, aesthetic and functional characteristics, environmental characteristics, service delivery, after-sales service and technical assistance, customer service and support, contract mobilisation, implementation and management, experience, and risk management.

## **9. Standing Order 9: Using e-Procurement Portal**

### **9.1 Publishing and Accepting Quotations and Tenders on the Portal**

- 9.1.1.** Unless the exemption at paragraph 9.2 below applies, all requests for quotations (RFQ) and invitations to tenders (ITT) are to be published and accepted on the Council's portal.
- 9.1.2.** All quotations and tenders will be stored electronically by the portal in a secure inbox until opened after the deadline.
- 9.1.3.** Officers must ensure bids received are compliant by checking that the appropriate information detailed in the RFQ/ITT documents is completed and submitted by suppliers as requested in those documents.
- 9.1.4.** Bidders must return their submissions on or before the deadline set out in the RFQ/ITT documents. Submissions returned after the time and date must be rejected by the Council, although the Council may extend the deadline for a late submission if there is evidence available to demonstrate that the bidder has made an attempt to submit to the portal before the expiration of the deadline, or if an extension is afforded to all those bidding. All information regarding quotations or tenders received, their submission date, time and their opened date and time will be stored by the system.

### **9.2 Exemption to publishing on the Council's Portal**

- 9.2.1.** For below-threshold procurements, where the Head of Legal Services and the Chief Financial Officer agree that due to the specialist nature of the supply it is impractical for potential suppliers to be asked to quote or tender using the portal (i.e. due to a lack of technical knowledge and experience or availability) then the quotes or tenders can be obtained as set out below:
  - a) The Director or their delegated nominee shall obtain at least three **sealed** written quotes or **sealed** tenders from persons or bodies who in the opinion of the Director or their delegated nominee are capable of performing the contract.
  - b) An agreed form of standard contract should be used and Legal Services should be instructed in advance of the procurement.
  - c) All quotes and tenders received pursuant to this CSO shall either be opened by electronic means or if written sealed quotes or sealed tenders in the presence of the Director for Service and a Procurement Officer.
  - d) The Head of Service or their delegated nominee shall then have delegated authority to accept such a quote or tender, but in the case of a quote other than the lowest, then the Head of Service must establish MEAT as set out in CSO 8.3.
  - e) Details of the quotes or tenders received and how the successful contractor was chosen should be submitted to the Procurement Department for approval for all contracts.
- 9.2.2.** Where this exemption applies the procuring officer must still comply with any requirement to publish the contract award notice on Contracts Finder and on the Council's contracts register.



## **10. Standing Order 10: Evaluation and Notifications to Bidders**

### **10.1 Evaluation of Quotations and Tenders**

- 10.1.1.** The members of an evaluation panel should be carefully considered and all members must declare any conflicts of interests in the procurement and its outcome prior to commencing any evaluation.
- 10.1.2.** Members of the evaluation panel should only receive that part of the tender response which they are required to score. This prevents undue influence on the scoring of their specified section.
- 10.1.3.** Submissions must be evaluated objectively and strictly in accordance with the criteria stated in the original request for quotation (RFQ) or invitation to tender (ITT) and in compliance with the Public Contract Regulations 2015 or other relevant legislation.
- 10.1.4.** The evaluating panel members must clearly document and record the reasons for their decision and any other relevant matter arising during the evaluation. Where the tender process is above threshold, panel members must continue to keep this information up to date see CSO 6.2 (Maintaining a Record of the Procurement Process).
- 10.1.5.** Unless seeking an RFQ based on price only, the award must be based on the most economically advantageous tender (MEAT) which uses a cost-effective approach for price/quality ratio, offering best price (which will not necessarily be the lowest price). Or, if approved by the Procurement Department, another recognised evaluation assessment method (see CSO 8.3 MEAT or other Approved Assessment).
- 10.1.6.** A tenderer's submission may not be altered after the time and date specified for the return of tenders. If an error in the submission is discovered, the tenderer shall be given the opportunity to confirm or withdraw the tender as it is submitted. If, in the opinion of the Head of Finance, there are exceptional circumstances, a tenderer may be allowed to correct any arithmetical error in the tender or clarify its tender, but not add to or enhance it.

### **10.2 Notification to Unsuccessful Bidders**

- 10.2.1.** Following an evaluation of a request for quotation or an invitation to tender, the procuring officer will ensure that they liaise with the Procurement Department to ensure that all bidders are simultaneously notified in writing through the Council's portal with the evaluation outcome by providing the information below. Supplying the following information is mandatory for above-threshold tenders and for below-threshold tenders is good transparent practice:
  - a) The tender evaluation criteria;
  - b) The reasons for the decision, including the characteristics and relative advantages of the successful tender;
  - c) The evaluation scores of the tenderer receiving the notice and the scores of the successful tenderer;
  - d) The reasons (if any) why the tenderer did not meet the technical specification and/or the areas where the tenderers submission was weaker than that of the successful tenderer;
  - e) The name of the tenderer(s) to be awarded the contract
  - f) A statement on the date the standstill period is expected to end (see 10.6 Standstill Period).

### 10.3 Notification to Successful Bidders

10.3.1. Successful tenderers will be sent a Notification of an Intention to Award Letter, which will usually be subject to a ten day standstill period (see 10.4). Officers must ensure that they do not create a binding contract with the supplier until the contract has been finalised and executed. This is in keeping with the request for quotation or invitation to tender, which confirms the Council will not be bound until the contract is executed.

### 10.4 Standstill Period

10.4.1. **Above Threshold** - The standstill period must run for a minimum of 10 calendar days commencing the day after the notice was emailed to the tenderer and expires at midnight on the 10<sup>th</sup> day. If the expiry date of the standstill period falls on a weekend or public holiday then the expiry date shall be midnight on the next working day.

10.4.2. Should a Tenderer request further information or debrief during the standstill period, the Officer should immediately consult with the Procurement Department and Head of Legal Services for advice. The Council may extend the standstill period for further days until the tenderer has received and considered the information.

10.4.3. If the Council receives notification from a tenderer that it intends to challenge a contract award decision, then the Head of Legal Services must be notified immediately and the Council must automatically refrain from entering into the contract until legal advice has been received (failure to comply with this CSO may result in the court making a declaration of ineffectiveness with damages payable by the Council). Inform the Council's Freedom of Information Officer if a challenge is received to ensure that commercially sensitive information is not released without prior consideration and authority.

10.4.4. Upon satisfactory conclusion of the standstill period the Officer may advise the successful tenderer(s) that the standstill period has passed and instruct the Head of Legal Services to draw up a formal contract with the successful tenderer(s).

10.4.5. Once the standstill period has concluded a Contract Award Notice should be placed in the Find a Tender (FTS) by the Procurement Department within 30 days of the contract award.

10.4.6. **Below Threshold** - tenders below the public procurement threshold are not covered by the full requirements laid out in Section 10.2 (Notification to Unsuccessful Bidders). However, it is best practice to follow the same principles of notifying unsuccessful tenderers and, if requested by the tenderer, providing feedback on the outcome of the procurement exercise.

10.4.7. It is not necessary to have a standstill period for a below threshold contract, but it is good practice to apply one and only in limited circumstances will the Procurement Department agree to reduce the standstill period.

## 11. Standing Order 11: Subcontracting

11.1 Where it is anticipated that the successful tenderer will want to subcontract out an element of delivery to a third party the Director for Service must ensure that:

11.1.1. The subcontractor is not a supplier that would have been excluded in the tender process;

11.1.2. The main supplier has carried a best value exercise in line with these CSO and that best value for the subcontractor has been approved by the Procurement Department; and

- 11.1.3. Any subcontractor is paid on the same payment terms as the supplier in the main contract and on terms no less favourable than those agreed with the supplier, i.e. on payment terms within 30 days;
- 11.2 Consideration must be given as to whether or not a collateral warranty between the subcontractor and the Council is required. A collateral warranty is most often required where there is no direct contractual relationship between the Council and the subcontractor.
- 11.3 There shall be inserted in every contract a clause detailing the subcontracting arrangements.

## 12. Standing Order 12: Contract Formalities

### 12.1 The Form of Contract

- 12.1.1. All contracts should be made in writing and on the Council's standard written terms unless Legal Services approves otherwise. Contracts made on the supplier's written terms must be reviewed and approved by Legal Services. In advance of the tender process, the procuring Officer must seek advice from Legal Services on the form of contract to be used.
- 12.1.2. Advice from the Finance Department must be obtained where the contract involves a finance leasing arrangement.
- 12.1.3. Every contract shall specify the goods, materials or services to be supplied and the work to be executed; the price to be paid together with a statement as to the amount of any discount(s) or other deduction(s); the period(s) within which the contract is to be performed and such other conditions and terms as may be agreed between the parties and are required by law.
- 12.1.4. Consideration must be given as to whether or not a performance bond, parent company guarantee, or other form of security (see 12.2.2 below Liquidated Damages) acceptable to the S151 officer and the Legal Services, is required from the supplier.

### 12.2 Required Terms

- 12.2.1 **Boilerplate Clauses** - The Council is required to include statutory terms which include non-exhaustively: Anti Bribery; Anti-Money Laundering; Freedom of Information; Data Protection; Safeguarding of Vulnerable Adults and Children; Transparency; Prevention of Terrorism; Audit; Anti-Discrimination Equality and Diversity; Payment of Subcontractors; Termination and Exit of Above Threshold Contracts; Compliance with Anti-Slavery and Human Trafficking laws; Force Majeure; Health and Safety.

If Officers consider one of the above clauses is more appropriate to their contract, they must notify Legal Services when asking them to consider the contract terms. For example, where personal data is being controlled or processed by a third party on the Council's behalf, an additional data sharing agreement may be required.

- 12.2.2 **Liquidated Damages** - Officers must consider the effect on the Council of any delay in performance of the contract, and whether that delay is likely to cause the Council financial loss which requires protection. If so, the Officer must estimate the reasonable and genuine loss that the Council is likely to suffer as a result of the delay and provide to Legal Services a figure which would fairly compensate

the Council, usually at a daily or weekly rate for that loss.

**12.2.3 Standards** - Where an appropriate British Standard or code of practice (or other applicable standard) applies to the procurement, the procuring Officers are required to notify Legal Services so the relevant standard is included in the contract.

### **12.3 Execution of Contracts**

**12.3.1.** Where any contract is required as a result of any legal procedure or legal proceedings on behalf of the Council, it will be signed by the Head of Legal Services or another person authorised by them, unless any enactment otherwise authorises.

**12.3.2.** Contracts with a value of less than £25,000 (inclusive of VAT) can be executed by the Head of Service of their delegated nominee. Contracts of £25,000 (inclusive of VAT) or above, are to be executed in Legal Services, unless Legal Services approves otherwise.

**12.3.3.** Any contract for an amount of or greater than £250,000 (inclusive of VAT) is to be executed as a deed using the common seal of the Council, signed by an authorised signatory and witnessed as formality requires.

### **12.4 Electronic Signatures**

**12.4.1.** For all contracts below £250,000 (inclusive of VAT), the Council may execute the contract via a method of e-signature which has been pre-approved by Legal Services. Any contract with a value of £25,000 (inclusive of VAT) or above, must be authorised, signed and completed by Legal Services.

**12.4.2.** For contracts that require a seal, the Monitoring Officer may adopt such means of sealing as from time to time they consider appropriate. This may include allowing electronic sealing in accordance with section 7A(1) of the Electronic Communications Act 2000 (or other subsequent legislation). Affixing of an electronic seal approved in this way shall be of the same legal effect as affixing the common seal of the Council. Any additional formality relating to the witnessing of such contracts are complied with.

## **13. Standing Order 13: Engagement of Consultants**

**13.1** The financial limits in these CSOs apply to the engagement of consultants, the appointment must be based on MEAT or other approved evaluation (see CSO 8.3). If a consultant is to provide services over the lifetime of a project then the whole lifetime cost should be taken into account when procuring the consultant.

**13.2** External legal consultants must be appointed through Legal Services in accordance with the Council's constitution.

**13.3** Prior to the engagement of the consultant the Officer must:

- a) Prepare a business case in advance of the appointment which as a minimum, should detail the reason for seeking external expertise, for example, lack of internal capacity or capability due to the specialist nature of services;
- b) This business case should be approved by either the Director or the Head of Service or their delegated nominee;
- c) Financial checks of lead consultants' financial stability and professional indemnity insurance should be made (which should also include any sub-consultants);
- d) Insurance expiry date should be monitored by project managers except in those cases where the insurance Section is directly responsible for such insurance. Ongoing checks of valid insurance renewals should be undertaken during the lifetime of contracts;
- e) Where the consultant is an individual, check with Payroll and Procurement to find out if the consultant is acting in the capacity of an employee and therefore subject to IR35 (tax and national insurance payments at source)

**13.4** It shall be a condition that the consultancy contract shall require the consultant to:

- a) Comply with these CSO in consultation with the relevant Head of Service or Director if the consultant is procuring goods works or services on the Council's behalf.
- b) Produce to the Head of Service or Director on request, all the records maintained by them in relation to the contract; and
- c) On completion of the contract, transmit all such records to the Head of Service or Director or to any other Head of Service duly authorised by the Council for this purpose.
- d) Consider and deal with ownership of intellectual property rights created by the instruction of the consultant.

**13.5** The terms of engagement of a consultant (not being an Officer of the Council) shall be set down in a form approved by Legal Service.

**13.6** Previous employees should not be engaged as consultants until a period of at least 6 months has elapsed since they ended their employment with the Council.

#### **14. Standing Order 14: Contract Performance Monitoring**

**14.1** The procuring Officer should ensure that the contractor's performance is monitored against the contractually agreed terms, by an appropriate Officer responsible for contract management in their department. The extent of the monitoring should be proportionate to the nature, duration and associated cost of the contract.

**14.2** Heads of Service and managers are required to ensure Officers carry out proper contract management and that any issues in contract performance are brought to their attention. For higher value contracts, Members may also require an updating report on contract performance.

**14.3** Contract managers are to periodically revise how delivery and processes under ongoing contracts might be improved and to ensure that those improvements are implemented by the supplier and monitored by the contract manager.

**14.4** Where further goods, works, or services will be required at the end of an existing contract term, contract managers must consult with the Procurement Department prior to the expiration of the existing contract in sufficient time to plan the re-procurement to avoid disruption to Council services.

## **15. Standing Order 15: Extensions to Contracts**

**15.1** This Standing Order is only to be used in the following circumstances:

- a) The extension is required to undertake an evaluation of the future requirement of the existing contract/service/service delivery;
- b) There has been no previous extension of the original contract (other than an extension, or option to extend, which was agreed as a term of the original contract);
- c) There is approved budget;
- d) The proposed extension has been approved by Procurement and Legal Services having consideration to these CSO and the public procurement rules;

**15.2** Where the Director for Service or Officer acting with delegated authority on their behalf proposes to extend a fixed-term contract to include additional works, services, goods they shall only do so in accordance with this CSO and CSO 2.1 (Authorisation to Contract).

**15.3** For above-threshold contracts, the terms of the contract extension must not breach the requirements of Regulation 72 of the Public Contract Regulations 2015 (Modification of Contracts).

**15.4** In addition:

- a) The extension must be on the same terms as the original contract including terms as to price, although an increase in the price payable for the goods, services or works, which reflects an RPI increase is acceptable;
- b) The original contractor has agreed the additional goods, services or works will be supplied on the same terms;
- c) The extension is necessary and a legitimate business case for it has been approved and recorded in writing by the Director for Service or Officer with delegated authority to extend the contract;
- d) The extension must be made during the term of the original contract or continue immediately following the expiration of the original contract without any break in continuity between the expiration of the original contract and the extension of it;
- e) In the case of construction works, the proposed additional works are on the same site as the original contract or of a similar nature;
- f) The procurement for the original contract complied with these CSOs;
- g) The extension is for no more than 24 months;
- h) The decisions pathway has been followed prior to awarding the extension.

**15.5** In all cases, consideration should be given as to whether approval should be obtained from the relevant Executive Member(s) before any extensions are granted.

#### **16. Standing Order 16: Variations to Contracts**

**16.1** The effect of the proposed variation on the contract value must be fully assessed and recorded in writing prior to the variation being made. Officers must ensure that there is an authorised budget sufficient to meet the value of the variation in place, and the decisions pathway must be followed.

**16.2** Officers must consult Procurement, Financial and Legal Services for advice on the proposed variation prior to making the variation. Any contract variation with a value of £25,000 (inclusive of VAT) or above, is to be signed by Legal Services.

**16.3** For above-threshold contracts, the terms of the contract variation must not breach any rule under Public Contract Regulations 2015 or other updating legislation.

**16.4** All of the following clauses shall apply to a contract variation.

**16.4.1.** All contract variations must be within the scope of the original contract. The variation will be in scope if it is within a similar range of goods, services or works supplied under the original contract and the variation is required in order to complete an aim or purpose of the original contract.

**16.4.2.** In all cases, there should be a clear statement recorded in writing setting out the business justification, the cost, the benefits and the duration of the variation (whether temporary or for the remaining term of the contract) which is to be shared with Procurement Financial and Legal Services, as well as to inform the audit trail.

**16.4.3.** All contract variations must be authorised by the Director for Service or have relevant Member approval having regard to the business case and any comments made by the Procurement, Financial and Legal Departments. The variation must be in writing and signed by both the Council and the contractor. Where the value of the contract variation exceeds £25,000 it must be executed by Legal Services.

**16.4.4.** In all circumstances at the time the variation is proposed, Officers must follow the decisions pathway and if required to do so by that pathway, seek authorisation from (or consult with) Executive Member(s).

#### **17. Standing Order 17: Termination of Contracts**

**17.1** No contract with a value greater than £250,000 (inclusive of VAT) which has been entered into under the authority of the Council's Executive or appropriate Executive Members, shall be terminated either by agreement or by unilateral action without the approval of the Chief Financial Officer and the Head of Legal Services, and consultation with Executive Members in advance of terminating the contract.

**17.2** Where in the opinion of the Chief Financial Officer and the Head of Legal Services, the termination will have a significant financial impact on the Council or will cause a significant disruption to Council services, then the Director for Service is to provide

a full report to Executive Members or the Joint Strategic Committee (as advised by the Head of Legal Services) and obtain Member authority to terminate the contract in advance of the termination.

- 17.3** Where, in the opinion of the Director for Service, termination of the contract is urgent and delay would have an adverse impact on services, assets, or the public; and there is insufficient time to take a report to Members (as required by paragraph 17.2), then providing the Chief Financial Officer and Head of Legal Services agree, the Director may terminate the contract and report as soon as possible after the termination providing full details of the circumstances, financial effect and/or disruption to services.
- 17.4** For all contracts below £100,000 (inclusive of VAT), the Director for Service can terminate the contract without Member consultation providing that the Chief Financial Officer and Head of Legal Services agree there is no significant financial impact or disruption to Council services.
- 17.5** Legal advice shall be sought before terminating any contract.



## **Joint Councils Financial Regulations**

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## **1. INTRODUCTION**

- 1.1 Financial Regulations provide the internal framework for managing the Councils' financial affairs. These regulations apply to every Member and Officer of Adur District Council and Worthing Borough Council and anyone in the public or private sector who acts on behalf of the Councils. It is imperative that the Councils have a strong and usable set of Financial Regulations that are accessible to all who are dealing with its financial matters.
- 1.2 Under Section 151 of the Local Government Act 1972, each local authority is required to make arrangements for the proper administration of its financial affairs and arrange for one of their Officers to be responsible for the administration of those affairs. For Adur District Council and Worthing Borough Council this officer is the Chief Financial Officer.
- 1.3 Throughout these Financial Regulations, the title Chief Financial Officer will be used to denote the designated Section 151 Officer of the Councils; in the case of absence or non-availability, the Chief Accountant will be the Deputy Section 151 Officer.
- 1.4 The Chief Financial Officer is responsible for maintaining a continuous review of the Financial Regulations and submitting any additions or changes necessary to the Councils for approval. They are also responsible, where appropriate, for reporting breaches of the Financial Regulations to the Joint Audit & Governance Committee.
- 1.5 It is the responsibility of the Corporate Leadership Team (CLT)/Heads of Service to ensure that all Officers in their service are familiar with the content of the Councils' Financial Regulations, as well as other internal regulatory documents, and also to confirm that they comply with them.
- 1.6 It is the responsibility of the Chief Financial Officer to provide advice and guidance regarding the Financial Regulations that Members, Officers and others acting on behalf of the Councils are required to follow.

### **STATUTORY REFERENCES**

- Local Government Act 1972
- Local Government Act 1999
- Local Government Act 2003
- Local Audit and Accountability Act 2014
- Accounts and Audit Regulations 2015

### **CODES OF PRACTICE**

- Code of Practice on Local Authority Accounting in the United Kingdom
- Prudential Code for Capital Finance in Local Authorities
- Service reporting Code of Practice for Local Authorities (CIPFA)
- Treasury Management Code of Practice (CIPFA)
- United Kingdom Public Sector Internal Audit Standards (PSIAS) as interpreted by CIPFA's Local Government Application Note

## **2. FINANCIAL PLANNING**

### **2.1 FORMAT OF THE BUDGET**

#### **2.1.1 Why is this important?**

The format of the budget determines the level of detail to which financial control and management will be exercised. The format shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

### 2.1.2 Responsibilities of the Chief Financial Officer

To advise the Cabinets on the format of the budget that is approved by their Council.

### 2.1.3 Responsibilities of CLT/Heads of Service

To comply with accounting guidance provided by the Chief Financial Officer.

### 2.1.4 Key controls

The key controls for the budget format are: -

- (a) That the format complies with all legal requirements;
- (b) That the format reflects the accountabilities of service delivery;
- (c) That the format reflects the statutory reporting requirements for government returns; and
- (d) That, in published statements where it is required, the format complies with CIPFA's Service reporting Code of Practice for Local Authorities.

## 2.2 BUDGETS AND MEDIUM-TERM PLANNING

### 2.2.1 Why is this important?

The Councils need to plan effectively and develop systems to enable limited resources to be allocated in accordance with priorities. The budget is the financial statement of the Councils' plans and policies.

The revenue and capital budgets must be constructed to ensure that resource allocation properly reflects the service plans and corporate priorities of the Councils. Budgets are needed so that the Councils can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for the Councils to budget for a deficit.

CLT/Heads of Service shall prepare annually in accordance with an agreed timetable (normally in preparation for submission to the Cabinets each January/February), draft estimates of income and expenditure in a form agreed with the Chief Financial Officer together with any necessary explanations.

### 2.2.2 Responsibilities of the Chief Financial Officer

To prepare and submit reports on the budget prospects for the Councils, including information about any resource constraints determined by the Government. Reports should consider the medium-term financial prospects which will be updated as appropriate.

To determine the detailed form of revenue estimates and the methods for their preparation, consistent with the budget approved by each Council, and following consultation with the relevant Cabinet Member for Resources and CLT/Heads of Service.

To prepare and submit reports to the Joint Strategic Committee on the overall position; and to each Executive on the aggregate spending plans of the individual portfolios (analysed by departments) and the resources available, identifying, where appropriate, the implications for the level of Council Tax to be levied.

To advise on the medium-term implications of spending decisions.

To encourage the best use of resources and value for money by working with CLT/Heads of Service to identify opportunities to improve economy, efficiency and effectiveness, and by encouraging good practice in conducting financial appraisals of development or savings options, and in developing financial aspects of service planning.

To advise the Council on the Cabinet's proposals on the robustness of the budget set and the adequacy of reserves in accordance with the Local Government Act 2003.

### **2.2.3 Responsibilities of CLT/ Heads of Service**

To prepare estimates of income and expenditure, in consultation with the Chief Financial Officer, to be submitted to the Joint Strategic Committee and the Cabinet.

To prepare budgets consistent with any relevant cash limits, with the Council's annual budget cycle and with guidelines issued by the Joint Strategic Committee. The format will be prescribed by the Chief Financial Officer in accordance with the Joint Strategic Committee's general directions.

To integrate financial and budget plans into service planning.

To ensure that budget proposals underpin the Councils' strategic priorities and objectives.

To utilise the Councils project management framework when delivering projects funded by the revenue budget.

### **2.2.4 Key controls**

The key controls for budgets and medium-term planning are: -

- (a) specific budget approval is given for all expenditure;
- (b) budget managers are consulted in the preparation of the budgets for which they will be held responsible and accept accountability within delegations set by the Cabinet for their budgets and the level of service to be delivered; and
- (c) a monitoring process is in place to regularly review the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

## **2.3 CAPITAL PROGRAMME**

### **2.3.1 Why is this important?**

Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment or vehicles.

Capital assets can shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs. Capital expenditure can also result in the creation of an intangible asset, for items such as software licenses which have no physical substance.

The Council is required to set its Capital Programme having regard to the Prudential Code, ensuring that it is affordable, prudent and sustainable. This means that capital expenditure forms part of a capital strategy that is carefully prioritised in order to maximise the benefit of limited resources. The Council must also approve its Prudential Indicators which are used to monitor performance throughout the year.

### **2.3.2 Responsibilities of the Chief Financial Officer**

To prepare a capital strategy which outlines the Councils approach to developing a Capital Programme which meets the Councils' priorities;

To prepare a Capital Programme covering at least two future financial years. If an urgent and unforeseen need arises to undertake a project in excess of the current approved Capital Programme or to accelerate the preparation, commencement or completion of a scheme, the proposal will be considered by the Corporate Leadership Team and if

supported will then be reported to Joint Strategic Committee (and Full Council if a supplementary estimate is required) for final approval.

To prepare and submit regular reports to the Joint Strategic Committee on the projected income, expenditure and resources compared with the approved estimates. Also, to inform the Cabinet where estimated expenditure on any scheme exceeds the Capital Programme provision by more than 10% or £50,000 whichever is lower, unless the amount is not material.

The definition of 'capital' will be determined by the Chief Financial Officer, having regard to government regulations and accounting requirements.

### 2.3.3 Responsibilities of CLT/Heads of Service

To comply with guidance concerning the development of the Capital Programme, capital schemes and controls issued by the Chief Financial Officer.

To utilise the Councils project management framework when delivering projects.

To ensure that all estimates and programmes prepared in connection with capital expenditure shall include reference to the estimated revenue implications in each of the development years and in a full cost year as agreed with the Chief Financial Officer.

To review the Capital Programme provisions for their services and the estimated final costs of schemes in the approved Capital Programme.

To ensure that adequate records are maintained for all capital contracts.

To proceed with projects/contracts only when there is adequate provision in the Capital Programme and guarantees of any external funding are in place.

To notify the Chief Financial Officer immediately if the total value of a contract or its annual sum is likely to be different from the original figure by more than the approved limits (the lower of more than 10% or £50,000 subject to materiality).

### 2.3.4 Key controls

The key controls for Capital Programmes are: -

- (a) specific recommendation by the Joint Strategic Committee and resolution of the relevant Council for the planned programme of capital expenditure;
- (b) Prior to any expenditure being incurred, each capital project must have a project initiation document (PID) as detailed in the capital strategy which is subject to approval by the relevant Director and Cabinet Member;
- (c) Projects with a value in excess of £250,000 are Key Decisions (as defined in Article 12 of the Constitution) and therefore must be included in the Council's Forward Plan to provided 28 days of any decision to be made, and a report taken to the relevant Cabinet Members detailing the following:
  - details of the scheme including the options considered;
  - the procurement strategy;
  - the capital and revenue implications of the proposed scheme over the medium term; and
  - requesting any further delegations as appropriate
- (d) proposals for minor improvements and alterations to buildings and land must be approved by the appropriate Director/ Head of Service;
- (e) monitoring of progress of the programme in conjunction with expected expenditure and comparison with approved budget; and

(f) monitoring of Prudential Indicators throughout the year.

## **2.4 MAINTENANCE OF RESERVES**

### **2.4.1 Why are these important?**

The Council holds reserves for one of three purposes:

- working balance to help cushion the impact of uneven cash flows, to manage budget risk and to avoid unnecessary temporary borrowing (general reserve);
- a contingency to cushion the impact of unexpected events or emergencies (general reserve); and
- a means of building up funds (earmarked reserves) to meet planned one-off expenditure, and to meet known or predicted liabilities.

It is the responsibility of the Section 151 Officer to advise the Council as to the level of general reserves.

### **2.4.2 Responsibilities of the Chief Financial Officer**

To advise the Cabinet and/or the Council on prudent levels of reserves for the Council, having regard to advice from the External Auditor.

### **2.4.3 Responsibilities of CLT/Heads of Service**

To ensure that reserves are used only for the purposes for which they were intended.

### **2.4.4 Key controls**

The key controls for the maintenance of the reserves are:

- a) To maintain reserves in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom and agreed accounting policies.
- b) For each earmarked reserve established, the following must be provided:
  - The reason for/purpose of the reserve
  - How and when the reserve can be used
  - Procedures for the reserve management and control
  - A regular review of the reserve to ensure continuing relevance and adequacy.
- (c) Expenditure from the reserves of in excess of £25,000 can only be approved by the Joint Strategic Committee unless a specific delegation exists (see guidance on virement limits at paragraph 3.2.4).

## **3. FINANCIAL MANAGEMENT**

### **3.1 BUDGETARY CONTROL**

#### **3.1.1 Why is this important?**

Budgetary control is the means by which the Council manages its finances and ensures their effective use in accordance with the approved budget. It is a continuous process, enabling the Council to monitor and review its financial performance during the financial year.

By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity.

To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within the cash-limited budget allocated to it.

For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre.

### 3.1.2 Responsibilities of the Chief Financial Officer

To administer an appropriate framework of budgetary management and control that ensures:

- (a) Budget management is exercised within annual cash limits
- (b) Each Director has available timely information on receipts and payments on each budget;
- (c) Expenditure is only committed against an approved budget
- (d) All Officers responsible for committing expenditure comply with relevant guidance, and these Financial Regulations
- (e) Each budget heading has a single named Manager, determined by the relevant Director/ Head of Service. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commit expenditure
- (f) Significant variances of more than 10% or £25,000 (was £5,000) whichever is the higher from approved budgets are investigated and reported by budget managers regularly.

To administer the Council's Scheme of Virement (see 3.2).

To submit reports to the Joint Strategic Committee and to the Council, in consultation with the relevant Director/Head of Service, where it is not possible to balance expenditure and resources within existing approved budgets under their control (see 3.2.5 supplementary estimates).

To prepare and submit regular monitoring reports to Joint Strategic Committee on the Council's projected income and expenditure compared with the budget.

### 3.1.3 Responsibilities of CLT/Heads of Service

To maintain budgetary control within their departments and to ensure that all income and expenditure is recorded and accounted for properly.

To ensure that an accountable Budget Manager is identified for each item of income and expenditure.

To ensure that spending remains within the service's overall budget limit, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.

To prepare and submit to the Joint Strategic Committee, reports on the service's projected expenditure compared with its budget as part of the regular budget monitoring reports, in consultation with the Chief Financial Officer.

To ensure compliance with the Scheme of Virement (see 3.2).

To agree with the relevant Director/Head of Service where it appears that a budget proposal, including a virement proposal, may impact materially on another service area.

### 3.1.4 Key controls

The key controls for managing and controlling the revenue budget are: -

- (a) Budget Managers should be responsible only for income and expenditure that they can influence;
- (b) there is a nominated Budget Manager for each budget heading;
- (c) Budget Managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities;
- (d) all budgets are appropriately profiled through the financial year;
- (e) Budget Managers follow an approved certification process for all expenditure;
- (f) income and expenditure items are recorded and accounted for properly.

### **3.2 SCHEME OF VIREMENT**

A summary of the limits relating to virement as set out in the sections below is provided in Appendix 1 to these Rules.

#### **3.2.1. General Virement**

##### **a) Why is this important?**

Virement is the transfer of budget from one specific area to another. This can either be a transfer within revenue budgets or a transfer within capital budgets. Restrictions may apply to transfers between capital and revenue budgets and you cannot vire between a capital budget and a revenue budget. Virement can be a temporary (in-year) or permanent transfer of budget.

The Scheme of Virement is intended to enable Cabinet Members together with CLT/ Heads of Service and their staff to manage budgets with a degree of flexibility within the overall Policy Framework determined by the Council, and, therefore, to optimise the use of resources. Budget variation requests requiring Committee approval will be included on Joint Strategic Committee Agendas.

##### **b) Responsibilities of the Chief Financial Officer**

To submit a report to the Corporate Leadership Team and Cabinet where virements are proposed between Directorate areas or Member Portfolios;

To approve all virements in excess of £50,000 and up to but not including £100,000;

To ensure that all virements of £100,000 (Key Decision limit as defined by Article 12 of the Constitution) and up to and including £250,000 are approved by the relevant Cabinet Member;

To ensure that all virements in excess of £250,000 are approved by the Joint Strategic Committee.

##### **c) Responsibilities of CLT/Heads of Service**

CLT/Heads of Service may exercise virement on budgets under their control of up to and including a maximum of £50,000, provided the Chief Financial Officer has been consulted.

To submit a report to the relevant Cabinet Member or the Joint Strategic Committee for virements over £100,000, provided that the Chief Financial Officer has been consulted.

Salary budgets represent the Council's approved establishment. As such the salary budgets cannot be vired to other areas of the budget without the approval of the Chief



Financial Officer. A favourable salary budget variance may be used to cover the additional temporary staffing costs incurred due to the vacant post, subject to the corporate vacancy target.

To ensure, where external funding has been successfully applied for, that a budget virement is undertaken to adjust the revenue budget for the confirmed funding and the related expenditure.

Virements against future anticipated fees and charges or other uncertain sources of income will not be allowed unless approved by the relevant Cabinet Member.

Savings of a non-recurring nature (temporary) cannot be used to justify the incurring of expenditure with a continuing commitment into later years (permanent).

Virement that is likely to impact on the level of service activity of another department should be implemented only after agreement with the relevant Director/Head of Service.

**d) Key controls**

Key controls for the Scheme of Virement are:

- (a) It is administered by the Chief Financial Officer within guidelines set by the Council. Any variation requires the approval of the Council;
- (b) The overall budget is recommended by the Cabinet and approved by the Council. CLT/Heads of Service are authorised to incur expenditure in accordance with the estimates that make up the budget.
- (c) Virement does not create a net increase in budget. CLT/Heads of Service are expected to exercise their discretion in managing their budgets responsibly and prudently.

**3.2.2 Virements Relating To Section 106 Contributions and Community Infrastructure Levy (CIL)**

**a) Why is this important?**

Section 106 agreements are negotiated as part of a condition of planning consent. CIL levy is payable on certain developments. They provide an important source of additional funding towards a range of infrastructure and services such as community facilities, public open spaces, transport improvements and or affordable housing.

**b) Responsibilities of the Chief Financial Officer**

To ensure that virements relating to s.106 and CIL funding in excess of £25,000 and up to and including a maximum of £100,000 are approved by the relevant Cabinet Member and that virements in excess of £100,000 are approved by the Joint Strategic Committee.

To be responsible for the proper accounting of S106 and CIL receipts.

**c) Responsibility of the Head of Planning and Development**

To keep a record of all s.106 and CIL receipts due to each Council.

To be responsible for the collection of any s.106 and CIL receipts due.

**d) Responsibilities of CLT/Heads of Service**

CLT/Heads of Service may exercise virements relating to s106/CIL funded expenditure under their control up to and including a maximum of £25,000 provided that the Chief

Financial Officer has been notified and authorised the use of the receipts and the proposed use is in accordance with any legal agreement or Council policy governing their use.

To submit a report to the relevant Cabinet Members for expenditure in excess of £25,000 and up to and including £100,000 and to the Joint Strategic Committee for expenditure in excess of £100,000 and above at the earliest opportunity with details of how the funding is to be applied.

**e) Key controls**

Key controls for s.106 funded expenditure are:

- (a) It is administered by the Chief Financial Officer within guidelines set by the Council; and
- (b) Virement does not create a net increase in budget. CLT/Heads of Service are expected to ensure that funds are spent within the terms of the agreement including any time limits that may apply.

**3.2.3 Virements Relating To Contingency Budgets**

**a) Why is this important?**

The Contingencies and Special Items budget is assessed annually as a provision for known possible service changes that have not been sufficiently developed to fully cost into the budget.

**b) Responsibilities of the Chief Financial Officer**

To ensure that virements relating to contingency budgets have been fully costed before budget are vired to service areas. Virements are noted in budget monitoring reports.

**c) Responsibilities of CLT/Heads of Service**

To submit fully developed spending plans to the Chief Financial Officer at the earliest opportunity.

**d) Key controls**

Key controls for virements from Contingency budgets:

- (a) It is administered by the Chief Financial Officer within guidelines set by the Council;
- (b) Virement does not create a net increase in budget; and
- (c) CLT/Heads of Service are expected to ensure that the use of these budgets follow the Council's priorities.

**3.2.4 Virements Relating To Reserves**

**a) Why is this important?**

Earmarked reserves should only be used for the purpose that they are intended. Unrequired earmarked reserves should be returned to the General Fund. Capital reserves should only be applied in line with statutory approvals.

**b) Responsibilities of the Chief Financial Officer**

To ensure that all virements from Earmarked Reserves up to and including £25,000 are approved by the relevant member of CLT or the Head of Service.

To ensure that all virements relating to the use of Earmarked Reserves in excess of £25,000 and up to and including £250,000 are approved by Joint Strategic Committee or the relevant Individual Cabinet Members where a delegation to that Cabinet Member is in force.

To ensure that all virements in excess of £250,000 are approved by the Joint Strategic Committee.

To ensure that all proposals for the use of capital receipts complies with statutory guidance, the Capital Strategy and have a viable business case.

**c) Responsibilities of CLT/Heads of Service**

To ensure that earmarked reserves are used only for the purpose for which they were intended.

That unrequired earmarked reserves are returned to the General Fund.

To submit proposals to the Chief Financial Officer as soon as practicable for the use of any earmarked reserve.

**d) Key controls**

Key controls for virements from reserves:

- (a) It is administered by the Chief Financial Officer within guidelines set by the Council.
- (b) Virement does not create a net increase in budget. CLT/Heads of Service are expected to ensure that the use of these budgets follow the Council's priorities.

**3.3 ACCOUNTING POLICIES**

**3.3.1 Why are these important?**

The Council is required to follow proper practices in preparing its Statement of Accounts. The Council's Accounting Policies are a key part in ensuring that this is done and these are detailed in the Statement of Accounts.

**3.3.2 Responsibilities of the Chief Financial Officer**

To establish suitable accounting policies and to ensure that they are applied consistently.

To ensure that the accounting policies are consistent with proper practices as set out in the *Code of Practice on Local Authority Accounting in the United Kingdom*, for each financial year.

**3.3.3 Responsibilities of CLT/Heads of Service**

To adhere to the accounting policies and guidelines approved by the Chief Financial Officer.

**3.3.4 Key controls**

The key controls for accounting policies are:

- (a) Systems of internal control are in place to ensure that financial transactions are lawful;
- (b) Suitable accounting policies are established and applied consistently;
- (c) Proper accounting records are maintained;

- (d) Financial statements are prepared which present fairly the financial position of the Council and its expenditure and income; and
- (e) Accounting policies are set out in the Statement of Accounts and are subject to external audit.

### **3.4 ACCOUNTING RECORDS AND RETURNS**

#### **3.4.1 Why are these important?**

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

#### **3.4.2 Responsibilities of the Chief Financial Officer**

To determine the accounting policies, procedures and the method for recording transactions for the Council.

To arrange for the compilation of all accounts and accounting records under their direction.

To comply with the following principles when allocating accounting duties: -

- (a) Officers responsible for the calculation, checking and recording of income and expenditure should not be responsible for the collection and disbursement of such income and expenditure; and
- (b) Officers with the duty of examining or checking the accounts of cash transactions must not be engaged in those transactions.

To make proper arrangements for the audit of the Council's annual accounts in accordance with the Accounts and Audit Regulations 2015.

To ensure that all claims for funds (including grants) are made accurately and by the due date.

To prepare and publish the audited annual accounts of the Council for each financial year, in accordance with the statutory timetable.

To ensure the proper security and retention of financial documents in accordance with the requirements set out in the Council's Document Retention Policy.

To ensure that an asset register is maintained and assets are appropriately revalued and categorised in accordance with *Code of Practice on Local Authority Accounting in the United Kingdom*.

#### **3.4.3 Responsibilities of CLT/Heads of Service**

To ensure that a copy of any approved funding from a third party, including Government grant, is immediately passed to the Chief Financial Officer.

To ensure that all necessary service related information is available to support all claims for funds, including Government grants.

To maintain adequate records to provide a management/audit trail leading from the source of income/expenditure through to the accounting statements.

To supply information required to enable the statement of accounts to be completed and published in accordance with the timetable and guidelines issued by the Chief Financial Officer.

#### **3.4.4 Key controls**

The key controls for accounting records and returns are:

- (a) All Cabinet Members, finance Officers and Budget Managers operate within the required accounting standards and timetables;
- (b) All the Council's transactions, material commitments, contracts and other essential accounting information are recorded completely, accurately and on a timely basis;
- (c) Procedures are in place to enable accounting records to be reconstituted in the event of systems failure;
- (d) Reconciliation procedures are carried out to ensure transactions are correctly recorded;
- (e) Prime documents are retained in accordance with legislative and other requirements, as set out in the Councils' Document Retention Policy; and
- (f) The central accounting system of the Council, administered by the Chief Financial Officer, is the prime system upon which the financial position of the Council, or any part of the Council, will be assessed.

### **3.5 THE ANNUAL STATEMENT OF ACCOUNTS**

#### **3.5.1 Why is this important?**

The Council has a statutory responsibility to prepare its own accounts to present its operations during the financial year in a fair manner. The Council is responsible for approving the statutory annual statement of accounts, through delegation to the Joint Audit & Governance Committee.

#### **3.5.2 Responsibilities of the Chief Financial Officer**

To establish suitable accounting policies and to apply them consistently.

To make judgements and estimates that are reasonable and prudent.

To comply with the *Code of Practice on Local Authority Accounting in the United Kingdom*.

To sign and date the statement of accounts, stating that it presents fairly the financial position of the Council at the accounting date and its income and expenditure for the financial year.

To draw up the timetable and requirements for final accounts preparation and to advise Officers and the External Auditor accordingly.

#### **3.5.3 Responsibilities of CLT/Heads of Service**

To comply with accounting guidance provided by the Chief Financial Officer and to supply the Chief Financial Officer with information when required.

#### **3.5.4 Key controls**

The key controls for the annual statement of accounts are: -

- (a) The Council is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the

administration of these affairs. In this Council, that officer is the Chief Financial Officer;  
and

- (b) The Council's statement of accounts must be prepared in accordance with proper practices as set out in the Code of Practice on Local Authority Accounting in the United Kingdom.

#### **4. RISK MANAGEMENT AND CONTROL OF RESOURCES**

##### **4.1 RISK MANAGEMENT AND INSURANCE**

###### **4.1.1 Why is this important?**

Risk management is a planned and systematic approach to identifying, evaluating and controlling risk. Its objectives are to secure the assets of the organisation and to ensure the continued financial and organisational wellbeing of the Council. It is, therefore, an integral and essential part of good business practice. Risk management is concerned with evaluating the measures an organisation already has in place to manage identified risks and then recommending the action needed to control these risks effectively.

It is the overall responsibility of the Joint Audit & Governance Committee to approve the Council's Risk Management Strategy, and to promote a culture of risk management awareness throughout the Council.

###### **4.1.2 Responsibilities of the Director of Digital, Sustainability and Resources**

To prepare and promote the Council's Risk Management Strategy.

To report regularly to the Joint Audit & Governance Committee on risk management matters.

###### **4.1.3 Responsibilities of the Chief Financial Officer**

To effect corporate insurance cover, through external insurance and internal funding, and to negotiate all claims, in consultation with other Officers where necessary.

###### **4.1.4 Responsibilities of CLT/Heads of Service**

To notify the Chief Financial Officer immediately of any injury, loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the Chief Financial Officer or the Council's insurers.

To notify the Head of Legal of any injury, loss or liability that might result in legal action against the Council

To take responsibility for risk management and minimising exposure to loss, having regard to advice from the Chief Financial Officer and other specialist advisers (e.g. health and safety, emergency planning).

To ensure that there are regular reviews of Corporate and Departmental risk registers to identify and evaluate risk and to determine the ways risk can be managed. The risks and the mitigating actions should be recorded and monitored.

To notify the Director of Digital, Sustainability and Resources promptly of all new risks

To notify the Chief Financial Officer of any properties or vehicles that require insurance and of any alterations affecting existing insurances.

To consult the Chief Financial Officer and Head of Legal on the terms of any indemnity that the Council is requested to give.

#### **4.1.5 Key controls**

The key controls for risk management are:

- (a) Procedures are in place to identify risks, to evaluate their likely impact and probability of occurring, and to determine suitable risk reduction strategies. The risk management process operates continually to ensure that changes in circumstances and new risks are identified, evaluated and managed;
- (b) Corporate and Departmental Risk Registers are produced and are regularly reviewed and action taken when appropriate;
- (c) Risk management procedures are communicated effectively throughout the Council. Managers know that they are responsible for managing risks in their areas and are provided with relevant information on risk management initiatives;
- (d) Acceptable levels of risk are determined and insured against where appropriate; and provision is made through balances or reserves for losses where insurance is not appropriate;
- (e) The Council has identified business continuity plans for implementation in the event of disaster that results in significant loss or damage to its resources.

## **4.2 AUDIT REQUIREMENTS**

### **4.2.1 Internal Audit**

#### **a) Why is this important?**

The requirement for an internal audit function is implied by the Accounts & Audit Regulations 2015 which requires that the Council must each financial year conduct a review of the effectiveness of the system of internal control and prepare an annual governance statement.

Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

It will act in accordance with the internal audit charter and UK Public Sector Internal Audit Standards (PSIAS) and will undertake reviews that focus on areas of greatest risk to the Council, as agreed annually in consultation with CLT and approved by the Joint Audit & Governance Committee. However, it is the responsibility of every manager to establish and maintain an effective system of internal control.

Internal audit shall have the authority to have unrestricted access to all records, assets, personnel and premises deemed necessary to review the activities of the Council and (where appropriate, subject to contractual arrangements) its contractors and operating partners. It also has authority to obtain from all Officers and Members such information and explanations as are considered necessary and direct access and freedom to report to CLT, the Council and its committees (although its primary responsibility is to the Joint Audit & Governance Committee).

#### **b) Key controls**

The key controls for Internal Audit are:

- (a) That it is independent in its planning and operation;
- (b) The Head of Internal Auditor has direct access to the Chief Executive, all levels of management and directly to Elected Members; and

- (c) The internal Auditors comply with the United Kingdom Internal Audit Standards as interpreted by CIPFA's Local Government Application Note.

#### **4.2.2 External Audit**

##### **a) Why is this important?**

It is a statutory requirement for the Council to publish an audited Statement of Accounts.

The Accounts and Audit (England) Regulation 2015 sets out the requirements of signing, approval and publication of the statement of accounts.

The arrangements for the appointment of external auditors are included in the Local Audit and Accountability Act 2014 which give the Councils two options:

- i) to either opt in to the Appointing Person regime; or
- ii) to establish an auditor panel and conduct their own procurement exercise.

##### **b) Responsibilities of the Chief Financial Officer**

Make arrangements to let the contract for the provision of external audit services.

To ensure that the appointed External Auditor is given access at all times to premises, personnel, documents and assets that they consider necessary for the purposes of their work.

To ensure there is effective liaison between external and internal audit.

##### **c) Key controls**

The key controls for External Audit are:

- (a) That it is independent in its planning and operation;
- (b) The External auditor has direct access to the Chief Executive, all levels of management and directly to Elected Members; and
- (c) The External auditor reports to the Governance and Audit Committee and that all reports of the auditor are publicly available.

#### **4.3 PREVENTING FRAUD AND CORRUPTION**

The Council takes the prevention of fraud, corruption and maladministration very seriously and has the following policies in place, which aim to prevent or deal with such occurrences:

- Anti-Fraud, Corruption & Bribery Policy
- Whistleblowing Policy (in respect of the Public Interest Disclosure Act 1998)
- Anti-money laundering procedures
- HR policies regarding discipline of staff
- Registers of Interests for Members and staff
- Robust processes for the procurement of goods and services

The Council expects all Members and Officers to act with propriety and accountability and also expects that individuals and organisations with whom the Council comes into contact (for example, suppliers, contractors and service providers) will act towards the Council with integrity and without thought or actions involving fraud and corruption.



Where financial or other impropriety is discovered or suspected it must immediately be reported to the Chief Financial Officer and the Head of Legal and/or the Head of Internal Audit for appropriate investigation and action.

#### **4.4 ASSETS – LAND, BUILDINGS, FURNITURE, EQUIPMENT, ETC.**

##### **4.4.1 Acquisitions**

###### **Why are these important?**

The Council is publicly accountable for the way that it spends its money. Value for money must be demonstrated and the Council has a statutory duty to achieve best value in everything it does. Therefore, the Council has to exercise control over its purchasing activity, including asset acquisition (e.g. property, vehicles, plant and equipment, furniture).

###### **Responsibilities of the Chief Financial Officer**

To issue guidelines on the best practice in respect of asset acquisition.  
To periodically review all guidelines to ensure that they still reflect best practice.  
To ensure that all expenditure is properly recorded in the Council's accounts and records.

###### **Responsibilities of CLT/Heads of Service**

To ensure that the Council's policies and procedures are complied with.  
To ensure that the necessary separation of duties is observed.  
To ensure that assets purchased are necessary.

###### **Key controls**

The key controls for asset acquisition are:

- (a) Council policies, including the Governance arrangements and Officer Decision Making Procedure Rules, in respect of the acquisition of assets are complied with at all times. This includes compliance with Contract Standing Orders for all relevant asset acquisitions.
- (b) There are at least two Officers involved in the process of acquisition, with a separation of duties between Officers involved in the different parts of the process.
- (c) Procedures protect Officers involved in the acquisition of assets from accusations of impropriety.

##### **4.4.2 Asset disposal and transfer**

###### **Why is this important?**

It would be uneconomic and inefficient for the cost of maintaining assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the Council's policies and procedures.

Assets are sometimes used by or transferred to an external party, for example as part of an outsourced contract or partnership arrangement. It is important that the legal and financial basis for the transfer is determined and properly documented, so that the interests of the Council are protected.

###### **Responsibilities of the Chief Financial Officer**

To issue guidelines representing best practice for disposal of assets.

To ensure appropriate accounting entries are made to remove the value of disposed or transferred assets from the Council's records and to include the sale proceeds, if appropriate.

###### **Responsibilities of CLT/Heads of Service**

To seek advice from the Chief Financial Officer on the disposal of surplus or obsolete materials, equipment and vehicles.

To seek advice from the Chief Financial Officer where assets are to be transferred or predominantly used by an external party.

To ensure that income received for the disposal of an asset is properly banked and coded.

To authorise the write off and disposal of obsolete or surplus materials and equipment.

To ensure that the disposal of obsolete or surplus materials and equipment, is by competitive quotation or auction, unless, following consultation with the Chief Financial Officer, the Cabinet decides otherwise.

**Specifically relating to the disposal or acquisition of land and buildings:**

To ensure that all disposals of land and buildings are in accordance with the Council's asset management strategy current at the time. Where disposal of land and buildings is allowed, it shall be conducted in accordance with the scheme of delegations and the provisions detailed in (a) (i) – (vi) below.

- (a) Approved methods of disposal shall be by:
  - (i) Private Treaty;
  - (ii) Auction;
  - (iii) Tender
  - (iv) Sealed Offer;
  - (v) Exchanges of land; or
  - (vi) Compulsory Purchase Order
- (b) To ensure that where land is to be disposed of by the Council, the Chief Financial Officer shall ensure compliance with Financial Regulations and S123 of the Local Government Act 1972.
- (c) Prior to any disposal of land, a valuation of the asset to be sold should be obtained from an appropriately qualified valuer.

**Key controls**

- (a) assets for disposal or transfer are identified and are disposed of or transferred at the most appropriate time, and only when it is in the best interests of the Council, and the best price or contract terms are obtained, bearing in mind other factors, such as environmental issues or the delivery of strategic objectives.
- (b) Prior to the disposal of any land or buildings, a formal valuation is obtained
- (c) for items of significant value, disposal should be by competitive tender or public auction; and
- (d) procedures protect Officers involved in the disposal of assets from accusations of personal gain.

**4.4.3 Security (Including Inventories)**

**Why is this important?**

The Council holds assets in the form of property, vehicles, equipment and other items worth many millions of pounds. Information held by the Council is also a key asset. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of assets. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

### **Responsibilities of the Chief Financial Officer**

To ensure that an asset register is maintained in accordance with good practice for all assets with a value in excess of £10,000. The function of the asset register is to provide the Council with information about fixed assets so that they are: -

- safeguarded;
- used efficiently and effectively;
- adequately maintained; and
- accounted for.

To receive the information required for asset accounting and associated financial records from each director/group head.

To ensure that assets are valued in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom*.

### **Responsibilities of the Head of Customer Services:**

To maintain a central register of all IT and telephony equipment.

### **Responsibilities of the Head of Environmental Services:**

To maintain a central register of all vehicles.

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### **Responsibilities of CLT/Heads of Service**

To ensure the proper security of all Officers, buildings and other assets under their control.

To pass title deeds and contract documentation to the Head of Legal Services who is responsible for custody of all title deeds.

To ensure the safe custody of vehicles, equipment, furniture, and other property belonging to the Council.

To ensure that assets are identified, their location recorded and that they are appropriately marked and insured.

To ensure cash holdings on premises are kept to a minimum and that maximum limits are agreed by the Chief Financial Officer.

To ensure that keys to safes and similar secure containers/cupboards are carried on the person of those responsible at all times; loss of any such keys must be reported to the Chief Financial Officer as soon as possible.

To arrange for the valuation of assets for accounting purposes to meet requirements specified by the Chief Financial Officer.

To carry out an annual check of all items on the inventory in order to verify location, to review condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly.

To make sure that property is only used in the course of the Council's business, unless the Director/Head of Service concerned has given permission otherwise.

### **Key controls**

- (a) assets registers are accurately maintained and all assets are accounted for; and
- (b) assets are valued in accordance with approved policies and appropriate values included in the Council's Annual Accounts.

## 4.5 TREASURY MANAGEMENT

### Why is this important?

Many millions of pounds pass through the Councils' accounts each year. The scale of the local authority treasury activity and issues such as the Icelandic banking collapse has led to the development of CIPFA's *Code of Practice on Treasury Management and Prudential Code for Capital Finance in Local Authorities (Prudential Code)*. These aim to provide assurances that the Councils' money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the Councils' financial resources.

### Responsibilities of Chief Financial Officer

To arrange the borrowing and investments of the Councils, including bank overdrafts, in such a manner as to comply with the CIPFA *Code of Practice on Treasury Management, the Prudential Code*, the Councils' Treasury Management Strategy and the Councils' Treasury Management Practices.

To report on treasury activities to the Joint Audit & Governance Committee, with recommendations (including adoption of the Treasury Management Strategy Statement & Annual Investment Strategy) referred for approval by Full Council.

To operate bank accounts as are considered necessary. All arrangements with the Councils' approved bankers regarding the Councils' bank accounts, and the terms on which they are conducted, shall be made by the Chief Financial Officer.

To ensure that detailed arrangements are made regarding the Councils' bank accounts and for the issue of cheques and cards. All cheques or cards shall be ordered only on the authority of the Chief Financial Officer who shall advise on proper arrangements for their safe custody.

All of the Councils' bank accounts must be in the name of 'Adur District Council' or 'Worthing Borough Council'.

To ensure that all investments or utilisation of monies and other accumulations and the sale or realisation of investments are made in the name of the relevant Council or in the name of nominees approved by the Cabinet.

To effect all borrowings in the name of the Councils.

To act as the Councils' registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money and investment by the relevant Council.

To ensure that in circumstances where a Council has decided to finance capital expenditure by way of leasing, deferred purchase, or similar arrangements, the Chief Financial Officer or their authorised representative shall so far as possible, obtain competitive quotations from relevant funding sources and such arrangements shall be subject to approval by the relevant Cabinet Member.

### Responsibilities of CLT/Heads of Service

To follow the instructions on banking issued by the Chief Financial Officer.

To ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Cabinet, following consultation with the Chief Financial Officer and if appropriate Council.

To ensure that CLT/Heads of Service advise the Chief Financial Officer of the disposal of any vehicle or item of equipment that is subject to a lease.

#### **Key controls**

- (a) the Treasury Management Strategy Statement & Annual Investment Strategy must be approved by Full Council by 31st March for the next financial year;
- (b) Council investments are only placed with approved institutions in line with the agreed strategies;
- (c) investment performance is monitored and reported to Officers and Members;
- (d) funds transfers (e.g. by CHAPS) require dual authorisation by designated officers; and
- (e) investment and borrowing requirements are identified and planned for in short-term cash flow forecasting and longer-term financial strategies.

#### **4.6 STRATEGIC PROPERTY INVESTMENT FUND**

##### **Why is this important?**

The Councils are investing millions of pounds in commercial property to produce a sustainable income stream to support the Councils' activities for the future. The scale of this investment activity and associated risks mean that such investments should be properly managed, a point reinforced by the recently revised *Prudential Code for Capital Finance in Local Authorities (Prudential Code)*. This aims to provide assurances that the Councils' property investment activity is properly managed in a way that balances risk with return, but with the overriding consideration being given to the long-term security of the Councils' property investments.

##### **Responsibilities of Head of Major Projects and Investment**

To ensure that Key Decision notices are published for any potential purchase;

To ensure that the approval of any purchases complies with the governance arrangements detailed within the Commercial Property Investment Strategy.

To ensure sufficient resources are allocated to the long term management of Strategic Property Investment Fund assets to maintain their long term value is maintained.

To ensure that effective asset management plans, processes and procedures are in place to ensure that these assets are managed appropriately.

To report on property investment activities to the Joint Audit & Governance Committee, with recommendations (including adoption of the Annual Commercial Property Investment Strategy) referred for approval by Full Council.

To effect all purchases in the name of the relevant Council.

##### **Responsibilities of Chief Financial Officer**

To arrange the financing of any purchases (including borrowing) of the Council,, in such a manner as to comply with the CIPFA *Prudential Code*, the Councils' Treasury Management Strategy and the Councils' Treasury Management Practices.

#### **Key controls**

- (a) the Commercial Property Investment Strategy must be approved by Full Council by 31st March for the next financial year;
- (b) Council will only invest in line with the agreed strategy;
- (c) The performance of the Strategic Property Investment Fund is monitored and reported to Officers and Members;
- (d) An annual report is prepared for both the Joint Strategic Committee and the Joint Audit & Governance Committee detailing the value, outstanding borrowings and rental performance of the fund
- (e) All property purchases are subject to extensive due diligence and conveyancing is managed by appropriately qualified legal resources.

### **4.7 WORKFORCE**

#### **Why is this important?**

The Council sees its Officers as a valuable asset to running its business to provide the highest level of service, it is essential that the Council recruits and retains high calibre, knowledgeable Officers, who are qualified to an appropriate level.

#### **Responsibilities of the Chief Financial Officer**

To ensure that CLT/Heads of Service have identified budget provision for all existing and new employees.

To act as an advisor to CLT/Heads of Service on areas such as National Insurance and pension contributions, as appropriate.

#### **Responsibilities of the Director of Digital, Sustainability and Resources**

To develop a workforce strategy, policy and procedures and ensure they are disseminated and enforced.

#### **Responsibilities of CLT/Heads of Service**

To produce an annual workforce budget.

To ensure that the workforce budget is an accurate forecast of workforce levels and is equated to an appropriate revenue budget provision (including on-costs and overheads).

To ensure that the workforce budget is not exceeded without due authority and that it is managed to enable the agreed level of service to be provided.

To comply with, and ensure Officers comply with, the Council's Human Resource policies (for example: recruitment, training and flexible working policies).

#### **Key controls**

The key controls for employees are: -

- (a) an appropriate workforce strategy and policy exists, in which Officer requirements and budget allocation are matched;
- (b) procedures are in place for forecasting workforce requirements and cost;
- (c) controls are implemented that ensure that Officer time is used efficiently and to the benefit of the Council; and
- (d) checks are undertaken prior to appointing new Officers to ensure that they are appropriately qualified, experienced and trustworthy.

## **5. FINANCIAL SYSTEMS AND PROCEDURES**

### **5.1 GENERAL**

#### **Introduction**

The Council is governed by laws requiring that it makes proper arrangements for the administration, reporting and safeguarding of those funds and act in a way that is open and accountable as to how those funds are used.

Whilst all Council Officers and Members have a general financial responsibility, Section 151 of the Local Government Act 1972 requires that a suitably qualified Officer must be responsible for the financial administration of the organisation. This Officer is the Chief Financial Officer.

#### **Chief Financial Officer**

The Chief Financial Officer is responsible for the proper administration of the Council's financial affairs, prescribes appropriate financial systems, protocols, procedures and policies, maintains an internal audit service and reports to the Council in the event of any decision or action leading to, or may lead to, unlawful expenditure, loss, deficiency or accounting entry and;

- (a) will be responsible for ensuring the final accounts are completed and published in accordance with statute and accepted public sector accounting requirements and the reporting to Members of any material amendments specified by external audit,
- (b) will have unrestricted access to all Council assets, systems, documents, information, data, employees and Members held by the Council,
- (c) issue guidance, advice or instruction on the application of these financial systems and procedures as appropriate,
- (d) recommend to the Council the addition, alteration or deletion of any financial regulation.

#### **CLT/Heads of Service**

CLT and Heads of Service are the senior management of the organisation and:

- a) will manage budgets and financial activity within their area of responsibility including the planning and control of budgets and prevention of fraud and corruption to ensure efficient and effective use of resources,
- b) shall consult with the Chief Financial Officer and obtain approval on any matter that may have a material effect, advantageous or detrimental, on the Council's financial position or financial strategy,
- c) Comply with any instruction given by the Chief Financial Officer regarding the form and method of financial record keeping or the operation of any financial procedures.

#### **Cabinet, Committees and Sub-Committees**

All Members of the Council including those appointed to the Cabinet, any Committee or Sub-Committee will ensure that decisions taken are within their remit and relevant budgets, are compliant with adopted policies, and consistent with achievement of the Council's service or corporate plans

#### **Council**

The Council will;

- Determine the Medium Term Financial Strategy (MTFS)

- Approve and the annual revenue and capital budgets and determine the level of local taxation and other statutory charges
- Approve the Treasury Management Strategy (TMS) and prudential indicators
- Approve the capital strategy
- Approve changes to these financial procedures (following consideration by the Joint Audit & Governance Committee)

### **Officers and Members**

All Officers and Members will contribute to the general stewardship of the Council's financial affairs in compliance with these rules and any systems, procedures, policies prescribed by law or the Chief Financial Officer relating to the Council's financial management. They will bring to the attention of the Chief Financial Officer and the Head of Legal any matter that is contrary to the provisions of this code or the high standard of financial probity expected of the Council or may bring the Council into disrepute or legal challenge.

## **5.2 INCOME**

All Officers receiving money or cashable instruments (including cash, cheques, credit/debit card payments, direct credits, etc.) or making arrangements for the collection of income must comply with the relevant procedures and instructions issued by the Chief Financial Officer to ensure that sums are properly recorded, receipted, and banked, and correct accounting entries made.

Cash, in coin or bank note, is only to be accepted in agreed circumstances and every effort should be made to promote cashless payments.

### **Budget Holders**

All Officers with budget management responsibility are required to ensure that:

- invoices and credit notes are raised promptly,
- all enquiries relating to invoices raised and answered promptly,
- any matters that may affect recovery of an invoiced debt is made known to Accounts Receivable,
- any debts considered appropriate for write-off are notified to the Chief Financial Officer,
- income is regularly monitored and any irregularities are promptly notified to the Chief Financial Officer,
- a review of fees, charges and other income is undertaken at least annually and also as part of the budget setting cycle.

### **Write-off of irrecoverable debt**

Once levied, debt may not be cancelled, except by full payment or by its formal writing off. A credit note to replace a debt must only be issued to correct a factual inaccuracy or administrative error in the calculation or billing of the original debt.

The Chief Financial Officer is:

- a) approved to write-off a debt (or combination of debts) due from any individual debtor in any one financial year of not more than £2,500 in aggregate.



- b) authorised to delegate the write off of small debts of less than £250.00 to nominated Officers

Debts greater than £2,500 may only be written-off with relevant Cabinet Member approval.

#### **Sale of Assets**

CLT or Heads of Service will notify the Chief Financial Officer of any proposal to sell any surplus assets within their control or responsibility. The Chief Financial Officer will assess in consultation with the Director or Heads of Service the value of the asset(s) and determine the most appropriate route for sale. The prior approval of the Cabinet Member for Resources is to be sought for the sale of any individual asset with a current value of more than £50,000 in the Asset Register.

### **5.3 EXPENDITURE**

#### **General**

All purchases of goods and services are to be made in compliance with procedures in the Contract Standing Orders, as set out at Part 4 of this Constitution, or as otherwise instructed by the Chief Financial Officer. All Council purchases (other than those made by credit card) must be made and authorised by raising an Official Order in the Council's financial management system or repairs management system.

Purchases made using a Council credit card must be supported by a Payment Requisition signed by the purchasing Officer and counter-signed by an authorised Officer and forwarded promptly to the Chief Financial Officer.

The Chief Financial Officer will determine the authorised purchasing limits for all Officers in consultation with the relevant Director or Head of Service.

All purchases of goods and services must be supported by a valid invoice (in electronic or hard copy) that meets the requirements of the HM Revenue & Customs to support VAT recovery where appropriate.

Payments for goods and services will only be made where it can be referenced to an Official Order and will be by bank automated clearing system (BACS) or such other alternative method as may be approved by the Chief Financial Officer.

#### **Acquisition of Assets**

Assets purchased at a cost of more than £25,000 must be notified to the Chief Financial Officer for inclusion in a register of assets maintained to comply with public sector accounting requirements and best practice.

#### **Officers and Members**

All payments to Officers and Members will be made through the Council's payroll or as otherwise authorised by the Chief Financial Officer in order that all statutory and regulatory requirements are met.

No payment will be made unless approved by a duly authorised Officer. The Chief Financial Officer will determine the limit of authority for any Officer in consultation with the relevant Director or Head of Service.

### **5.4 TAXATION**

The Council has a statutory duty for the proper administration of its tax affairs in pursuance of various United Kingdom and European Union legislation and directives.

All Officers and Members will comply promptly with any request made by the Chief Financial Officer for information or documentation in relation to any direct or indirect tax matters that may impact upon the proper administration of such matters including;

- Pay As You Earn income tax (PAYE)
- National Insurance Contributions (NIC)
- Value Added Tax (VAT)
- Construction Industry Tax (CIS)
- Corporation Tax

## 5.5 INSURANCE

### Responsibilities of the Chief Financial Officer

The Chief Financial Officer will arrange for all insurance covers and negotiate settlement of all claims made through such insurances in consultation with relevant officers of the Council.

### Responsibilities of CLT/Heads of Service

CLT and Heads of Service will ensure prompt notification to the officer responsible for insurances:

- of any incidents that may give rise to a claim against the Council the costs of which may be indemnified by the Council's insurances,
- of loss of or damage to any Council property or asset under its ownership, responsibility, custody or control,
- of any change in risk or ownership of or responsibility for any asset or property.

## 6. EXTERNAL ARRANGEMENTS

### 6.1 EXTERNAL FUNDING

#### Why is this important?

External funding is a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the Council. Local authorities are increasingly encouraged to provide seamless service delivery through working closely with other agencies and private service providers. Funds from external agencies provide additional resources to enable the Council to deliver services to the local community. However, in some instances, such funding may not link to the Council's aims and objectives, is linked to tight specifications and conditions and may impose risk and liability upon the Council.

#### Responsibilities of the Chief Financial Officer

- i) To ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- ii) To ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements or an exit strategy is agreed.
- iii) To ensure that audit requirements are met.

- iv) To ensure that all claims are submitted by the due date.
- v) To ensure all virements in relation to approved bids are appropriately approved and actioned.
- vi) To include progress updates on significant approved bids as part of the regular reporting process as and when required.

#### **Responsibilities of CLT/Heads of Service**

##### *Bid Approvals*

- i) To ensure that the Chief Executive, Director of Digital, Sustainability and Resources, the Chief Financial Officer and the Head of Place and Economy are advised, at the earliest possible time, of all opportunities and applications for external funding.
- ii) To ensure that any match funding is identified and in place prior to bidding for any external funding.
- iii) To ensure all bids up to £100,000 are approved by the relevant Director prior to submitting the bid.
- iv) To ensure all bids over £100,000 are subject to consultation with all of the relevant Cabinet Members prior to submission of any bid

##### *Spend approvals*

- v) To update the Forward Plan for any new contracts or spend items which are over the Key Decision limits (currently £100,000);
- vi) If successful in bidding, to submit reports to:
  - a) the relevant Cabinet Member for bids that are over £100,000 and up to £250,000
  - b) the Joint Strategic Committee for bids that are over £250,001
 which are sufficiently developed to enable the use of the funds without any further reporting requirement. This will include seeking approval for budget virements and any procurement activity.

##### *Delivery*

- vii) To give the Chief Financial Officer a copy of all approvals received from government departments or other sources of external funds.
- viii) To ensure that all supporting information is kept to support claims for funds.
- ix) To ensure that the project progresses in accordance with the agreed conditions and that all expenditure is properly incurred and recorded.
- x) To complete all grant monitoring information and claims in accordance with the agreed timescales.

#### **Key controls**

The key controls for external funding are:

- (a) To ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood;
- (b) To ensure that funds are acquired only to meet the priorities approved in the Policy Framework by the Council;
- (c) To ensure that any match-funding requirements are given due consideration prior to entering into long-term agreements and that future revenue budgets reflect these requirements or an exit strategy is agreed;
- (d) To ensure risks are identified, within acceptable limits and are capable of being managed;
- (e) To ensure monitoring and reporting frameworks are established and followed; and
- (f) To ensure adequate controls and governance arrangements are in place and are followed.

## **6.2 GRANTS TO EXTERNAL ORGANISATIONS (INCLUDING RATE RELIEF)**

### Why is this important

Local groups and organisations make a significant contribution to the local community. However, this contribution is difficult to quantify in financial terms and it is therefore particularly important that any financial support the Council provides to these groups follows a clear and transparent process.

### Responsibility of CLT/Heads of Service

To ensure that any grant payments and any awards of discretionary business rate relief are made in accordance with the agreed policies of the Council, and can be met from within existing budgetary provision.

### APPENDIX 1: SCHEME OF VIREMENT AT A GLANCE (SECTION 3.2)

Type of Virement Delegation Limit	General (3.2.1)	S106 (3.2.2)	Contingency (3.2.3)	Reserves (3.2.4)
CLT	£50k	£25k	n/a	£25k
Chief Financial Officer (s.151 Officer)	£100k	n/a	Technical virement (s.151 Officer) allowed when fully costed and compliance with policy	
Cabinet Member	£100k+	£25k+	n/a	£25k+ If a delegation is in place
Joint Strategic Committee/Cabinet	£250+	£100k+	n/a	£250k+

**Note:**

It is essential that these limits are read in conjunction with the Financial Rules as contained in Part 4 of the Constitution as there are certain circumstances where virement is restricted or not permitted.

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## PART 5 - CODES AND PROTOCOLS

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### Member Code of Conduct

#### Joint statement

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

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

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

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

#### Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Member Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and Members on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

#### Definitions

For the purposes of this Code of Conduct, a 'Member' means a member or co-opted member of a local authority or a directly elected mayor. A 'co-opted member' is defined in the Localism Act 2011 Section 27(4) as 'a person who is not a member of the authority but who

- (a) is a member of any committee or sub-committee of the authority, or;
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee'.

For the purposes of this Code of Conduct, 'local authority' includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

### **Purpose of the Code of Conduct**

The purpose of this Code of Conduct is to assist you, as a Member, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Members, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Members and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of Member and local government.

### **General principles of Member conduct**

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

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

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

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

In undertaking my role:

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

### **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Member or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Member.

This Code of Conduct applies to you when you are acting in your capacity as a Member which may include when:

- you misuse your position as a Member
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Member;

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings

- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Member.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish Members are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

### **Standards of Member conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a Member. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

### **General Conduct**

#### **1. Respect**

**As a Member:**

**1.1. I treat other Members and members of the public with respect.**

**1.2. I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Member, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Members.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Members, where action could then be taken under the Member Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Member-Officer protocol.

#### **2. Bullying, harassment and discrimination**

**As a Member:**

**2.1. I do not bully any person.**

## **2.2. I do not harass any person.**

## **2.3. I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Members have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

## **3. Impartiality of officers of the council**

### **As a Member:**

### **3.1. I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.**

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

## **4. Confidentiality and access to information**

### **As a Member:**

### **4.1. I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:**
  - i. I have received the consent of a person authorised to give it;**
  - ii. I am required by law to do so;**
  - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv. the disclosure is:**
    - 1. reasonable and in the public interest; and**



2. **made in good faith and in compliance with the reasonable requirements of the local authority; and**

3. **I have consulted the Monitoring Officer prior to its release.**

**4.2. I do not improperly use knowledge gained solely as a result of my role as a Member for the advancement of myself, my friends, my family members, my employer or my business interests.**

**4.3. I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

**As a Member:**

**5.1. I do not bring my role or local authority into disrepute.**

As a Member, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Members and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow Members to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a Member:**

**6.1. I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the local authority provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of local authority resources and facilities**

**As a Member:**

**7.1. I do not misuse council resources.**

**7.2. I will, when using the resources of the local or authorising their use by others:**

- a. **act in accordance with the local authority's requirements; and**
- b. **ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Member.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a Member more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

## **8 . Complying with the Code of Conduct**

**As a Member:**

**8.1. I undertake Code of Conduct training provided by my local authority.**

**8.2. I cooperate with any Code of Conduct investigation and/or determination.**

**8.3. I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**

**8.4. I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a Member to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

### **Protecting your reputation and the reputation of the local authority**

## **9 . Interests**

**As a Member:**

**9.1. I register and disclose my interests.**

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

You need to register your interests so that the public, local authority employees and fellow Members know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Members when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

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

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

### **As a Member:**

- 10.1. I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2. I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3. I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Member. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Member, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Member. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendices**

### **Appendix A – The Seven Principles of Public Life**

The principles are:

#### **Selflessness**

Holders of public office should act solely in terms of the public interest.

#### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## **Appendix B**

### **Registering interests**

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in 'The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012'. You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

'**Disclosable pecuniary interest**' means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

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

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the Member, or a person connected with the Member, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### **Non participation in case of disclosable pecuniary interest**

4. Where a matter arises at a meeting which **directly relates** to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your Executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

## Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in Table 2), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

6-7. Otherwise, if you disclose an Other Registrable Interest at a meeting regarding a matter that may engage but **not directly relate** to your interest, you may speak and vote on that particular item, provided you take account of any actual or perceived conflict of interest, bias or pre-determination, which a reasonable member of the public knowing all the facts might believe would affect your view of the wider public interest..

## Disclosure of Non-Registerable Interests

7-8. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative<sup>6</sup> or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8-9. Where a matter arises at a meeting which **affects** –  
a. your own financial interest or well-being;  
b. a financial interest or well-being of a friend, relative, close associate; or  
c. a body included in those you need to disclose under Disclosable Pecuniary Interests as set out in **Table 1**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9-10. Where a matter **affects your-the** financial interest or well-being of yourself, a friend, relative or close associate:  
a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;  
b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

10-11. you may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

11-12. Where you have a personal interest in any business of your authority and you have made an Executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

<sup>6</sup> 'Relative' is defined in s.28(10) of the Localism Act 2011 as:

- (a) the other person's spouse or civil partner,
- (b) living with the other person as husband and wife or as if they were civil partners,
- (c) a grandparent of the other person,
- (d) a lineal descendant of a grandparent of the other person,
- (e) a parent, sibling or child of a person within paragraph (a) or (b),
- (f) the spouse or civil partner of a person within paragraph (c), (d) or (e), or
- (g) living with a person within paragraph (c), (d) or (e) as husband and wife or as if they were civil partners.

**Table 1: Disclosable Pecuniary Interests**

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

Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
<b>Sponsorship</b>	Any payment or provision of any other financial benefit (other than from the council) made to the Member during the previous 12-month period for expenses incurred by them in carrying out their duties as a Member, or towards their election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
<b>Contracts</b>	Any contract made between the Member or their spouse or civil partner or the person with whom the Member is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council — (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
<b>Land and Property</b>	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the Member or their spouse or civil partner or the person with whom the Member is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the Member's knowledge)— the landlord is the council; and the tenant is a body that the Member, or their spouse or civil partner or the person with whom the Member is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the Member's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Member, or their spouse or civil partner or the person with whom the Member is living as if they were spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**Table 2: Other Registerable Interests**

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

- (a) any body of which you are in general control or management and to which you are nominated

or appointed by your authority

(b) any body

- (i) exercising functions of a public nature
- (ii) any body directed to charitable purposes (including Freemasons) or
- (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

### Appendix C

#### The Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

**Best practice 1:** Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

**Best practice 2:** Councils should include provisions in their code of conduct requiring Members to comply with any formal standards investigation and prohibiting trivial or malicious allegations by Members.

**Best practice 3:** The Council will review this Code of Conduct every two years unless an earlier review is requested by the Monitoring Officer.

**Best practice 4:** An authority's code should be readily accessible to both Members and the public, in a prominent position on a council's website and available in council premises.

**Best practice 5:** Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

**Best practice 6:** Councils should publish a clear and straightforward public interest test against which allegations are filtered.

**Best practice 7:** Local authorities should have access to at least two Independent Persons.

**Best practice 8:** An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations

which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

**Best practice 9:** Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

**Best practice 10:** A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

**Best practice 11:** Formal standards complaints about the conduct of a parish Member towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

**Best practice 12:** Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

**Best practice 13:** A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

**Best practice 14:** Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

**Best practice 15:** Senior officers should meet regularly with Political Group leaders or group whips to discuss standards issues.



## **Officer Code of Conduct**

### **1.0 INTRODUCTION**

- 1.1 Section 82 of the Local Government Act 2000 makes provision for a Code of Conduct for all Local Government Employees. The Officer Code of Conduct aims to set out fundamental values that underpin standards of conduct in Local Government.

### **2.0 SCOPE**

- 2.1 This Code applies to all Council Officers, regardless of whether or not they are employees of the Council or employees of another body seconded to act as Officer of this Council. It applies to all Officers, regardless of whether they are part time, full time, permanent, temporary or casual. It sets out the minimum standards of conduct that apply.
- 2.2 The Code forms part of all Employees' terms and conditions of employment.

### **3.0 STATEMENT**

- 3.1 All employees and/or Officers of the Council must perform their duties with honesty, integrity, impartiality and objectivity. All employees and Officers are accountable to the Council for their actions. The public is entitled to demand of a Local Government Officer conduct of the highest standard and public confidence in an Officer's integrity would be damaged were the least suspicion, however ill-founded, to arise that an Officer could be influenced by improper motives.
- 3.2 All Officers must treat other employees, Members and Co-opted Members of the Council with dignity and respect and must not discriminate unlawfully against any person.
- 3.3 The Officer Code of Conduct is not intended to simply be a list of prohibitions, but should benefit all Officers because the Code will clarify conduct which is permissible and appropriate.

### **4.0 CONDUCT EXPECTED OF COUNCIL OFFICERS**

- 4.1 This Officer Code of Conduct sets out the minimum standards that are to be expected.
- 4.2 An Officer of the Council must be aware of and positively promote the Council's vision and corporate priorities as set out on the Council's website.
- 4.3 An Officer of the Council must be committed to treating other Officers and Members with dignity and respect in accordance with the Councils' dignity at work provisions incorporated into the Grievance Policy.
- 4.4 A Council Officer must abide by all policies and procedures of the Councils, relevant to their area of work.
- 4.5 All Council Officers must be aware of their responsibility to the community served by the Councils and must ensure that they provide a courteous, efficient and impartial service delivery, in accordance with the Council's Customer Care Standards. Specifically all staff need to be proactive in providing great service to customers, ensuring we get things right first time, we listen to our customers and we are proactive in our communication.
- 4.6 A Council Officer must not allow their personal interests to conflict with the Council's requirements or objectives and nor may they use their position improperly to confer an advantage or disadvantage on any individual, or organisation.

- 4.7 If a Council Officer who engages or supervises contractors, has a previous or current personal relationship with that contractor, it should be declared to their Head of Service.
- 4.8 If a Council Officer has access to confidential information relating to tenders or costs for contractors, they may not disclose that information to any unauthorised individual, or organisation.
- 4.9 A Council Officer must not use any public funds entrusted to them in an irresponsible, reckless or unlawful manner and may not make personal use of property or facilities of the Council, unless properly authorised to do so.
- 4.10 An Officer of the Council will not be precluded from undertaking additional employment provided that any such employment does not, in the view of the Council, conflict with or react detrimentally to the Council's interests, or in any way weaken public confidence in the conduct of the Council's business. Any Officer of the Council must declare any such additional employment to their Head of Service for inclusion in the Register of Additional Employment maintained by the Head of Human Resources.
- 4.11 If a Council Officer is aware that a contract in which they, or their spouse or partner, has any financial interest, either directly or indirectly, has been or is proposed to be entered into by the Councils, they must as soon as practicable give notice in writing to their Head of Service who shall inform the Head of Legal Services and Head of Legal Services.
- 4.12 Officers of the Council are employed to serve the Council as a whole and must provide a service to all Members, not just those of the controlling party, and ensure that the individual rights of all Members are respected. All Officers, whether in a politically restricted post or not, must follow all policies of the Councils and not allow their own personal or political opinions to interfere with their work.
- 4.13 To preserve public confidence, Council Officers are strongly encouraged not to accept any gifts from customers or contractors. It may constitute a serious criminal offence for an Officer to corruptly receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything, or showing favour or disfavour to any person, in their official capacity.
- 4.14 If a Council Officer does accept any gift, they must comply with the Council's requirements to register or declare interests, and to declare hospitality, benefits, gifts received as a consequence of employment. Any such gift received must be registered, regardless of its value, within 28 days of receipt. Such declaration must be made to the Officer's Head of Service for inclusion in the register held by the Head of Human Resources. It is also good practice for Council Officers to declare any offers of gifts.
- 4.15 A Council Officer must report to the appropriate Manager, any impropriety or breach of procedure. Further guidance is contained within the Councils' Whistleblowing Policy. A Council Officer must not treat another Officer less favourably, because that Officer has, intends to, or is suspected of, reporting misconduct.
- 4.16 A Council Officer must not disclose information given to them in confidence, or information acquired which is believed to be of a confidential nature, without the consent of the person involved or the proper authorisation. A Council Officer must not prevent another person from gaining access to information to which that person is entitled by law. Further guidance can be obtained from the Councils' Security of Information Officer.
- 4.17 Close personal associations, either between Officers and Members, or between Officers, can be perceived as leading to less independence and impartiality of individuals, and therefore Officers involved in such relationships should declare them to their Head of Service, to be transparent about the nature of the relationship and not put themselves nor the Council in any potential position of conflict. Further information can be found in the

Councils' Equalities Policy and Grievance Policy, which are also part of an Officer's terms and conditions of employment.

- 4.18 A Council Officer must not be involved in the recruitment, discipline, promotion or pay adjustment or conditions of service of another Officer, or potential Officer, who is a relative or someone well known to them. Further guidance can be found in the Councils' Recruitment and Selection Policy.
- 4.19 A Council Officer must declare to their Head of Service, for inclusion in the Register of Interests held by the Head of Human Resources, membership of any organisation which is not open to the public without formal membership and commitment of allegiance and which has secrecy around rules of membership or conduct.
- 4.20 A Council Officer should be aware that there may be exceptional circumstances where their behaviour, out of hours and off-duty, may impact on the Councils and their reputations. In particular, reference is made to the Councils' Social Media Policy. The Councils reserve the right to consider such actions in relation to its position.
- 4.21 A Council Officer must at all times act in accordance with the trust that the public is entitled to place in them. Therefore both at work and in private life a Council Officer should do nothing to bring the Councils into disrepute. The public need to be assured that public duties are not subordinated to private interests, and that conflicts between private life and duty do not arise.
- 4.22 Any expenditure incurred by Council Officers on non-work related or social events will be personal and not paid from Council budgets.

## **5.0 BREACH OF OFFICER CODE OF CONDUCT**

- 5.1 Failure of a Council Officer to comply with any part of this Code of Conduct may result in disciplinary action, which could include summary dismissal. Further guidance may be found in the Councils' Disciplinary Policy.

## Member/Officer Working Arrangements Protocol

### 1.0 INTRODUCTION

1.1 Mutual trust and respect between Members and Officers is at the heart of a Council's good governance. They are essential if the partnership necessary for the effective running of a local authority is to succeed. At the heart of the Members' and Officers' Codes of Conduct and this Protocol, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way.

1.2 This protocol is intended to assist Members and Officers in maintaining the highest standards of integrity and propriety and ensuring that all they do is perceived by others to be done properly, fairly and, where possible, openly.

1.3 This Protocol addresses the need for a written guide to the basic elements of the relationship between Members and Officers. It is a protocol designed to:

- (a) promote trust, openness, fairness and honesty by establishing some ground rules;
- (b) define roles so as to:
  - (i) clarify responsibilities
  - (ii) avoid conflict and
  - (iii) prevent duplication or omission
- (c) secure compliance with the law, codes of conduct and the Council's own practices; and
- (d) lay down procedures for dealing with concerns by Members or Officers.

### 2.0 DEFINITIONS

2.1 Unless the context indicates otherwise, references to the term Council includes the Cabinet, Overview and Scrutiny Committees, and other Committees and Sub-Committees.

2.2 Unless the context indicates otherwise, the terms Member and Members include non-elected (i.e. co-opted) Members as well as elected Councillors.

2.3 Officers means all persons employed by the Council, or employed by another Council for the purpose of providing a service to this Council.

2.4 Senior Officer means Chief Officer, Deputy Chief Officer, Director and Heads of Service.

2.5 Designated Finance Officer means the Officer exercising the duties prescribed by law for the financial administration of the Council and is the Chief Finance Officer, Head of Financial Services and Section 151 Officer.

2.6 'Monitoring Officer' means the Officer appointed to and exercising their role under the Local Government and Housing Act 1989 and is the Head of Legal Services.

### 3.0 PRINCIPLES

3.1 Members and Officers must at all times observe this protocol.

3.2 This Protocol has been approved by the Council and the Joint Audit & Governance Committee will monitor its operation.

3.3 Members and Officers must always respect the roles and duties of each other. They must be courteous in all their dealings, and not seek to take unfair advantage by virtue of their position. They must maintain a professional working relationship at all times.

- 3.4 Whilst Members and Officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to Members (individually and collectively) and to carry out the Council's work under the direction of the Head of Paid Service.
- 3.5 Officers are bound by the Council's Officer Code of Conduct and, in some cases, by the codes of their professional associations.
- 3.6 Elected Members are bound by the Council's Member Code of Conduct.
- 3.7 Breaches of this Protocol by a Member may result in a complaint to the Monitoring Officer if it appears that the Members' Code of Conduct has also been breached. Breaches of this Protocol by an Officer may lead to disciplinary action, as may a breach of the Officer Code of Conduct.

#### **4.0 THE ROLE OF MEMBERS**

- 4.1 Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the Authority's Policy Framework, strategic plans and budget.
- 4.2 As politicians, Members may express the values and aspirations of the party Political Groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.
- 4.3 Members are not authorised to instruct Officers other than:  
(a) through the formal decision-making process;  
(b) to request the provision of consumable resources provided by the Council for Members' use;  
(c) where staff have been specifically allocated to give support to a Member or group of Members.
- 4.4 Members may not initiate or certify financial transactions, or enter into a contract in writing or orally on behalf of the Council, or direct any Officer to do so. Letters which may commit the Council to any action should not be sent in the name of any Member without having first checked the position with an appropriate Officer from Legal Services. Members should not give any assurances to any person outside the Council or make any public statement which may be interpreted as making a formal commitment on any matter where a formal decision has yet to be made.
- 4.5 No Member should meet with a developer or contractor concerning negotiations for the disposal of land or the terms of a contract outside the formal meeting processes of the Council unless a Council Officer is present and a note is made of the content of the discussion at the meeting. Such meetings might occasionally take place on an initial exploratory basis, but should not continue beyond that. Officers should then pursue any negotiations arising. The Chief Officer would keep the Member(s) informed and report formally to Member meetings where appropriate for information or decision.
- 4.6 Members must not take actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation to take into account, when reaching decisions, any advice provided by the Monitoring Officer or the designated Finance Officer.
- 4.7 Members' roles on the employment of staff are limited to:  
(a) the appointment of specified senior posts as set out in the Officer Employment Procedure Rules;  
(b) determining Human Resources policies and conditions of employment; and

(c) hearing and determining specific appeals as set out in the Officer Employment Procedure Rules.

4.8 Members must respect the impartiality of Officers and do nothing to compromise it, e.g. by insisting that an Officer change their professional advice.

4.9 A Cabinet Member wanting to make a decision about a matter in their portfolio should ensure that other Members and Senior Officers who need to know of the matter are informed, particularly on issues of joint responsibility or mutual interest, and in appropriate cases to brief the whole Cabinet.

## 5.0 THE ROLE OF OFFICERS

5.1 Officers are paid employees of the Council (not of Elected Members). Officers are required to operate within the law, the Constitution, local and national codes and protocols and must always act to achieve the objectives of the Council. Ultimately, as employees, Officers are accountable under their contracts of employment. Some employees are in politically restricted posts and cannot stand for election, nor hold certain posts in political parties.

5.2 Officers have a duty to provide information, advice and recommendations to Members to fulfil their roles. Such information, etc. can be given both formally and informally, but where significant or potentially controversial issues are at stake should be given formally and in writing.

5.3 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any Political Group, combination of groups or any individual Member of the Council.

5.4 Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the Authority as expressed in the Council's formal decisions.

5.5 Officers have a contractual and legal duty to be impartial. They must not allow their professional judgment and advice to be influenced by their own personal views.

~~5.6 Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, Officers will take into account all available relevant factors.~~

5.6 Proper, open dialogue between Members and Officers of all grades and seniority is essential to good governance. In order to ensure that dialogue is mutually respectful, productive and contributes to the effective running of the council, certain principles should be followed.

5.7 Under the direction and control of the Council (including, as appropriate, the Cabinet, Committees and Sub-Committees), Officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.

5.8 Officers have a duty to implement decisions of the Council, the Cabinet, Committees and Sub-Committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Constitution, and duly recorded.

5.9 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.

- 5.10 Officers have the right not to support Members in any role other than that of Member, and not to engage in actions incompatible with this Protocol. In particular, there is a statutory limitation on Officers' involvement in political activities applying to certain Officers holding politically restricted posts.
- 5.11 Senior Officers shall agree mutually convenient times for regular contact with Cabinet Members and Shadow Cabinet Members.

## **6.0 MEMBER DECISION MAKING**

- 6.1 Officers should never lobby Members or otherwise improperly seek to influence their decision making, nor should they seek to act for personal rather than professional motives.
- 6.2 The principal focus of Member decision making is to determine policy and strategic objectives. Members will only exceptionally be involved in operational or managerial decisions designed to deliver those policies and strategic objectives. One exception to this principle is that Members sitting in a regulatory capacity will take decisions which affect the rights of individuals, for example in relation to development management and licensing matters, to which specific codes of practice apply.
- 6.3 Member decision making is always formal, public and auditable on the basis of written reports and advice from relevant Officers.
- 6.4 Accordingly, Members should not purport to give instructions directly to junior Officers on an informal basis, except to the small number of Officers employed specifically to provide support services to Elected Members.
- 6.5 Members need to be aware that some, particularly more junior, members of staff can feel intimidated by direct approaches by Members, and in particular should avoid being in a position where they could be seen as asking an Officer to act against Council policy, against the Officer's professional judgment or otherwise under pressure from the Member.

## **7.0 THE RELATIONSHIP BETWEEN MEMBERS AND OFFICERS**

- 7.1 The conduct of Members and Officers should be such as to inspire mutual confidence and trust.
- 7.2 The key elements are a recognition of, and a respect for, each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.
- 7.3 There must be no bullying and/or intimidating behaviour between Members and Officers.
- 7.4 It is important that there should be a close working relationship between the Leader, Cabinet Members and Chairs of committees and senior Officers of any department which reports to that Member or committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officers' ability to deal impartially with other Members and other Political Groups, or with any other individual or organisation.
- 7.5 Informal and collaborative two-way contact between Members and Officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection.
- 7.6 No Member or Officer should allow any personal connection or relationship with any other Member or Officer to affect the performance of their official responsibilities or the taking of

any action or decision by or on behalf of the Council. This includes, for example, any family relationship, membership of the same household or any business connection. Members and Officers should always consider how such a relationship or connection would be likely to be regarded by anyone outside the Council, or by any other Member or Officer, and avoid creating any impression of bias or unfairness.

- 7.7 Any Members and Officers who form a close personal relationship, either a Member with an Officer, a Member with a Member, or an Officer with another Officer, shall inform their Head of Service of any such relationship since it might be seen as unduly influencing their work in their respective roles.
- 7.8 If a Member or Officer becomes aware of an inappropriate relationship that may or does affect their work and/or the reputation of the Council, they should bring this to the attention of their Head of Service and Monitoring Officer.
- 7.9 It is not enough to avoid actual impropriety. Members and Officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a Member should not sit on a body or participate in any decision which directly affects the Officer on a personal basis.
- 7.10 Officers work to the instructions of their Senior Officers, not individual Members. It follows that, whilst such Officers will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, Members should direct their requests and concerns to a Senior Officer, or an Officer that the Senior Officer has confirmed beforehand may be approached directly. Chief Officers shall ensure that Members are adequately informed of such arrangements.
- 7.11 Officers will do their best to give timely responses to Members' enquiries. However, Officers should not have unreasonable requests placed on them. Their work priorities are set and managed by Senior Managers. Members may discuss and give their views upon work priorities with Senior Officers.
- 7.12 Members will endeavour to give timely responses to enquiries from Officers.
- 7.13 An Officer shall not discuss with a Member personal matters concerning themselves or another individual employee. This does not prevent an Officer raising on a personal basis, and in their own time, a matter with their Ward Member.
- 7.14 Members and Officers should respect each other's free (i.e. non-Council) time.
- 7.15 Members and Officers must comply with and promote the Council's policies on equality and diversity.

## **8.0 POLITICAL GROUPS AND OFFICERS**

- 8.1 Officers' support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.
- 8.2 Party group meetings, as opposed to meetings of a body such as the Cabinet that may consist only of members of one political party, are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings have no status as formal Council decisions.



8.3 In their dealings with Political Groups, Officers must treat each group in a fair and even-handed manner. In particular, if a briefing is offered to one party then it should be offered to all Political Groups.

8.4 There is statutory recognition for Political Groups, and it is common practice for such groups to give preliminary consideration to policy matters before being considered by the relevant Council decision-making body. There have to be confidential spaces in which Political Groups can develop their policy proposals in private with the benefit of officer advice. Officers must respect the confidentiality of any Political Group discussions at which they are present in the sense that they should not relay the content of any such discussion to another Political Group. Officers may therefore properly be called upon by Political Groups to support and contribute to such deliberations but must at all times maintain political neutrality. Equally, Members must not do anything which compromises or is likely to compromise Officers' impartiality.

8.5 At party group meetings where some of those present are not Members of the Council, care must be taken not to divulge confidential information relating to Council business. Persons who are not Members are not bound by the Members' Code of Conduct. They do not have the same rights to Council information as Members.

## **9.0 MEMBERS' ACCESS TO DOCUMENTS AND INFORMATION**

9.1 This part of the Protocol should be read in conjunction with the Access to Information Procedure Rules in Part 4 of the Constitution.

9.2 Members may request Senior Officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as Members. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:

- (a) it is in the public domain, and
- (b) it is not barred from being given, by any legislative restriction, including the Data Protection Act.

9.3 A Member should obtain advice from the Monitoring Officer in circumstances where they wish to have access to documents or information:

- (a) where to do so is likely to be in breach of the Data Protection Act, or
- (b) where the subject matter is one in which they have a personal or disclosable pecuniary interest as defined in the Members' Code of Conduct.

9.4 Information given to a Member must only be used for the purpose for which it was requested.

9.5 Members and Officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.

9.6 When requested to do so, Officers will keep confidential from other Members advice requested by a Member.

9.7 Members and Officers must not prevent another person from gaining access to information to which that person is entitled by law.

## **10.0 INTERPRETATION, COMPLAINTS AND ALLEGATIONS OF BREACHES**

10.1 This part of the Protocol should be read in conjunction with the Council's Anti-Fraud, Corruption and Whistleblowing Policy Statement and Code of Conduct.

- 10.2 Members or Officers with questions about the implementation or interpretation or any part of this Protocol should seek the guidance of the Monitoring Officer or in their absence the Chief Executive.
- 10.3 Neither Officers nor Members should pass comment about Officers (individually or collectively) in a way which could be taken as personally critical of, or as undermining, the Officer(s). Similarly, it is never the role of an Officer to criticise or undermine Members (individually or collectively).
- 10.4 A Member should not raise matters relating to the conduct or capability of Officers (individually or collectively) in a manner that is incompatible with the objectives of this Protocol. This is a longstanding tradition in public service. Officers have no means of responding to such criticisms in public.
- 10.5 A Member who is unhappy about the actions taken by, or the conduct or capability of, Officers (individually or collectively) should:
- (a) avoid personal attacks on, or abuse of, the Officer(s) at all times;
  - (b) ensure that any criticism is well founded and constructive;
  - (c) never make a criticism in public (including on social media); and
  - (d) take up the concern with the relevant Director or Chief Executive.
- 10.6 A serious breach of this Protocol by an Officer may lead to an investigation and action under the Council's disciplinary procedure.
- 10.7 An Officer who believes a Member may have acted other than in accordance with this Protocol should raise their concern with the Monitoring Officer. They will consider how the complaint or allegations should be dealt with and take such action as they consider appropriate. At a minor level, this may be to raise the matter confidentially with the Member and/or the Leader of the relevant party group, giving information to the Officer concerned as to the action taken. More serious complaints may be dealt with in accordance with the Members' Code of Conduct and Standards Procedure Rules, if they relate to an alleged breach of the Members' Code of Conduct.

## **Monitoring Officer Protocol**

### **1.0 THE MONITORING OFFICER**

- 1.1 The Monitoring Officer is responsible for ensuring that the Council and its Members act lawfully, do not cause maladministration, and comply with the Member Code of Conduct. The Monitoring Officer is the Council's primary source of advice on all legal issues, and to Members on their legal obligations, but they also have specific statutory duties, such as investigating complaints of Member misconduct and making public report to the Council in cases of illegality. There is an inherent potential conflict between the Monitoring Officer role as a Legal Advisor and the fact that, on occasion, they may have to comply with statutory duties in respect of illegality. The purpose of this protocol is to enable Members to make use of the Monitoring Officer's ability to provide them with practical advice on legality and conduct, by setting out how the Monitoring Officer will carry out their functions.

### **2.0 INTRODUCTION**

- 2.1 The Council recognises that an effective Monitoring Officer, positively engaged in the discharge of the Council's business, is essential to the effective running and sound corporate governance of the Council.
- 2.2 Section 5(1) Local Government and Housing Act 1989 requires the Council to appoint an Officer as the Council's Monitoring Officer and gives that Officer personal responsibility:
- (a) to report on actual, and anticipated, illegality within the Councils;
  - (b) to report cases where the Ombudsman has found maladministration on the part of the Council;
  - (c) to maintain the Register of Members' Interests; and
  - (d) to administer, assess and investigate complaints of Members' misconduct.
- 2.3 The Council has extended the functions of its Monitoring Officer beyond these 'statutory functions' above, and their functions are set out in paragraph 5 below.
- 2.4 The law does not prescribe exactly how the Monitoring Officer is to carry out these functions. Therefore, this protocol describes the manner in which the Council expects the Monitoring Officer to discharge these functions and how it expects Officers and Members to co-operate with the Monitoring Officer in order to enable them to discharge these functions effectively.

### **3.0 APPOINTMENT**

- 3.1 The Monitoring Officer is appointed by Council and is the Council's Senior Legal Officer and Head of Legal Services.
- 3.2 The Monitoring Officer is employed by Adur District Council but also seconded to Worthing Borough Council to enable them to act as Monitoring Officer for both Adur District Council and Worthing Borough Council.
- 3.3 Where the Monitoring Officer leaves the employment of Adur District Council, they automatically cease to be the Monitoring Officer for both Councils. The Council may appoint an Officer as Interim Monitoring Officer, pending a permanent appointment.

### **4.0 PERSONAL RESPONSIBILITY**

- 4.1 The Monitoring Officer is required to carry out the statutory functions of their post personally, with the exception that:

- (a) the Monitoring Officer may nominate one or more members of staff as Deputy Monitoring Officer, with power to act as Monitoring Officer where they are unable to act; and
- (b) in respect of the obligations relating to alleged breaches of the Members' Code of Conduct, the Monitoring Officer may arrange for any person to perform all or any of their functions, for example by delegating internally or by instructing an external lawyer to conduct a particular investigation.

4.2 Whilst the statutory functions are personal to the Monitoring Officer, they may arrange for any member of staff to assist them in the discharge of any non-statutory functions.

## **5.0 FUNCTIONS**

### **5.1 Statutory Functions**

- 5.1.1 To report to the Council in any case where they are of the opinion that any proposal, decision or omission by the Council or any of its Committees, Sub-Committees or Joint Committees, or any Member or Officer of the Council, has given rise to, or is likely to give rise to any illegality, in accordance with section 5(2)(a) of the Local Government and Housing Act 1989.
- 5.1.2 To report to the Council in any case where the Ombudsman, after investigation, has reported that any proposal, decision or omission by the Council or any Committee, Sub-Committee or Joint Committee of the Council, or any Member or Officer of the Council has given rise to maladministration or injustice, in accordance with section 5(2)(b) of the Local Government and Housing Act 1989.
- 5.1.3 To maintain the Register of Members' Interests in accordance with section 81(1) of the Local Government Act 2000.
- 5.1.4 To administer, assess and investigate complaints referred to them of allegations of breach of the Members' Code of Conduct, in accordance with the Localism Act 2011.

### **5.2 Non-Statutory Functions**

- 5.2.1 To investigate any proposal, decision or omission by the Council or any of its Committees, Sub-Committees or Joint Committees, or any Member or Officer of the Council, which they have reason to believe may have given rise to, or is likely to, or would give rise to:
  - (a) illegality;
  - (b) maladministration;
  - (c) service failure;
  - (d) failure to observe the Members' Code of Conduct.
- 5.2.2 To act as the principal legal advisor to the Councils' Joint Audit & Governance Committee.
- 5.2.3 To act as principal advisor to the Sub-Committees of the Councils' Joint Audit & Governance Committee when dealing with allegations of breach of the Members' Code of Conduct.
- 5.2.4 To provide advice to Members on the Member Code of Conduct and local protocols adopted by the Council.
- 5.2.5 To monitor and uphold the Constitution.
- 5.2.6 Responsibility for the managing of complaints from the Commissioner for Local Administration in England and whistleblowing functions of the Council.

- 5.2.7 Appointment as Proper Officer for the Data Protection Act 1998, the Freedom of Information Act 2000 and the Regulation of Investigatory Powers Act 2001.
- 5.2.8 To consult regularly with the Chief Executive, the Chief Finance Officer and Internal Audit to identify areas where the probity of the Council can be improved or better protected and to take appropriate actions.
- 5.2.9 To investigate any application for dispensation from a Member and to report and recommend to the Councils' Joint Audit & Governance Committee as appropriate.
- 5.2.10 To ensure that Members of the Council are fully aware of their obligations in respect of probity, particularly under the Member Code of Conduct and any local protocols adopted by the Council.
- 5.2.11 To report to the Councils' Joint Audit & Governance Committee, and to the Council, on the resources which they require for the discharge of their functions.
- 5.2.12 To report to the Councils' Joint Audit & Governance Committee on the performance of their functions and to make any recommendations which would better enable those functions to be performed.

## **6.0 ADVICE AND DECISIONS**

6.1 The Monitoring Officer's responsibilities fall into three distinct categories:

### **6.1.1 Advice**

In a number of instances the Monitoring Officer acts as advisor to the Council, or to individual Members. For example, a Member may seek advice as to whether they have a disclosable pecuniary interest in a matter coming before a Committee. In such cases, the Monitoring Officer will provide such advice, but ultimately it is for the individual Member to take their own decision as to their conduct in the light of that advice. Where a Member's enquiry discloses a wider issue, the Monitoring Officer may decide that it is appropriate to make recommendations to the Council, in order to avoid a repetition of such difficulties.

### **6.1.2 Decisions**

In other cases, where the proposal, action or omission would cause the Council to act unlawfully, the Monitoring Officer may be required by statute to take a decision as to whether there is, or would be, any illegality on the part of the Council, or of any Member or Officer of the Council, and to decide whether they are required by statute to make a report to the Council which would have the effect of suspending the implementation of the action, or decision, until the report has been considered.

### **6.1.3 Advice and Decision**

The categories of advice and decisions are not mutually exclusive. In some instances the conduct of a Member could for example give rise to both a failure to comply with the Member Code of Conduct and an illegality on the part of the Councils. In some cases the Monitoring Officer may be obliged to advise a Member whilst also being required to take action as Monitoring Officer to address an illegality.

## **7.0 SEEKING THE ADVICE OF THE MONITORING OFFICER**

7.1 It is recognised that the Monitoring Officer will be most effective if they are able to advise on any issue at an early stage of policy formulation or implementation. Accordingly, Officers

and Members of the Council should routinely inform and consult the Monitoring Officer in respect of new policy proposals and action programmes.

## **7.2 Advice on legality and maladministration**

- 7.2.1 Members and Officers of the Council may consult the Monitoring Officer in confidence in respect of any proposal, decision or omission.
- 7.2.2 Wherever possible, the Monitoring Officer will seek to avoid any illegality or maladministration by identifying alternative or legitimate means of achieving the objective of the proposal, decision, act or omission or by rectifying any deficiency.
- 7.2.3 The Monitoring Officer will only need to make a report public on the matter if the proposed decision, act or omission were, in their opinion, unlawful and the Officer or Member concerned subsequently took any action to progress that proposal, decision or omission, despite having been advised to the contrary by the Monitoring Officer.
- 7.2.4 Where the Monitoring Officer is consulted by a Member in respect of possible illegality or maladministration in any proposal, action or omission of the Council (as opposed to of the Member making the enquiry) the Monitoring Officer shall advise the Council's Political Group Leaders and the relevant Committee Chair that they have been so consulted and the advice which they have given.

## **7.3 Advice on the Code of Conduct**

- 7.3.1 The Monitoring Officer is the primary source of advice for all Members on the Member Code of Conduct and on local protocols.
- 7.3.2 Any Member, irrespective of political party, can seek the confidential advice of the Monitoring Officer as to their own position. Where the Monitoring Officer is so consulted, and subject to any conflict of interest with the Council, they will seek to provide prompt advice to the Member concerned as to whether, in their opinion, the action or proposed action would constitute a failure to comply with the Members' Code of Conduct. Where they are so consulted by a Member about their own conduct, the Monitoring Officer will not disclose the fact of consultation or the advice given unless required to do so by law or as part of an investigation into an alleged breach of the Members' Code of Conduct.
- 7.3.3 Any Member, irrespective of political party, may seek the advice of the Monitoring Officer as to whether the actions of another Member of the Council would amount to a failure to comply with the Code of Conduct. Such enquiry should be made in writing to ensure that advice is given on the correct details. Members are encouraged to consult the Monitoring Officer before considering whether to make a formal complaint of an alleged breach of the Code. The Monitoring Officer may make enquiry of the Member in respect of whom the enquiry is made before providing such advice.

## **8.0 INVESTIGATION**

### **8.1 Preventative Investigation**

Prevention is better than cure and the Council expects the Monitoring Officer to investigate matters which give them concern as to possible illegality, maladministration or breach of the Member Code of Conduct. This would arise when the Monitoring Officer receives information which raises the possibility that a proposal, action or omission of the Council or any of its Committees, Sub-Committees or Joint Committees, or any Member or Officer of the Council, is or would be unlawful, or give rise to maladministration and injustice, or amount to a breach of the Member Code of Conduct. In such cases, the Council expects the Monitoring Officer to investigate the matter and determine whether the proposal, action or omission, actually is or would be unlawful, or give rise to maladministration or injustice,

or amount to a failure to observe the Member Code of Conduct, and to take the appropriate action.

8.2 Where the Monitoring Officer determines that the proposal, action or omission is, or would be, a failure to comply with the Member Code of Conduct, they shall advise the relevant Member accordingly. If appropriate, the Monitoring Officer could carry out an assessment of the matter, investigate as appropriate and bring the matter to the attention of the Councils' Joint Audit & Governance Committee in accordance with the Standards Procedure Rules.

### 8.3 **Established Procedures**

Where the Monitoring Officer receives a complaint that a proposal, action or omission is unlawful or constitutes maladministration, and the Council already operates an appeal process for resolving such matters, the Monitoring Officer may deal with the matter by ensuring that the established procedure is followed. They may also intervene in such procedure to identify that the particular matter potentially gives rise to illegality or maladministration and injustice.

8.4 In cases where the Monitoring Officer determines that the proposal, act or omission is not unlawful, they shall advise any Member or Officer concerned of their determination. Where the Monitoring Officer determines that the proposal, action or omission is, or would be, unlawful, they shall, where possible, seek to agree an alternative and lawful course of action. The Monitoring Officer will then advise the complainant of their determination and of any agreed alternative course of action, which could include an offer in settlement of any injustice suffered by any person and/or the Monitoring Officer making a statutory report.

### 8.5 **Maladministration**

Where the Monitoring Officer determines upon investigation that a proposal, act or omission has not caused, or would not give rise to, maladministration and injustice, they shall respond to the complainant and advise any Member or Officer concerned of the determination.

Where the Monitoring Officer determines that the proposal, act or omission has caused or would give rise to maladministration and injustice, they shall advise any Member or Officer concerned of the determination and seek to agree an alternative lawful course of action. The Monitoring Officer shall then advise the complainant of their determination and of any agreed alternative course of action and/or offer in settlement of any injustice suffered by any person.

### 8.6 **Failure to observe the Member Code of Conduct**

The Monitoring Officer will deal with assessments and determinations of allegations of failure to observe the Member Code of Conduct in accordance with the Standards Procedure Rules in Part 4 and the Member Code of Conduct.

## 9.0 **LOCAL RESOLUTION**

9.1 Where the Monitoring Officer receives a complaint of illegality, maladministration or failure to observe the Member Code of Conduct, they shall, if appropriate, seek to resolve the matter amicably by ensuring the situation is as far as possible rectified, informing the complainant of the resolution and dealing with any potential compensation payment or apology. However, it is recognised that the Monitoring Officer may determine that the matter is not appropriate for local resolution or incapable of being so resolved, or is of such seriousness that a statutory report is the only appropriate response.

## 10.0 **REPORTING**

### 10.1 **Illegality**

Where the Monitoring Officer is of the opinion that an unlawful action or omission has already occurred, or that the Council, its Committees, Sub-Committees or Joint Committees, or any Member or Officer seeks to progress an unlawful proposal, action or omission, the Monitoring Officer shall consult as far as practicable with the Chief Executive and the Chief Finance Officer (Section 151 Officer), prior to determining whether to make a formal report under Section 5 of the Local Government and Housing Act 1989.

To avoid a separate statutory report, the Monitoring Officer shall be entitled, if they wish, to add their written advice to the report on the matter by any other Officer of the Council, and/or to provide oral advice at any meeting of the Council.

#### **10.2 Maladministration**

Where the Monitoring Officer is of the opinion that maladministration and injustice have already occurred, or where the Council or any Committees, Sub-Committees, or Joint Committees of the Council, or any Member or Officer of the Council, seek to progress a proposal, action or omission which would give rise to maladministration and injustice, the Monitoring Officer shall consult as far as practicable with the Chief Executive and the Chief Finance Officer (Section 151 Officer) before determining whether to make a written report to the decision-maker. The Monitoring Officer shall be entitled to add their written advice to the report on the matter by any other Officer of the Council, and/or to provide oral advice at any meeting of the Council.

#### **10.3 Failure to observe the Member Code of Conduct**

The Monitoring Officer will deal with allegations of failure to observe the Member Code of Conduct in accordance with the Council's Member Code of Conduct and the Standards Procedure Rules.

### **11.0 ADVICE TO INDIVIDUAL MEMBERS**

- 11.1 Wherever possible, the Monitoring Officer will provide advice to individual Members to support them in the discharge of their responsibilities as a Councillor. The Monitoring Officer will not however provide advice to a Political Group or party or to a Member making an enquiry on their behalf.
- 11.2 The Monitoring Officer is employed by the Council and owes their primary responsibility to the Council, rather than to any individual Member or group of Members. Consequently, where the Monitoring Officer considers that providing advice to a Member on a matter which is incompatible with their role as advisor to the Council, or any action they may have to take on behalf of the Council, the Monitoring Officer may decline to provide such advice but could, at their discretion, secure such advice from an independent source at the Council's expense.

### **12.0 MONITORING AND INTERPRETING THE CONSTITUTION**

- 12.1 The Monitoring Officer will monitor, and review on a regular basis, the effectiveness and operation of the Constitution so as to ensure that the aims and principles of the Constitution are given full effect and that the Constitution enables the Council to discharge its functions effectively.
- 12.2 In order to conduct such monitoring and review, the Monitoring Officer may:
- (a) consult any Member and/or Officers and other organisations and persons having dealings with the Council;
  - (b) observe meetings of Members and/or Officers at any level;
  - (c) undertake an audit trail of a sample of decisions;
  - (d) record and analyse issues raised with them by Members, Officers, the public and other relevant stakeholders;



- (e) compare practices in this Council with those in other comparable authorities, or national examples of best practice; and
  - (f) consider any relevant reports and recommendations of the District Auditor and other regulatory agencies.
- 12.3 The Monitoring Officer shall consult the Chief Executive and the Chief Finance Officer periodically, highlighting areas where there is potential to improve the Constitution or its effectiveness, before determining whether to report to the Council on any necessary changes.
- 12.4 The Monitoring Officer will maintain an up-to-date copy of the Constitution and ensure that it is accessible to Members, Officers and the public and will make such amendments to the Constitution as are necessary to reflect changes of fact and law and decisions of the Council. The Council shall retain the power and responsibility to consider and determine policy changes to the Constitution.
- 12.5 The Monitoring Officer shall be responsible for advising on the interpretation of the Constitution and in particular, shall determine whether a proposed decision is contrary to the Policy Framework or the approved budget and whether a proposal is sufficiently urgent to merit the use of the statutory urgency provisions or the Chief Executive's urgency powers.

### **13.0 RESOURCES**

- 13.1 The Council is required by statute to provide the Monitoring Officer with the resources which they consider are necessary for the fulfilment of their statutory duties.
- 13.2 For the purpose of carrying out their functions, the Monitoring Officer shall be provided with the following resources:
- (a) the right of access to all documents and information held by or on behalf of the Council;
  - (b) the right of access to any meetings of Members or Officers of the Council, although this does not extend to any meetings held by any political party or group;
  - (c) the right to require any Officer or Member of the Council to provide an explanation of any matter under investigation;
  - (d) a right to report to the Council, the Joint Audit & Governance Committee and to the Cabinet, including a right to present a written report and to attend and advise verbally;
  - (e) the right to require the assistance of any Officer of the Council and to delegate to that Officer any other powers of the post of Monitoring Officer;
  - (f) a power to agree a local resolution of any complaint of maladministration or breach of the Council's Member Code of Conduct, in consultation with the Chief Executive and Chief Finance Officer, including the power to agree a compensation payment of up to £5,000 in any particular case, and subject to subsequent report to the Joint Audit & Governance Committee for information;
  - (g) the right of access to the Chief Executive and the Chief Finance Officer;
  - (h) the right after consultation with the Chief Executive and the Chief Finance Officer, to notify the Police, the Council's auditors and other regulatory agencies of their concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions;
  - (i) the right to obtain legal advice at the Council's expense, whether internally or from an independent external solicitor or barrister, on any matter and to be provided with sufficient financial resource to enable them to do so.

## Dispensations Protocol

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### 1.0 Guide to Dispensations

1.1 The council is responsible for determining requests for a dispensation by a Member under s.33 of the Localism Act 2011. The council may grant a dispensation to an Elected or Co-opted Member on a matter with which they would otherwise not be permitted to deal, as a result of having a Disclosable Pecuniary Interest.

1.2 This guide explains:

- (a) The purpose and effect of dispensations
- (b) The procedure for requesting dispensations
- (c) The criteria applied in determining dispensation requests
- (d) The terms of dispensations

1.3 Until a dispensation is granted, a Member may not participate in the consideration of the matter before the Council (or any committee or sub-committee) in which they have a Disclosable Pecuniary Interest.

1.4 For the avoidance of doubt, Members do not have a Disclosable Pecuniary Interest and/or are granted a general dispensation in respect of any business of the Council relating to:

- (a) housing, where the Member is a tenant of the Council, provided that the business does not relate particularly to the Member's tenancy or lease, or that of a relative, friend or close associate;
- (b) an allowance, payment or indemnity given to Members;
- (c) any ceremonial honour given to Members;
- (d) setting council tax or a precept under the Local Government Finance Act 1992.

### 2.0 Purpose and effect of dispensations

2.1 In certain circumstances, Members may be granted a dispensation that enables them to take part in council business where this would otherwise be prohibited because they have a Disclosable Pecuniary Interest. Provided Members act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct or the law.

2.2 Section 31(4) of the Localism Act 2011 states that dispensations may allow a member to:

- (a) participate, or participate further, in any discussion of the matter at a meeting;
- and/or
- (b) participate in any vote, or further vote, taken on the matter at a meeting

**Please note: if a member participates in a meeting where they have a Disclosable Pecuniary Interest and they do not have a dispensation, they may be committing a criminal offence under section 34 of the Localism Act 2011.**

### 3.0 Process for making requests

3.1 A request for dispensation must be made on an individual basis. Any Member who wishes to apply for a dispensation should fully complete a Dispensation Application Form (Appendix 1) and submit it to the Monitoring Officer, explaining why it is desirable and appropriate to grant the dispensation.

### 4.0 Approval Process

4.1 The Monitoring Officer may only grant a dispensation to a Member who has a Disclosable Pecuniary Interest allowing them to participate in any discussion of a matter at a meeting and/or to participate in any vote on the matter (as per paragraph 2 above), if they consider that:

- (a) without the dispensation, the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business.
- (b) without the dispensation, the representation of different Political Groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business.
- (c) without the dispensation, each Member of the authority's Cabinet would be prohibited from participating in any particular business to be transacted by the Cabinet.
- (d) granting the dispensation is in the interests of persons living in the authority's area,  
or
- (e) it is otherwise appropriate to grant a dispensation.

4.2 In the absence of the Monitoring Officer, a Deputy Monitoring Officer is authorised to execute the functions of the Monitoring Officer. The Joint Audit & Governance Committee also has the delegated power to agree dispensations.

4.3 Applications dealt with by the Monitoring Officer will normally be determined within 10 working days. Applications made to the Joint Audit & Governance Committee will go to the next ordinary meeting or it may be appropriate to arrange a special meeting at the discretion of the Chair of the committee. Applications must be received at least 10 clear working days before a meeting to enable a report to be prepared and the agenda published five clear days before the meeting.

4.4 The Monitoring Officer will formally notify the Member of the decision and reasons in writing at the earliest opportunity and in any event within five clear working days of the decision.

## **5.0 Criteria for determination of requests**

5.1 In reaching a decision on a request for a dispensation, the Monitoring Officer will consider:

- (a) the nature of the Member's interest
- (b) the extent to which the request could have been avoided or other arrangements could be made
- (c) the need to maintain public confidence in the conduct of the Council's business
- (d) the extent to which there is some personal benefit and the extent of the public benefit obtained by agreeing to a dispensation
- (e) the possible outcome of the proposed vote
- (f) the need for efficient and effective conduct of the Council's business
- (g) any other relevant circumstances

## **6.0 Terms of dispensations**

6.1 Dispensations may be:

- (a) Granted for one meeting or for a period not exceeding 4 years
- (b) Subject to specific conditions, e.g. notification of any material change in circumstances arising from the dispensation

## **7.0 Disclosure of decision**

7.1 Any Member who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it relates.

7.2 A copy of the dispensation will be kept with the Register of Members' Interests.

## **8.0 Dispensations for Conflicts of Interest when taking Executive decisions**

- 8.1 Under regulations 12 and 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the record of an Executive decision made either at meetings or by individuals, must include:
- (a) details of any conflict of interest either declared by any Member of the body which made the decision or declared by any Cabinet Member consulted by the Member or Officer taking the decision which relates to that decision;
  - (b) In respect of any such conflict of interest, a note of dispensation granted by the Chief Executive.

**Please note: A conflict of interest is broader than a Disclosable Pecuniary Interest. It can be any interest that conflicts (or may reasonably be perceived to conflict) with a Member's duty to take decisions only in the public interest in the light of material considerations.**

#### **Appendix 1**

To: The Monitoring Officer

#### **APPLICATION FOR A DISPENSATION UNDER SECTION 33 OF THE LOCALISM ACT 2011 IN RESPECT OF A DISCLOSABLE PECUNIARY INTEREST**

##### **Name of member:**

A Member who has a Disclosable Pecuniary Interest in a matter may not participate in the consideration of that matter by the Council, a committee or sub-committee or by the Cabinet or a Cabinet committee unless they have first obtained a dispensation from the council. You may apply for a dispensation by completing this form and sending it to the Monitoring Officer.

##### **1. What is the matter for which dispensation is sought?**

Please provide full details including amounts where the matter involves funding or finance.

##### **2. For which type of meeting is dispensation sought?**

(Full Council, Cabinet, Committee or Sub-Committee)

##### **3. What is the nature of the Disclosable Pecuniary Interest?**

Please provide full details.

##### **4. What is the date of the meeting(s) at which this matter is to be considered?**

##### **5. For how long is the dispensation needed?**

Please note that it cannot be longer than 4 years nor exceed the Member's term of office.

##### **6. Do you benefit personally from the business to which this application relates?**

If 'yes', the full details must be provided of the nature and extent.

##### **7. How is the business of the Council being impeded in the absence of a dispensation?**

**8. Are there any other factors that might help the council to reach a decision on the application?**

##### **9. Are you seeking a dispensation to speak and vote?**

Yes/No

##### **10. Are you seeking a dispensation to speak but not vote?**

Yes/ No

**Signed: \_\_\_\_\_ Date: \_\_\_\_\_**

## **Officer Decision-Making Protocol**

### **1.0 BACKGROUND**

- 1.1 This document sets out the legal framework for decision-making and establishes a system to document decisions taken by Officers under delegated authority.

### **2.0 TYPES OF DECISION**

- 2.1 The significance of decisions taken under delegated authority will vary and Officers authorised to make delegated decisions will need to exercise judgement in determining whether decisions are significant enough to require placing in the Forward Plan if they are in relation to Executive functions and/or formally recording. To assist in this process, decisions relating to Executive functions are defined as Key, Major or Administrative. All decisions other than Administrative Decisions need formally recording and publishing in accordance with paragraph 5. Administrative Decisions, although not required to be formally reported to the Proper Officer, must be recorded so as to provide an audit trail as referred to in paragraph 5.
- 2.2 In relation to Non-Executive functions, Officers should adopt a similar approach to formal recording to ensure transparency of decision-making. Whilst Overview and Scrutiny cannot consider decisions of Regulatory Committees or Officers, such decisions can be challenged externally through appeals processes, the Courts and the Local Government Ombudsman.
- 2.3 'Key Decision', 'Major Decision' and 'Administrative Decision' are all defined in Article 12 of the Constitution.

### **3.0 THE PROCESS**

- 3.1 Before taking any decision, Officers should ensure that they have appropriate delegated authority, and reference should be made to the Scheme of Officer Delegations in Part 4 of the Constitution.
- 3.2 Where appropriate delegated authority exists, in writing, the authorised Officer must take into account the principles of decision-making set out in Article 12 of the Constitution.
- 3.3 All proposed Key Decisions need to be published on the Council's website not less than 28 clear days prior to the date on which the decision is to be made. Officers proposing to make a Key Decision and needing to place an item on the Council's website should provide details to the Democratic Services Manager at least 30 clear days prior to the date on which the decision is to be made.
- 3.4 If it is impracticable to publish the notice not less than 28 clear days before the date of decision, then the Officer must comply with the legal requirements relating to exceptional and urgent Executive decisions. These are laid out in full in the Access to Information Procedure Rules in Part 4 of the Constitution.
- 3.5 If an Officer is unable to give five clear days' notice of a Key Decision that was not published on the Council's website at least 28 clear days before the date of the decision, they can take the decision only if the Chair of the Overview and Scrutiny Committee (for an Adur only item) or the Joint Chair of the Joint Overview and Scrutiny Committee (joint items) agrees that the decision is urgent and cannot reasonably be deferred. The full procedure is again set out in the Access to Information Procedure Rules in Part 4 of the Constitution.
- 3.6 Consultations under Paragraph 3.4 and 3.5 above, must be taken in consultation with the Democratic Services Manager.

3.7 In making an Officer decision, the principles of Member decision-making set out in Article 12 of the Constitution, should be complied with.

#### **4.0 CALL-IN**

4.1 Relevant decisions made by Officers are subject to Call-In by the Overview and Scrutiny Committee or Joint Overview and Scrutiny Committee and cannot be implemented until either the Call-In period has expired or the Overview and Scrutiny Committee or Joint Overview and Scrutiny Committee has made a decision regarding the Call-In. The Call-In procedure is set out in the Overview and Scrutiny Procedure Rules within the Constitution.

#### **5.0 RECORDING AND PUBLISHING OFFICER DECISIONS**

5.1 Officer Key Decisions are recorded in the same manner as Cabinet Member decisions. The Officer will produce a decision record in the same format as those relating to Executive decisions following the Officer decisions.

5.2 Upon making a Major Decision in relation to an Executive function, the Officer must provide the Democratic Services Manager with a completed delegated decision form (available on the Council's intranet site) within two clear working days of the date of taking the decision.

5.3 Upon making a Major Decision relating to the exercise of a Non-Executive function, the Officer must provide the Democratic Services Manager with a completed delegated decision form within two clear working days of the date of taking the decision, unless agreed with the Head of Legal Services that that decision (or class of decision) does not require this. Any such forms must be copied to the relevant Director.

5.4 The Democratic Services Manager will maintain a record of all decisions referred to in paragraphs 5.1 to 5.3, including any report upon which each decision was made and subject to any requirement for confidentiality, will ensure that this decision is recorded by the Council. They will also ensure that the record of decision is available for public inspection during all normal office hours, that the public has the right to copy or to be provided with a copy of any part of that record upon payment of a reasonable copying and administrative charge, and that the decision, report and background documents are available on the Council's website.

5.5 It is essential that the contents of the delegated decision form are clear in conveying the decision taken, i.e. it will not be sufficient to state that the recommendations in the report were agreed. The form and accompanying report must set out:

- (a) A record of decision (including the date it was made);
- (b) The reasons for the decision;
- (c) Details of any alternative options considered and rejected, with reasons;
- (d) A record of any conflict of interest declared by any Cabinet Member consulted; and
- (e) In relation to any such declaration, a note of any dispensation granted by the Joint Audit & Governance Committee.

5.6 The delegated decision form includes a section for the recording of interests by Officers. It is important that where Officers involved in making decisions have a registerable interest, this is declared on the form to preserve the integrity of the process.

#### **Types of officer decisions**

5.7 An 'Executive decision' is one made in connection with the discharge of a function which is the responsibility of the Leader and Cabinet and which has been delegated to officers.

5.8 A 'Non-Executive decision' is one made in connection with the discharge of a function that is the responsibility of Full Council and its committees and which has been delegated to officers.

5.9 The significance of decisions taken under delegated powers will vary, and officers authorised to make delegated decisions need to exercise judgment in determining whether decisions are significant enough to require formal recording and publishing.

5.10 Although administrative and operational decisions are not required to be formally reported, they must be recorded within the service area so as to provide an audit trail.

5.11 Key Decisions, Major Decisions and Urgent Decisions are defined below:

**Key Decisions** are Executive decisions that are likely to result in the Council incurring expenditure which is, or the making of savings which are significant, having regard to the Council's budget for the service or function to which the decision relates, which the Council has currently determined to be:

- (a) capital schemes, within the approved Capital Programme, in excess of £250,000; or
- (b) the letting/re-letting of contracts of value of £100,000 or more over the period of the contract, where provision has been made in the approved budget; or
- (c) expenditure in addition to the approved budget, requiring virement or a supplementary estimate in excess of £100,000; or
- (d) in terms of its effects on communities living or working in an area comprising two or more Wards in the wider area of Adur District Council and Worthing Borough Council jointly.

**Major Executive Decisions** are Executive decisions (other than purely operational or administrative in nature) taken by officers under powers delegated by a specific resolution of the Cabinet/Cabinet Member or under the Scheme of Delegation:

- (a) That are contentious, controversial or politically sensitive; or
- (b) Where there is likely to be a strong public interest; or
- (c) Where there is significant variance in expenditure outside the agreed scope or budget for a project or issue; or
- (d) Raise new issues of policy

**Major Non-Executive Decisions** are Non-Executive decisions (other than purely operational or administrative in nature) taken by officers under powers delegated by a specific resolution of Full Council, a committee or under the Scheme of Delegation and having wide public impact/interest; where the effect of the decision:

- (a) is to grant a permission or licence
- (b) affects the legal rights of an individual
- (c) is to award a contract or incur expenditure which 'materially' affects the authority's financial position

**Urgent Decisions** are decisions made in circumstances where:

- (a) a decision is required by statute or otherwise within a specified timescale; or
- (b) any delay likely to be caused by not making the decision would seriously prejudice the council's or the public's interests; or
- (c) any delay likely to be caused by not making the decision would be likely to expose the council, its members or the public to a significant level of risk, loss, damage or disadvantage

5.12 The following types of officer decision must be formally recorded and published subject to the exceptions set out:

Type of Officer Decision	Exception	Publication
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<p><b>Key Decisions</b> Executive decisions that are:</p> <p>a) <u>capital schemes, within the approved Capital Programme, in excess of £250,000; or</u>  b) <u>the letting/re-letting of contracts of value of £100,000 or more over the period of the contract, where provision has been made in the approved budget; or</u>  c) <u>expenditure in addition to the approved budget, requiring virement or a supplementary estimate in excess of £100,000; or</u>  d) <u>are significant in terms of the effect on communities living or working in two or more electoral Wards.</u></p>	<p><u>Officers are only to take Key Decisions where:</u>  (i) <u>specifically authorised by the Leader or Cabinet; or</u>  (ii) <u>where the Chief Executive or (in their absence) the Deputy Chief Executive is acting under urgency powers.</u></p>	<p><u>As soon as reasonably practicable after an officer has made a Key, Material or Significant decision, they must produce a written statement, available for inspection at City Hall and published on the council's website, that includes details of:</u></p>
<p><b>Major Executive Decisions</b> Executive decisions under powers delegated by a specific resolution of the Cabinet/Cabinet Member or under the Scheme of Delegation:</p> <ul style="list-style-type: none"> <li>• <u>That are contentious, controversial or politically sensitive; or</u></li> <li>• <u>Where there is likely to be a strong public interest; or</u></li> <li>• <u>Where there is significant variance in expenditure outside the agreed scope or budget for a project or issue; or</u></li> <li>• <u>That raise new issues of policy.</u></li> </ul>	<p><u>Does not apply:</u>  (i) <u>To routine operational, organisational or administrative decisions;</u>  (ii) <u>Where the expenditure or saving has already been approved by the Cabinet or Cabinet Member and the decision has been published;</u>  (iii) <u>Confidential or Exempt Information; or</u>  (iv) <u>Where the expenditure or saving is already recorded and published under separate statutory requirements.</u></p>	<ul style="list-style-type: none"> <li>• <u>the decision and the date it was made;</u></li> <li>• <u>the reasons for it;</u></li> <li>• <u>any alternative options considered and rejected;</u></li> <li>• <u>any conflicts of interests declared by any Cabinet member consulted by the officer and any dispensations granted by the Chief Executive in respect of any declared conflict;</u></li> <li>• <u>the report considered by the decision-maker;</u></li> <li>• <u>any background documents disclosing facts or matters on which the decision was based and which were relied on to a material extent in making the decision.</u></li> </ul>
<p><b>Major Non-Executive Decisions</b> Non-Executive decisions under powers delegated by a specific resolution of Full Council, a committee or under the Scheme of Delegation and having wide public impact/ interest; where the effect of the decision:</p> <ul style="list-style-type: none"> <li>• <u>is to grant a permission or licence</u></li> <li>• <u>affects the legal rights of an individual</u></li> <li>• <u>is to award a contract or incur expenditure which 'materially' affects the authority's financial position</u></li> </ul>	<p><u>Does not apply:</u>  (i) <u>To routine operational, organisational or administrative decisions;</u>  (ii) <u>Confidential or Exempt information;</u>  (iii) <u>Where the date, details of and reasons for the decision are already required to be produced under a statutory requirement;</u>  (iv) <u>If only the rights of an individual or business are affected, unless there is a wider public impact/ interest in the action.</u></p>	<p><u>The decision record must be kept for inspection for 6 years and the background papers for 4 years.</u></p>



### **The process**

5.13 Before taking any decision, the authorised Officer must consider the principles of decision making set out in this Constitution.

5.14 Details of all proposed Key Decisions must be published at least 28 clear days before the decision is made (unless the general exceptions procedure or special urgency procedure is applicable) via the Cabinet Notice (Forward Plan).

5.15 Where an Officer makes an urgent Key Decision, they must comply with the legal requirements set out in the Access to Information Procedure Rules.

### **Call-In**

5.16 Key Decisions made by Officers are subject to Call-In by Overview and Scrutiny Committees and cannot be implemented until either the Call-In period has expired or the Overview and Scrutiny Committee has made a decision regarding the Call-In.

5.17 Although the formal Call-In process only applies to Officer Key Decisions, Overview and Scrutiny Committees can call an Officer to account over any decision made.

## **6.0 AUTHORISATION OF OFFICERS TO EXERCISE DELEGATED POWERS**

6.1 The Scheme of Delegations to Officers includes the power for Officers to authorise other Officers to exercise delegations that have been delegated to them under the Scheme. This must be to another Officer or Officers of suitable experience and seniority. Each Director will prepare and maintain an up-to-date departmental Register of Sub-Delegations. It shall set out how decisions will be made in their area. This should establish which Officers will be given authority to make decisions under delegated powers and subject to which terms and conditions. The Scheme of Authorisation will be lodged with the Head of Legal Services.

6.2 Whilst Directors may authorise other Officers to take delegated decisions, the decision is still their responsibility in that they will be accountable for the decision to authorise and the exercise of that authorisation.

## **7.0 REFERRAL**

7.1 Whilst the Scheme of Delegations to Officers is designed to encourage Officers to take responsibility for decisions, an Officer may decide that a particular issue is such that it should be referred to the body from whom authority was delegated. Such a referral must take place where the proposed decision relates to an Executive function and is conflict with the Council's Budget and Policy Framework.

7.2 The Cabinet may also direct an Officer's delegated authority should not be exercised in respect of a particular matter and that the matter should be referred to the Cabinet.

7.3 In relation to the exercise of Non-Executive functions, the Officer may decide to refer a particular issue to the Committee or Sub-Committee from whom it was delegated, or if none, arrange for an appropriate recommendation to be made to Full Council.

## **8.0 GIVING REASONS**

8.1 A matter of increasing significance in Local Government, decision-making is when reasons have to be given. Generally, giving reasons is an accepted 'best practice' principle of good administration. Case law suggests that the practice may be important in ensuring that controversial decisions are rooted in relevant considerations and with proper regard to available legal powers.

## **9.0 ACCOUNTABILITY**

- 9.1 Officers are accountable to the Council for any decision they may make and with the exception of decisions relating to individual regulatory matters, may be required to report to, and answer questions from, the Overview and Scrutiny Committee or Joint Overview and Scrutiny Committee in respect of any decisions. The Overview and Scrutiny Committee or Joint Overview and Scrutiny Committee may also Call-In Key and Major Decisions before they are implemented and may recommend a course of action when the matter is to be reconsidered by the Officer.

## **10.0 CONSULTATION WITH MEMBERS**

### **10.1 General provisions:**

- (a) Decisions made by Officers under delegated powers fall into two principal categories, namely:
- (i) Decisions delegated to Officers in, or following, consultation with Cabinet Member (which may or may not be Key Decisions); and
  - (ii) Other decisions delegated to Officers (which are not required to be taken in, or following, consultation with Cabinet Members) and which may or may not be Key Decisions;
- (b) Officers to whom decisions have been delegated have a duty to ensure that effective consultation takes place in accordance with the Constitution and the terms of the delegation;
- (c) Every effort will be made to ensure that Members have a realistic timescale to respond to consultation and, where appropriate and reasonably practicable, this timescale will be sufficient to enable Members to consult with their constituents. Members will be informed of any time restrictions which may apply relating to the process of consultation, particularly where urgent action is needed in the Council's and/or the public interest.

### **10.2 Decisions by Officers following consultation with Cabinet Members**

Officers to whom decision-making powers have been delegated, subject to consultation with Cabinet Members, will ensure that such consultation takes place.

Consultation shall be carried out in writing, unless there is an urgency about the decision that makes such written consultation impractical, in which case the Officer shall confirm, in writing, to the Cabinet Member their understanding of the Cabinet Member's response to the consultation.

The decision, however, is the responsibility of the Officer and if, following consultation with the relevant Cabinet Member, the Officer does not feel that they can make the decision in accordance with their professional opinion, then they must refer the matter to the Cabinet Member for a formal decision.

### **10.3 Other decisions delegated to Officers**

- (a) Officers acting within the remit of their delegated authority must ensure that they identify, at an early stage, issues upon which Members should be consulted; and
- (b) Will ensure that appropriate consultation takes place.

### **10.4 Consultation with Cabinet Members**

Officers will ensure that appropriate consultation is undertaken with Cabinet Members on issues relating to their portfolios.

## **Councillor Call For Action Protocol**

### **1.0 INTRODUCTION**

- 1.1 Councillor Call for Action (CCfA) was introduced under the Local Government and Public Involvement in Health Act 2007. It seeks to strengthen the role of the Ward Councillor, encouraging them to resolve local problems on behalf of residents. The legislation allows Ward Councillors to place CCfA onto scrutiny agendas for resolution and action. The legislation extends the power of the Council's Overview and Scrutiny function in two ways:
- (a) So that any Member of the Council can refer a local government matter to the Council's Overview and Scrutiny Committee; and
  - (b) that matters which can be referred include matters which the Council and its partners are delivering through the Local Area Agreement and 'local crime and disorder' matters.
- 1.2 The CCfA Best Practice guidance released by the Centre for Public Scrutiny (CfPS) and the Improvement and Development Agency (IDeA) refers to the importance of concentrating on outcomes rather than process when dealing with CCfAs. This protocol is therefore a light touch approach.
- 1.3 The protocol outlines what constitutes a CCfA, what should be excluded and the process for dealing with a CCfA. The protocol applies to CCfAs related to crime and disorder matters as well as local government matters.

### **2.0 WHAT IS COUNCILLOR CALL FOR ACTION?**

- 2.1 The CCfA is a process for a Councillor to act on behalf of residents to resolve a local issue of concern, acting as a last resort for people who cannot get issues resolved through any other means; this can include crime and disorder matters.
- 2.2 Under section 21A of the Local Government Act 2000, a CCfA needed to relate to a 'local government matter'. To give full effect to CCfA, the interpretation of 'local government matter' was broad. It would include issues relating to the Council's partners, in line with the area focus of Comprehensive Area Assessment, and the fact that an Authority's duties increasingly impact on other organisations and involve partners within and outside the Local Strategic Partnership.
- 2.3 Under CCfA, Ward Councillors are able to refer issues to Overview and Scrutiny Committee, where it can be shown that:
- (a) the issue is of a genuine and persistent local concern;
  - (b) the issue is not subject to ongoing legal processes; and
  - (c) other courses of action have failed to resolve the matter.
- 2.4 The Localism Act 2011 has provided further clarification on the matters or concerns that can be referred through the CCfA process:
- a) Ward Councillors are no longer restricted to referring matters of 'local government concern' to Overview and Scrutiny Committee.

### **3.0 MATTERS WHICH ARE EXCLUDED FROM COUNCILLOR CALL FOR ACTION**

- 3.1 The following matters have been excluded under section 21A of the Local Government Act 2000, introduced under section 119 of the Local Government and Public Involvement in Health Act 2007:
- (a) any matter relating to a planning decision;
  - (b) any matter relating to a licensing decision;

- (c) any matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment;
- (d) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Committee or at a meeting of a Sub-Committee of that Committee.

#### **4.0 CCFA PROCESS**

- 4.1 In accordance with the national best practice guidance Overview and Scrutiny should be the last resort for a CCfA. The expectation will be on the Ward Councillor to have tried to resolve an issue using all available mechanisms (including partnership working when appropriate) prior to referring the matter to the Overview and Scrutiny Committee. When a matter is referred to the Overview and Scrutiny Committee it will be up to the Overview and Scrutiny Committee Chair and the Proper Officer whether the matter is progressed and taken forward by scrutiny. The process of determination by the Overview and Scrutiny Committee Chair with the Proper Officer represents a sifting process to determine if the matter is of sufficient weight to be considered as a CCfA, and to determine whether the matter is excluded under paragraph 3 above.
- 4.2 At this stage the Overview and Scrutiny Committee Chair, together with the Proper Officer, will need to decide if the matter relates to a joint service issue. If so, the matter should be considered by the Councils' Joint Overview and Scrutiny Committee and the Chair and Proper Officer will need to consult with the Worthing Borough Council Overview and Scrutiny Committee Chair to determine if the matter should be considered by the Joint Overview and Scrutiny Committee.
- 4.3 The possible reasons for rejecting a CCfA are outlined at paragraph 5.0 below.

#### **5.0 REFERRAL TO SCRUTINY**

- 5.1 The Chair of the Overview and Scrutiny Committee will then determine with the Proper Officer whether to take the CCfA forward. The Proper Officer will inform the Ward Councillor whether they will accept the CCfA within 5 working days of the request. If the CCfA is a crime and disorder related matter then responsible partners must be notified.
- 5.2 Reasons an Overview and Scrutiny Committee Chair may decide not to take a CCfA forward to Overview and Scrutiny Committee (or Joint Overview and Scrutiny Committee) could include:
  - (a) Not enough information has been provided;
  - (b) More could be done to resolve the issue at a local level, e.g. key people have not been contacted;
  - (c) The CCfA is, or has stemmed from, a vexatious discriminatory or unreasonable complaint;
  - (d) The matter has recently been examined by Overview and Scrutiny (though the Ward Councillors may argue that certain aspects were not sufficiently covered hence a need for a CCfA);
  - (e) The matter is the subject of an Ombudsman complaint or other official complaints procedure;
  - (f) The matter falls under any other excluded matters (see paragraph 3 above).
- 5.3 If a CCfA is rejected for consideration by scrutiny the Ward Councillor will be notified by the Proper Officer in writing within 5 working days of lodging the CCfA. Where it is a crime and disorder CCfA, all responsible partners must also be notified of the rejection. Ward Councillors will have the opportunity to reply to the Chair perhaps with further information to substantiate the CCfA.

5.4 If the CCfA is accepted, the relevant Cabinet Members, Officers and/or partners will be notified by the Proper Officer.

## **6.0 PROCESS FOR RESOLUTION OF A CCFA**

6.1 In an attempt to resolve the CCfA, a Ward Councillor may:

- (a) receive public request for action or issue;
- (b) discuss with other Ward Councillors if a multi-member ward and agree action;
- (c) take steps to resolve the issue through existing mechanisms such as liaising with partners, County Councillors or raising with Officers;
- (d) If unresolved and the matter can be taken no further by the Ward Councillor then refer to the Overview and Scrutiny Committee by completing 'the Councillor Call for Action Form' and submit this to the Proper Officer for action.

6.2 Overview and Scrutiny Committee either:

- (a) reject the CCfA and notify the Ward Councillor, who in turn should inform the public; or
- (b) accept the CCfA and arrange to consider the CCfA, notifying partners as appropriate. Following which they will determine their response and relay this to the Ward Councillor and Partners as appropriate.

## **7.0 PROCESS FOR DEALING WITH A CCFA AT OVERVIEW AND SCRUTINY COMMITTEE**

7.1 The Chair and Proper Officer will determine if a special meeting outside the calendar of meetings is required and call a meeting, if not then the CCfA will be dealt with at the next available meeting of the Committee.

7.2 The Chair in consultation with the Ward Councillor and Proper Officer when considering the meeting should give consideration to:

- (a) Witnesses;
- (b) Notifying and Inviting Partners
- (c) Evidence required;
- (d) Key questions;
- (e) Timescales; and
- (f) Aims and objectives for the meeting.

7.3 In a similar fashion to the Call-In process, at the meeting of the Overview and Scrutiny Committee, or Joint Overview and Scrutiny Committee, as appropriate, Members will be expected to reach a decision on whether to:

- (a) take no action;
- (b) refer the matter to the Cabinet/Council/Partner Organisation, with recommendations; and/or
- (c) carry out a full scrutiny investigation.

7.4 Any report and recommendations arising from the Committee meeting will be made available and sent to all agencies involved with the CCfA within 5 working days of the meeting. In the case of a crime and disorder matter, reports and recommendations will be sent to the responsible authorities as listed in the Police and Justice Act 2006.

## **8.0 PROPER OFFICER**

8.1 For the purposes of this protocol, the Proper Officer dealing with Councillor Call for Action will be the Council's Corporate Policy Officer (Scrutiny).

## **Pre-Election Period Protocol**

### **1.0 INTRODUCTION**

- 1.1 The actions of the Councils, its Members and Officers are subjected to closer scrutiny in a pre-election period and many activities which would normally pass without comment, could become the subject of controversy.
- 1.2 This Protocol is intended to assist Officers and Members and covers rules on publicity, use of Council facilities, Council meetings, and use of premises during the pre-election period.
- 1.3 This Protocol aims to extend the principles underlying the conduct of Members and Officers and should be read in conjunction with the Council's Member Code of Conduct, the Officer Code of Conduct and the Protocol relating to Relationships within the Council. Also of relevance is any guidance note for the Officers and/or Members that is issued by the Returning Officer for any particular election.
- 1.4 The pre-election period, which is sometimes referred to as 'Purdah' commences with the Notice of Elections and terminates the day after elections are concluded.

### **2.0 PUBLICITY**

- 2.1 At any time the Councils are prohibited from publishing material which appears to be designed to affect public support for a political party. The Government's Code of Recommended Practice on Local Authority Publicity sets out the following key principles in relation to Local Authority communications and publicity generally:
  - (a) Publicity is defined in section 6 of the Local Government Act 1986 as: '*Any communication, in whatever form, addressed to the public at large or to a section of the public*'. This definition is very wide and would include press releases, speeches, leaflets and newspaper articles issued by, or on behalf of, the Council; posters; sponsorships; events; and displays.
  - (b) Publicity about individual Members (whether or not they are or may become election candidates) should be objective and explanatory and should not be either party political or open to misinterpretation as such.
  - (c) Publicity may include information about individual Members' views on issues, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. If views expressed by, or attributed to, individual Councillors do not reflect the views of the Local Authority itself, such publicity should make this fact clear.

### **3.0 PUBLICITY DURING THE PRE-ELECTION PERIOD**

- 3.1 The following additional guidelines apply during the pre-election period:
  - (a) During the pre-election period all Council publicity should avoid the pro-active publicity of candidates and other politicians involved directly with the elections;
  - (b) There is a need to ensure that any publicity is objective, balanced, informative and accurate; concentrating on facts, explanations or both;
  - (c) Council publicity should, as far as possible, avoid controversial issues or report proposals which could be identified with individual Members or Groups. However, the Council may respond to any events and enquiries provided the answers are factual and not party political;
  - (d) Members holding key positions are able to comment on important unplanned events or emergencies where a Member-level response is required – ideally this should be a Member holding a politically neutral position or alternatively an agreed response from all Group Leaders;

(e) Events providing photo and publicity opportunities should, where possible, be timed to avoid the pre-election period. Where this is not possible, candidates for election should not be involved.

3.2 The timing of a publication is an important factor. The nearer the publication to the election, the more likely it is to be controversial and be perceived as designed to affect support for a particular party. Where possible, therefore, it is advisable to avoid publishing any controversial material near the elections.

#### **4.0 CONTENT OF MEMBERS' PUBLICITY**

4.1 The content of any publicity issued by Members who are election candidates is very much a matter for each Member and their Political Group. However, there will be circumstances when the Council's Code of Conduct may apply, even to an individual Member's own election publicity, and as such the Code must be borne in mind. As Members of a Local Authority, it is also necessary to take into account the general duties of Local Authorities under equalities and other legislation.

#### **5.0 IMPACT ON COUNCIL MEETINGS AND ACTIONS DURING THE ELECTION PERIOD**

5.1 In Local Government there is a broad convention that matters of political controversy, either locally or nationally, should not routinely be brought before Members if at all avoidable during a pre-election period. This can impact on, for example, items brought to Committees, questions from the public or from Members, petitions, or Motions on Notice at Council.

5.2 In addition to the accepted convention, there are practical reasons for this approach from the publicity point of view. Firstly, whereas the agendas and minutes of official Council meetings are protected by the Local Government Act 1986 from being 'publicity', press releases publicising those minutes are not. This presents the Councils with difficulties in publicising any sensitive or controversial decisions during the pre-election period, even if in other circumstances such publicity would be merited by the level of public interest. Secondly, the more restrictive publicity regime during the pre-election period means that where an initiative would benefit from a public launch or immediate advertisement or consultation, this will rarely be possible during the pre-election period.

5.3 Therefore any working practices or protocols which include publicity and media arrangements will need to be interpreted in the light of the restrictions mentioned above.

#### **6.0 CONSULTATION**

6.1 Guidance contained in the 2019 Local Government Association Guidance recommends that no new public consultations should be launched during the election period, and nor should any findings from consultation exercises be reported during this period if they could be politically sensitive.

#### **7.0 CODE OF MEMBER CONDUCT**

7.1. The Member Code of Conduct applies not only when a Member conducts the business of their Authority but also when acting, claiming to act, or giving the impression they are acting as a representative of the Authority. In this respect, certain elements of the Code are particularly relevant during the pre-election period:

7.2. Disrepute: forbids a Member from conducting themselves in a manner which could reasonably be regarded as bringing their Office or Authority into disrepute.

7.3. Unfair advantage: forbids a Member from using their position to confer on or secure for themselves or any other person an advantage or disadvantage.

- 7.4 Equalities: forbids a Member from conducting themselves in a way that is contrary to duties under Equalities legislation. Members should consider the need to treat some issues with sensitivity at all time, including in their election publicity and where they may relate to minority groups or protected characteristics.

## **8.0 GENERAL**

- 8.1 The Councils do not and cannot vet Members' election publicity. Generally, Members would need to seek any specific advice in relation to such publicity externally from the Councils, e.g. through their Political Group machinery. Also the Monitoring Officer would be happy to assist in relation to any queries from Members which relate to the application of the Code of Conduct.

## **9.0 USE OF COUNCIL FACILITIES**

- 9.1 The use of Council facilities during the pre-election period can generate enquiries and complaints. The Councils' Member Code of Conduct provides that a Member must ensure that Council resources are not used improperly for political purposes.
- 9.2. Any services or facilities provided by the Council for Members should be used exclusively for the purposes of Council business or to enable the Member concerned to discharge their function as a Councillor. This applies to all facilities, including:
- (a) Council stationery (letterheads, envelopes, compliment slips);
  - (b) Telephones;
  - (c) Transport;
  - (d) Photocopiers;
  - (e) Officer time;
  - (f) IT equipment.
- 9.3. Subject to paragraph 12 below (use of Council premises during the pre-election period), no election candidate or a person associated with a political party is entitled to access Council premises. Members and Officers need to take extra care to ensure that election candidates or other persons associated with political parties who are not serving Councillors are not seen to have unauthorised access to Council offices or facilities.
- 9.4 In relation to IT equipment, Members should not use IT equipment for party political purposes, as mentioned above. For example, Members sending messages to chat rooms or forums will need to consider whether to use their Councillor email address or a personal address. The former could be appropriate for simply sending information as a Councillor, but the latter will be appropriate if engaging in political debate.
- 9.5. Council business and party political business are not always mutually exclusive. For example, a Political Group within the Councils may use Council facilities (such as meeting rooms) to discuss matters coming before the Councils or its Committees. The particular circumstances of each event will need to be considered. By way of illustration, the following are examples of cases where the use of Council facilities would not be appropriate: -
- (a) The use of the internal/external Council postal service to distribute election campaign material;
  - (b) Using Council supplied letterheads or compliment slips in sending out election material or as part of election campaigning;
  - (c) Including election messages, strap-lines or slogans in letters which are otherwise being legitimately sent (e.g. for information purposes) on Council supplied letterheads to local residents;
  - (d) Sending out election material using a Council email address;
  - (e) Putting election material on, or canvassing via, the Councillors' web pages on the Councils' web site;



- (f) Using Council telephones for canvassing.

## **10.0 USE OF EMAILS**

- 10.1 A Member's Council email address should not be used for political purposes, such as electioneering.
- 10.2 It is recognised that a local resident may contact their Ward Member about an election issue via that Member's Council email address. As long as the use of the Council email for political purposes was not initiated or promoted by the Member, it would be perfectly acceptable to reply to the email although it may be political in nature. Members should not however initiate political discussions using Council provided email facilities. If the exchange becomes extensive, Members should consider using their own email.

## **11.0 USE OF TELEPHONE**

- 11.1 In line with the position on emails, Members may use Council supplied telephones for non-party-political purposes or where the call is not initiated by a Member.
- 11.2 Council email addresses and telephone numbers are better avoided for any party-political literature. If Members wish to refer to the facility for purposes of constituency work, it should be made clear that it is for Ward casework only and it is better kept in a discrete part of the document, for example in a box at the back saying 'If you want to contact your Ward Councillors about Ward issues, you may contact them on...'

## **12.0 USE OF COUNCIL PREMISES DURING THE PRE-ELECTION PERIOD**

- 12.1 Between the Notice of Election being published and the day before the election, a candidate in the election is entitled to use Council meeting rooms to hold public meetings for furtherance of their candidature. This includes committee rooms and rooms in schools in the candidate's electoral area. The use of these rooms is free of hire charge, though the candidate may be required to cover the expenses associated with using the premises e.g. electricity, cleaning costs. Further information on these arrangements may be obtained from the Electoral Services Office.

## **13.0 CONFIDENTIAL INFORMATION**

- 13.1 Members are usually entitled to information not available to the public (exempt or confidential information) where that information is required by them to discharge their functions as Councillors. This may, for example, be the case if the information relates to an item coming before a Committee of which they are a Member. Exempt or confidential information cannot be used for electioneering purposes. It is for this reason that Officers, in the run up to an election, may seek to clarify the purpose for which a Member is seeking information. Members should not seek, nor may Officers provide, exempt or confidential information to help election campaigns.

## **14.0 MEMBER/OFFICER ROLES**

- 14.1 In general terms, the role of Members is to set the strategies, policies and frameworks within which the Councils will operate, to monitor performance and to represent those who live in their Wards. Officers are employed to advise, undertake the detailed preparation and implementation work, and provide the day-to-day running of services. It is particularly worth bearing in mind this broad split of functions at election time and, in the interests of good administration, the need to avoid roles becoming confused.

## **15.0 SPECIAL RULES RELATING TO OFFICERS**

- 15.1 Officers at all levels should not engage in party political activity that compromises their neutrality and objectivity at work. Officers who hold politically restricted posts (generally Senior Officers and those who advise Members or speak on behalf of the Councils) are subject to additional restrictions.
- 15.2 If an Officer attends a Political Group meeting to brief Members on Council business, Members should ensure that the Officer is not present when political business is discussed. Attendance at such meetings should normally be limited to Directors, Heads of Service or other Senior Officers.
- 15.3 A central register of all posts which are Politically Restricted is held by the Head of Human Resources.

#### **16.0 PROTOCOL FOR RELATIONSHIPS WITHIN THE COUNCILS**

- 16.1 Further information and advice on the working relationship between Members and Officers is contained in the Protocol for Member/Officer Working Arrangements, which forms part of this Constitution. It covers in more detail matters such as roles and responsibilities, political activity, contact between Members and Officers, access to information, undue pressure and redress for breach of the Protocol.

## **Recording of Council Meetings Protocol**

### **1.0 BACKGROUND**

- 1.1 This protocol provides guidance on acceptable conduct for audio and visual recording and the use of social media tools at public Council meetings.
- 1.2 Adur and Worthing Councils support the principle of transparency in the decision-making process and therefore will allow, subject to the control of the person presiding at the relevant meeting, the recording of the public section of Full Council, committee and sub-committee meetings by members of the press and public.
- 1.3 The Councils audio record Full Council, Committee and Sub-Committee meetings and retain a copy of the recording along with the written minutes of the meeting. More detail on this procedure can be found within the Council Procedure Rules at Part 4 of the Constitution.

### **2.0 WHAT IS 'REPORTING'?**

- 2.1 Reporting means:
  - a) Filming, photographing or making an audio recording;
  - b) Using social media, such as Twitter, Facebook, blogging or similar;
  - c) Using any other means for enabling a person not present to see or hear proceedings at a meeting, as it takes place or later.

### **3.0 WHEN IS REPORTING PERMITTED?**

- 3.1 Subject to the following rules, the public and press are permitted to record in any meetings of the Council that are held in public, except where the public have been excluded as permitted by law.
- 3.2 Where meetings are held in private, due to confidential or exempt information being included, no recording by the press or public is permitted.
- 3.3 No recording equipment may be left in the meeting room during any part of a meeting which is conducted in private.

### **4.0 RULES ON REPORTING**

- 4.1 Anyone wishing to undertake recording should notify Democratic Services, by email at [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk) or by telephone on 01903 239999, 24 hours prior to the commencement of the meeting and comply with any requests made by the Person Presiding.
- 4.2 All recording must take place from a fixed position in the meeting room (i.e. public gallery) approved by the Person Presiding.
- 4.3 Recording should be directed at Members of the Council. Members of the public seated in the public gallery should not be recorded, unless they have expressly given consent, to the Chair of the meeting. This also applies to a member of the public asking a question, presenting a petition or making a representation.
- 4.4 No recording of anyone under the age of 18 is permitted.
- 4.5 If a member of the public is concerned about being recorded at a Council meeting, please inform the Democratic Services Officer present at the meeting. No image or recording of a

member of the public should be made unless the member of the public has expressly given their consent to the Chair of that meeting.

- 4.6 The Democratic Services Team will ensure signs are prominently displayed at meetings to remind attendees that recording may be undertaken and that the Council has no control over where a recording might appear (for example posted on the internet). meeting agendas will also carry this message and at the commencement of a meeting, the Person Presiding will announce if any requests to record have been made by the public.
- 4.7 Persons recording meetings are not permitted to carry out an oral commentary or report whilst the meeting is in session.
- 4.8 The use of flash or additional lighting in connection with recording at meetings will not be permitted without the prior notification and agreement of the Person Presiding.
- 4.9 Where any part of a meeting is held in private, no recording by the press or public will be permitted. All recording equipment must be removed from the meeting room during the exclusion.
- 4.10 Where the Person Presiding considers any recording is disrupting the meeting, the operator of the equipment will be required to stop and may be asked to leave the meeting room, removing their equipment at the same time.
- 4.11 Anyone who has been asked to leave a meeting because they have refused to comply with the Person Presiding's request with regard to recording may be prohibited from recording at future meetings.
- 4.12 Members of the public and press must ensure the recording will not be edited in a way that could lead to misinterpretation of the proceedings of a meeting. This includes refraining from editing the views being expressed in a way that may ridicule or show a lack of respect towards those being filmed/recorded.
- 4.13 Persons recording meetings are advised that the law of the land still applies when publishing recordings, for example the law of defamation and the law on public order offences. Freedom of speech within the law should also be exercised with personal and social responsibility, showing respect and tolerance towards the views of others. Anyone recording any meeting of the Council, or part of it, must comply with their statutory obligations relating to the recording, use and retention of any personal data they may capture.
- 4.14 Recognised media organisations and educational institutions may be given greater flexibility to record meetings for the purposes of news bulletins, programmes and education. These requests must be directed through the Democratic Services Manager and approved by the Mayor or Chair of the relevant Council in the case of meetings of the Full Council, or the Person Presiding in the case of Committees and Sub-Committees.
- 4.15 Any decision taken by the Person Presiding on the interpretation of this protocol is final.

## Petition Scheme

### 1.0 PETITIONS

- 1.1 The Council welcomes petitions and recognises that they are a way in which the public can let the Council know about their concerns. Petitions can be submitted in paper or electronic form and a petition can be received by the Council by post, electronically or be hand delivered. All petitions must be sent to the Monitoring Officer by email at [monitoringofficer@adur-worthing.gov.uk](mailto:monitoringofficer@adur-worthing.gov.uk).

### 2.0 CONTENT

- 2.1 Petitions submitted to the Council must:
- (a) include a clear and concise statement covering the subject of the petition stating what action the petitioners wish the Council to take;
  - (b) be accompanied by the name, address and contact details of the Petition Organiser; and
  - (c) contain a minimum of 50 names, postal addresses (property name/number and post code) and signatures (other than when in electronic form) of people who live, work or study in the District of Adur and who support the petition.

### 3.0 PETITION ORGANISER

- 3.1 The Petition Organiser is the person the Council will contact to explain how it will respond to the petition. The contact details of the Petition Organiser will not be placed on the Council's website.

- 3.2 Elected Members are not permitted to sign public petitions made to the Council.

### 4.0 ACKNOWLEDGEMENT

- 4.1 An acknowledgement will be sent to the Petition Organiser, by the Monitoring Officer, within five working days of receiving the petition. The acknowledgement will advise the Petition Organiser if their petition has been rejected by the Monitoring Officer on any of the grounds below, or accepted.

### 5.0 REJECTION BY THE MONITORING OFFICER

- 5.1 A petition may be rejected by the Monitoring Officer should they consider that the petition:
- (a) contains intemperate, inflammatory, abusive or provocative language, is defamatory, frivolous, vexatious, discriminatory or otherwise offensive or contains false statements;
  - (b) is similar to another petition submitted to the Council within the previous six months;
  - (c) discloses confidential or exempt information, including information protected by a court order;
  - (d) discloses material which is commercially sensitive;
  - (e) contains names of individuals as the target of the petition, or provides information where the individual could be easily identified;
  - (f) contains advertising statements;
  - (g) refers to an issue which is currently the subject of a formal Council complaint, Local Government Ombudsman complaint or legal proceedings;
  - (h) relates to the Council's Planning or Licensing functions (as there are separate processes in place to deal with those matters);
  - (i) relates to a response to the Council as part of a formal consultation process;
  - (j) relates to a matter where there is already an existing right of appeal, such as Council Tax Banding and non-domestic rates, (as there are separate processes in place to deal with those matters);

- (k) relates to a statutory petition, for example if at least 5% of Local Government electors in the District petition the Council to hold a referendum on whether it should change to a different form of governance (as there are separate processes to deal with those matters);
- (l) does not relate to an issue upon which the Council has powers or duties or on which it has shared delivery responsibilities. However, if the petition is about something over which the Council has no direct control, the Monitoring Officer will give consideration to the best method for responding to it. For example, the Council may make representations on behalf of the community to the relevant body or forward the petition to the relevant body. In any event the Council will always notify the Petition Organiser of the action it has taken;
- (m) has already been the subject of debate by Full Council within the previous six months;
- (n) is received during politically sensitive times, such as prior to an election or referendum, and the petition contains politically controversial material. In that situation the Monitoring Officer may need to agree a revised timescale for the acceptance of the petition;
- (o) relates specifically to the annual budget resolution, which is governed by the Council's Budget Procedure Rules;
- (p) it contains less than 50 names, addresses and signatures of individuals who live, work or study in the District.

## **6.0 ACCEPTED PETITIONS: THE COUNCIL'S RESPONSE**

- 6.1 If the Monitoring Officer has accepted the petition, the Petition Organiser will be advised what the Monitoring Officer plans to do with the petition and when they can expect to hear from the Council.
- 6.2 The petition (but not the Petition Organiser's details) and the details of what the Council will do will also be published on the Council's website.

### Non-qualifying petitions

- 6.3 Non-qualifying petitions are defined in this scheme as petitions with 50 or more signatories but less than 1,000, and those petitions shall be referred to the relevant decision-maker, by the Monitoring Officer.
- 6.4 Where the decision-maker is the Cabinet, a Committee or Joint Committee, then the Petition Organiser shall be advised as to when and where the petition is to be considered and shall be allowed to attend, remotely if the meeting is held with attendance via remote access, and speak for up to five minutes in support of the petition. Following which the Members shall discuss the petition and decide how to respond to it. Once a decision is made, the decision-maker will notify the Petition Organiser in writing of the response with reasons for the decision within five working days.
- 6.5 Where the decision-maker is an individual Cabinet Member or an Officer they shall meet with the Petition Organiser, remotely or otherwise, to discuss the contents of the petition. Following which they shall determine how to respond to it. Once a decision is made, the decision-maker will notify the Petition Organiser in writing of the response with reasons for the decision within five working days.

### Qualifying Petitions

- 6.6 Qualifying petitions are defined in this scheme as petitions containing 1,000 or more names, postal addresses and signatures (other than when in electronic form) of people who live, work or study in the District of Adur and support the petition.

On receipt of a qualifying petition, where time permits, the petition will be debated by the Full Council, at their next Ordinary meeting, provided that the petition is received by the Monitoring Officer 15 clear working days prior to that meeting, or otherwise at the next available Ordinary Council meeting. The Petition Organiser will be given five minutes to read the petition at the meeting and make any representations and the petition will then be discussed by Councillors in accordance with the Council's Standing Orders as contained in Part 4 of this Constitution. Following the debate by Councillors, the Petition Organiser will be given a further opportunity to address the Council and shall have a maximum of three minutes to make a closing statement. The Council will decide, by way of a motion being proposed, seconded and voted upon, how to respond to the petition at this meeting.

- 6.7 If the petition relates to action currently being progressed by the Council and the petition will trigger a debate at Full Council, as it is accepted by the Monitoring Officer and is a qualifying petition, then the action will be suspended pending the debate, unless in relation to statutory, contractual or other legal situations where a suspension would, in the view of the Monitoring Officer, prejudice the Council's position.
- 6.8 Where a petition is accepted by the Monitoring Officer and is a qualifying petition but time does not permit a debate at Full Council, for example because an action that is the subject of the petition will occur prior to the next meeting of the Full Council, the petition will be referred by the Monitoring Officer to the appropriate decision-maker, Cabinet or relevant Committee or Joint Committee. Once a decision is made, the decision-maker will notify the Petition Organiser in writing of the response with reasons for the decision within five working days.

#### The Council's Response to a Petition

- 6.9 The Council's response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:
- (a) taking the action requested;
  - (b) receiving and considering the petition at the next Ordinary Council meeting;
  - (c) holding an enquiry into the matter;
  - (d) undertaking research into the matter;
  - (e) holding a public meeting;
  - (f) holding a consultation;
  - (g) holding a meeting with the petitioners;
  - (h) referring the petition for consideration by the Overview & Scrutiny or Joint Overview & Scrutiny Committee;
  - (i) referring the petition to the Cabinet or another Committee if the substantive content of the petition falls within the remit of that Committee;
  - (j) writing to the Petition Organiser setting out the Council's views about the request in the petition;
  - (k) deciding not to agree to do what is asked in the petition.

#### **7.0 PUBLICATION AND RETENTION**

- 7.1 All decisions relating to petitions will be published on the Council's website.
- 7.2 Petitions will not be retained by the Council for longer than 6 years in compliance with General Data Protection Regulations.

## **Planning Committee: Site Visit Protocol**

- 1.0 Site visits by the Planning Committee shall be held only where the benefit is clear and substantial, having regard to: policy and material considerations; where the impact of the proposed development is difficult to visualise from the plans, photographs and information provided; where the comments of the applicant and objectors cannot be expressed adequately in writing; or where the proposal is particularly contentious.
- 2.0 The purpose of the site visit is to observe the site and gain a better understanding. The Committee shall visit the site with Officer assistance. The decision to hold a site visit will be taken by the Chair of the relevant Planning Committee in consultation with Officers, Planning Committee Members and Ward Councillors and a record of the reason for the visit shall be kept.
- 3.0 Where a site visit is carried out following a request from a Ward Councillor, it may also be appropriate to invite the relevant Member to attend the site visit to hear the same explanation of the proposal/application as the Committee. The site owner, (whether the applicant, objector or third party) will also be present, solely to provide access to the site.
- 4.0 The Ward Councillor, landowner, applicant and objector (if in attendance) may not make any representations to the Committee about the application, but may point out relevant features on the ground.
- 5.0 The Committee should direct all questions to the Officer. Only where the Officer does not have the answer immediately available, may the applicant or objector answer a technical or factual question relevant to the application.
- 6.0 At no point during a site visit should the applicant, objector or Ward Councillor be allowed to make representations to the whole Committee or to individual Committee Members in conversation. All representations should be made at the Planning Committee meeting in accordance with the procedure for public speaking on planning applications.
- 7.0 The needs of all participants will be considered and reasonable measures taken to facilitate access to the site visit. A representative may attend where reasonable adjustments cannot be made.
- 8.0 Individual Committee Members are only entitled to view the site from public vantage points if visiting the site alone, as they have no individual rights to enter private property.



## Public Speaking at Planning Committee Protocol

### 1.0 INTRODUCTION

Public speaking to object to or support planning applications at Planning Committee is an established part of the Council's procedure.

### 2.0 AGENDA ITEM

A Planning Officer will introduce the planning application and display any plans as well as bringing any new matters that have arisen since the agenda was prepared. Members may ask questions of the Planning Officer.

### 3.0 PUBLIC SPEAKING

3.1 Public speaking at Planning Committee meetings shall be allowed in respect of planning applications, including Conservation Area, Listed Building, Tree Preservation Order confirmation and Advertisement Consent Applications.

3.2 Questions, statements and comments made by the public to the Planning Committee must be relevant to planning issues.

3.2.1 Examples of relevant planning issues include:

- (a) external design, appearance and layout of the development,
- (b) impact on trees and nature conservation or overshadowing and privacy,
- (c) Highway safety,
- (d) Planning Policy and Government Guidance.

3.2.2 Examples of non-relevant planning issues may include:

- (a) boundary disputes or other property rights,
- (b) loss of property value or loss of a view,
- (c) matters covered by other legislation,
- (d) the applicants' motives, character or reputation.

3.3 Relevant representations will be accepted from objectors, parish councillors, Ward Councillors, and the Applicant or their representative and supporters.

3.4 Advance notice of the intention to make representations must be provided to Democratic Services Officers, by email at [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk), by noon on the working day prior to the date of the meeting. If a decision on the application is deferred to a future meeting, the individual having given appropriate notice, will be able to speak when the application is considered by the Committee again, without the need to give further notice of their intention to speak. If more than the maximum number of speakers give notice of their intention to make representations, those permitted will be taken in order in which their notice was received.

The order, and time allowed, for speaking at Planning Committee meetings will be as follows:

		Total time allowed
Objectors	Limited to a maximum of three speakers	Limited to 3 minutes per speaker
Parish Councillor	A maximum of one Parish Councillor from the relevant Parish Council	Limited to 3 minutes
Ward Councillors	Subject to a maximum of one Councillor speaking in support of the application and a maximum of one Councillor	53 minutes each

	speaking against the application, limited to: <ul style="list-style-type: none"> <li>• Up to two Ward Councillors or</li> <li>• With the agreement of the Chair, and subject to a maximum of one Ward Councillor wishing to speak, one Ward Councillor and an adjacent Ward Councillor, or</li> <li>• With the agreement of the Chair and subject to no Ward Councillors wishing to speak, a maximum of two Councillors.</li> </ul>	
Applicant or representative and Supporters	Limited to a maximum of three speakers	Limited to 3 minutes per speaker

3.5 There is no right for anyone to speak at a Planning Committee meeting otherwise than in accordance with the above table. An individual may not speak a second time at a Planning Committee meeting on the same application.

3.6 Speakers may address the Planning Committee Chair, but are not permitted to ask questions of other speakers, Officers or Members. Members and Officers can question speakers for clarification purposes only.

#### **4.0 DETERMINATION OF APPLICATION**

4.1 Following public speaking, Members of the Planning Committee will debate the planning application, involving professional Officers as necessary and appropriate. The debate should be governed by the Rules of Debate within the Council's Procedure Rules.

4.2 Members of the Planning Committee may receive legal and other professional advice as required during the Committee meeting.

#### **5.0 MISCELLANEOUS**

5.1 The Chair has the discretion to waive any of the requirements of this Protocol if satisfied on legal and professional advice that it is fair, reasonable and appropriate to do so in the circumstances.

5.2 This Protocol is formally adopted by the Council as part of its Constitution. It is to be reviewed at least once every 3 years.

## **Probity in Planning**

### **1.0 INTRODUCTION**

- 1.1 Planning has a positive and proactive role to play at the heart of Local Government. It helps the Councils to stimulate growth whilst looking after important environmental areas. It can help to translate goals into action. It balances social, economic and environmental needs to achieve sustainable development.
- 1.2 The planning system works best when Officers and Members involved in planning understand their roles and responsibilities, and the context and constraints in which they operate.
- 1.3 Planning decisions involve balancing many competing interests. In doing this, decision-makers need an ethos of decision-making in the wider public interest on what can be controversial proposals.
- 1.4 It is recommended that Members should receive regular training on Code of Conduct issues, interests and predetermination, as well as on planning matters.

### **2.0 BACKGROUND**

- 2.1 Early Member engagement is encouraged to ensure that proposals for sustainable development can be harnessed to produce the settlements that communities need. This Protocol is intended to reinforce Members' community engagement roles, whilst maintaining good standards of probity that minimise the risk of legal challenge.
- 2.2 Planning decisions are based on balancing competing interests and making an informed judgement against a local and national Policy Framework. Decisions can be controversial. The risk of controversy and conflict are heightened by the openness of a system which invites public opinion before taking decisions and the legal nature of the Local Plan and decision notices. Nevertheless, it is important that the decision-making process is open and transparent.
- 2.3 One of the key aims of the planning system is to balance private interests in the development of land against the wider public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. Opposing views are often strongly held by those involved.
- 2.4 Whilst Members must take account of these views, they should not favour any person, company, group or locality, nor put themselves in a position where they may appear to be doing so. It is important, therefore, that planning authorities make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons.
- 2.5 The process should leave no grounds for suggesting that those participating in the decision were biased or that the decision itself was unlawful, irrational or procedurally improper.
- 2.6 This guidance is not intended to be prescriptive. Local circumstances may provide reasons for local variations of policy and practice. Every Council should regularly review the way in which it conducts its planning business.
- 2.7 This Protocol, which is based on the Local Government Association Probity in Planning Guidance, refers mainly to the actions of a Local Authority Planning Committee as the principal decision-making forum. However, the Council's governance and decision-making arrangements must be complied with and there are circumstances set out elsewhere in this

Constitution which provide for, in some circumstances, Officer delegations and Full Council decision-making.

2.8 The Protocol applies equally to these alternative forms of decision-making.

### 3.0 THE GENERAL ROLE AND CONDUCT OF MEMBERS AND OFFICERS

3.1 Members and Officers have different but complimentary roles. Both serve the public but Members are responsible to the Electorate, whilst Officers are responsible to the Council as a whole. Officers advise Members and the Council and carry out the Council's work. They are employed by the Council, not by individual Members. A successful relationship between Members and Officers will be based upon mutual trust, understanding and respect of each other's positions.

3.2 Both Members and Officers are guided by Codes of Conduct. The Localism Act 2011 sets out a duty for each Local Authority to promote and maintain high standards of conduct by Members and to adopt a Local Code of Conduct. The Codes of Conduct adopted by Worthing Borough Council and Adur District Council are consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

3.3 The Codes of Conduct embrace the standards central to the preservation of an ethical approach to Council business, including the need to register and disclose interests, as well as appropriate relationships with other Members, Officers, and the public. Many Local Authorities have adopted their own, separate Codes relating specifically to planning, although Worthing Borough Council and Adur District Council have agreed to adopt the LGA Probity in Planning Guidance, which is summarised in this Protocol. This Protocol should always be cross-referenced with the Council's substantive Code of Conduct.

3.4 Officers and Members must not act as agents for people pursuing planning matters within their Authority either Adur District or Worthing Borough Councils, even if they are not involved in the decision-making on it.

3.5 The determination of a Planning Application is a formal administrative process involving the application of national and local policies, reference to legislation and case law as well as rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly. All involved should remember the possibility that an aggrieved party may seek a Judicial Review and/or complain to the Ombudsman on grounds of maladministration or a breach of the Council's Code of Conduct.

### 4.0 REGISTRATION AND DISCLOSURE OF INTERESTS

4.1 The Localism Act 2011 places requirements on Members regarding the registration and disclosure of their pecuniary interests and the consequences for a Member taking part in consideration of an issue in the light of those interests. The definitions of disclosable pecuniary interests are set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. A failure to register a disclosable pecuniary interest within 28 days of election or co-option or the provision of false or misleading information on registration, or participation in discussion or voting in a meeting on a matter in which a Member or Co-opted Member has a disclosable pecuniary interest, are criminal offences.

4.2 Advice should always be sought from the Council's Monitoring Officer in respect of disclosable pecuniary interests. Ultimately, however, responsibility for fulfilling the requirements rests with each Member.

4.3 The provisions of the Act seek to separate interests arising from the personal and private interests of a Member from those arising from the Member's wider public life. Members

**Commented [g52]:** Planning Committee members get to enjoy a closer relationship with officers from the planning department and receive ongoing training and support; there is a risk that both might be perceived as directly assisting their business and therefore benefiting them financially. In addition, it is not unusual for local developers to submit planning applications in neighbouring areas. As such, it is of potential reputational concern for members of the Planning Committee to be making regulatory decisions on applications that have been submitted by their potential clients.

should think about how a reasonable member of the public, with full knowledge of all the relevant facts, would view the matter when considering whether the Member's involvement would be appropriate.

- 4.4 For information as to what interests need to be disclosed, reference should be made to the Council's Member Code of Conduct. All disclosable interests should be registered under Register maintained by the Council's Monitoring Officer and made available to the public. Members should also disclose that interest orally at the Committee Meeting when it relates to an item under discussion.
- 4.5 A Member must provide the Monitoring Officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the Member becoming aware of such changes.
- 4.6 A disclosable pecuniary interest relating to an item under discussion requires the withdrawal of the Member from the Committee. In certain circumstances, a dispensation can be sought from the appropriate body or Officer to take part in that particular item of business, but further advice should be sought from the Council's Monitoring Officer.
- 4.7 If a Member has a (non-pecuniary) personal interest, they should disclose that interest, but then may speak and vote on that particular item. This includes being a member of an outside body; mere membership of another body does not constitute an interest requiring such a prohibition.
- 4.8 It is always best to identify a potential interest early on. If a Member thinks that they may have an interest in a particular matter to be discussed at Planning Committee, they should raise this with the Council's Monitoring Officer as soon as possible.

#### **5.0 PREDISPOSITION, PREDETERMINATION OR BIAS**

- 5.1 Members of the Planning Committee (or Full Council when the Local Plan is being considered) need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application or on planning policies. The Courts have sought to distinguish between situations which involve predetermination or bias on the one hand and predisposition on the other. The former is indicative of a 'closed mind' approach and likely to leave the Committee's decision susceptible to challenge by Judicial Review.
- 5.2 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Member makes it clear they are willing to listen to all the considerations presented at the Committee before deciding on how to vote (predisposition). The latter is acceptable; the former is not and may result in a Court quashing such planning decisions.
- 5.3 Section 25 Localism Act 2011 also provides that a Member should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to a particular matter.
- 5.4 This reflects the common law position that a Member may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their minds in light of all the information presented at the meeting. Nevertheless, a Member in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Member was biased.
- 5.5 If a Member has predetermined their position, they should withdraw from being a Member of the decision-making body for that matter. This would apply to any Member of the Planning Committee who wanted to speak for or against a proposal as a campaigner.

5.6 The Councils have a Cabinet Member responsible within their portfolio for development and planning. This Member is able to be a Member of the Planning Committee. Leading Members of a Local Authority who have participated in the development of planning policies and proposals, need not and should not, on that ground and in the interests of the good conduct of the business, normally exclude themselves from decision-making Committees.

## **6.0 DEVELOPMENT PROPOSALS SUBMITTED BY MEMBERS AND OFFICERS AND COUNCIL DEVELOPMENT**

6.1 Proposals submitted by serving and former Members, Officers and their close associates and relatives can easily give rise to suspicions of impropriety. Proposals could be planning applications or Local Plan proposals.

6.2 Such proposals must be handled in a way that gives no grounds for accusations of favouritism. Any local planning protocol or code of good practice should address the following points in relation to proposals submitted by Members and Planning Officers:

- (a) If they submit their own proposal to the Authority they should play no part in its consideration;
- (b) A system should be devised to identify and manage such proposals;
- (c) The Council's Monitoring Officer should be informed of such proposals;
- (d) Such proposals should be reported to the Planning Committee and not dealt with by Officers under delegated powers.

6.3 A Member would undoubtedly have a disclosable pecuniary interest in their own application and should not participate in its consideration. They do have the same rights as any applicant in seeking to explain their proposal to an Officer, but the Member, as applicant, should also not seek to improperly influence the decision.

6.4 Proposals for a Council's own development should be treated with the same transparency and impartiality as those of private developers.

## **7.0 LOBBYING OF AND BY MEMBERS**

7.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a local development plan, or an emerging policy, will often seek to influence it through an approach to their Ward Member or to a Member of the Planning Committee.

7.2 Lobbying, however, can lead to the impartiality and integrity of a Member being called into question, unless care and common sense is exercised by all the parties involved.

7.3 Whilst the common law permits predisposition, it remains good practice that when being lobbied, Members (and particularly Members of the Planning Committee) should try to take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments. In such situations, they could restrict themselves to giving advice about the process and what can and can't be taken into account.

7.4 Members can raise issues which have been raised by their constituents, with Officers. If Members do express an opinion to objectors or supporters, it is good practice that they make it clear that they will only be in a position to take a final decision after having heard all the relevant arguments and taken into account all relevant material and planning considerations at Committee.

7.5 If any Member, whether or not a Planning Committee Member, speaks on behalf of a lobby group at the decision-making Committee, they would be well advised to withdraw once any

public or Board Member speaking opportunities had been completed, in order to counter any suggestion that Members of the Committee may have been influenced by their continuing presence.

- 7.6 It is sometimes difficult to get the balance right between the duty to be an active local representative and the requirement when taking decisions on planning matters to take account of all arguments in an open-minded way. However, it cannot be stressed too strongly, that the striking of this balance is, ultimately, the responsibility of the individual Member. Further specific issues relating to lobbying are as follows:
- (a) Planning decisions cannot be made on a party political basis in response to lobbying; the use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.
  - (b) Planning Committee or Local Plan Steering Group Members should in general avoid organising support for or against planning application, and avoid lobbying other Members. Members should not put pressure on Officers for a particular recommendation or decision, and should not do anything which compromises, or is likely to compromise, the Officers' impartiality or professional integrity.
  - (c) Call-in procedures, whereby Members can require a proposal that would normally be determined under the delegated authority to be called in for determination by the Planning Committee, should require the reasons for Call-In to be recorded in writing and to refer solely to matters of material planning concern.
- 7.7 As previously outlined, Members must always be mindful of their responsibilities and duties under their local Codes of Conduct. These responsibilities and duties apply equally to matters of lobbying as they do to the other issues of probity explored elsewhere in this Protocol.

## **8.0 PRE-APPLICATION DISCUSSIONS**

- 8.1 Pre-application discussions between a potential applicant and a Member can benefit both parties and are encouraged. However, it would be easy for such discussions to become, or be seen by objectors to become, part of a lobbying process on the part of the applicant.
- 8.2 The Localism Act has given Members much more freedom to engage in pre-application discussions. Nevertheless, in order to avoid perceptions that Members might have fettered their discretion, such discussions should take place within clear, published guidelines.
- 8.3 The following guidelines should be adhered to:
- (a) Clarity at the outset that the discussions will not bind a Council to making a particular decision and that any views expressed are personal and provisional. By the very nature of such meetings not all relevant information may be at hand, nor will formal consultations with interested parties have taken place.
  - (b) An acknowledgement that consistent advice should be given by Officers based upon the Local Plan and material planning considerations.
  - (c) Officers should be present with Members in pre-application meetings. Members should avoid giving separate advice on the Local Plan or material considerations as they may not be aware of all the issues at an early stage. Neither should they become drawn into any negotiations, which should be done by Officers (keeping interested Members up to date) to ensure that the Authority's position is coordinated.
  - (d) Confirmation that a written note should be made of all meetings. An Officer should make the arrangements for such meetings, attend and write notes. A note should also be taken of any phone conversations, and relevant emails recorded for the file. Notes should record issues raised and advice given. The note should be placed on the file as a public record. If there is a legitimate reason for confidentiality regarding a proposal, a note of the non-confidential issues raised or advice given can still normally be placed on the file to reassure others not party to the discussion.

- (e) A commitment that care will be taken to ensure that advice is impartial, otherwise the subsequent report or recommendation to Committee could appear to be advocacy.
- (f) The scale of proposals to which these guidelines would apply. Members talk regularly to constituents to gauge their views on matters of local concern.

## **9.0 OFFICER REPORTS TO COMMITTEE**

- 9.1 As a result of decisions made by the Courts and Ombudsman, Officer reports on planning applications must have regard to the following:
- (a) Reports should be accurate and should include the substance of any objections and other responses received to the consultation.
  - (b) Relevant information should include a clear assessment against the relevant local development plan policies, relevant parts of the National Planning Policy Framework, any local finance considerations, and any other material planning considerations.
  - (c) Reports should have a written recommendation for a decision to be made.
  - (d) Reports should contain technical appraisals which clearly justify the recommendation.
  - (e) If the report's recommendation is contrary to the provisions of the Local Plan, the material considerations which justify the departure must be clearly stated. Failure to do so may constitute maladministration or give rise to a Judicial Review challenge on the grounds that the decision was not taken in accordance with the provisions of the Local Plan and the Council's statutory duty under Section 38A of the Planning and Compensation Act 2004 and Section 70 of the Town and Country Planning Act 1990.
  - (f) Any oral updates or changes to the report should be recorded.

## **10.0 PUBLIC SPEAKING AT PLANNING COMMITTEES**

- 10.1 Reference is made to the Protocol on Public Speaking at the Planning Committee, to be found within Part 5 of the Constitution.

## **11.0 DECISIONS WHICH DIFFER FROM A RECOMMENDATION**

- 11.1 The law requires that decisions should be taken in accordance with the Local Plan, unless material considerations indicate otherwise. This applies to all planning decisions. Any reasons for refusal must be justified against the Local Plan and other material considerations.
- 11.2 The Courts have expressed the view that the Committee's reasons should be clear and convincing. The personal circumstances of an applicant or any other material or non-material planning considerations which might cause local controversy will rarely satisfy the relevant tests.
- 11.3 Planning Committees can, and often do, make a decision which is different from the Officer recommendation. Sometimes this will relate to conditions or terms of a Section 106 obligation. Sometimes it will change the outcome, from an approval to a refusal or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.
- 11.4 Planning Committees are advised to take the following steps before making a decision which differs from the Officer recommendation:
- (a) Firstly, if a Member is concerned about an Officer recommendation, they should discuss their area of difference and the reasons for that with Officers in advance of the Committee meeting;
  - (b) Recording the detailed reasons as part of the mover's motion;



- (c) Adjourning for a few minutes for those reasons to be discussed and then agreed by the Committee;
- (d) Where there is concern about the validity of reasons, considering deferring to another meeting to have the putative reasons tested and discussed.

- 11.5 If the Planning Committee makes a decision contrary to the Officers' recommendation, a detailed minute of the Committee's reasons should be made and a copy placed on the application file. Members should be prepared to explain in full their planning reasons for not agreeing with the Officers' recommendation.
- 11.6 The Officer should also be given an opportunity to explain the implications of the contrary decision, including an assessment of a likely appeal outcome, and chances of a successful award of costs against the Council, should one be made.
- 11.7 All applications that are clearly contrary to the Local Plan must be advertised as such and are known as 'departure' applications. If it is intended to approve such an application, the material considerations leading to this conclusion must be clearly identified, and how these considerations justify overriding the Local Plan must be clearly demonstrated.
- 11.8 The application may then have to be referred to the relevant Secretary of State, depending upon the type and scale of the development proposed. If the Officers' report recommends approval of such a departure, the justification for this should be included, in full, in that report.

## **12.0 ANNUAL REVIEW OF DECISIONS**

- 12.1 It is good practice for Members to visit a sample of implemented planning permissions to assess the quality of the decisions and the development. This should improve the quality and consistency of decision-making, strengthen public confidence in the planning system, and can help with reviews of planning policy.
- 12.2 Reviews should include visits to a range of developments such as major and minor schemes, upheld appeals, listed building works and enforcement cases. Briefing notes should be prepared on each case. The Planning Committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

## **13.0 COMPLAINTS AND RECORD KEEPING**

- 13.1 So that complaints may be fully investigated and as general good practice, record keeping should be complete and accurate. Every planning application file should contain an accurate account of events throughout its life. It should be possible for someone not involved in that application to understand what the decision was, and why and how it had been reached. This applies to decisions taken by Committee and under delegated powers, and to applications, enforcement and local development plan matters.

## **14.0 TRAINING**

13.214.1 Councillors should not participate in decision making at meetings dealing with planning matters if they have not attended the mandatory planning training prescribed by the Council.

14.2 Members of Planning Committee should endeavour to attend any other specialised training sessions provided, since these will be designed to extend their knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist them in carrying out their role properly and effectively.

14.3 Members of Planning Committee should participate in a periodic review of a sample of planning decisions to ensure that their judgments are based on proper planning considerations. The review should include examples from a broad range of categories, such as:

- (a) major and minor development proposals
- (b) permitted departures from the Local Plan
- (c) significant allowed appeals
- (d) major listed building works
- (e) associated infrastructure

## **Social Media Policy**

### **1. INTRODUCTION**

- 1.1. Social Media includes the various online technology tools that enable people to communicate easily via the internet to share information and resources. Social media includes, but is not limited to, blogs; wikis; RSS feeds; social networking sites such as Facebook, LinkedIn and Twitter; photo sharing sites such as Flickr, Instagram and Snapchat; and video sharing sites such as YouTube.
- 1.2. The widespread availability and use of social networking applications brings opportunities for the Councils to better understand, engage and communicate with its customers, partner agencies and the communities it serves.
- 1.3. This Policy supports the Councils' stated purpose, ambition and values by enabling the organisation to make best use of these technologies and so improve the way it does business. It also sets out a behavioural framework for Officers and Members to ensure that the considerable benefits that accrue from using social media are adequately balanced against our legal responsibilities and the need to safeguard the Councils' image and reputation.

### **2. PURPOSE AND OBJECTIVES**

- 2.1. The purpose of this policy is to:
  - (a) ensure Officers are aware of their responsibility to comply with good practice and the law for example in relation to data protection, confidentiality, libel, copyright, safeguarding of children and vulnerable adults, human rights, harassment and discrimination so that the Councils are not exposed to legal and governance risks;
  - (b) support safer working practice by setting standards of good practice and behaviour in the use of social media;
  - (c) ensure the reputation of the Councils and its Officers are not damaged;
  - (d) ensure children, young people and vulnerable adults are safeguarded by reducing the risk of positions of trust being abused or misused;
  - (e) minimise the risk of misplaced or malicious allegations being made against those who work with vulnerable groups;
  - (f) ensure users of social networking media are able to clearly identify where information provided via such applications is legitimately representative of the Councils;
  - (g) enable Officers to distinguish between the use of social media in their work and personal lives;
  - (h) ensure the use of social media is aligned to the Council's corporate communications approach.

### **3. OTHER CODES AND POLICIES**

- 3.1. The Councils' Officer Code of Conduct applies to all offline and online communications and includes the use of social media, and can in some circumstances apply to the use of social media in an Officer's personal life.
- 3.2. The Councils' Disciplinary Policy applies to online communications and includes the use of social media, and can in some circumstances apply to the use of social media in an Officer's personal life.
- 3.3. The Council's Code of Conduct for Elected Members applies to a Member's use of Social Media.

#### **4. USE OF SOCIAL MEDIA BY ADUR & WORTHING COUNCIL OFFICERS**

- 4.1. Social media is used to communicate news and updates from the Council and the wider community and residents. It is also now an important customer service tool. The two main channels used are Facebook and Twitter.
- 4.2. There is also a Council presence on LinkedIn and YouTube.
- 4.3. The majority of public facing communication via the Councils' corporate social media channels should be either produced or approved by the Council's Communications Team.
- 4.4. Some individual Councils accounts or aspects of social media management, such as incoming customer enquiries, can be operated by other members of staff. However, this is only by prior approval of the Head of Communications and after full training delivered by the Communications Team is completed.
- 4.5. A Council service can request to create a public social media page by submitting a business case outlining how social media would benefit this service and how it will be maintained or managed. This should be submitted for review to the Head of Communications.
- 4.6. If approved, the social media pages will be set up in collaboration with the Communications Team and all design must be in line with the Councils' branding.
- 4.7. All new social media pages will be reviewed after a period of 4 months. Those sites which are not performing well or are not benefiting residents will be removed. Similarly, any unauthorised sites will be closed down. Contact the Head of Communications for more information.
- 4.8. Officers may be permitted to use a Council's Twitter account to represent their role within the local authority. These must:
  - (a) Be requested and approved by the Head of Communications;
  - (b) Be clearly identifiable as a corporate account using @nameAWC
  - (c) Include the relevant Adur/Worthing/Joint logo in the header or profile image

#### **5. PERSONAL USE OF SOCIAL MEDIA - OFFICERS AND MEMBERS**

- 5.1. Social Media is now part of everyday life and routine and the lines between personal/professional use can become blurred.
- 5.2. Officers and Members must be aware that their actions online on their personal pages may have wider implications on their professional role and on the Councils' image/representation. Always bear your relevant Code of Conduct in mind when you post to social media.
- 5.3. In the event that an Officer/Member's online conduct impacted on the Councils this would become a matter of Council concern and may result in investigation in accordance with the Council's Disciplinary Procedure or Member Code of Conduct.
- 5.4. All Officers and Members should familiarise themselves with the privacy settings of each social media platform they are using and ensure these are set up correctly. You should never include any personal information (DOB, phone number, address, etc) on your personal profile, nor should you share this with residents or third parties.
- 5.5. Never publish confidential information which you have received as part of your job. Nor should you use any such information for personal gain or pass it on to others who may use it in such a way.

- 5.6. Staff should be aware of not using personal online profiles to raise or discuss a complaint or grievance about the Council, your manager, colleagues, etc. There are formal procedures in place for progressing these within the Council.

## **6. DATA PROTECTION AND SUBJECT ACCESS REQUESTS**

- 6.1. As per section 5.5, to adhere to the latest data protection laws, i.e. (EU General Data Protection Regulation 2016/679 and Data Protection Act, 2018) you should never share any sensitive or personal information to social media about a colleague, Member or resident. Any instances of this will be investigated and may lead to disciplinary action.
- 6.2. Data protection law was introduced to respect an individual's fundamental right to privacy through the protection of their personal data. Personal data is identified as 'any information related to an identifiable individual'.
- 6.3. Observe the privacy notices of the social media platforms for which you sign up to and check the privacy settings to see who your posts are shared with.
- 6.4. Personal data collected outside of social media by AWC may only be shared on social media if such sharing was stated explicitly under the AWC privacy notice that was used to initially collect the data.
- 6.5. The sharing of 'special category' data, i.e. ethnicity, religious beliefs, trade union membership ([refer to ICO website for full list](#)) may only be shared on social media with the consent of the individual (data subject) and must be accurate at the time of posting.
- 6.6. The sharing of personal data on social media must be noted in the Register of Processing Activity (RoPA) for the respective service who collected the information in the first instance.
- 6.7. Members of the public can submit a Subject Access Request (SAR) via our corporate social media pages. The right of access, commonly referred to as subject access, gives individuals the right to obtain a copy of their personal data as well as other supplementary information.
- 6.8. More information about an SAR can be found here: <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-of-access/>
- 6.9. Members of the public may also exercise their other rights, i.e. right to rectification, erasure, restrict processing, data portability, object and automated decision making including profiling via our corporate social media pages.
- 6.10. Most personal information collected for use by Members uses the 'Public Task' legal basis and any subsequent sharing or disclosure of personal information on social media satisfies that basis.
- 6.11. More information about other rights may be found here:  
<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/>

## **7. MEMBER CODE OF CONDUCT**

- 7.1. Members should be very careful in respect of their actions on their personal pages as the Member Code of Conduct may apply to them when they are not expecting it. [The Code and relevant legislation continues to apply online and in social media. If you are referring online in any way to your role as a councillor, you are deemed to be acting in your 'official capacity' and any conduct may fall within the Code.](#)

7.2 Elected and Co-opted Members are bound by the provisions of their Member Code of Conduct when they are conducting Council business or acting, claiming to act, or giving the impression of so acting, as a representative of the Council, or in their official capacity as a Councillor. However, the law has held that whether a Member uses a personal social media or email account or a Council one is not definitive, and neither is whether the sign off of refers to themselves as a councillor or not (*MC v Standards Committee of LB of Richmond 2011*).

7.3 It is becoming increasingly common for standards complaints to be made on the basis of comments Members have made on social media. As section 27(1) of the Localism Act 2011 places a positive duty on councils to promote and maintain high standards of conduct of members and officers, the Council must seek to do so wherever its Members use social media.

7.4 Section 27(2) of the Act states that the Code of Conduct applies when Members are acting in their official capacity. This can present significant grey areas in the context of social media, where the line between acting officially or in a private capacity can be a difficult one to draw.

7.5 In January 2019, the Committee on Standards in Public Life published their report 'Local Government Ethical Standards – A Review by the Committee on Standards in Public Life'. In respect of Members' use of social media, it recommended that there be a rebuttable presumption that when posting on social media they are acting in an official capacity.

7.6 Once something is posted on social media, it is difficult to retain control over how it will be used. Consider the content of your communications carefully and apply this test – if you would be reluctant to say it face-to-face or in an official email, then it is probably inappropriate to say online. As a rule of thumb, never post anything online you would not be comfortable saying or sharing in a public meeting.

## **8. LINKED DOCUMENTS**

8.1. There are a number of policies which should be considered in conjunction with this social media policy. These can all be found on the Councils' Intranet, or hard copies can be provided on request. These are:

- (a) The IT Policy
- (b) The Disciplinary Policy
- (c) The Use of Social Media in Investigation Policy
- (d) The Officer Code of Conduct (see intranet)
- (e) The Member Code of Conduct

## Code of Corporate Governance

### 1.0 INTRODUCTION

Governance is about how local government bodies ensure they are doing the right things, in the right way, for the right people, in a timely, inclusive, open and honest, and accountable manner. It comprises the systems and processes, and cultures and values, by which local government bodies are directed and controlled and through which they account to, engage with and, where appropriate, lead their communities.

Adur District Council and Worthing Borough Council are committed to the practise of good governance: ensuring good management, good performance, good stewardship of public money, good public engagement and ultimately good outcomes for citizens and service users.

### 2.0 THE PRINCIPLES OF GOOD GOVERNANCE

The Chartered Institute of Public Finance and Accountancy (CIPFA) / Society of Local Authority Chief Executives (SOLACE) provide a framework for developing and maintaining a Local Code of Corporate Governance and for discharging accountability for the proper conduct of public business.

The CIPFA / SOLACE guidance *Delivering Good Governance in Local Government (2012)* identified six core principles against which local authorities should review their existing corporate governance arrangements and develop and maintain a Local Code of Governance.

The six principles are:

- (a) Focussing on the Councils' purpose and outcomes for the community and implementing a vision for the local area.
- (b) Members and Officers working together to achieve a common purpose with clearly defined functions and roles.
- (c) Promoting values for the Councils and demonstrating the values of good governance through upholding high standards of conduct and behaviour.
- (d) Taking informed and transparent decisions which are subject to scrutiny and managing risk.
- (e) Developing the capacity and capability of Members and Officers to be effective.
- (f) Engaging with local people and other stakeholders to ensure robust public accountability.

Adur District Council and Worthing Borough Council are committed to these six core principles. The Councils' Code of Corporate Governance has been prepared in accordance with the CIPFA / SOLACE guidance. The Code describes how the Councils achieve compliance with each of the core principles to deliver the best outcomes for local communities.

#### **Focussing on the Councils' purpose and outcomes for the community and implementing a vision for the local area.**

##### Summary

Good governance ensures the Councils fulfil their purpose and achieve the intended outcomes for their citizens and service users. Good governance also ensures the Councils continue to operate in an effective, economic and ethical manner. The Councils have therefore developed a clear vision of their purpose and intended outcomes which are communicated both within the Councils and to external stakeholders and the public, and contained within the document *Catching the Wave*.

##### Supporting Principles of Good Governance

In order to exercise strategic leadership the Councils will:

- (a) Develop and promote their authority's purpose and vision;

- (b) Review on a regular basis the authority's vision for the local area and its impact on the authority's governance arrangements;
- (c) Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by the parties;
- (d) Publish an annual report on a timely basis to communicate the authority's activities and achievements, its financial position and performance.

In order to ensure users have quality services the Councils will:

- (a) Decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available;
- (b) Put in place effective arrangements to identify and deal with failure in service delivery.

In order to ensure the Councils make best use of resources and that tax payers and service users receive excellent value for money the Councils will:

- (a) Decide how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively.
- (b) Measure the environmental impact of policies, plans and decisions.

#### Evidence of Commitment to these Principles

- (a) ~~Catching the Wave—details~~ The Councils' strategic plan ~~and~~ identifies ~~four~~ its corporate priorities. The plan is widely promoted through the Councils' website.
- (b) ~~Surf's Up—The corporate plan~~ sets out the Councils' ambitious vision and details how the strategic plan will be implemented and corporate priorities achieved.
- (c) Councils' Constitution – sets out the governance arrangements and procedural requirements for the business of the Councils.
- (d) Joint Committee Agreement – sets out the roles and responsibilities for partnership working between Adur District Council and Worthing Borough Council.
- (e) Local Development Framework – a series of Local Development Documents that deliver the spatial planning strategy for the District/Borough.
- (f) Medium Term Financial Strategy – links the Councils' finances to the Corporate Priorities and sets out strategic financial policies, a medium term financial forecast and budget guidelines for the forthcoming year.
- (g) Annual Statement of Accounts – a mainly financial document listing achievements for the previous year as well as setting out longer term aims.
- (h) Trello Boards for Performance Dashboard and Risk Registers - records performance in relation to a range of key and local performance measures which form part of performance dashboard information and also details of Corporate and Service level risks which are reported to the Corporate Leadership Team on a regular basis.
- (i) Benchmarking – provides comparisons between the Councils' functions and performance with those provided by similar organisations.
- (j) Comments, Compliments and Complaints System.
- (k) Contract Standing Orders - outlines the procurement process used by the Councils and how Officers ensure value for money is achieved.
- (l) Committee Reports – Provide Members with information needed to make decisions.

#### **Members and Officers working together to achieve a common purpose with clearly defined functions and roles**

##### Summary

Elected Members are collectively responsible for the governance of the Councils. The Local Government Act 2000 introduced new Executive arrangements whereby the Councils' Policy Framework, budget and key strategies are agreed by Full Council following proposals from the Cabinets. The Councils each have a 6 Member Executive responsible for exercising all functions except those reserved to Council and statutory functions such as planning and licensing. In



addition, the Councils have Overview and Scrutiny Committees, comprising of Non-Cabinet Members who can question and challenge the decisions and/or performance of the Cabinets.

The Chief Executive, Directors, Section 151 Officer and Monitoring Officer are responsible for advising the Cabinets and other Committees on legal, financial and other policy considerations.

#### Supporting Principles of Good Governance

In order to ensure effective leadership throughout the Councils, each Council will:

- (a) Set out a clear statement of the respective roles and responsibilities of the Cabinet and of the Cabinet Members individually and the authority's approach towards putting this into practice;
- (b) Set out a clear statement of the respective roles and responsibilities of other Authority Members, Members generally and of Senior Officers.

In order to ensure a constructive working relationship exists between Members and Officers, each Council will:

- (a) Determine an Officer Scheme of Delegations and reserve powers within the Constitution, including a formal schedule of those matters specifically reserved for collective decision of the authority, taking into account relevant legislation and ensuring that it is monitored and updated when required;
- (b) Make the Chief Executive responsible and accountable to the authority for all aspects of operational management;
- (c) Develop protocols to ensure that the Leader and Chief Executive negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained;
- (d) Make the Section 151 Officer responsible to the authority for ensuring that appropriate advice is given on all financial matters for keeping proper financial records and accounts, and for maintaining an effective system of internal financial controls;
- (e) Make the Monitoring Officer responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with.

To ensure the Councils' relationships with partners and the public are clear, each Council will:

- (a) Develop protocols to ensure effective communication between Members and Officers in their respective roles;
- (b) Set out the terms and conditions for remuneration of Members and Officers and an effective structure for managing the process, including an effective job evaluation process for Officers' remuneration and a remuneration panel for Members;
- (c) Ensure that effective mechanism exists to monitor service delivery;
- (d) Ensure that the organisation's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated;
- (e) When working in partnership, ensure that Members are clear about their roles and responsibilities, both individually and collectively, in relation to the partnership and to the authority;
- (f) When working in partnership, ensure that there is clarity about the legal status of the partnership, ensure that representatives or organisations understand and make clear to all other partners the extent of their authority to bind their organisation to partner decisions.

#### Evidence of Commitment to these Principles

- (a) Constitution – sets out how the Councils operate, how decisions are made and the procedures and codes of conduct which the Councils follow. It also includes the roles of Statutory Officers and their responsibilities relating to compliance with the law and ensuring sound financial control.
- (b) Role of Members – set out in the Constitution.
- (c) Terms of Reference for the Cabinet and Cabinet Members – set out in the Constitution.

- (d) Monitoring Officer Protocol – set out in the Constitution.
- (e) Cabinet Procedure Rules – set out in the Constitution.
- (f) Overview and Scrutiny Procedure Rules – sets out the terms of reference which includes the role of overseeing the proper and effective administration of the Councils, reviewing the effectiveness of its services and supporting and complimenting the activities of the Cabinets.
- (g) Officer Job Descriptions – detail the roles and responsibilities of Officers employed by the Councils.
- (h) Whistleblowing Policy – enables Members and Officers to confidentially report suspected malpractice.
- (i) Chief Executive and Leader meetings – held to ensure effective communication.
- (j) Pay Policy – the Councils are committed to the principle of Equal Pay for all its employees and adopted a Pay Policy in October 2015.
- (k) Catching the Wave – sets out the corporate objectives and strategic ambitions of the Councils.

**Promoting values for the Authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour**

Summary

Adur and Worthing Councils recognise that good governance is underpinned by shared values and demonstrated in the behaviour of its Members and Officers. The Councils' values (the way in which the Councils work for the community in pursuing its aims) are set out in Catching the Wave and Surf's Up. The standards of conduct and behaviour the Councils expect of their Members and Officers are clearly set out in the Constitution. This is supported by the Codes of Conduct and a range of training programmes for both Members and staff.

Supporting Principles of Good Governance

To ensure Members and Officers exemplify good standards of conduct each Council will:

- (a) Ensure that the authority's leadership sets a tone for the organisation by creating a climate of openness, support and respect;
- (b) Ensure that standards of conduct and personal behaviour expected of Members and staff, of work between Members and staff and between the authority, its partners and the community are defined and communicated through codes of conduct and protocols;
- (c) Put in place arrangements to ensure that Members and Officers are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice.

To ensure organisational values are put into practice each Council will:

- (a) Develop and maintain shared values including leadership values both for the organisation and staff reflecting public expectations and communicate these with Members, staff, the community and partners;
- (b) Put in place arrangements to ensure that procedures and operations are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice;
- (c) Develop and maintain an effective Standards Committee;
- (d) Use the organisations' shared values to act as a guide for decision-making and as a basis for developing positive and trusting relationships within the authority;
- (e) In pursuing the vision of a partnership, agree a set of values against which decision-making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively.

Evidence of Commitment to these Principles

- (a) Constitution – seeks to define the standards of conduct and personal behaviour expected of Members and Officers.
- (b) Member Code of Conduct and Officer Code of Conduct.
- (c) Performance Development Reviews – provide opportunities to review the performance, including standards of conduct and personal behaviour of Officers, as well as identifying any development needs.
- (d) Comments, Compliments and Complaints System – this provides a process, clearly publicised on the website, for those wanting to complain to the Councils.
- (e) Data Access Requests – a system is in place to respond to Freedom of Information and Subject Access Requests.
- (f) Joint Audit & Governance Committee and Standards Sub-Committee – promotes and maintains high standards of conduct by Members.
- (g) Whistleblowing Policy and Ombudsman Complaints System – enables Members, employees and residents to confidentially report suspected malpractice that is in the public interest.
- (h) Anti-Fraud and Corruption Strategy – designed to encourage prevention and promote detection.
- (i) Anti-Bribery Policy – this policy outlines the Councils' position on preventing and prohibiting bribery, in accordance with the Bribery Act 2012.
- (j) Members' and Officers' Register of Interests and Gifts and Hospitality – the Councils maintain such registers to safeguard both Members and Officers against conflicts of interest. The Members' Register of Interests and Gifts and Hospitality is available online.
- (k) Member Induction – following Council Elections, Members undergo a formal induction which includes information about the Councils' vision and corporate priorities, an introduction to the Constitution and in particular the Code of Conduct.

### **Taking informed and transparent decisions which are subject to effective scrutiny and managing risk**

#### Summary

Adur and Worthing Councils recognise that all Council decisions must be accountable and legally sound. As such, the Councils must be able to demonstrate that decision-makers follow a proper process and that all decisions are based on accurate information, including consideration of legal, financial and risk management implications. To ensure that this happens, Adur and Worthing Councils have a range of procedures in place to ensure that decisions are not influenced by prejudice, bias or conflicts of interest.

#### Supporting Principles of Good Governance

In being rigorous and transparent about how decisions are taken each Council will:

- (a) Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the Councils' performance overall and of any organisation for which they are responsible;
- (b) Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based;
- (c) Put in place arrangements to safeguard Members and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice;
- (d) Develop and maintain an effective Audit Committee which is independent of the Cabinet;
- (e) Put in place effective transparent and accessible arrangements for dealing with complaints.

In order to ensure that the Councils have good quality information and advice, each Council will:

- (a) Ensure that those making decisions, whether for the authority or partnership, are provided with information that is fit for the purpose - relevant, timely and gives clear explanations of technical issues and their implications;

- (b) Ensure that professional advice on matters that have legal or financial implications is available and recorded well in advance of decision-making and used appropriately.

In order to ensure that there is an effective system of risk management, each Council will:

- (a) Ensure that risk management is embedded into the culture of the organisation, with Members and Managers at all levels recognising that risk management is part of their job;
- (b) Ensure that arrangements are in place for whistleblowing to which staff and all those contracting with the authority have access.

In order to use the Councils' legal powers for the full benefit of the community, the Councils will:

- (a) Actively recognise the limits of lawful activity placed on them by, for example, the ultra vires doctrine but also strive to utilise powers to the full benefit of their communities;
- (b) Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on local authorities by public law;
- (c) Observe all specific legislative requirements placed upon them, as well as the requirements of general law, and in particular, integrate the key principles of good administrative law - rationality, legality and natural justice - into their procedures and decision-making processes.

#### Evidence of Commitment to these Principles

- (a) Overview and Scrutiny Committee – this is an established Committee which reviews and monitors the effectiveness of the Councils' services.
- (b) Report Templates – to ensure that all relevant information is obtained when producing a report for Committee, Cabinet or Full Council, a standard report template has been adopted. The report format helps to ensure that all matters coming before Member bodies have received appropriate legal and financial vetting before being signed off.
- (c) Meeting Minutes – the majority of meetings are open to members of the public and minutes of the decisions taken are published on the Councils' website.
- (d) Constitution – in order to safeguard Members and employees against conflicts of interest, the Constitution contains protocols which describe and regulate the way in which Members and Officers interact with one another.
- (e) Members' and Officers' Register of Interest and Gifts and Hospitality – the Councils maintain a Register of Interests and a Register of Gifts and Hospitality to safeguard both Members and Officers against conflicts of interest.
- (f) Joint Audit & Governance Committee – this Committee, which is independent from the Cabinets and scrutiny functions, monitors budgets and receives reports on the work of internal and external audit and risk management.
- (g) Comments, Compliments and Complaints System – a process is clearly outlined on the website for those wishing to complain to the Councils. Complaints are monitored and categorised, and reported to Corporate Leadership Team on a regular basis.
- (h) Data Access Requests – a system is in place to respond to Freedom of Information and Subject Access Requests.
- (i) Member Training – Members of specific committees receive comprehensive training to equip them with the skills required to carry out their work.
- (j) Whistleblowing Policy – enables Members and Officers to confidentially report suspected malpractice that is in the public interest. The Whistleblowing Policy is publicised on the Councils' intranet.
- (k) Monitoring Officer provisions – the Monitoring Officer is responsible for advising the Councils if any proposal would give rise to unlawfulness or maladministration and as such performs a key function in ensuring lawfulness and fairness in the operation of the Councils' decision-making processes.

#### **Developing the capacity and capability of Members and Officers to be effective**

##### Summary

Adur and Worthing Councils realise that the Officers they employ enable the Councils to fulfil their ambitions. Once appointed or elected, Members and Officers are provided with a range of development opportunities. The Councils' learning and development needs are met through a variety of training interventions including in-house training and e-learning. Members also receive specialised training on key issues on a regular basis.

#### Supporting Principles of Good Governance

To make sure Members and Officers have the necessary skills and resources, the Councils will:

- (a) Provide induction programmes tailored to individual needs and opportunities for Members and Officers to update their knowledge on a regular basis;
- (b) Ensure that the Statutory Officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the organisation.

To develop the capability of people with governance responsibilities, each Council will:

- (a) Assess the skills required by Members and Officers and make a commitment to develop those skills to enable roles to be carried out effectively;
- (b) Develop skills on a continuing basis to improve performance including the ability to scrutinise and challenge and to recognise when outside expert advice is needed;
- (c) Ensure that effective arrangements are in place for reviewing the performance of the authority as a whole and of individual Members and agreeing an action plan which might for example aim to address any training or development needs.

To encourage new Members of the authority, the Councils will:

- (a) Ensure that effective arrangements are in place, designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority;
- (b) Ensure that career structures are in place for Members and Officers to encourage participation and development.

#### Evidence of Commitment to these Principles

- (a) Member and Officer Induction Programme – an extensive induction programme is in place for both Members and Officers. All new Officers receive an induction booklet and are invited to a corporate induction where the Councils' values and visions are outlined in further detail.
- (b) Unboxed – the Councils run a talent pool known as the Unboxed Programme for Officers to provide opportunity for innovation and development.
- (c) Mentoring Scheme – the Councils run a programme of mentoring for Officers throughout the Councils, using external Mentors where necessary.
- (d) Members' Bulletin – this is a web-based area which provides an information zone for Members and is a key source of information.
- (e) Performance Development Reviews – provide opportunities to review employee performance, providing a chance to consider personal development needs in relation to the employee's role.
- (f) Officer Job Descriptions – set out the roles and responsibilities of Officers employed by the Councils.
- (g) Constitution – sets out how the Councils operate, how decisions are made and the procedures and codes of conduct which are followed. It also covers the roles of the Statutory Officers of the Council – Head of Paid Service, Section 151 Officer and Monitoring Officer – and their responsibilities relating to compliance with the law and ensuring sound financial control.
- (h) Overview and Scrutiny Committee – this is an established Committee which reviews and monitors the decisions of each Executive.
- (i) Leadership and Staff Exchange – organised events at which Managers and Officers meet to consider current issues affecting the Councils and work together to identify solutions.

## **Engaging with local people and other stakeholders to ensure robust public accountability**

### Summary

Adur and Worthing Councils recognise the need to effectively engage with local residents to ensure that their opinions are taken into account when preparing Council plans and policies. The Constitution sets out how the Councils incorporate the rights of residents in relation to the Councils' work.

### Supporting the Principles of Good Governance

To exercise leadership through a robust scrutiny function the Councils will:

- (a) Make clear to themselves, all staff and the community, to whom they are accountable and for what;
- (b) Consider those institutional stakeholders to whom they are accountable and assess the effectiveness of the relationships and any changes required;
- (c) Produce an annual report on scrutiny function activity.

To take an active approach to dialogues and accountability with the community each Council will:

- (a) Ensure that clear channels of communication are in place with all sections of the community and other stakeholders including monitoring arrangements to ensure that they operate effectively;
- (b) Hold meetings in public unless there are good reasons for confidentiality;
- (c) Ensure arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands;
- (d) Establish a clear policy on the types of issues they will meaningfully consult on or engage with the public and service users including a feedback mechanism for those consultees to demonstrate what has changed as a result;
- (e) On an annual basis, publish an annual report giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period;
- (f) Ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so.

In order to make best use of human resources, the Councils will develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision-making.

### Evidence of Commitment to these Principles

- (a) Constitution – sets out how the Councils operate, how decisions are made and the procedures and codes of conduct which are followed. It also sets out roles and responsibilities for Members and Statutory Officers and includes the Officer Scheme of Delegations.
- (b) Overview and Scrutiny Committee – this is an established committee which reviews and monitors the decisions made by the Cabinets and other Council bodies, as well as monitoring the activities and performance of external bodies. The Committee sets and reviews its work programme on a regular basis and produces an annual report on its work.
- (c) Joint Audit & Governance Committee – independent from the Cabinet and scrutiny functions, this Committee monitors budgets and receives reports on the work of internal and external audit and risk management.
- (d) Annual Statement of Accounts – a mainly financial document listing achievements for the previous year, as well as setting out longer term aims.

- (e) Petition Scheme – sets out in broad terms the right of members of the public to submit petitions, the functions and areas of the Councils' activities which may be the subject of petitions and the general arrangements for dealing with them.

### 3.0 REVIEW OF THE CODE

The Councils' Code of Corporate Governance will be reviewed on a ~~regular~~ annual basis with a view to ensuring that:

- (a) The Councils' governance arrangements are adequate and operating effectively in practice, or
- (b) If reviews of governance arrangements have revealed gaps, action is planned that will ensure effective governance in the future.

The Joint Governance Committee will ~~consider the annual~~ review of the Code at least once ~~every~~ two years.

## **Whistleblowing Protocol**

### **1.0 INTRODUCTION**

- 1.1 In this Protocol 'Whistleblowing' means the reporting by staff of suspected misconduct, illegal acts or failure to act within the Councils.
- 1.2 The aim of this Protocol is to encourage employees and others who have serious concerns about any aspects of the Council's work to come forward and voice those concerns.
- 1.3 This Protocol intends to:
- (a) Encourage staff to report suspected wrongdoing as soon as possible, in the knowledge that their concerns will be taken seriously and investigated as appropriate, and that their confidentiality will be respected, as far as possible.
  - (b) Encourage and enable staff to raise concerns within the Council rather than ignoring a problem or blowing the whistle externally.
  - (c) Provide staff with guidance as to how to raise those concerns.
  - (d) Reassure staff that they should be able to raise genuine concerns without fear of reprisals, victimisation, subsequent discrimination, disadvantage or dismissal, even if they turn out to be mistaken, provided the disclosure is made in the public interest.
- 1.4 The Councils are committed to conducting business with honesty and integrity, and we expect all staff to maintain high standards of conduct, in accordance with the Council's Officer Code of Conduct. However, all organisations face the risk of things going wrong from time to time, or of unknowingly harbouring illegal or unethical conduct. A culture of openness and accountability is essential in order to prevent such situations occurring or to address them when they do occur.
- 1.5 Staff are often the first to realise that there may be something seriously wrong within an organisation. 'Whistleblowing' is viewed by the Council as a positive act that can make a valuable contribution to the Council's efficiency and long-term success. It is not disloyal to colleagues or the Council to speak up. The Council is committed to achieving the highest possible standards of service and the highest possible ethical standards in public life and in all of its practices. To help achieve these standards it encourages freedom of speech.

### **2.0 WHAT IS WHISTLEBLOWING?**

- 2.1 Any serious concerns that staff have about service provision or the conduct of Officers of the Council, or others acting on behalf of the Council, that make them feel uncomfortable in terms of known standards, are not in keeping with the Constitution or Council policies, fall below established standards of practice or are improper behaviour, should be reported.

This may relate to:

- (a) Criminal activity;
- (b) Miscarriages of justice;
- (c) Racial, sexual, disability or other discrimination;
- (d) Danger to health and safety;
- (e) Damage to the environment;
- (f) Failure to comply with any legal, or professional, obligation or regulatory requirements;
- (g) Unauthorised use of public funds or other assets;
- (h) Bribery;
- (i) Financial fraud or mismanagement;
- (j) Negligence;
- (k) Breach of our internal policies and procedures, including our Officer Code of Conduct;
- (l) Conduct likely to damage our reputation;



- (m) Unauthorised disclosure of confidential information;
- (n) The deliberate concealment of any of the above matters.

- 2.2 A whistleblower is a person who raises a genuine concern relating to any of the above, where they honestly and reasonably believes it to be in the public interest to raise the concern.
- 2.3 This Protocol should not be used for complaints relating to an individual's own personal circumstances, such as the way they have been treated at work. In those cases the Grievance Procedure should be used.
- 2.4 If a staff member is uncertain whether something is within the scope of this Protocol they should seek advice from the Monitoring Officer, whose contact details are at the end of this Protocol.
- 2.5 This Protocol does not form part of any employee's contract of employment and it may be amended at any time.
- 2.6 If an individual has a concern about services provided to them, it should be raised through the Council's complaints procedure.
- 2.7 Complaints of misconduct by Councillors are dealt with under a separate procedure and should be referred to the Council's Monitoring Officer.

### **3.0 WHO CAN RAISE A CONCERN UNDER THIS PROTOCOL?**

- 3.1 This Protocol applies to all individuals working at all levels of the organisation, including Senior Managers, Officers, Directors, employees, consultants, contractors, trainees, homeworkers, part-time and fixed-term workers, casual and agency staff and volunteers (collectively referred to as staff in this Protocol).

### **4.0 RAISING A WHISTLEBLOWING CONCERN**

- 4.1 It is hoped that in many cases staff will be able to raise any concerns with their line manager or Director. Staff may tell them in person or put the matter in writing if preferred. They may be able to agree a way of resolving concerns quickly and effectively.
- 4.2 However, where the matter is more serious, or staff feel that their line manager or Director has not addressed the concern, or if they prefer not to raise it with them for any reason, they should contact one of the following:
  - (a) The Monitoring Officer;
  - (b) The Chief Executive;
  - (c) The Chairs of the Joint Audit & Governance Committee;
  - (d) The Chief Financial Officer (S.151 Officer).

Contact details are set out at the end of this protocol.

- 4.3 The Council will arrange a meeting with the whistleblower as soon as possible to discuss their concern. The whistleblower may bring a colleague or Union representative to any meetings held under this Protocol. The companion must respect the confidentiality of the disclosure and any subsequent investigation.
- 4.4 The Council will take down a written summary of the whistleblower's concern and provide them with a copy after the meeting. The Council will also aim to give an indication of how it proposes to deal with the matter.

4.5 Whoever internally, within the Councils, receives a whistleblowing disclosure, they are obliged to notify the Monitoring Officer, in writing, within 2 working days of the nature of the disclosure made.

## **5.0 CONFIDENTIALITY**

5.1 The Council hopes that staff will feel able to voice whistleblowing concerns openly under this Protocol. However, if a whistleblower wants to raise a concern confidentially, the Council will make every effort not to disclose their identity. If it is necessary for anyone investigating the concern to know the whistleblower's identity, this will be discussed with the whistleblower in advance.

5.2 The Council does not encourage staff to make disclosures anonymously. Proper investigation may be more difficult or impossible if the Investigating Officer cannot obtain further information from the whistleblower. It is also more difficult to establish whether any allegations are credible. Whistleblowers who are concerned about possible reprisals if their identity is revealed should come forward to the Monitoring Officer or another senior manager and appropriate measures can then be taken to preserve confidentiality.

5.3 If a whistleblower is in any doubt, they can seek independent advice from the independent charity, Protect, who offer a confidential helpline. Their contact details are at the end of this Protocol.

## **6.0 EXTERNAL DISCLOSURES**

6.1 The aim of this Protocol is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases a whistleblower should not find it necessary to alert anyone externally.

6.2 The law recognises that in some circumstances it may be appropriate for a whistleblower to report their concerns to an external body such as a regulator. It will very rarely, if ever, be appropriate to alert the media. The Council strongly encourages whistleblowers to seek advice before reporting a concern to anyone external. The independent whistleblowing charity, Protect, operates a confidential helpline. They also have a list of prescribed regulators for reporting certain types of concern. Their contact details are at the end of this Protocol.

6.3 Whistleblowing concerns usually relate to the conduct of staff, but they may sometimes relate to the actions of a third party, such as a customer, supplier or service provider. In some circumstances the law will protect a whistleblower if they raise the matter with the third party directly. However, the Council encourages whistleblowers to report such concerns internally first.

## **7.0 INVESTIGATION AND OUTCOME**

7.1 Once a whistleblower has raised a concern, the Council will carry out an initial assessment to determine the scope of any investigation. The Council will then inform the whistleblower of the outcome of the assessment. The whistleblower may be required to attend additional meetings in order to provide further information.

7.2 In some cases the Council may appoint an Investigating Officer or team of investigators including staff with relevant experience of investigations or specialist knowledge of the subject matter. The investigator(s) may make recommendations for change to enable the Council to minimise the risk of future wrongdoing.

7.3 The Council will aim to keep the whistleblower informed of the progress of the investigation and its likely timescale. However, sometimes the need for confidentiality may prevent the

giving of specific details of the investigation or any disciplinary action taken as a result. Any information given about the investigation should be treated as confidential.

- 7.4 If the Council concludes that a whistleblower has made false allegations maliciously or with a view to personal gain, the whistleblower may be subject to disciplinary action.

## **8.0 IF THE WHISTLEBLOWER IS NOT SATISFIED WITH THE OUTCOME**

- 8.1 While the Council cannot always guarantee the outcome the whistleblower is seeking, it will deal with the concern raised fairly and in an appropriate way, and in compliance with Human Rights and Equalities legislation.
- 8.2 If a whistleblower is not satisfied with the way in which their disclosure has been handled, they can raise it with one of the other key contacts in paragraph 4.2 of this Protocol. Alternatively they may contact the Council's Auditors (contact details are set out at the end of this Protocol) or seek independent advice from Protect

## **9.0 PROTECTION AND SUPPORT FOR WHISTLEBLOWERS**

- 9.1 It is understandable that whistleblowers are sometimes worried about possible repercussions. The Council aims to encourage openness and will support staff who raise genuine concerns under this Protocol, if they reasonably believe it to be in the public interest to do so, even if they turn out to be mistaken.
- 9.2 Staff must not suffer any detrimental treatment as a result of raising a concern or making a disclosure, provided it is made in the honest belief that it is in the public interest to do so. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform the Monitoring Officer immediately. If the matter is not remedied you should raise it formally using the Council's Grievance Procedure.
- 9.3 Staff must not threaten or retaliate whistleblowers in any way. Any staff member involved in such conduct is likely to be subject to disciplinary action. In some cases the whistleblower could have a right to sue them personally for compensation in an Employment Tribunal, and also for the Council to potentially be vicariously liable for their actions.

## **10.0 RESPONSIBILITY FOR THE SUCCESS OF THIS PROTOCOL**

- 10.1 The Council's Corporate Leadership Team has overall responsibility for this Protocol, and for reviewing the effectiveness of actions taken in response to concerns raised under this Protocol.
- 10.2 The Monitoring Officer has day-to-day operational responsibility for this Protocol, and must ensure that all managers and other staff who may deal with concerns or investigations receive regular and appropriate training.
- 10.3 The Monitoring Officer should review this Protocol at least every 3 years in conjunction with the Councils' Joint Audit & Governance Committee and with the Strategic Head of Human Resources who shall consult with UNISON.
- 10.4 All staff are responsible for the success of this Protocol and should ensure that they use it to disclose any suspected danger or wrongdoing. Staff are invited to comment on this Protocol and suggest ways in which it might be improved. Comments, suggestions and queries should be addressed to the Monitoring Officer.

## PART 6 - MEMBERS' ALLOWANCES SCHEME

### WORTHING BOROUGH COUNCIL COUNCILLORS' ALLOWANCES 2021/22

Worthing Borough Council in December 2019 approved an Allowance Scheme for Members that linked the scheme to the Officers' NJC National Pay Agreement. The National Pay Agreement has been settled as a 1.75% increase from 1 April 2021.

Therefore the allowances for Members for 2021/22 are as follows:

<b>Basic Allowance</b> (payable to all Members)	<b>£5,153.93</b>
<b>Special Responsibility Allowances</b>	
Leader	<b>£15,461.92</b>
Deputy Leader	<b>£7,730.95</b>
Cabinet Members (each portfolio holder)	<b>£6,442.50</b>
Mayor	<b>£2,577.03</b>
Deputy Mayor	<b>£1,288.45</b>
Chair of Planning Committee	<b>£5,153.93</b>
Vice Chair	<b>£1,288.45</b>
Chair of Licensing and Control Committee	<b>£3,865.48</b>
Vice Chair	<b>£1,288.45</b>
Chair of Joint Overview and Scrutiny Committee	<b>£3,865.48</b>
Vice Chair	<b>£1,288.45</b>
Chair of Joint Audit & Governance Committee	<b>£2,577.03</b>
Vice-Chair	<b>£1,288.45</b>
Leader of the Opposition Group	<b>£2,577.03</b>
Deputy Leader of the Opposition Group	<b>£1,288.45</b>
<b>Other allowances</b>	
• Child Carer Allowance - £10.25 per hour	
• Dependent person Carer allowance - up to £15 per hour	
• Travelling and Subsistence: NJC Rate, no local agreement	
• The allowances are not pensionable	
• More than one SRA can be claimed	

**Notes:**

Councillors may renounce in writing their entitlement to all or part of their allowance.

Travel and all other expenses and claims by Members must be submitted within two months of the period to which they relate.

**Principal Officer:**

Tina Favier, Director for Communities  
Worthing Borough Council  
Town Hall, Chapel Road, Worthing, West Sussex, BN11 1HA

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## PART 7 - MANAGEMENT STRUCTURE

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The Council's Officer structure consists of the Chief Executive and 3 Directors with their Directorates. This section should be read in conjunction with Article 11 of the Constitution which details with statutory responsibilities within the Council's management structure. Adur and Worthing Councils have a Joint Officer Management Structure; some of the areas of responsibility may refer only to one Council. The Joint Committee Agreement has the definitive roles and responsibilities. Full details of the delegations to Officers can be found in the Joint Scheme of Delegations to Officers (see Part 4 of this Constitution).

### ~~2.0 THE CHIEF EXECUTIVE~~

~~The Chief Executive provides strategic and corporate direction of the Council, working closely with the Elected Members and Senior Officers to ensure the management of the Council meets corporate objectives.~~

~~The Chief Executive is also the Council's statutorily appointed Head of Paid Service. They are directly responsible, and line manages, the Council's team relating to Communications.~~

### ~~3.0 DIRECTORS~~

~~The Directors have a significant role in the Corporate Management of the Council and pursue matters of a strategic nature. The Directors are responsible for overseeing various Directorates; these are detailed below:~~

#### ~~3.1 Director for the Economy responsible for the following service areas:~~

- ~~• Planning and Development~~

- Culture
- Place and Economy
- Major Projects and Investment

### **3.2 — Director for Communities responsible for the following service areas:**

- Environmental Services
- Housing
- Wellbeing

### **3.3 — Director for Digital & Resources responsible for the following service areas:**

- Revenues and Benefits
- Finance
- Customer and Digital Services
- Legal Services
- Human Resources
- Business and Technical Services

## **4.0 — SERVICE AREAS**

Each of the Services, or Sections, within a Directorate is headed by a Head of Service post. Outline details of their areas of responsibility are given below:

### **4.1 — Economies Directorate**

#### **4.1.1 Head of Planning & Development**

- Planning Policy
- Major Planning Applications
- Development Management
- Building Control
- Land Charges
- Local Land and Property Gazetteer (LLPG)
- Street Naming and Numbering
- Fire Safety Advisory Services
- Flood defence

#### **4.1.2 Head of Culture**

- Museums
- Venues
- Cultural Partnership

#### **4.1.3 Head of Place & Economy**

- Economic Investment (LEP)/Growth Deal/City Region
- Economic Development, Inward Investment & Business Retention
- Place Shaping, Urban Realm & Town Centre Management
- Skills & Enterprise
- Business Engagement & Partnerships
- EU and External Funding
- Visitors & Events

#### **4.1.4 Head of Major Projects & Investment**

- Major Regeneration Projects
- Estates & Property

## **4.2 Communities Directorate**

### **4.2.1 Head of Environmental Services**

- Parks & Open Spaces
- Foreshore
- Worthing Pier
- Bereavement Services
- Environmental Health (Dog Control)
- Recycling & Refuse Service
- Bulky Waste
- Clinical Waste
- Commercial Waste
- Street Cleansing
- Graffiti
- Waste Strategy & Compliance
- Waste Education
- Fleet & Transport Management
- Commerce Way & Meadow Road Management
- Waste Transfer Licences
- Pest Control

### **4.2.2 Head of Housing**

- Building Services (Housing)
- Tenancy Services (Adur Homes)
- Strategy, Systems & Clienting



- Private Sector Housing
- Housing Solutions

#### **4.2.3 Head of Wellbeing**

- Public Health & Wellbeing
- Public Health & Regulation (Environmental Health) — Protection
- Public Health & Regulation (Environmental Health) — Food Safety & Healthy Workplaces
- Think Family & Early Help
- Community Safety & Anti-Social Behaviour
- Licensing
- Democratic Services
- Community Engagement
- Places & Neighbourhoods
- Third Sector & Partnerships
- Safeguarding

#### **4.3 — Digital & Resources Directorate**

##### **4.3.1 Head of Revenues & Benefits**

- Council Tax and NNDR (National Non-Domestic Rates)
- BID (Business Improvement District) Levy
- Benefits

##### **4.3.2 Chief Financial Officer**

- Management & Technical Accounting
- Strategic Accounting

- Exchequer & Fraud
- Internal Audit
- Procurement & Contracts

#### **4.3.3 Head of Customer & Digital Services**

- Customer Services
- Customer Insight
- Digital Transformation
- Service Design
- Systems Support & Development
- Management Information Systems (MIS), Data and Information Security
- Elections
- Business Support
- Parking Services

#### **4.3.4 Head of Legal Services**

- Governance
- Monitoring Officer Function
- Property
- Contracts
- Litigation
- Regulatory

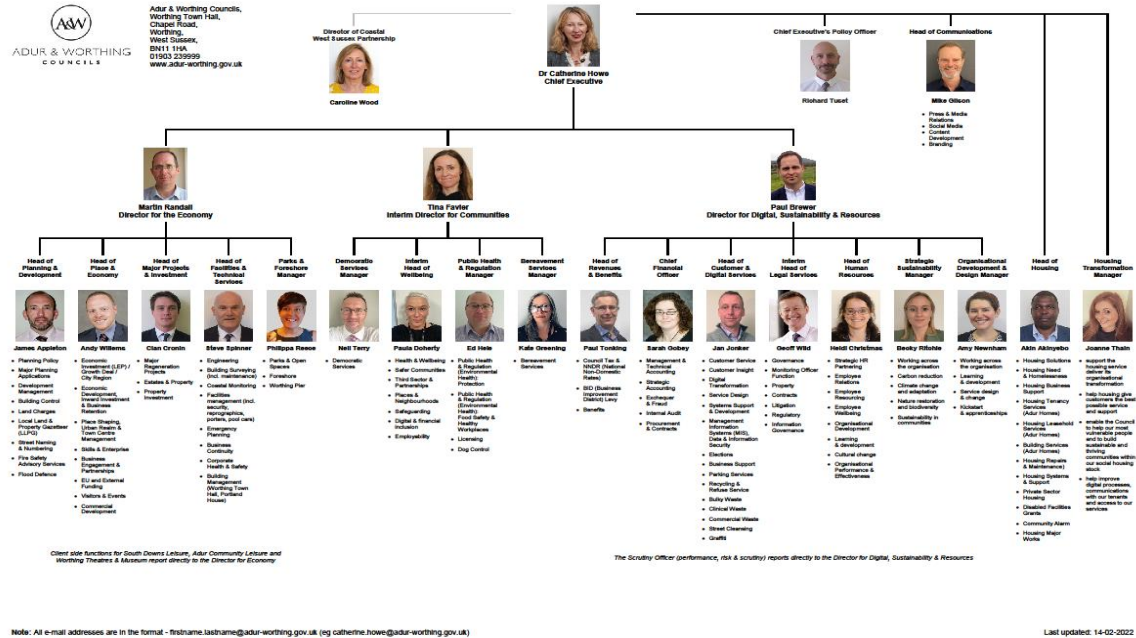
#### **4.3.5 Head of Human Resources**

- Strategic HR Partnering
- Employee Relations
- Employee Resourcing

- ~~Employee Wellbeing~~
- ~~Organisational Development~~
- ~~Learning & Development~~
- ~~Cultural Change~~
- ~~Organisational Performance & Effectiveness~~

#### **4.3.6 Head of Business & Technical Services**

- ~~Engineering & Surveying~~
- ~~Coastal Monitoring~~
- ~~Facilities management (including security, reprographics, porters, pool cars)~~
- ~~Emergency Planning~~
- ~~Business Continuity~~
- ~~Corporate Health & Safety~~
- ~~Building Management (Worthing Town Hall, Portland House)~~
- ~~Public Conveniences~~



## 1.0 — INTRODUCTION

The Council's Officer structure consists of the Chief Executive and 3 Directors & their Directorates.

This section should be read in conjunction with Article 11 of the Constitution which details with statutory responsibilities within the Council's management structure.

Adur and Worthing Councils have a Joint Officer Management Structure; some of the areas of responsibility listed in this part of the Constitution may refer only to one Council. The Joint Committee Agreement, as amended, has the definitive roles and responsibilities. Full details of the delegations to Officers can be found in the Joint Scheme of Delegations to Officers, which is included within Part 4 of this Constitution.

## **2.0 THE CHIEF EXECUTIVE**

The Chief Executive provides strategic and corporate direction of the Council, working closely with the Elected Members and Senior Officers to ensure the management of the Council meets corporate objectives.

The Chief Executive is also the Council's statutorily appointed Head of Paid Service. They are directly responsible, and line manages, the Council's team relating to Communications.

## **3.0 DIRECTORS**

The Directors have a significant role in the Corporate Management of the Council and pursue matters of a strategic nature. The Directors are responsible for overseeing various Directorates; these are detailed below:

### **3.1 Director for the Economy responsible for the following service areas:**

- Planning and Development
  - Culture
- Place and Economy
- Major Projects and Investment

### **3.2 Director for Communities responsible for the following service areas:**

- Environmental Services
  - Housing
  - Wellbeing

### **3.3 Director for Digital & Resources responsible for the following service areas:**

- Revenues and Benefits
  - Finance
- Customer and Digital Services
  - Legal Services
  - Human Resources
- Business and Technical Services

## **4.0 SERVICE AREAS**

Each of the Services, or Sections, within a Directorate is headed by a Head of Service post. Outline details of their areas of responsibility are given below:

#### **4.1 Economies Directorate**

##### **4.1.1 Head of Planning & Development**

- Planning Policy
- Major Planning Applications
- Development Management
  - Building Control
  - Land Charges
- Local Land and Property Gazetteer (LLPG)
  - Street Naming and Numbering
  - Fire Safety Advisory Services
    - Flood defence

##### **4.1.2 Head of Culture**

- Museums
- Venues
- Cultural Partnership

##### **4.1.3 Head of Place & Economy**

- Economic Investment (LEP)/Growth Deal/City Region
- Economic Development, Inward Investment & Business Retention
- Place Shaping, Urban Realm & Town Centre Management
  - Skills & Enterprise
- Business Engagement & Partnerships
  - EU and External Funding
  - Visitors & Events

##### **4.1.4 Head of Major Projects & Investment**

- Major Regeneration Projects

- Estates & Property

## **4.2—Communities Directorate**

### **4.2.1 Head of Environmental Services**

- Parks & Open Spaces
  - Foreshore
  - Worthing Pier
- Bereavement Services
- Environmental Health (Dog Control)
  - Recycling & Refuse Service
    - Bulky Waste
    - Clinical Waste
  - Commercial Waste
  - Street Cleansing
    - Graffiti
- Waste Strategy & Compliance
  - Waste Education
- Fleet & Transport Management
- Commerce Way & Meadow Road Management
  - Waste Transfer Licences
  - Pest Control

### **4.2.2 Head of Housing**

- Building Services (Housing)
- Tenancy Services (Adur Homes)
- Strategy, Systems & Clienting
  - Private Sector Housing
  - Housing Solutions

### **4.2.3 Head of Wellbeing**

- Public Health & Wellbeing
- Public Health & Regulation (Environmental Health)—Protection

- Public Health & Regulation (Environmental Health) — Food Safety & Healthy Workplaces
  - Think Family & Early Help
  - Community Safety & Anti-Social Behaviour
    - Licensing
    - Democratic Services
    - Community Engagement
    - Places & Neighbourhoods
    - Third Sector & Partnerships
      - Safeguarding

### **4.3 — Digital & Resources Directorate**

#### **4.3.1 Head of Revenues & Benefits**

- Council Tax and NNDR (National Non-Domestic Rates)
  - BID (Business Improvement District) Levy
    - Benefits

#### **4.3.2 Chief Financial Officer**

- Management & Technical Accounting
  - Strategic Accounting
  - Exchequer & Fraud
    - Internal Audit
  - Procurement & Contracts

#### **4.3.3 Head of Customer & Digital Services**

- Customer Services
  - Customer Insight
  - Digital Transformation
    - Service Design
  - Systems Support & Development
- Management Information Systems (MIS), Data and Information Security
  - Elections
  - Business Support



- Parking Services

#### 4.3.4 Head of Legal Services

- Governance
- Monitoring Officer Function
  - Property
  - Contracts
  - Litigation
  - Regulatory

#### 4.3.5 Head of Human Resources

- Strategic HR Partnering
- Employee Relations
- Employee Resourcing
- Employee Wellbeing
- Organisational Development
- Learning & Development
  - Cultural Change
- Organisational Performance & Effectiveness

#### 4.3.6 Head of Business & Technical Services

- Engineering & Surveying
  - Coastal Monitoring
- Facilities management (including security, reprographics, porters, pool care)
  - Emergency Planning
  - Business Continuity
  - Corporate Health & Safety
- Building Management (Worthing Town Hall, Portland House)
  - Public Conveniences

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## PART 8 – JOINT ARRANGEMENTS

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The Council has several methods of establishing bodies for decision-making, collaboration or consultation with other local authorities, partners, officer representatives and members of the public. These bodies may be set up for a specific purpose or to more generally promote the economic, social, or environmental well-being of the District.

The council has made joint arrangements with one or more other local authorities under section 101(5) of the Local Government Act 1972 for the exercise of certain of its functions. The council appoints with those other authorities joint committees to exercise these functions.

Joint arrangements with other local authorities may be established to exercise Executive and/or Non-Executive functions. The establishment of joint committees that exercise Executive powers requires the agreement of the Leader. The establishment of joint committees that exercise Non-Executive powers requires the approval of Full Council. The Leader must obtain Council approval before agreeing to exercise functions on behalf of another local authority.

Political balance rules apply to joint committees that exercise Non-Executive powers and where Full Council appoints to three or more seats. Political balance rules do not apply to joint arrangements that only exercise Executive powers. If any Executive functions are to be exercised, then a Cabinet Member must be appointed if the Leader appoints to two or more seats on the committee.

The membership, terms of reference and functions of the joint committees and the rules governing their conduct and proceedings are described below and in Part 9.

There are additional joint arrangements with external bodies, as detailed below.

### **Action in Rural Sussex (AIRS)**

#### **DETAILS OF MEETINGS:**

Frequency: 4 per year.

Venue: Billingshurst.

Time/Duration: 2 hours max, in the afternoon.

#### **TERMS OF REFERENCE/FUNCTION OF ORGANISATION:**

AiRS is an independent charity that exists for all people living in rural areas of Sussex but especially those who are at risk of isolation and/or disadvantage, and for whom rural life brings an additional challenge and cost to their daily lives.

NUMBER OF REPRESENTATIVES: 1

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): TBA

TERM: Annual appointment - tba

### **Adur & Worthing Safer Communities Partnership (A&WSCP) Executive**

#### **TERMS OF REFERENCE**

1. The primary purpose of the A&WSCP Executive is to prevent crime and disorder, tackle substance misuse, anti-social behaviour and reduce re-offending to make Adur & Worthing a safer place for all.

2. Its primary responsibilities shall comprise:

- Being the statutory 'strategy board' for the Adur & Worthing Safer Communities Partnership;
- Carry out an annual strategic assessment of local crime and disorder problems and community safety issues, taking into account the views of those who live, visit and work in Adur & Worthing;
- Formulate and implement a three year partnership plan to address local priorities as identified in the strategic assessment;
- Monitor partnership performance and progress against its priorities;
- Publish an annual summary of the partnership's achievements;
- Review the strategic assessment on an annual basis and refresh the partnership plan, as appropriate;
- Complete an annual Hallmarks assessment of the partnership & formulate an improvement plan if required;
- Hold an annual 'Face the Public' session;
- Have a clear escalation process of issues to the Safer West Sussex Partnership (county-wide Community Safety Partnership) from A&WSCP.

3. The partnership shall be managed by an Executive comprising senior representatives from the following statutory responsible authorities, namely:

- Police District Commander for Adur & Worthing;
- Chief Executive, Adur & Worthing Councils or nominee;
- Cabinet Member for Health & Wellbeing for Adur District Council;
- Cabinet Member for Health & Wellbeing for Worthing Borough Council;
- Chief Executive, West Sussex County Council or nominee;
- Central Operations Group Manager, West Sussex Fire and Rescue Service;
- Public Health, West Sussex or nominee;
- Surrey & Sussex Probation Trust, Team Manager, Adur & Worthing;
- Sussex Police & Crime Commissioner (Co-operating Member);

4. Members of the Executive shall have authority to make decisions on behalf of their respective organisations.

5. The Executive shall meet on a quarterly basis. The Executive will agree the partnership plan, allocate funding, and monitor performance against priorities and commission services to deliver the plan.

6. The Executive shall also:

- Seek to encourage and promote arrangements to ensure that their respective organisation's policies, strategies, plans and budgets take into account the prevention of crime and disorder, anti-social behaviour, substance misuse and reducing re-offending;
- Agree an annual funding plan and submit its bids to the appropriate grant-funding bodies;
- Ensure that partnership funding provides value for money;
- Engage communities in problem identification and resolution;
- Appoint a chair & vice-chair with tenure of 12 months shared between partners, appointed following the local election cycle in May of each financial year;
- The vice-chair should provide continuity and an overview role in connection with the SCP's supporting structure and partnership working;
- At least once a year, ensure that the partnership has the requisite skills and knowledge to meet its statutory requirements;
- Sign up to the Pan- West Sussex Information Sharing Protocol, governing the sharing of information between the responsible authorities and others, as appropriate;
- Share depersonalised information, as required;
- Ensure that each responsible authority nominates a designated liaison officer whose role will be to facilitate the sharing of information with other partners.

7. Membership of the wider Safer Communities Partnership (including the Executive) shall comprise all those agencies, organisations and individuals in the public, private, voluntary and community sectors who contribute to delivering the plan.

#### **Adur and Worthing Business Partnership**

##### DETAILS OF MEETINGS:

Frequency: Quarterly.

Venue: Various venues across Adur and Worthing.

Time/Duration: Board meetings 2pm to 3.15pm

Partnership meetings 3:30pm to 6pm

##### TYPE OF BUSINESS:

To work in partnership with all economic development agencies to secure economic regeneration of the local economy, to open up new business opportunities and to promote competitiveness and employment growth. To liaise with business organisations and educational establishments in Worthing, Adur and surrounding areas to enable, facilitate and develop the delivery of skills, training and learning as broadly and widely to the community as practicable.

NUMBER OF REPRESENTATIVES: 1:

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): tba

TERM: Annual appointment

**Armed Forces Champion** (appointed representative to sit on: West Sussex Civilian Military Partnership Board, which includes the Community Engagement Sub-Group and the South East Reserve Forces' and Cadets' Association (SERFCA))

DETAILS OF MEETINGS:

**West Sussex Civilian Military Partnership Board (& Community Engagement Sub-Group)**

Frequency: 3 times a year

Venue: Various throughout the West Sussex Area

Time/Duration: 0930 – 1230

**SERFCA**

Frequency: Annually

Venue: Reserve Centre, Brighton or to be notified at the time of the meeting

Duration: 3 hours

TYPE OF BUSINESS:

To champion the role of the Armed Forces in relation to the signed Community Covenant.

SKILLS/INTERESTS REQUESTED:

Able to liaise with local interested groups, former service personnel, individuals and families, the Royal British Legion and Combined Ex-Services Associations. Willing to represent these groups on Community Covenant issues.

To be the council's spokesperson on Armed Forces and Community Covenant matters.

Appointed representative should have an interest in Armed Forces matters

ROLE OF REPRESENTATIVE (VOTING/OBSERVER)

Interpretation of regulations. Able to liaise with local interested groups, former service personnel, individuals and families; the Royal British Legion and Combined Ex-Services Associations. Willing to represent these groups on Community Covenant issues. To be the council's spokesperson on Armed Forces and Community Covenant matters.

NUMBER OF REPRESENTATIVES: 1

TERM: Annual appointment

**Brighton City Airport Consultative Committee** (formally Shoreham Airport Consultative Committee)

DETAILS OF MEETINGS:

Frequency: Quarterly.

Venue: Brighton City Airport

Time/Duration: 2:30pm (normally Wednesdays)

TYPE OF BUSINESS:

The Committee provides a forum for those operating and using the airport and those environmentally affected by the airport.

SKILLS/INTERESTS REQUESTED:

This appointment is most relevant to Members with close links to the airport and/or neighbouring wards. Representatives are invited from Adur and Worthing Councils.

NUMBER OF REPRESENTATIVES: 1 (plus a substitute).

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Active participant. Representative to have knowledge of Shoreham Airport.

TERM: Annual appointment

### **Broadwater Community Association**

DETAILS OF MEETINGS:

Frequency: Monthly apart from December.

Venue: Parish Rooms.

Time/Duration: Thursday Evening 1-3 hours

TERMS OF REFERENCE/FUNCTION OF ORGANISATION:

Raising funds to build a Community Centre in Broadwater. To enhance the profile of Broadwater.

NUMBER OF REPRESENTATIVES: 2

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): To guide on Council policy and to relay back any problems to the Council. No voting rights.

TERM: Annual appointment

### **Coast to Capital Local Enterprise Partnership (LEP)**

Coast to Capital is a voluntary partnership between local authorities and businesses, set up in 2011 by the Department for Business, Innovation and Skills to help determine local economic priorities and lead economic growth and job creation within the local area. It is a network of functional economic hubs around Gatwick airport, including Greater Brighton, West Sussex and East Surrey.

Under the Articles of Association, the District Councils in the area (acting collectively) nominate up to two District Council Directors to be appointed by the LEP Board on a two yearly basis, any such appointment to take effect from close of the annual general meeting of the Company in every other year.

### **Coastal West Sussex Partnership Board**

DETAILS OF MEETINGS:

Frequency: Quarterly.

Venue: Various venues on the West Sussex south coast.

Time/Duration: 2pm – 4pm

TYPE OF BUSINESS:

A public/private sector partnership of West Sussex organisations who have joined together to tackle the big economic issues facing coastal towns including Selsey, Bognor Regis, Chichester, Littlehampton, Worthing and Shoreham. The priority areas for action include business enterprise, employment and skills and economic regeneration. A partnership that brings together the private and public sector around a common purpose to support business development and sustainable economic growth working collectively on economic issues that affect the coast. Focusing on the strategic issues, the Coastal West Sussex Partnership brings together leaders and senior officers from business, education institutions and the public sector to work collectively on economic issues that affect the coastal area. The Partnership's vision is for a strengthened coastal economy that delivers an exceptional experience for residents, business and visitors.

NUMBER OF REPRESENTATIVES: 1

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Bring ideas about what growth could mean for the area. What economic challenges are being faced in the area and on a wider scale.

TERM: Annual appointment

#### **Court of the University of Sussex (known as the Sussex Annual Forum)**

DETAILS OF MEETINGS:

Frequency: 1 per year.

Venue: University of Sussex, Falmer, Brighton.

Time/Duration: tbc

TERMS OF REFERENCE/FUNCTION OF ORGANISATION: To promote research, teaching, and interests of the University to the local area, enhance relationships with businesses to strengthen placement opportunities and provide an opportunity for networking.

NUMBER OF REPRESENTATIVES: 1

ROLE OF REPRESENTATIVE (VOTING/OBSERVER) Non-voting member.

TERM: Annual Appointment

#### **Discretionary Housing Payments Board**

DETAILS OF MEETINGS:

Frequency: as and when required.

Venue: Shoreham Centre

Time/Duration: will be arranged as necessary.

TYPE OF BUSINESS:

To consider applications by members of the public in accordance with the Councils' Joint Housing Discretionary Payments Policy as agreed by the Joint Strategic Committee on 11 June 2013.

SKILLS/INTERESTS REQUESTED: Interpretation of regulations.

NUMBER OF REPRESENTATIVES:

Panel of members of 3 chosen from those appointed by the Council.

TERM: Annual appointment

### **District Councils' Network**

DETAILS OF MEETINGS: -

Regular Assemblies, Executive meetings and an annual conference

Frequency: Monthly Executive meetings, 3 or 4 Assemblies a year.

Time/Duration: Varied – Executive meetings are 2 hours, Assemblies vary from one morning or afternoon or one day.

TYPE OF BUSINESS:

Membership organisation for District Councils within the Local Government Association

NUMBER OF REPRESENTATIVES: 183 council leaders

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Voting

PRESENT REPRESENTATIVES: All DCN member council leaders, and more narrowly the DCN Executive of approximately 20 council leaders

TERM: The Executive Leader remains the representative for the duration of their leadership of the council.

**Dr Chester's (Poor Ten Acres) Charity** (founded in 1662 and set up by Dr Granado Chester, Rector of Broadwater)

DETAILS OF MEETINGS:

Frequency: 1 trustees meeting per year in early December.

Venue: Worthing Town Hall.

Time/Duration: 45 minutes

TYPE OF BUSINESS:

Distribution of charity money. The Charity helps needy people in Worthing by making a small award towards their fuel bills.

NUMBER OF REPRESENTATIVES: 2 past Councillors (Honorary Aldermen/women)

ROLE OF REPRESENTATIVE (TRUSTEE): A meeting of the Trustees is arranged by the Clerk in early September each year to agree an amount to be donated to Turning Tides.



TERM: Hon Aldermen: Each term for 4 years from appointment

**Durrington Community Centre Association**

DETAILS OF MEETINGS:

Frequency: 3 per year.

Venue: Durrington Community Centre

Time/Duration: Wednesday evening

TERMS OF REFERENCE/FUNCTION OF ORGANISATION: To promote the benefit of the inhabitants of Durrington, Northbrook and High Salvington.

NUMBER OF REPRESENTATIVES: 1 or 2

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Committee Member. Voting participant. Part of the management of the Centre for day to day running of operations.

TERM: Annual appointment

**East Worthing Community Association**

DETAILS OF MEETINGS:

Frequency: 2 per year.

Venue: East Worthing Community Centre.

Time/Duration: 1-2 hours, evening

TERMS OF REFERENCE/FUNCTION OF ORGANISATION:

A Community Centre Association run by trustees including user members.

NUMBER OF REPRESENTATIVES: 2 - any Selden Ward councillors

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Non-voting, other than as users. Active participation welcomed. Representatives to attend General Meeting only.

This is a Community Centre for the people they represent. Welcome to attend any open meetings such as Neighbourhood/Policing meetings which are held every month.

TERM: Annual appointment

**Greater Brighton Economic Board (Joint Committee)**

DETAILS OF MEETINGS:

Frequency: 4 per year

Venue: Varied locations

Time/Duration: 10am - varied duration

TYPE OF BUSINESS:

The Greater Brighton Economic Board is overarching, legally constituted, body behind the growth of the Greater Brighton City Region, formed in 2014 with the aim of protecting and growing the Region's economy through creative, innovative initiatives which coordinate economic development activities and investment at City Region level.

NUMBER OF REPRESENTATIVES: 1 – Executive Leader

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Voting member

TERM: n/a (terms of reference require this to be the Leader of the Authority)

**Greater Brighton Economic Board 'Call in Panel'**

DETAILS OF MEETINGS:

Frequency: Ad Hoc

Venue: tba

Time/Duration: tba

TYPE OF BUSINESS:

Determination of call in for the Greater Brighton Economic Board, as required by the Board's Constitution.

NUMBER OF REPRESENTATIVES: 1 Scrutiny member (plus 1 substitute)

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): tba

TERM: Annual appointment (automatic)

**Heene Community Association (Management Committee)**

DETAILS OF MEETINGS:

Frequency: 6 per year held bi-monthly at 2.30pm plus AGM

Venue: Heene Community Centre.

Time/Duration: Afternoon 2-4

TERMS OF REFERENCE/FUNCTION OF ORGANISATION: Charity Community Centre

NUMBER OF REPRESENTATIVES: 2

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Attend the trustees' meetings, centre is owned by WBC so representatives have a duty of care to look after the Council's responsibilities to ensure the Association doesn't step outside its boundaries. Some away days are also organised to assess the performance and long term planning for the Centre.

Non-voting observer role but also contributory. 8 trustees are on the board plus 3 holding trustees (responsibility to hold the lease with the Council).

TERM: Annual

### **High Salvington Mill Trust Committee & Management**

#### DETAILS OF MEETINGS:

Frequency: 4 + AGM

Venue: Zoom or Findon Valley Free Church Hall

Time/Duration: 1.5 - 2 hrs

#### TERMS OF REFERENCE/FUNCTION OF ORGANISATION:

Maintains and operates one of the last working mills in the country. Raises funds to do that work and it educates people in the working of the mill, specifically young people and schoolchildren.

#### NUMBER OF REPRESENTATIVES:

The Trust invites membership when there are vacancies. The aim is to have 5 Council nominees as Trustees/Directors. There currently is 1.

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Voting directors of the Mill Trust. Attending meetings. The site is owned by WBC; the Trust operates and maintains it on their behalf. The Board is adamant that appointees should have a genuine interest in the Mill and be committed to attending meetings and help out as required.

TERM: 4 year appointments.

### **Local Government Association – Coastal Issues Special Interest Group**

#### DETAILS OF MEETINGS:

Frequency: Quarterly meetings a year

Venue: London and/or a coastal location.

Time/Duration: Daytime

As confirmed by LGA for the foreseeable future, all meetings will take place via Zoom.

#### TERMS OF REFERENCE/FUNCTION OF ORGANISATION:

To increase awareness and debate at a national and European level of environmental, economic and social issues and concerns that directly affect or which may so affect coastal, estuarine and maritime communities. To act as a focus for liaison between local authorities and other bodies representing coastal, estuarine and maritime interests; To secure cross-departmental coordination within Central Govt on coastal, estuarine and maritime issues with a view to ensuring consistency in policy and provision of resources.

NUMBER OF REPRESENTATIVES: 1.

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Attend and participate in meetings of the SIG

TERM: Annual appointment

### **Local Government Association - General Assembly**

#### **DETAILS OF MEETINGS:**

Frequency: Annual

Venue: National venue, to coincide with the LGA Annual Conference

Time/Duration: 11.45am - usually lasts between 45 minutes and 2 hours (held before lunchtime on the first day of the Conference and precedes the formal opening of the Annual Conference)

TERMS OF REFERENCE/FUNCTION OF ORGANISATION: As set out in the LGA's Articles of Association and Governance Framework.

NUMBER OF REPRESENTATIVES: 1 (plus 1 substitute)

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Voting

TERM: One Year

### **PATROL (Parking and Traffic Regulations Outside London) - Adjudication Joint Committee**

#### **DETAILS OF MEETINGS:**

Frequency: Annually in July.

Venue: Church House, Great smith St, Westminster, London SW1P 3NZ

Time/Duration: 11am-2pm

#### **TYPE OF BUSINESS:**

Statutory requirement for all councils undertaking civil parking or bus lane enforcement to make provision for independent adjudication and this is delivered through the Traffic Penalty Tribunal. The PATROL Adjudication Joint Committee Agreement (to which both Adur District Council and Worthing Borough Councils are party) requires nomination of a Councillor to the Joint Committee, even if those Councillors are unable to attend meetings.

PATROL has been established to enable councils undertaking civil parking enforcement in England and Wales and civil bus lane and moving traffic enforcement in Wales to exercise their functions under section 81 of the Traffic Management Act 2004 (TMA) and Regulations 17 and 18 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.

SKILLS/INTERESTS REQUESTED: There are no specific requirements for nominees except for being a Councillor, however they generally have an involvement in transport or environmental matters.

NUMBER OF REPRESENTATIVES: 1 - Cabinet Member (may also provide a substitute). (It is suggested that the Cabinet Member for the Environment be appointed)

TERM: Annual Appointment

### **Quality Bus Partnership**

#### **DETAILS OF MEETINGS:**

Frequency: Meetings currently on hold.

Venue: tba

Time/Duration: tba

#### **TYPE OF BUSINESS:**

The Quality Partnership hasn't met for a while following various reorganisations at this end, although there is a desire from bus operators to get it going again asap.

**NUMBER OF REPRESENTATIVES: 3**

**ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Represent local issues.**

**TERM: Annual appointment**

### **South Downs Leisure**

#### **DETAILS OF MEETINGS:**

Frequency: 4-6 meetings per year

Venue: Field Place

Time/Duration: 6pm- 2.5hrs

#### **TERMS OF REFERENCE/FUNCTION OF ORGANISATION:**

To provide both indoor and outdoor facilities in the interest of social welfare for recreation or other leisure time, promote community participation in healthy recreational activities and any other such charitable purposes.

**NUMBER OF REPRESENTATIVES: 2**

**ROLE OF REPRESENTATIVE (VOTING/OBSERVER): 2 active Board members. To act as a Board member with voting powers. They would not be able to take up the position as Chair whilst serving as a Councillor.**

**TERM: Three years from 2020 or until no longer a councillor (up to Council)**

### **South Downs National Park Authority**

(This is a joint appointment by the Leaders of Adur and Worthing Councils)

#### **DETAILS OF MEETINGS:**

Frequency: The Authority meets 6 times per year; plus working groups, training sessions and workshops as required. Each SDNPA Member is appointed to one Committee.

Appointments to Committees and Outside bodies are made at the AGM meeting in June:

- Planning Committee convenes 12 times per year and have 12 Site Visits per year
- Policy & Programme Committee convenes 6 times per year
- Governance Committee convenes 5 times per year
- Area Tours and development opportunities at least 6 times per year.
- Local Plan monthly workshops

Venue: Generally the South Downs Centre at Midhurst.

Time/Duration: Authority 2:00pm - Committees 10-10:30am

TERMS OF REFERENCE/FUNCTION OF ORGANISATION: The two main purposes of the SDNPA are to: conserve and enhance the natural beauty, wildlife and cultural heritage; and promote opportunities for the understanding and enjoyment of the special qualities of the South Downs National Park by the public. The overall purpose of the Member role on the NPA is to ensure that the NPA fulfils its objectives and does so in a way that best suits the special characteristics of the National Park.

#### NUMBER OF APPOINTEES:

1 Councillor appointed by Adur District Council and Worthing Borough Council - Members of the SDNPA do not represent their appointing bodies on the Authority, but will, as an SDNPA Member, be responsible for ensuring that the SDNPA achieves the National Park Purposes and Duty, and does so in a way that best suits the National Park as a whole.

#### SKILLS/INTERESTS REQUESTED:

Skills and Knowledge Framework table set by South Downs National Park Authority. South Downs National Park Authority Members are able to claim an allowance, together with travel and other expenses incurred in the course of their appointment. Commitment to involvement of typically 3 to 4 days per month.

(Appointment to alternate between ADC and WBC)

#### TERM:

An election serves as a trigger for the reappointment process or if the appointee resigns/ceases to be a member of the SDNPA or appointing Authority. Appointments must be confirmed if the member appointed has stood for re-election. Under the local choice functions this no longer has to be delegated to the Joint Strategic Committee for determination.

The provisions in the Environment Act 1995 place certain restrictions on termination of membership. The effect of Para 2(5) of Schedule 7 to the Act is that a local authority-appointed member holds office with a National Park Authority until they cease to be a member of the appointing local authority, unless the appointing local authority terminates the appointment earlier in accordance with the provisions, in the Local Government and Housing Act 1989, requiring that appointments to committees and external bodies reflect the political balance of the appointing authority

However, even if there has been a recent change in political balance within a local authority, the effect of Para 1(c) of Schedule 1 to the 1989 Act is that the rules on maintaining political balance in appointments only apply to appointments to a national park

authority of three seats or more (local authorities within the SDNPA only appoint one member to SDNPA).

### **Sussex Police and Crime Panel (PCP)**

#### **DETAILS OF MEETINGS:**

Frequency: Quarterly.

Venue: Council Chamber, County Hall, Lewes.

Time/Duration: 10:30am start

#### **TYPE OF BUSINESS:**

To hold the elected Police and Crime Commissioner (PCC) to account. Main functions in brief:

- to consider and make recommendations on the draft Police and Crime Plan;
- to consider and make recommendations (including power of veto) on the PCC's proposed precept; and conduct public confirmation hearings for the PCC's proposed appointments to senior positions including Deputy PCC, CEO, CFO and Chief Constable (PCP has power of veto over proposed Chief Constable appointment);
- to scrutinise the actions and decisions of the PCC.

SKILLS/INTERESTS REQUESTED: An interest in local crime and policing and the new Police governance structures. Involvement in the authority's community safety role.

NUMBER OF REPRESENTATIVES: 1 (plus 1 substitute)

TERM: The term of office to be decided by a member's own local authority. Only appointed while a councillor. ADC determination: Appointment to the Annual Meeting of the Council after the PCC elections; or the term of office of the appointed Councillor; or any resignation from office by the appointed Councillor.

### **Tourism South East**

#### **DETAILS OF MEETINGS:**

Frequency: throughout the year

Venue: tba

Time/Duration: Daytime ½ day

TERMS OF REFERENCE/FUNCTION OF ORGANISATION: To sustain and improve tourism industry performance by working in partnership to maximise economic and social benefits from tourism in the region, whilst safeguarding assets.

NUMBER OF REPRESENTATIVES: 1

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): The representative has full voting rights and is eligible to be elected as a proactive member of the Board. Attendance at meetings ensures that the representative's views are represented.

TERM: Annual Appointment

**University Hospitals Sussex NHS Foundation Trust (UHSussex) (formerly known as Western Sussex Hospitals NHS Foundation Trust)**

DETAILS OF MEETINGS:

Frequency: 12

Venue: Worthing Hospital

Time/Duration: Any

TERMS OF REFERENCE/FUNCTION OF ORGANISATION: tba

NUMBER OF REPRESENTATIVES: 1

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): tba

TERM: As defined by the Trust

**Worthing Community Partnership T/A Worthing Community Chest**

DETAILS OF MEETINGS:

Frequency: 6 per year.

Venue: Committee Room 2, Worthing Town Hall

Time/Duration: Evening

TERMS OF REFERENCE/FUNCTION OF ORGANISATION: To support the community via the community chest and partnership working with all other voluntary and community groups. Community development.

NUMBER OF REPRESENTATIVES: 1.

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Voting participating in community matters. Although the representative is appointed by the council, it is a personal appointment and therefore liability for the representative as they must be eligible and willing to be a director at Companies House and a trustee for the Charity Commission. It will require their personal home address and details. They must have a genuine interest and involvement in the decision making and willingness to be hands-on in a small charity with only 1 part time member of staff, more so than a trustee or company director in many other organisations. As they must be willing to learn, follow and adhere to the Memorandum and Articles as well as Company and Charity, Employment and Landlord Law and act for the decisions and work of the Community Chest.

TERM: Annual appointment



## Worthing Homes Ltd – Members of the Board of the Company

### DETAILS OF MEETINGS:

Frequency: The board meets once a month in a formal meeting; training or board lunch.

Venue: tba

Time/Duration: Meetings take place on a Thursday at 5.30pm

TERMS OF REFERENCE/FUNCTION OF ORGANISATION: Housing Association owning and managing c4500 homes in Sussex

NUMBER OF REPRESENTATIVES: There are no set requirements in the rules for appointing councillors to the board. When a councillor vacancy occurs the Council is advised of the skills that are required on the board. It is then able to nominate interested councillors who are then interviewed in the same way as all other board candidates. If the nominee does not have the skills required, the board is under no obligation to appoint. Although the board makes the final selection, in line with the Council's procedures this is ratified by way of a formal nomination by the Council.

2 places: names are put forward by the Executive Leader.

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Board Member and Company Director. Once appointed the Board Member acts in their own capacity not as a Worthing Borough Councillor. Not for profit company limited by share. Registered charity and registered with the Homes and Communities Agency.

The representative does not have to be an elected representative.

To assist the association in its operations.

TERM: Maximum of 6 years via two terms of 3 years

## Worthing Town Centre Initiative

### DETAILS OF MEETINGS:

Frequency: Monthly.

Venue: Chatsworth Hotel.

Time/Duration: At the Chatsworth Hotel for 2 hours daytime.

TERMS OF REFERENCE/FUNCTION OF ORGANISATION: Town Centre management and business improvement district. To be clean, safe and vibrant, a lively heart of the community, where visitors are engaged and businesses are inspired and prosperous.

NUMBER OF REPRESENTATIVES: 2

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): To ensure projects meet with Council Policy. To advise on the best way to gain Council support and/or adhere to Council Policy. Ensure the relevant Council Officers and Members at the Council are aware of the Worthing Town Centre Initiative and Worthing BID activities. Provide monthly updates on Council projects affecting the Town Centre.

TERM: Annual appointment

**Worthing Twinning Association**

DETAILS OF MEETINGS:

Frequency: 6 per year.

Venue: Worthing Town Hall

Time/Duration: 2.5 hours evening

TYPE OF BUSINESS:

To promote and foster friendship and understanding between people of Worthing and twinned areas. Encourage visits, personal contacts especially between children and young people, to broaden mutual understanding of culture, education and commercial activities.

NUMBER OF REPRESENTATIVES: 3 representatives in total, can be officers. 1 must be the current Mayor.

ROLE OF REPRESENTATIVE (VOTING/OBSERVER): Voting, observer or active participant. To have enthusiasm for the Association's aims and possibly provide advice on occasions.

TERM: Annual appointment

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## PART 9 – ADUR/WORTHING JOINT COMMITTEE AGREEMENT

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DATED 27<sup>th</sup> July 2007  
Amended 1<sup>s</sup> May 2011  
Amended 7<sup>th</sup> October 2011  
Amended 17<sup>th</sup> May 2013  
Amended 10<sup>th</sup> November 2016  
Amended 3<sup>rd</sup> December 2018  
Amended 25<sup>th</sup> September 2019  
Amended 12<sup>th</sup> May 2020

(1) **ADUR DISTRICT COUNCIL**

and

(2) **WORTHING BOROUGH COUNCIL**

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**An Agreement (1) for the employment of staff (2) to provide services jointly and (3) to establish Joint Committees for Adur District Council and Worthing Borough Council**

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Mrs Susan Sale  
Head of Legal Services  
Adur District Council and Worthing Borough Council  
Town Hall  
Chapel Road  
Worthing  
West Sussex  
BN11 1HA  
DX 142960 Worthing 10

Mr Andrew Mathias  
Senior Solicitor  
Adur District Council and Worthing  
Borough Council  
Town Hall  
Chapel Road  
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THIS AGREEMENT is made on the **27<sup>th</sup> of July 2007** and amended on the 1<sup>st</sup> May 2011, 7<sup>th</sup> October 2011, 17<sup>th</sup> May 2013, 10<sup>th</sup> November 2016, 3<sup>rd</sup> December 2018 and 25<sup>th</sup> September 2019 and 12<sup>th</sup> May 2020

**BETWEEN**

- (1) Adur District Council whose principal office is at c/o Town Hall, Chapel Road, Worthing BN11 1HA ('Adur')
- (2) Worthing Borough Council whose principal office is at Town Hall, Chapel Road, Worthing BN11 1HA ('Worthing')

**1.0 BACKGROUND**

1.1 Adur and Worthing agreed in 2007 to deliver functions and services through a Joint Officer Structure and a Joint Committee Structure.

1.2 The Strategic Purposes of such a co-ordinated approach are:

- (a) to optimise the availability of skills and resources available to the two Councils;
- (b) to achieve best value in the delivery of services;
- (c) to secure the most economic, efficient and effective use of resources;
- (d) to secure the reduction of operational costs;
- (e) to maximise the opportunities for securing funding from outside bodies including Government;
- (f) to reduce reliance on outside bodies to improve bargaining power in relation to outside bodies and to increase capacity and capability within the constituent Councils;
- (g) to provide and promote a customer-orientated approach to service delivery;
- (h) to support the community strategies led by the constituent Councils and prepared from time to time to reflect the strategic direction of the organisations; and
- (i) wherever possible, to secure a joint response to strategic and other issues affecting the two Councils.

1.3 In order to achieve the Strategic Purposes set out in clause 1.2 the Councils have agreed:

(a) to establish:

- (i) a Joint Committee to provide strategic direction for the Joint Services and determine all delegated Executive functions relating to the Joint Services on behalf of the two Councils, to be known as the Joint Strategic Committee;
- (ii) a Joint Individual Cabinet Member decision-making process in respect of all Executive functions of the Joint Services delegated to Individual Cabinet Members, encompassed in the Cabinet Procedure Rules in Part 4 of the Constitution;
- (iii) a Joint Committee to agree, and where appropriate recommend to the Councils, the appointment of and staffing matters in relation to Senior Staff, in accordance with the Officer Employment Procedure Rules in Part 4 of the Constitution, known as the Joint Senior Staff Committee;
- (iv) a Joint Committee to determine Non-Executive staff matters and to determine employment policies, known as the Joint Staff Committee.
- (v) a Joint Overview & Scrutiny Committee to exercise the scrutiny function in relation to the Joint Services of the two Councils;
- (vi) a Joint Audit & Governance Committee to determine or make recommendations to the Councils on all Non-Executive functions that are not reserved to any other Committee, Joint Committee or Full Councils, and to establish a Joint Sub-Committee to deal with Standards matters relating to either Council;
- (vii) a Joint Remuneration Panel, to make proposals to the Joint Audit & Governance Committee, as to Members Allowances .

(b) to establish a Joint Officer structure to deliver all of the services of Adur and Worthing Councils jointly, subject to any other agreements made under s101 Local Government Act 1072 in respect of joint delivery of services.

IT IS AGREED as follows

## 2.0 DEFINITIONS

Adur:	Adur District Council
Amendment Date:	12 <sup>th</sup> May 2020
Appendix:	Appendix to this Agreement
Assets:	All assets relating to the delivery of the joint services including contracts, machinery, computers, information, materials and equipment
Chief Executive:	Chief Executive of the Councils
Clause:	Clause in this Agreement
Commencement Date:	27 <sup>th</sup> July 2007
Contract Standing Orders:	Joint Contract Standing Orders of Adur District Council and Worthing Borough Council
Costs:	Costs include income, expenditure, cashable savings and efficiency savings

Council:	One of Adur District Council or Worthing Borough Council as the case may be
Councils:	Both Adur District Council and Worthing Borough Council
Executive:	The Leader and Executive of the relevant Council(s)
Executive arrangements:	Construed in accordance with Part II of the Local Government Act 2000, as amended
Expenses:	Expenses as defined by clause 8
Financial Regulations:	The Joint Financial Regulations of Adur District Council and Worthing Borough Council
Head of Paid Service:	The Head of Paid Service under Section 4 of the Local Government and Housing Act 1989 who shall be the Chief Executive of the Councils
Intellectual Property Rights:	All rights available for the protection of any discovery, invention, name, design, process or work in which copyright or any rights in the nature of copyright subsist and all patents, copyrights, registered designs, design rights, trade marks, service marks and other forms of protection from time to time subsisting in relation to the same, including the right to apply for any such protection and trade secrets and other unpublished information
JAGC:	The <del>Joint Governance Committee</del> <u>Joint Audit &amp; Governance Committee</u> established by Clause 4
Joint Committees:	the Joint Committees established by Clause 4
JOSC:	the Joint Overview & Scrutiny Committee established by Clause 4
Legal Adviser	The Head of Legal Services of Adur District Council and Worthing Borough Council, or their representative
Monitoring Officer:	The Officer appointed under Section 5 of the Local Government and Housing Act 1989, who shall be the Head of Legal Services of Adur District Council and Worthing Borough Council
Officers:	Officers employed within the Joint Officer Structure referred to in this Agreement
Section 151 Officer:	The Head of Financial Services of Adur District Council and Worthing Borough Council who shall be the Chief Financial Officer
Service:	Any one of the Joint Services provided by the Councils
JSC	The Joint Strategic Committee established by Clause 4
JSSC:	the Joint Senior Staff Committee established by Clause 4
The Joint Services:	All services are joint services provided by the Councils unless specifically reserved to an individual Council as specified in Schedule 1
JSfC:	the Joint Staff Committee established by Clause 4

Worthing: Worthing Borough Council

- 2.1 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 2.2 A reference to a statute or statutory provision shall include all subordinate or secondary legislation made from time to time under the statute or statutory provisions.

IT IS AGREED as follows

#### PRELIMINARY MATTERS

- 3.1 This Agreement is made pursuant to:
- (a) Sections 101 and 102 of the Local Government Act 1972 (delegation to joint committees)
  - (b) Section 3 of the Local Government Act 1999 (duty to secure best value)
  - (c) Section 1 of the Localism Act 2011 (general power of competence)
  - (d) Sections 14 and 20 of the Local Government Act 2000 and The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000/2851 (joint arrangements for the exercise of Executive functions), as amended.
- 3.2 This Agreement has been entered into:
- (a) by Adur by virtue of the resolution of Adur District Council dated 23<sup>rd</sup> July 2007 and
  - (b) by Worthing by virtue of the resolution of Worthing Borough Council dated 25<sup>th</sup> July 2007 and amended:
  - (c) by Adur by virtue of a resolution of Adur District Council dated 7<sup>th</sup> April 2011 and
  - (d) by Worthing by virtue of a resolution of Worthing Borough Council dated 12<sup>th</sup> April 2011 and
  - (e) By Adur by virtue of a resolution of Adur District Council dated 6<sup>th</sup> October 2011 and
  - (f) By Worthing by virtue of a resolution of Worthing Borough Council dated 4<sup>th</sup> October 2011 and
  - (g) by Adur by virtue of a resolution of Adur District Council dated 20<sup>th</sup> December 2012 and
  - (h) By Worthing by virtue of a resolution of Worthing Borough Council dated 18<sup>th</sup> December 2012 and
  - (i) By Adur by virtue of a resolution of Adur District Council dated 24<sup>th</sup> October 2016 and
  - (j) By Worthing by virtue of a resolution of Worthing Borough Council dated 25<sup>th</sup> October 2016 and
  - (k) By Adur by virtue of a resolution of Adur District Council dated 1<sup>st</sup> November 2018 and
  - (l) By Worthing by virtue of a resolution of Worthing Borough Council dated 30<sup>th</sup> October 2018 and
  - (m) By Worthing and Adur by virtue of the Monitoring Officer making minor amendments under delegated authority dated 25<sup>th</sup> September 2019.
  - (n) By Worthing and Adur by virtue of the Monitoring Officer making minor and/or consequential amendments under delegated authority dated 12<sup>th</sup> May 2020
- 3.3 This Agreement shall commence on the commencement date and shall, subject to Clause 10 (termination and review) and Clause 9 (extension) terminate on 31<sup>st</sup> March 2028.

#### THE JOINT COMMITTEES

The Joint Committees shall not be bodies corporate or have the functions of acquiring or holding assets, employing staff or entering into contracts. For the avoidance of doubt such functions shall be undertaken by one of the Councils as an administering Council.

A Schedule of Joint meetings shall be agreed annually by each Council and additional meetings may be called in accordance with Council Procedure Rule 4.2. The Director for Communities shall be the Proper Officer for the signing of documents relating to the calling of meetings.

Call-in of decisions of Joint Committees exercising Executive functions are provided for in the Joint Overview and Scrutiny Procedure Rules in Part 4 of each Council's Constitution. Non-Executive decisions may not be called in and therefore the procedure does not apply to decisions of JOSCS, JSSC, JSfC and JGC.

#### 4.1 Joint Strategic Committee

The Councils shall establish a Joint Strategic Committee ('JSC') which:

- (a) shall comprise of the Cabinet of each Council. The Cabinet model adopted by each Council ensures that the Members appointed to JSC are empowered to take Executive decisions.
- (b) shall have the following terms of reference:
  1. To determine all matters relating to Executive functions of Joint Services, as set out in the Terms of Reference in Part 3 of the Constitution, unless specifically reserved to the Council's individual Executives as specified in Schedule 1, **either meeting as individual Executives or as sub-committees under 4.1(l);**
  2. To provide strategic management of the Joint Services;
  3. To provide strategic direction to both Councils in relation to all Executive functions unless specifically reserved to the Cabinets of the individual Councils as specified in Schedule 1;
  4. To set strategic targets in respect of the Joint Services;
  5. To agree draft revenue budgets for the implementation of each Joint Service which comply with the agreed budget strategy set by the Councils and which clearly show the costs to be borne by each Council including the allocation of any resulting savings or efficiencies and to recommend them to the Councils, via the individual Executives;
  6. To annually agree draft capital budgets for the Joint Services which comply with the agreed budget strategies set by the Councils and which clearly show the costs to be borne by each Council;
  7. To receive any reports in respect of any Executive function from either Council;
  8. To determine significant changes to the nature of the Joint Services delivered to the public in one or both Council areas;
  9. To determine any matters assigned as Executive functions in accordance with the Local Choice functions set out in Part 3 of the Constitution.
- (c) If there is an inequality between the Councils as to the number of Members on each Executive, all Cabinet Members may attend and participate in meetings of the Joint Strategic Committee as full voting Members.
- (d) One representative from Adur Consultative Forum shall be a co-opted non-voting Member on the Joint Strategic Committee for any item concerning the 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.
- (e) In the event of a Member being unable to attend a meeting of JSC, there is no ability to appoint a Substitute Member.
- (f) The JSC shall meet on at least four occasions in any municipal year. One of those meetings shall be scheduled to ensure that any proposed budgets can properly and fully be considered by each of the Councils as part of their respective budget-making processes.
- (g) The JSC shall meet during May to October of each municipal year at Worthing Town Hall and in November to April of each municipal year at the Shoreham Centre, or such other location as the Chair of the Committee shall agree.

**Commented [g53]:** All Executive decisions are joint, except for budgets, Local Plans, and housing (Adur only)



- (h) The Executive Leader in whose area a meeting should take place shall be the Chair of the meeting and, in their absence, the Deputy Leader of that Council shall be the Chair. In the absence of both the Leader and Deputy Leader, the Leader of the other Council shall act as Chair of the meeting.
- (i) Each Member of JSC shall have one vote in its proceedings. The Chair shall not have a casting vote.
- (j) The JSC may arrange for the discharge of their functions by an Officer and in doing so will set out clearly any limits upon such delegation.
- (k) The JSC may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups will not be decision-making bodies.
- (l) JSC may establish sub-committees consisting solely of the Members of one Council, to consider matters solely relating to that Council.
- (m) For a meeting of JSC to be quorate there must be at least 4 members present and: at least two Members present from each Council where the business of the Committee relates to both the District of Adur and the Borough of Worthing; or at least one Member present from each Council where the business of the Committee relates to either the District of Adur or the Borough of Worthing.

#### **4.2 Individual Cabinet Member Decisions**

The Councils shall establish a process for the taking of decisions jointly by Individual Cabinet Members from each Council, encompassed in the Cabinet Procedure Rules in Part 4 of the Constitution, which includes:

- (a) where a decision relating to an Executive function which falls within the remit and portfolio of an Individual Cabinet Member from each Council and relates to a Joint Service, the relevant report shall be sent simultaneously by Democratic Services Officers to both Individual Cabinet Members from each Council;
- (b) the Individual Cabinet Members will consult with one another in an attempt to make a Joint decision;
- (c) if the two Individual Cabinet Members agree on the decision that is to be made, then they may make a Joint decision;
- (d) if the two Individual Cabinet Members do not agree on the decision that is to be made, then no decision is made, and the matter must be referred to the Joint Strategic Committee for determination.

#### **4.3 Joint Senior Staff Committee**

The Councils shall establish the Joint Senior Staff Committee ('the JSSC') which:

- (a) shall comprise three Councillors from each Council (or such greater number of Councillors as the Councils may from time to time agree, providing there is equal representation from each Council) at least one of whom shall be a Cabinet Member and at least one of whom shall be a Non-Executive Member;
- (b) shall be politically balanced for each Council in accordance with the provisions of the Local Government & Housing Act 1989;
- (c) shall have the terms of reference in respect of all staff employed in the Joint Officer structure, as set out in Part 3 of the Constitution, and shall operate in accordance with the Officer Employment Procedure Rules in Part 4 of the Constitution.
- (d) In the event of an appointed Councillor being unable to attend, any meeting of the JSSC, the relevant Political Group Leader may appoint a substitute Member, provided that prior written notice of such substitution is given to the Director for Communities as Proper Officer for such matters.
- (e) shall meet on such occasions as is necessary to determine any business within its terms of reference.

- (f) shall meet from May to October each year at Worthing Town Hall and from November to April each year at the Shoreham Centre, or such other location as the Chairs of the Committee shall agree.
- (g) The Chair and Vice Chair of the JSSC Committee shall be appointed by each Council at its Annual Council meeting.
- (h) The Chair of JSSC in whose area a meeting should take place shall be the Chair of that meeting and, in their absence, the Vice Chair shall be the Chair. In the absence of both the Chair and Vice Chair, the Chair of JSSC from the other Council shall act as Chair of the meeting.
- (i) Each Member of JSSC shall have one vote in its proceedings, to include Substitute Members appointed in accordance with this Agreement. The Chair of JSSC shall have a casting vote.
- (j) JSSC may arrange for the discharge of their functions by an Officer and in doing so will set out clearly any limits upon such delegation.
- (k) JSSC may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups shall not be decision-making bodies.
- (l) JSSC may establish sub-committees consisting solely of the Members of one Council, to consider matters solely relating to that Council.
- (m) For a meeting of JSSC to be quorate there must be at least 4 Members present and: at least 2 Members present from each Council where the business of the Committee relates to both the District of Adur and the Borough of Worthing; or at least one Member present from each Council where the business of the Committee relates to either the District of Adur or the Borough of Worthing.

**Commented [g54]:** Possibly use sub-committees for matters relating to one council only, and/or instead of holding separate OSC meetings for independent council decisions.

#### 4.4 Joint Staff Committee

The Councils shall establish the Joint Staff Committee ('JSfC') which

- (a) shall comprise three Councillors from each Council (or such greater number of Councillors as the Councils may agree from time to time, providing there is equal representation from each Council);
- (b) shall be politically balanced from each Council in accordance with the provisions of the Local Government and Housing Act 1989;
- (c) shall have the terms of reference in respect of all staff employed in the Joint Officer structure, as set out in Part 3 of the Constitution, and shall operate in accordance with the Officer Employment Procedure Rules in Part 4 of the Constitution.
- (d) In the event of an appointed Councillor being unable to attend, any meeting of the JSfC, they may nominate a Substitute Member to attend, provided that prior written notice of such substitution is given to the Director for Communities as the Proper Officer for such matters.
- (e) The JSfC shall meet on such occasions as is necessary to determine any business within its terms of reference.
- (f) The JSfC shall meet from May to October each year at the Worthing Town Hall and from November to April each year at the Shoreham Centre, or such other location as the Chair of the Committee shall agree.
- (g) The Chair and Vice Chair of JSfC shall be appointed by the relevant Authority at its Annual Council meeting.
- (h) The Chair of JSfC in whose area a meeting should take place shall be the Chair of that meeting and, in their absence, the Vice Chair shall be the Chair. In the absence of both the Chair and Vice Chair, the Chair of JSfC from the other Council shall act as Chair of the meeting.
- (i) Each Member of JSfC shall have one vote in its proceedings (to include Substitute Members appointed in accordance with this Agreement). The Chair of JSfC shall have a casting vote.
- (j) JSfC may arrange for the discharge of its functions by an Officer and in doing so will set out clearly any limits upon such delegation.

- (k) JSfC may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups shall not be decision-making bodies.
- (l) JSfC may establish a Sub-Committee consisting solely of the Members of one Council to consider matters solely relating to that Council.
- (m) For a meeting of JSfC to be quorate there must be at least 4 Members present and: at least 2 Members present from each Council where the business of the Committee relates to both the District of Adur and the Borough of Worthing; or at least one Member present from each Council where the business of the Committee relates to either the District of Adur or the Borough of Worthing.

#### 4.5 Joint Overview and Scrutiny Committee

The Councils shall establish the Joint Overview and Scrutiny Committee (JOSC) which:

- (a) shall comprise eight Members from each Council (or such other number of Members as the Councils may from time to time agree, providing equal representation from each Council);
- (b) shall be politically balanced for each Council in accordance with the provisions of the Local Government and Housing Act 1989;
- (c) shall have the terms of reference set out in Article 6 of each Council's Constitution and shall operate in accordance with the Joint Overview and Scrutiny Procedure Rules in Part 4 of the Constitution;
- (d) shall exercise the overview and scrutiny functions of the two Councils in relation to all matters, except those to be determined by each Council's Individual Executives as set out in Schedule 1 to this Agreement;
- (e) the Councils may each establish an Overview and Scrutiny Committee (OSC) to exercise the overview and scrutiny functions of the Councils in relation to matters reserved to each Council's individual Executive as set out in Schedule 1 to this agreement;
- (f) one Member of Adur Consultative Forum shall be a co-opted non-voting Member of the Joint Overview and Scrutiny Committee for any item concerning the 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 Member should not be the same Adur Consultative Forum representative who sits as a co-opted Member of JSC for the same purpose.
- (g) shall not comprise any Cabinet Members within its membership. In making its appointments to the JOSC each Council will ensure that its Members are not Cabinet Members;
- (h) In the event of an appointed Councillor being unable to attend, any meeting of the JOSC, the relevant Member may appoint a Substitute Member to attend, provided that prior written notice of such substitution is given to the Director for Communities as the Proper Officer for such matters;
- (i) The JOSC shall meet on at least four occasions in any municipal year.
- (j) The JOSC shall meet in May to October of each municipal year at the Shoreham Centre and in November to April of each municipal year in Worthing Town Hall, or such other location as the Chair of the Committee shall agree;
- (k) The Chair and Vice Chair of JOSC shall be appointed by the relevant Council at its Annual Council meeting. The Chair of the JOSC of the Council in whose area a meeting should take place shall be the Chair of that meeting and, in their absence, the Vice Chair of the JOSC from the Council where the meeting should take place will be the Chair. In the absence of both, the Chair of JOSC from the other Council shall act as Chair of that meeting.
- (l) Each Member of JOSC shall have one vote in its proceedings (to include Substitute Members appointed in accordance with this Agreement). The Chair of JOSC shall not have a casting vote.

**Commented [g55]:** Individual Council OSCs limited to reviewing Sch.1 matters only.

- (m) JOSOC may arrange for the discharge of their functions by an Officer and in doing so will set out clearly any limits upon such delegation.
- (n) JOSOC may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups shall not be decision-making bodies.
- (o) JOSOC may establish sub-committees consisting solely of the Members of one Council to consider matters solely relating to that Council.
- (p) For a meeting of JOSOC to be quorate there must be at least 4 Members present and: at least 2 Members present from each Council where the business of the Committee relates to both the District of Adur and the Borough of Worthing; or at least one Member present from each Council where the business of the Committee relates to either the District of Adur or the Borough of Worthing.

**Commented [g56]:** Sub-committees may be established to deal with each authority's sole matters.

#### 4.6 **Joint Governance Committee Joint Audit & Governance Committee**

The Councils shall establish a Joint Audit & Governance Committee ('JGC') which shall:

- (a) comprise six Councillors from each Council (or such other number of Councillors as the Councils may from time to time agree, providing there is equal representation from each Council);
- (b) be politically balanced for each Council in accordance with the provisions of the Local Government and Housing Act 1989;
- (c) have the terms of reference set out in Part 3 of the Constitution;
- (d) have no more than one Executive Member from each Council in its membership.
- (e) In the event of an appointed Councillor being unable to attend any meeting of the JGC, the relevant Member may appoint a Substitute Member to attend, provided that prior written notice of such substitution is given to the Director for Communities as the Proper Officer for such matters.
- (f) The JGC shall meet on at least four occasions in any municipal year.
- (g) The JGC shall meet from May to October each year at the Shoreham Centre and from November to April each year at Worthing Town Hall, or such other location as the Chairs of the Committee shall agree.
- (h) The Chair and Vice Chair of JGC shall be appointed by each Council at its Annual Council meeting.
- (i) The Chair and Vice Chair of any meeting of JGC shall be the Chair and Vice Chair of JGC of the Council in whose area a meeting should take place. In the absence of the Chair and Vice Chair of JGC for the Council in whose area the meeting should take place, the Chair of JGC from the other Council will act as Chair for that meeting.
- (j) Each Member of JGC shall have one vote in its proceedings (to include Substitute Members appointed in accordance with this Agreement). The Chair of JGC shall not have a casting vote.
- (k) JGC may arrange for the discharge of its functions by an Officer and in doing so will set out clearly any limits upon such delegation.
- (l) JGC may establish working groups to assist them in their work and in doing so will set clear terms of reference for them. Such working groups shall not be decision-making bodies.
- (m) JGC may establish sub-committees consisting solely of the Members of one Council to consider matters solely relating to that Council.
- (n) For a meeting of JGC to be quorate there must be at least 4 Members present and: at least 2 Members present from each Council where the business of the Committee relates to both the District of Adur and the Borough of Worthing; or at least one Member present from each Council where the business of the Committee relates to either the District of Adur or the Borough of Worthing.
- (o) The Councils' Independent Persons, appointed under the Localism Act 2011, will be co-opted Members of Joint Audit & Governance Committee.

**Commented [g57]:** Sub-committees may be established to deal with each authority's sole matters.

#### 4.7 **Joint Independent Remuneration Panel**

The Council shall establish a Joint Independent Remuneration Panel, which shall:

- (a) Comprise of four independent persons appointed in accordance with the Local Authorities (Members Allowances) (England) Regulations 2001.
- (b) carry out the functions set out in the Local Authorities (Members Allowances) (England) Regulations, 2001.

Proposals of the Joint Independent Remuneration Panel are received by the Joint Audit & Governance Committee who will make recommendations to each Council as appropriate.

#### **4.8 Officers**

The Joint Committees shall receive their legal advice from the Legal Adviser who shall also be the Monitoring Officer, or their representative.

The Joint Committees shall receive their financial advice from the Chief Financial Officer who shall also be the Section 151 Officer, or their representative.

The Joint Committees shall receive their advice (except that relating to legal, probity, and financial matters) from the Council's Officers, as appropriate.

#### **4.9 Rules of Procedure**

Rules of Procedures relating to Joint Committee structure are contained within each Council's constitution. Where there is any conflict with the terms of this Agreement and the Constitution, advice will be taken from the Monitoring Officer as to the interpretation of provisions, and their determination will be final.

#### **4.10 Administrative Expenses**

The administration expenses of the Joint Committees will be borne by the Councils in accordance with clause 8 below.

#### **4.11 Decision Making**

Where decisions are taken by a Joint Committee the following principles and conditions, in addition to those contained in Article 12 of each Council's Constitution, shall apply:

- (a) powers shall be exercised in accordance with the Joint Contract Standing Orders and Joint Financial Regulations.
- (b) the Joint Committees shall have proper regard to any resolution of the Councils.
- (c) the Joint Committees shall satisfy themselves that any inter-Council consultation has been carried out.
- (d) decision making by individual Cabinet Members should be undertaken in accordance with the Cabinet Procedure Rules in Part 4 of each Council's Constitution.
- (e) the taking of decisions shall be subject to there being appropriate and adequate budgetary provision.
- (f) any decision which could attract legal liability shall be taken in consultation with the Legal Adviser or their representative.
- (g) any decision which has financial implications shall be taken in consultation with the Chief Financial Officer and particularly in any case where JSC is considering making recommendations which involve increased expenditure in any budget they shall receive and incorporate in any report advice from the Chief Financial Officer or their representative.

- (h) any decision which could involve the exercise by the Monitoring Officer of any of their powers shall be taken in consultation with them, or in their absence the Deputy Monitoring Officer.
- (i) The exercise of functions by a Joint Committee shall have regard to all relevant considerations and shall not take into account irrelevant matters. In particular a Joint Committee must take proper account of the Councils' duties to promote compliance with human rights legislation, social value, reduction of crime and disorder and promotion of equalities.
- (j) The Joint Committees shall not authorise the entering into of obligations by or on behalf of the Councils beyond the expiry of the Term of this Agreement, unless the Councils have so agreed.

#### 5.0 UNRESOLVED DECISIONS

- 5.1 There is an unresolved decision for the purposes of this clause if the Members of JSC, JOSC or JGC fail to reach a decision upon the matter by a majority of their votes at a meeting.
- 5.2 An unresolved decision of JSC shall be referred to the respective Leaders with a view to resolution by discussion and negotiation and thereafter either a Joint Decision Notice will be issued by them or the matter will be referred back to JSC for reconsideration and decision.
- 5.3 An unresolved decision of the JOSC shall not be referred on for resolution.
- 5.4 An unresolved decision of JGC will either be referred to the next meeting of JGC to allow a period of discussion and negotiation, or will be referred to full Council as the Committee was unable to determine the matter.
- 5.5 Where there is an unresolved decision as set out in sections 5.2 and 5.4 above, advice should be taken from the Chief Executive, the Chief Financial Officer and/or the Monitoring Officer, as appropriate, in seeking to resolve the matter.

#### 6.0 DECISIONS RELEVANT TO A SINGLE AUTHORITY

- 6.1 This Clause applies where there is a matter which is solely the province of one Council and has not been reserved to the relevant Executive or sub-committee under clause 4.1(l) of the relevant Council. This clause does not apply to decisions of JSSC or JSfC.
- 6.2 Where there is a matter which is solely within the province of one Council, the rules will be:
  - 6.2.1 All Members of the Committee present may participate in the debate;
  - 6.2.2 All Committee Members present may participate in the vote;
  - 6.2.3 The decision shall be made by a majority vote of those present and voting, provided that the majority of those representatives of the relevant Council shall be part of that majority.
  - 6.2.4 If the overall majority of those present and voting does not include the majority of the relevant Council, then the decision shall stand referred as follows:
    - Where it is a decision of JSC, to the relevant Executive or sub-committee under clause 4.1(l), who may hold a special meeting to determine the matter.
    - Where a decision of JGC, to the next Council meeting of the relevant Council.
    - Where a decision of JOSC, to a meeting of OSC of the relevant Council or sub-committee under clause 4.3(l).
- 6.3 Where the decision is one of a Joint Governance Sub-Committee determining an allegation that a Councillor has breached the Member Code of Conduct, the decision shall

be made by a majority vote of those present and voting, provided that the majority of those representatives of the relevant Council shall be part of that majority. If not, or where there is no majority decision, then the matter will be referred to a meeting of the Joint Audit & Governance Committee. Should the Joint Audit & Governance Committee considering such a referred decision be unable to reach a majority decision which includes the majority of those representatives of the relevant Council, then the breach will stand as 'not proven'.

#### 7.0 OFFICER SUPPORT

- 7.1 The Councils shall establish a joint officer structure which shall:
- (a) be employed by Adur as lead authority under this Agreement as staff are transferred, appointed or employed within the joint officer structure.
  - (b) provide advice to both Councils
  - (c) provide services to both Councils
  - (d) not show bias towards one Council vis-à-vis the other in the provision of advice or services.
- 7.2 The Chief Executive shall be the Head of Paid Service in respect of the joint officer structure and workforce and for each Council.
- 7.3 The two Councils will appoint joint senior officers to fill the posts of Joint Chief Executive, Directors and Heads of Service within the joint officer structure serving the Councils by means of the Joint Senior Staff Committee or Officer Employment Procedure Rules, as appropriate.
- 7.4 The Councils shall ensure that each Council has a Head of Paid Service, a Monitoring Officer and a Chief Financial Officer (Section 151 Officer). This to be achieved by way of employment by Adur and a secondment to Worthing of each office holder for the purposes of discharging their statutory duties at both Councils.
- 7.5 Officers are to be empowered to act under the Scheme of Officer Delegations of each Council when providing services on behalf of that Council.
- 7.6 The Transfer of Undertakings (Protection of Employment) Regulations 2006 apply to the transfer of staff from Worthing to Adur as lead authority for employment purposes and this constitutes a relevant transfer of an undertaking pursuant to regulation 3 thereof.
- 7.7 The Councils shall agree financial arrangements as to the allocation of pension contributions including those relating to payments due in respect of the pension deficits of the two Councils upon the transfer, appointment or employment of staff within the joint officer structure.
- #### 8.0 THE SERVICES
- 8.1 The services providing the joint functions through a joint service, and the services providing a function through separate provision are set out in Schedule 1 to this Agreement.
- 8.2 The costs of each joint service shall be shared by each Council in accordance with the terms of Schedule 2
- #### 9.0 EXPENSES
- 9.1 The expenses of the Joint Committee shall be borne 50% by Adur and 50% by Worthing.
- 9.2 The expenses shall comprise:
- (a) the costs of and incidental to the holding of meetings of the Joint Committees,
  - (b) the costs of legal, secretarial and financial support to the Joint Committees,
  - (c) the costs of and incidental to the training of Members relating to the Joint Committees.

- 9.3 The administration of the Joint Committees shall be shared between the relevant officers of the Councils until (1) there is an Agreement to alternative effect or (2) the joint officer structure is established for particular administrative services. This shall include legal, financial, human resources and democratic services administration.
- 9.4 Income properly and solely paid for the Joint Committee (including grants) rather than to the constituent Councils individually shall be accounted for by the Chief Financial Officer and allocated if and as appropriate to the Councils.
- 9.5 The Chief Financial Officer shall account to each of the Councils annually regarding the expenses of the Joint Committees by not later than 30<sup>th</sup> June following the end of the financial year.
- 9.6 Payments due but not paid within 30 days of the invoice rendered pursuant to clause 8.5 shall bear interest from the date of the invoice until payment at a rate of 2% above the Cooperative Bank plc base rate.
- 10.0 EXTENSION
- 10.1 This agreement may be extended by agreement in writing between the parties.
- 11.0 TERMINATION AND REVIEW
- 11.1 This Agreement shall continue until 31<sup>st</sup> March 2028 unless terminated in accordance with this clause or extended in accordance with clause 11.
- 11.2 Either of the parties may terminate or withdraw from this Agreement before 31<sup>st</sup> March 2028 only by giving to the other not less than two years' prior written notice to expire on 31<sup>st</sup> March in the relevant year. Such a decision to terminate or withdraw the Cabinet functions may only be made by the Cabinet of each Council, and in respect of the Non-Executive functions, each Council.
- 11.3 In the event of termination however and whenever occurring the parties shall:
- (a) co-operate in terminating, modifying, restructuring, assigning or novating contractual arrangements entered into to mutual advantage and properly and timeously execute any documents necessary
  - (b) enter into arrangements with the other party concerning the ownership and control of assets acquired, particularly where such assets may have been acquired for other parties or third parties
  - (c) use reasonable endeavours to secure an amicable financial settlement
  - (d) immediately transfer or return any property including data belonging to the other party
  - (e) ensure that a fair and reasonable proportion of the staff within the joint officer structure are transferred promptly to the Council which is not the employer under this Agreement so that (1) each Council can maintain continuity in the provision of its services at the same level of effectiveness and efficiency as the other and (2) they become employed by the Council to which they are transferred.
  - (f) The senior posts at the level of Chief Executive, Strategic Directors and Heads of Service shall be re-allocated between the two Councils so that each has half in number of the postholders concerned (with the Monitoring Officer and Section 151 Officer being allocated to different Councils) SAVE THAT the Head of Service with responsibility for direct provision of housing shall go to Adur.
- 11.4 In the event of one party wishing to terminate or withdraw from this Agreement before 31<sup>st</sup> March 2028 and the other party confirming in writing within three months of the receipt of the notice of termination its wish to continue this Agreement then the party wishing to terminate or withdraw from this Agreement shall



- (a) pay to the other party or direct to third parties (as may be appropriate) any additional costs which the other party may properly and reasonably incur by virtue of the early termination or withdrawal together with any professional and other costs properly and reasonably incurred by the other party in consequence of such early termination or withdrawal, and
  - (b) indemnify and keep indemnified the other party from and against any claims, costs, losses and expenses arising from or in connection with such early termination or withdrawal.
- 11.5 The parties may review and seek to amend this Agreement from time to time and (1) in any event they shall carry out a review as to the efficacy and relevance of its terms upon every seventh anniversary of the commencement date and (2) all changes arising upon such reviews shall only take effect upon the completion and sealing of a formal amending Agreement.
- 12.0 DISPUTE RESOLUTION
- 12.1 In the event of a dispute concerning the construction or effect of this Agreement the matter shall be referred to the respective Leaders in consultation with the Chief Executive and such other officers as are appropriate with a view to resolution by discussion and negotiation.
- 12.2 In the event that a decision or a matter in dispute cannot be resolved under clause 13.1 the matter will be referred to an arbitrator from a professional body appropriate to the matter in dispute.
- 12.3 The arbitrator shall be appointed with the agreement of the two Councils or in the event that agreement cannot be reached by the President or other chief officer of the appropriate profession (such profession to be determined by the Chief Executive of the Councils).
- 12.4 The resolution of unresolved disputes in respect of the expenses of the Joint Committees (referred to in clause 8) shall be determined in accordance with section 103(b) of the Local Government Act 1972 namely by a single arbitrator agreed on by the Councils or, in default of agreement, appointed by the Secretary of State.
- 12.5 For the avoidance of doubt this clause remains in effect after the termination or expiry of this Agreement to confer powers on the parties to resolve matters remaining in dispute.
- 13.0 ASSETS
- 13.1 Each Council shall draw up a register of all its assets which will be applied for the purposes of the joint services controlled by the joint committees as at 1<sup>st</sup> April 2008.
- 13.2 All assets acquired by the Councils for the purposes of the joint services controlled by the joint committees after 1<sup>st</sup> April 2008 shall be recorded on a register of shared assets, and incorporated into each authority's register or balance sheet at the appropriate share. Those assets shall be acquired by Worthing but held in trust for the benefit of both Councils so that each has a share in the beneficial ownership of them in accordance with the statement to be prepared for each joint service under clause 7.3 (k).
- 13.3 Each Council shall permit all staff employed under this Agreement reasonable use of all assets of the Councils for the purpose of discharging the joint services.
- 13.4 Upon termination of this agreement all assets listed on the register of shared assets shall be valued and the assets shall be divided between the Councils in accordance with the share as shown on the balance sheet of the respective Councils.
- 13.5 This Agreement has no application to any interests in land. Neither Council will acquire any rights or interest in land in respect of which the other Council has any right or interest.

#### 14.0 LIABILITIES

- 14.1 The Councils shall be equally and severally liable to any third parties in respect of all claims, costs and expenses arising from (1) the employment of staff under this Agreement (2) the provision of joint services under this Agreement and (3) the use of assets under it.
- 14.2 Each Council shall ensure that it has all appropriate insurances relating to public liability, employee liability, professional indemnity and Member indemnity to cover liabilities arising under clause 15.1 and (1) in relation to all functions and services provided by the joint officer structure and (2) in relation to the joint services.

#### 15.0 INTELLECTUAL PROPERTY RIGHTS

- 15.1 Each Council shall remain the owner of all intellectual property rights it owns at the date of this Agreement in any materials which it has created or the creation of which was undertaken by a third party which it commissioned to create those materials.
- 15.2 Any new material created jointly by the Councils in the course of provision of the joint services shall belong to the parties jointly.
- 15.3 Each Council hereby grants a licence to the other to use its intellectual property rights incorporated in or appearing from the materials referred to in clauses 16.1 and 16.2 for the purposes of the performance of this Agreement.

#### 16.0 NOTICES

- 16.1 Any notice to be served under this Agreement shall be valid and effective if it is addressed to the Chief Executive and delivered by e-mail, fax, prepaid recorded delivery post or delivered by hand to the other Council's principal offices.

#### 17.0 RIGHTS AND DUTIES RESERVED

- 17.1 Nothing in this Agreement shall prejudice or fetter the proper exercise of any function by the Councils or their Officers.

#### 18.0 LEGAL AND OTHER FEES

- 18.1 Each party shall bear its own legal and other fees in relation to the preparation and completion of this Agreement.

#### 19.0 PROVISION OF STATISTICAL INFORMATION, ACCOUNTS AND OTHER DOCUMENTS ETC

- 19.1 The parties shall make available to the other party such statistical information which each Council may from time to time reasonably require.
- 19.2 Without prejudice to any provision in this Agreement requiring the keeping of records, the supply of statistics or the provision of information the parties shall keep such other records and details of or concerning the joint services, supplies or work delivered pursuant to this Agreement or their performance as the parties may require and shall produce or provide to the other copies whether kept electronically or in paper format, of such accounts, invoices, orders, contracts, receipts, statistics and other information or documents touching or concerning or arising from the joint services, supplies or work delivered pursuant to this Agreement or their performance or this Agreement as, when and in such form as each Council may reasonably require.
- 19.3 Without prejudice to any provision in this Agreement the parties shall keep and maintain all necessary information and shall provide all necessary assistance to enable each Council to complete all necessary official returns or statistics related to this Agreement and the joint services, supplies or works delivered pursuant to this Agreement.
- 19.4 The parties shall supply each other with such assistance and information as each Council may require to enable it to allocate such expenditure as each Council may incur under this

Agreement and in relation to joint services, supplies or works delivered pursuant to this Agreement between their various respective budget heads.

#### 20.0 AUDIT

20.1 Each Council's external and internal auditors shall have the like powers set out in the Local Audit and Accountability Act 2014. Each Council shall at all reasonable times (including following the termination for whatever reason of this Agreement) allow or procure for any auditor for the purposes of an external or internal or audit:

- (a) immediate access to
- (b) permission to copy and remove any copies of and
- (c) permission to remove the originals of

any books, records and information in the possession or control of either Council which in any way relates to or are or were used in connection with this Agreement or the provision of the joint services supplies and works delivered pursuant to this Agreement including (but without limitation) any of each Council's data and any such information stored on a computer system operated by another Council.

20.2 Each Council will provide all practicable co-operation and afford all appropriate access to personnel and records in order to assist the requesting Council in carrying out any investigations which are already under way at the Commencement Date and any investigations which are carried out after the termination or expiry of this Agreement.

#### 21.0 STATUS

21.1 Nothing in this Agreement shall be construed as establishing or implying any legal partnership or joint venture between the parties.

#### 22.0 ANTI-CORRUPTION

22.1 Either Council may cancel this Agreement at any time and recover from the other the amount of any loss resulting from such cancellation if any of the following apply:

- (a) the other Council has offered or given or agreed to give to any person any gift or consideration as an inducement or reward (1) for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Agreement or any other contract with the Council (2) for showing or forbearing to show favour or disfavour to any person in relation to the Agreement or any other contract with the Council.
- (b) any person employed by or acting on behalf of the other Council (whether with or without the other council's knowledge or consent) acts in a similar manner to that set out in (a) above.
- (c) in relation to any contract or potential contract with the Council the other Council or any person employed by or acting on behalf of the other Council shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916 or any amendment or replacement of them or shall have given any fee or reward the receipt of which is an offence under Sub Section (2) of Section 117 of the Local Government Act 1972.

#### 23.0 DISCRIMINATION

23.1 The Councils shall not unlawfully discriminate within the meaning and scope of the provisions of the Race Relations Act 1976, the Sex Discrimination Act 1975 and 1986 or the Disability Discrimination Act 1995, Gender Recognition Act, 2004, Equality Act, 2010 and any other legislation prohibiting discrimination on any grounds whatsoever. The Councils shall take all reasonable steps to secure the observance of these provisions by its employees in the execution of the Agreement (and any statutory provisions amending or replacing the same).

#### 24.0 HUMAN RIGHTS

24.1 The Councils in the performance of this Agreement shall comply with the provisions of the Human Rights Act 1998 in all respects as if the joint committees were public bodies within the meaning of the Act. The Councils shall indemnify or keep indemnified each other against all actions, claims, demands, proceedings, damages, losses, costs, charges and expenses whatsoever in respect of any breach by the one Council of this clause.

#### 25.0 FREEDOM OF INFORMATION

25.1 It is agreed that the Councils are subject to the provisions of the Freedom of Information Act, 2000. Each waives all claims of commercial or other confidentiality in respect of this document.

#### 26.0 DATA PROTECTION

26.1 All data relating to the services or the recipient of any services undertaken by the Joint Committee shall remain the property of the Council on whose behalf that service is provided and that Council is the Data Controller.

#### 27.0 SURVIVAL OF THIS AGREEMENT

27.1 In so far as any of the rights and powers of the parties provided for in this Agreement shall or may be exercised or exercisable after the termination or expiry of this Agreement the provisions of this Agreement conferring such rights and powers shall survive and remain in full force and effect notwithstanding such termination or expiry

27.2 In so far as any of the obligations of the parties provided for in this Agreement remain to be discharged after the termination or expiry of this Agreement the provisions of this Agreement imposing such obligations shall survive and remain in full force and effect notwithstanding such termination or expiry

#### 28.0 WHOLE AGREEMENT

28.1 This Agreement constitutes the whole agreement and understanding of the parties as to its subject matter and there are no prior or contemporaneous agreements between the parties.

#### 29.0 WAIVER

29.1 Failure by any party at any time to enforce any provision of this Agreement or to require performance by the other or others of any of the provisions of this Agreement shall not be construed as a waiver of any such provisions and shall not affect the validity of this Agreement or any part or the right of that party to enforce any provision in accordance with its terms.

#### 30.0 SEVERANCE

30.1 If any provision of this Agreement shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other provision all of which shall remain in full force and effect.

#### 31.0 CLAUSE HEADINGS

31.1 The clause headings shall not be construed as part of the clauses.

#### 32.0 LAW

32.1 This Agreement shall be governed by and construed in accordance with the laws of England and the parties irrevocably submit to the jurisdiction of the English courts.

#### 33.0 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

33.1 The parties do not intend that any term of this Agreement should be enforceable by any third party as provided by the Contracts (Rights of Third Parties) Act 1999.

#### 34.0 NON-ASSIGNMENT

34.1 Neither of the parties shall be entitled to assign this Agreement or any of its rights and obligations under it without the written consent of the other (which consent the other party may in its absolute discretion withhold).

IN WITNESS of which this Agreement has been executed as a Deed on the first day before written

Sealed with the Common Seal of )  
Adur District Council in the )  
presence of: )

Authorised signatory

Sealed with the Common Seal of )  
Worthing Borough Council in )  
the presence of: )

Authorised signatory

## SCHEDULE 1

All services of each Council will be regarded as Joint Services, other than those listed below.

### 1.0 Services retained as a separate service by Adur District Council

- 1.1 All matters relating to the Adur District Council Local Plan.
- 1.2 All matters relating to the Adur District Council annual budget process.
- 1.3 All matters relating to rent, fees and charges, connected to the provision and maintenance of Council housing stock, garages and leasehold property.

### 2.0 Services retained as a separate service by Worthing Borough Council

- 2.1 All matters relating to the Worthing Borough Council Local Plan
- 2.2 All matters relating to the Worthing Borough Council annual budget process.

## SCHEDULE 2

### Cost allocation between the Councils

#### Protocol for cost allocation in the Adur/Worthing partnership:

Under joint working arrangements the allocation of costs becomes much more sensitive. Changes in allocation will affect not just individual services but could affect each authority's budget (and final accounts). A gain for one authority will be a loss to another under the arrangement.

There is no possible solution to this problem which will completely alleviate the risk to both authorities if the Councils are to comply with relevant professional guidelines and codes of practice. However, there are a number of measures which would help manage the risks. This note details those measures.

1. Code directly to services where possible to minimise the amount to be allocated and consequently the amount which could be subject to controversy.
2. Within the costs to be allocated, some will relate uniquely to services provided by one or other authority and some will relate to true joint services (for example AWS management). Those costs which relate uniquely to the services provided by one or other authority can continue to be allocated as present as changes in these will not affect the other Council.

Those which are true joint costs will need to be subject to differing protocols. As part of this it will be sensible to review the current structure of the holding accounts and where possible separate out those groups of staff which deliver the services of one Council, from staff engaged on joint activity, again to minimise any areas of dispute.

3. The service head will need to produce a service specification which should include the following:
  - The service specification – What are we delivering, to whom, to what standard, and how frequently?
  - The existing staff structures and the proposed staffing structure required to deliver the new service.
  - The existing baseline costs of service analysed between Adur and Worthing.

- The new cost of service which should distinguish between costs which fall directly of Worthing, those which fall on Adur, and those which will need to be allocated between the two authorities.
- The allocation basis for the joint service. The basis chosen should reflect the nature of the service delivered (for example number of invoices paid for creditors), and should be capable of being substantiated.
- The overall impact on each authority's budget of the new service.

This will then determine the allocation of cost in the short term.

4. Where the allocation of costs is across both Councils, the overriding principle must be one of stability. Consequently, having established a split of costs, this then should not be annually revised unless a trigger point is reached. Trigger points should include:

- The overall resources devoted to the service need to be increased to meet demand.

For example, it will be possible for the refuse and recycling service to accommodate a certain amount of growth in the number of households. However, a major development such a west Durrington may necessitate an increase to the number of refuse rounds and consequently increase the cost of refuse and recycling. At this point, the allocation of costs should be reviewed.

- The current allocation does not reflect the long-term trend in use of the service.

The allocation of costs should be reviewed each year as part of the budget cycle. If over a three year period it transpires that the original allocation does not substantially reflect the average 3-year allocation, then the allocation should be changed. This should enable each authority to manage temporary changes to the allocations due to items such as project work. However, it may lead to the perception that one Council is getting better value than another.

5. The concept of 'no detriment' has been introduced to equalise any changes that might occur as a result of any of the above, although the actual details of such an arrangement still need to be established.
6. The cost of the joint service for household waste collection and recycling shall be shared between the two Councils upon the basis of the ratio of the numbers of properties receiving the service in each area. Paragraph 4 of this schedule shall apply to any necessary review of this allocation.
7. All the costs incurred by the Councils in employing the joint Chief Executive, Strategic Directors and Executive Heads of Services (including tax, pension, National Insurance and miscellaneous expenses incurred) shall be shared equally by the two Councils.