

Constitution of Crawley Borough Council

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CONSTITUTION OF THE COUNCIL

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PART 1 -

SUMMARY AND

EXPLANATION

Summary and Explanation

The Council's Constitution

The Crawley Borough Council has agreed a new constitution which sets out how the Council operates, how decisions are made and the procedures to be 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.

The Constitution is divided into 15 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

What's in the Constitution?

Article 1 of the Constitution commits the Council to a number of key objectives. Articles 2 -15 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Full Council (Article 4).
- Chairing the Council (Article 5).
- Overview and Scrutiny Commission (Article 6).
- The Cabinet (Article 7).
- Regulatory and Other Committees (Article 8).
- Area Committees and Forums (Article 9).
- Joint Arrangements (Article 10).
- Employees (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).

How the Council Operates

The Council is composed of 37 Councillors with one-third elected three years in four. Councillors are democratically accountable to residents of their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

The Council has adopted a Code of Conduct which is based upon the general principles fundamental to public life so as to promote and maintain standards of conduct by Members and Co-opted Members of the Council. Councillors have a personal responsibility to comply with the provisions of the Code.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year.

The Council appoints a Leader for a 4-year term (or until the expiry of the Leader's term of office as a Councillor). The Leader appoints their Cabinet Members, a Deputy Leader and allocates responsibility to them (portfolios). The Council also appoints a number of Council Committees for decision-making purposes. At every ordinary meeting of the Council, there is public question time. The Council is responsible for the overall policy framework.

How Decisions Are Made

The Cabinet is part of the Council which is responsible for most day to day decisions. The Cabinet is made up of a Leader appointed by the Council and a Cabinet of up to nine Councillors appointed by the Leader, including a Deputy Leader. When major decisions are to be discussed or made, these are published in the Cabinet's forward plan in so far as they can be anticipated. If these major decisions are to be discussed with Council employees at a meeting of the Cabinet, this will generally be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide. To speed up decision-making and to allow the Cabinet to concentrate on major matters, Cabinet Members have the delegated power to make some decisions in relation to the areas within their portfolio and other decisions that have been delegated to them under the Scheme of Delegation as set out in Part 3 of this Constitution.

Scrutiny

There is an Overview and Scrutiny Commission which supports the work of the Cabinet and the Council as a whole. It allows citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The Overview and Scrutiny Commission also monitors the decisions of the Cabinet. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

The Council's Employees

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

Citizens' Rights

Citizens have a number of rights in their dealings with the Council. They 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, for example as a Council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution;
- attend meetings of the Council and its Committees except where, for example, personal, exempt or confidential matters are being discussed, (citizens may make representations about why a Cabinet meeting or part of a Cabinet meeting, should be open to the public when notice of an intention to meet in private is published);
- petition to request a referendum on a mayoral form of Cabinet;
- petition to request a community governance review;
- be invited to participate in the Council's question time and to contribute to investigations by the Overview and Scrutiny Commission
- find out, from the Cabinet's forward plan, what major decisions are to be discussed by the Cabinet or decided by the Cabinet or employees, and when;
- attend meetings of the Cabinet where key decisions are being discussed or decided;
- see reports and background papers, and any record of decisions made by the Council and Cabinet;
- complain to the Council in accordance with its complaints procedure;
- complain to the Ombudsman if they think the Council has not followed its own procedures properly. However, they should only do this after using the Council's own complaints process;
- complain to the Monitoring Officer if they think that a Councillor has not followed the Council's Code of Conduct;

- inspect the Council's accounts and make their views known to the external auditor; and
- submit a petition under the Crawley Borough Council Petitions Scheme.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact Ann-Maria Brown, Head of Legal and Democratic Services at the Town Hall, Crawley

The rights of citizens to inspect agendas and reports and attend meetings are explained in the Access to Information Procedure Rules which are set out in Part 4 of this Constitution.

The Council's Audit Manager (telephone Gillian Edwards on 01293 438384) or the local Citizens' Advice Bureau can advise on individuals' rights to obtain other information held by the Council (e.g. under the Data Protection and Freedom to Information Acts).

**PART 2 -
ARTICLES OF
THE
CONSTITUTION**

ARTICLE 1 - THE CONSTITUTION

1.1. Powers of the Council

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

1.2. The Constitution

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

1.3. Purposes of the Constitution

The purpose of the Constitution is to:

- (1) enable the Council to focus on the needs of the people of Crawley;
- (2) enable the Council to work in partnership with local people, businesses, voluntary groups and other agencies to provide clear leadership to the community for the wider benefit of all;
- (3) support the active involvement of citizens in the process of local authority decision-making;
- (4) help Councillors represent their constituents more effectively;
- (5) enable decisions to be taken efficiently and effectively;
- (6) create a powerful and effective means of holding decision-makers to public account;
- (7) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (8) ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for actions and decisions;
- (9) provide a means of listening to what people want and continually improving the quality and efficiency of services to the community;
- (10) strive to develop employees so that they achieve the highest standards in personal performance and are best equipped to serve the needs of the community;
- (11) ensure that the Authority acts with fairness, honesty, openness and integrity; and
- (12) ensure that the diversity of the local community and of the employees is valued and that equality and justice underlines the Council's approach to securing services.

1.4. 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 closest to the purposes stated above in the best interests of the people of Crawley.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

ARTICLE 2 - MEMBERS OF THE COUNCIL

2.1. Composition and Eligibility

(a) Composition

The Council will comprise 37 Members, otherwise called Councillors. Two, or in some cases three, Councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Boundary Committee and approved by the Secretary of State.

(b) Eligibility

Only registered voters of the Borough or those living or working there will be eligible to hold the office of Councillor.

2.2. Election and Terms of Councillors

The ordinary election of a third (or as near as may be) of all Councillors will usually be held on the first Thursday in May in three years out of four. The ordinary term of office of Councillors will be four years starting on the fourth day after being elected and finishing on the fourth day after the date of the regular election four years later.

However, following the outcome of periodic electoral reviews, all Councillors will come up for re-election.

An order may be made by the Secretary of State at least six months before the local election day to provide that in a year in which a European Parliamentary general election is held, the ordinary day of election of Councillors for the Borough be changed so that it is held on the same day as the European Parliamentary general election.

The Leader will be a Councillor appointed by Full Council for a 4-year term (or until the expiry of the Leader's term of office as a Councillor). The Leader will be elected for the first time at the Annual Council meeting when the new executive arrangements are brought into force (commencing with the May 2011 Elections).

2.3. Roles and Functions of All Councillors

(a) Key Roles

- (1) To be familiar with what is going on in their ward, bringing any concerns to the Council's attention and representing the interests of their constituents on the proposals.
- (2) To be easily accessible to constituents, helping individuals in their dealings with the Council.
- (3) To balance different interests in their ward and to represent the ward as a whole, at the same time being mindful of the interests of the whole Borough.

- (4) To represent the Council at meetings of other organisations to which they have been appointed by the Council.
- (5) To provide support to community groups/charities operating in the town to which they have been nominated by the Council.
- (6) To abide by the Councillors' Code of Conduct and the protocols contained in the Council's Constitution.
- (7) To be clear about the responsibilities of the Committees and groups of which they are a full voting member; and to keep abreast of the business of these bodies.
- (8) To participate in the governance and management of the Council.
- (9) To be the ultimate policy makers, carrying out strategic and corporate management functions and overseeing the implementation of the Council's Corporate Plan.
- (10) To embrace the cultural values set out in the Corporate Plan.
- (11) To contribute to good decision making, actively encouraging community participation in the process.
- (12) To be committed to continuous improvement and development as a Councillor, attending appropriate training courses, seminars and briefings for this purpose.

(b) Rights and Duties

- (1) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (2) 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 employee entitled to know it.
- (3) For these purposes "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution
- (4) In addition to the rights conferred in Council Procedure Rule 11.4, a Member may ask any Member of the Cabinet or the Chair of any Committee a formal question in writing under this Article about any issue relevant to their portfolio or relating to the Committee concerned at any time during the Committee cycle. The Member asking the question should expect a written reply within ten working days, and the question and the response will be published in the Members' Information Bulletin.

2.4. The Role of a Committee Chair

- (a) To prepare for and chair meetings in a fair, impartial and competent manner;
- (b) To have a clear understanding of the scope and range of the services and current agreed policies for which their Committee is responsible;

2.5. **The Role of Opposition Group Leader**

- (a) To give political leadership to the group.
- (b) To be spokesperson for the opposition group, expressing views on behalf of the group at the Cabinet (with the prior permission of the Chair) and at Full Council meetings.
- (c) This sub section does not affect the speaking rights of every Member of the Council conferred in Cabinet Procedure Rule 2.2 and in the Council Procedure Rules
- (d) To represent the opposition group's interests on issues concerning the political management of the Council, meeting regularly with the Acting Chief Executive.

2.6. **Conduct**

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

2.7. **Allowances**

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

2.8. **Attendance**

If any Member of the Council fails for six consecutive months to attend any Committee, Sub-Committee or a meeting of the authority as defined in section 85 of the LGA 1972, then, unless the failure is due to some reason approved by the local authority, she or he will cease to be a Member of the local authority.

ARTICLE 3 - CITIZENS AND THE COUNCIL

3.1. Citizens' Rights

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

(a) Voting and Petitions

Anyone who lives, works or studies in the Borough of Crawley including under 18s may sign, organise and submit a petition under the Crawley Borough Council Petitions Scheme.

Citizens on the electoral roll for the area have the right to vote and sign a petition to request a community governance review* or a referendum for an elected Mayor form of Constitution.

(b) Information

Citizens have the right to:

- (i) attend formal meetings of the Council and its Committees and the Cabinet except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private (citizens may make representations about why a Cabinet meeting or part of a Cabinet meeting, should be open to the public when notice of an intention to meet in private is published);
- (ii) find out from the forward plan what key decisions will be taken by the Cabinet and when;
- (iii) see reports and background papers, and any records of decisions made by the Council and the Cabinet; and
- (iv) inspect the Council's accounts and make their views known to the external auditor.

(c) Participation

Citizens have the right to ask questions at Council, the Cabinet and the Overview and Scrutiny Commission question time and make statements at meetings of the Planning Committee and may be invited to give evidence at investigations by the Overview and Scrutiny Commission and its panels.

In addition to the rights conferred in Council Procedure Rule 10.1, Citizens have the right to send in written questions to the Cabinet or to Full Council at any time during the Committee cycle about a matter for which the Council has a responsibility or which affects the Borough, and to get a written reply. Such questions should be addressed to the Head of Legal and Democratic Services.

(d) Complaints

Citizens have the right formally to complain to:

- (i) the Council itself under its complaints scheme;
- (ii) the Ombudsman after using the Council's own complaints scheme;
- (iii) the Monitoring Officer about an alleged breach of the Councillors' Code of Conduct which is included under Part 5 of this Constitution'.

3.2. Citizens' Responsibilities

Citizens must not be violent, abusing or threatening to Councillors or employees and must not wilfully harm things owned by the Council, Councillors or employees.

ARTICLE 4 - THE FULL COUNCIL

4.1. Meanings

(a) **Policy Framework.**

The Policy Framework means the plans and strategies set out in the Policy Framework Procedure Rules within this Constitution.

(b) **Budget**

The budget includes the Council's financial strategy, annual budget and rules for variations to the approved spending plans - approval to include the allocation of financial resources (revenue and capital) to services or projects, proposed contingency funds, setting the Council Tax and determining overall limits in relation to borrowing requirements.

(The Cabinet will be responsible for putting draft proposals to the Council on the above issues.)

(c) **Housing Land Transfer**

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

4.2. Functions of the Full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the Secretary of State in respect of any Housing Land Transfer;
- (c) in connection with the discharge of the function of formulating a plan or strategy for the control of the Council's borrowing, capital expenditure or investments, the giving of instructions requiring the Cabinet to reconsider any draft plan or strategy submitted by the Cabinet for the Council's consideration, the amendment of any draft plan or strategy submitted by the Cabinet for the Council's consideration; and the adoption (with or without modification) of the plan or strategy;
- (d) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of a Cabinet function which is covered by the policy framework or the budget where the decision taker is minded to make it in a manner which would be

contrary to the policy framework or contrary to/or not wholly in accordance with the budget;

- (e) appointing the Leader
- (f) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them;
- (g) appointing representatives to outside bodies unless the appointment is a Cabinet function and has been delegated by the Council;
- (h) adopting an allowances scheme under Article 2.7;
- (i) changing the name of the area, conferring the title of honorary alderman or freedom of the Borough;
- (j) approving the appointment or dismissal of the Head of Paid Service and approving the dismissal of the Monitoring Officer and Chief Finance Officer;
- (k) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (l) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- (m) all matters which, by law, must be reserved to Council;
- (n) agreeing to establish a joint Committee to be, for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004, a local planning authority;
- (o) agreeing to confer additional functions on a joint Committee;
- (p) power to request the dissolution of a joint Committee;
- (q) power to resolve not to issue any casino premises licenses within the Borough under Section 166 of the Gambling Act 2005;
- (r) approval of an allowance for the Mayor and Deputy Mayor other than where the allowance is updated for inflation in accordance with the Budget Strategy;
- (s) considering relevant petitions submitted under the Crawley Borough Council Petitions Scheme.

4.3. **Council Meetings**

There are three types of Council meeting:

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

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

4.4. **Responsibility for Functions**

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

ARTICLE 5 - CHAIRING THE COUNCIL

5.1. Role and Function of the Mayor

The Mayor and Deputy Mayor will be elected by the Council annually. The Mayor and Deputy Mayor will hold office until the end of the Municipal Year unless, in the meantime, either are no longer a Councillor.

The Mayor, and in their absence the Deputy Mayor, will have the following roles and functions:

- (1) To uphold the values of the Council and to uphold and promote the Constitution.
- (2) To chair Full Council meetings in a fair and impartial manner, ensuring Members treat each other with respect.
- (3) To ensure that the Full Council debates matters of concern to the local community
- (4) To promote public involvement in the Council's activities;
- (5) To represent the Council at civic and ceremonial functions.

ARTICLE 6 – OVERVIEW AND SCRUTINY COMMISSION

6.1. Terms of Reference

The Council will appoint an Overview and Scrutiny Commission with the following terms of reference to discharge the functions conferred by section 21 of the Local Government Act 2000, regulations under section 32 of the Local Government Act 2000, the Local Government and Public Involvement in Health Act 2007, the Local Democracy, Economic Development and Construction Act 2009 and the Localism Act 2011:

- (1) The performance of all overview and scrutiny functions on behalf of the Council.
- (2) The appointment of task-orientated, time-limited scrutiny panels, with membership that reflects the political balance of the Council and, the setting of such terms of reference and duration as it considers appropriate to fulfil those functions by carrying out overview and scrutiny on functional matters or cross-cutting themes or with an area focus.
- (3) To receive requests from the Cabinet for scrutiny involvement in policy review and development and decide how to respond.
- (4) To monitor the Cabinet's Forward Plan and, where appropriate, comment on proposals prior to the Cabinet taking a decision.
- (5) To receive all appropriate budget monitoring and service information, particularly in relation to the transformation plan.
- (6) To approve and co-ordinate an annual overview and scrutiny work programme, noting the programme of any scrutiny panels it appoints so as to ensure that the Overview and Scrutiny Commission's and scrutiny panels' time is effectively and efficiently utilised.
- (7) To ensure community and voluntary sector organisations, users of services and others are appropriately involved in giving evidence to relevant scrutiny panels.
- (8) To review the implementation of other completed scrutiny reviews.
- (9) Where appropriate, to review any other issue affecting the Borough but for which the Council is not directly responsible.
- (10) To discuss any local government matter or local crime and disorder matter either referred to the Commission or otherwise, to review or scrutinise such a matter and, where appropriate, make reports or recommendations to the Council or the Cabinet except where an excluded matter (i.e. any matters relating to a planning decision, a licensing decision or where a person has right of recourse to a review or right of appeal; any matter which is vexatious, discriminatory or not reasonable; any matter referring to an individual complaint; or any local crime and disorder matter excluded under S.19 of the Police and Justice Act 2006. However, a matter is not excluded if it consists of an allegation that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis).
- (11) To discuss any item relevant to the functions of the Commission referred to the Commission by a Member of the Commission, to

review or scrutinise such a matter and, where appropriate, make reports or recommendations to the Council or the Cabinet except where an excluded matter (i.e. any matters relating to a planning decision, a licensing decision or where a person has right of recourse to a review or right of appeal; any matter which is vexatious, discriminatory or not reasonable; any matter referring to an individual complaint; or any local crime and disorder matter excluded under S.19 of the Police and Justice Act 2006. However, a matter is not excluded if it consists of an allegation that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis).

- (12) To discuss any local government matter or local crime and disorder matter either referred to the Commission or otherwise, where necessary referring the matter to a scrutiny panel to review or scrutinise and on receipt of the panel's report, to make reports or recommendations to the Council or the Cabinet where appropriate except where an excluded matter (i.e. any matters relating to a planning decision, a licensing decision or where a person has right of recourse to a review or right of appeal; any matter which is vexatious, discriminatory or not reasonable; any matter referring to an individual complaint; or any local crime and disorder matter excluded under S.19 of the Police and Justice Act 2006. However, a matter is not excluded if it consists of an allegation that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systemic basis).
- (13) Where appropriate, to recommend to the Council the appointment of co-optees to serve on the Overview and Scrutiny Commission and whether they shall have voting rights.
- (14) Where appropriate, to appoint co-optees to serve on scrutiny panels and to decide whether they shall have voting rights or agree to let the Chair of the relevant scrutiny panel decide this in consultation with the Chair of the Overview and Scrutiny Commission and the Head of Legal and Democratic Services.
- (15) To appoint Chairs of scrutiny panels.
- (16) Where the Commission may reasonably require in order to discharge its function, being information which has been requested in writing and relates to the functions of the relevant partner authority so far as exercisable in relation to the authority's area or the inhabitants of that area, to obtain information from relevant partner authorities and require executives of local authorities to exclude confidential and exempt information when publishing their response to reports and recommendations of Overview and Scrutiny Committees.
- (17) To ensure that any reports by the Joint Scrutiny Task and Finish Groups be reported to the appropriate decision maker via the Commission, and that the appropriate decision maker responds accordingly to the West Sussex Joint Scrutiny Steering Group.
- (18) To consider any petition before its consideration by the appropriate decision-maker.
- (19) To consider a petition referred to the Commission before its consideration by the appropriate decision-maker.

Scrutiny Procedure Rule 8 sets out the process to be followed in respect of functions (10), (11) and (12) above.

6.2. **General Matters**

1. Overview and Scrutiny Commission

The Overview and Scrutiny Commission has responsibility for all overview and scrutiny functions on behalf of the Council. It has a remit to review or scrutinise the full range of the Council's activities.

Specifically the Commission undertakes policy review, looks closely at decisions the Cabinet is going to take, and oversees the work of the Cabinet. It therefore has an overview of activities across the Council.

2. Scrutiny Panels

The Overview and Scrutiny Commission may establish time-limited scrutiny panels, the number to be running at any one time to be subject to resource constraints. These panels will be charged with carrying out an in-depth investigation into a specific service area or policy or any issue of genuine importance to the town. Each panel will work to a specific brief set out by the Commission and will report to the Commission.

Membership of the scrutiny panels may be drawn from the Commission itself and/or from other non-Cabinet Members of the Council. The panels will be politically balanced unless agreed otherwise by the Group Leaders. Membership will depend on the knowledge and expertise required to deal with the matter in hand, as long as the principle of independence is not compromised. The Commission will appoint the Chair of each panel from the membership of the Commission and agree the other Panel Members in consultation with the party group secretaries.

The Commission will agree the Chair of any scrutiny panel it establishes (who will not necessarily be an OSC Member and may potentially be the nominator). Panel Members will then be agreed in consultation with Group Leaders and the party group secretaries. However, at least one member of the panel must be an OSC Member.

Choosing the topics for the scrutiny panels to work on is a key task for the Commission. It will be impossible for the scrutiny panels to cover all the Council's activities and there is therefore a need to prioritise particular issues. It will also be important for the Commission to hold some capacity in reserve for urgent issues that may emerge.

3. West Sussex Joint Scrutiny Task and Finish Groups

A formal but flexible joint scrutiny arrangement, through an overarching steering group and bespoke task groups, was established in West Sussex initially for a pilot period commencing July 2011.

The West Sussex Joint Scrutiny Steering Group will consider suggestions for joint scrutiny and may establish time-limited Task and

Finish Groups. The Task and Finish Groups will investigate issues of common concern affecting either the whole county or the areas of more than one District/Borough Council. Any joint scrutiny will be outcomes- focused (i.e. where it's felt that improvements can be achieved for the community), and will scrutinise performance as opposed to processes. Whilst issues under joint scrutiny may relate to the work of organisations with a wider remit than local authorities (e.g. quangos, utilities, Environment Agency etc.), any scrutiny will not be of the organisations themselves, but rather of relevant issues relating to their work/role.

Any joint scrutiny will be carried out by non-Cabinet Members of County, District and Borough Councils. Non-Executive County Council Members who are Cabinet Members on District or Borough Councils (or vice-versa) will not carry out any joint scrutiny activities that relate to their portfolio area.

Any Task and Finish Groups will consist of a minimum of 3 Members, with the exact number to be determined by the Steering Group according to the topic. Membership of Task and Finish Groups will be non-political and geographically balanced (as appropriate). The Steering Group may wish to recommend co-opted Members from relevant authorities, but ultimately this should be the decision of the Task and Finish Group.

These Task and Finish Groups will submit a final report via the Overview and Scrutiny Commission(s) to the Cabinet(s) of the relevant Council(s) and/or other partners with a copy to the Joint Steering Group.

6.3. **Specific Functions**

- (1) The Overview and Scrutiny Commission (and its panels) may:
 - (a) review and scrutinise the decisions made by and the performance of the Cabinet and Committees and Council employees both in relation to individual decisions and over time;
 - (b) review and scrutinise the transformation plan, operation of the Council in relation to its policy objectives, measures and particular service areas;
 - (c) review other issues which might impact on the quality of life in the town;
 - (d) review any matter relating to, or arising out of, any issue that has previously been referred to scrutiny.
 - (e) 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 Commission, or a panel, or local people, about their activities and performance;
 - (f) question and gather evidence from any person (with their consent);
 - (g) question Members of the Cabinet and Chairs of Committees and the Acting Chief Executive, Heads of Service about their

decisions, whether generally in comparison with service plans and measures (performance) over a period of time, or in relation to particular decisions, initiatives or projects;

In addition, the Overview and Scrutiny Commission may:

- (h) make recommendations arising from the outcome of the scrutiny process to the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), to a Committee where the matter falls within its terms of reference or to the Council as appropriate (e.g. if the proposal would require a departure from or a change to the agreed budget and policy framework).

Where the Council is to receive the report, a copy of the report will be submitted to the Cabinet held in the same cycle. The Cabinet may comment upon the report and these comments will be presented to the Council at the time the report is considered.

- (i) exercise overall responsibility for the finances made available to it;
 - (j) exercise overall responsibility for the work programme of the employees employed to support its work.
- (2) The Overview and Scrutiny Commission (and its panels) will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Part 4 of this Constitution.
 - (3) The remit of the Overview and Scrutiny Commission (and its panels) is not to perform the function of an appellate body nor to examine individual complaints.
 - (4) The Overview and Scrutiny Commission will not normally be responsible for the development of new policies. Where appropriate, this function will be fulfilled through task-orientated groups established by the relevant Cabinet Member or all-Member seminars, except where policy development arises from the Overview and Scrutiny Commission reviewing current policy in which case the Commission may, as part of the review, recommend new policies.

6.4. Role of Chair of Overview and Scrutiny Commission

- (1) To oversee and provide leadership, management and strategic direction to the Overview and Scrutiny Commission and process.
- (2) To represent the Overview and Scrutiny Commission on the West Sussex Joint Scrutiny Steering Group. In the event that the Chair is unable to attend, the Vice-Chair shall attend on their behalf. If neither the Chair nor the Vice-Chair are able to attend, another Commission Member shall be nominated by the Chair to attend on their behalf;
- (3) To develop and promote the role, profile and impact of overview and scrutiny

- (4) To develop a knowledge of the Council and how it relates to other organisations and the community
- (5) To develop the skills set for a successful chair of overview and scrutiny
- (6) To chair meetings of the Overview and Scrutiny Commission impartially, encouraging contributions from all Commission Members;
- (7) To consider how Scrutiny work might be assisted by:
 - arranging informal discussions outside the Committee process or undertaking visits
 - inviting outside contributors to attend Overview and Scrutiny Commission meetings
 - calling for reports from the Acting Chief Executive, or relevant officers or commissioning research.
- (8) To produce a report for submission to the Cabinet, a Committee or the Council as appropriate.
- (9) To present review reports at the Cabinet, at a Committee and/or the Full Council.
- (10) To decide, in consultation with the Chair of the relevant scrutiny panel and the Head of Legal and Democratic Services, whether any co-optees serving on such scrutiny panels should have voting rights (as in accordance with paragraph 6.1(14) of this Article).

6.5. Scrutiny and the Forward Plan

Following the publication of the Forward Plan, Members will be invited by the Head of Legal and Democratic Services to indicate which items, if any, should be scrutinised prior to consideration by the Cabinet. Items should not be identified for Overview and Scrutiny Commission consideration if a Member's queries could easily be answered by reference to the appropriate Head of Service or relevant Cabinet Member.

ARTICLE 7 - THE LEADER AND CABINET

7.1. Role

The Cabinet will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution. The Leader may, however, make arrangements to delegate some matters from himself/herself to the Cabinet, a Committee of the Cabinet, individual Cabinet Members, or to an employee, an Area Committee, through Joint Arrangements or to another Local Authority.

7.2. Form and Composition

Crawley Borough Council has decided to adopt the Leader and Cabinet form of Executive. The Cabinet is at the heart of the decision-making process.

The Cabinet will consist of the Leader appointed by the Council, the Deputy Leader appointed by the Leader, together with at least one, but not more than eight other Councillors appointed by the Leader.

Only Councillors may be appointed to the Cabinet. Neither the Mayor nor the Deputy Mayor of the Council may be appointed to the Cabinet. The Leader and Cabinet Members may not be members of the Overview and Scrutiny Commission or serve on scrutiny panels.

7.3. Leader

The Leader will be a Councillor elected to the position of Leader by a simple majority of the Council at its post-election Annual Meeting (or if the Council fails to elect a Leader at that meeting, a subsequent meeting of the Council). The term of office of the Leader started on the day of their election as Leader and the Leader will hold office until:

- (1) they resign from office; or
- (2) they are no longer a Councillor; or
- (3) until the next Annual Meeting after the Leader's normal day of retirement as a Councillor except that the Council may remove the Leader from office at an earlier date by resolution of the Council.

In the event of there being a vacancy in the office of Leader, the Council shall elect a new Leader at its next meeting.

If the Council passes a resolution to remove the Leader, a new Leader shall be elected at the meeting at which the Leader is removed from office or at a subsequent meeting of the Council.

7.4. **Role of the Leader**

The role of the Leader shall be as follows:

- (1) To appoint the Deputy Leader, the Cabinet and the Cabinet Portfolio Holders;
- (2) To determine the number of Members to be appointed to the Cabinet and allocate any areas of responsibility to the Cabinet Portfolio Holders;
- (3) To determine the Scheme of Delegation for the discharge of the Cabinet functions of the Council set out in Part 3 of this Constitution;
- (4) To give political leadership to Members and Employees;
- (5) To be the spokesperson for the majority political group(s);
- (6) To represent the majority political group's(s') interests on issues concerning the political management of the Council, liaising regularly with the Acting Chief Executive;
- (7) To initiate and develop corporate strategies and policies which the majority group(s) wish(es) to pursue;
- (8) To promote the interests and image of the Council and enhance its influence by building good relationships with local and national, private, public and voluntary sector organisations;
- (9) Subject to the ceremonial role of the Mayor, to represent the Council and conduct Member level correspondence with Government, Regional Bodies and Local Government Associations.

7.5. **Deputy Leader**

The Leader will appoint a Deputy Leader. If for any reason the Leader is unable to act or the office of the Leader is vacant, the Deputy Leader will act in their place. The Deputy Leader will hold office until:

- (1) they resign from office; or
- (2) they are no longer a Councillor; or
- (3) they are removed from office by the Leader who must deliver written notice of any removal to the Head of Legal and Democratic Services and to the Deputy Leader. The removal will take effect immediately after receipt of the notice by the proper officer; or
- (4) at the end of the term of office of the Leader.

Where a vacancy occurs in the office of the Deputy Leader the Leader must appoint another person in their place. If the Deputy Leader is unable to act or their position becomes vacant, the Cabinet must act in the Leader's absence or must arrange for a Cabinet Member to do so.

7.6. **Other Cabinet Members**

Other Cabinet Members shall hold office until:

- (1) they resign from office; or
- (2) they are no longer Councillors; or
- (3) they are removed from office, either individually or collectively, by the Leader who must deliver written notice of any removal to the Head of Legal and Democratic Services and to the Cabinet Member/s concerned. The removal will take effect immediately after receipt of the notice by the proper officer; or
- (4) at the end of the term of office of the Leader.

7.7. **Attendance**

If any Member of the Cabinet fails for six consecutive months to attend any meeting of the Cabinet or any Committee of the Cabinet or, acting alone, to discharge any functions which are the responsibility of the Cabinet and delegated to that Member, then, unless the failure is due to some reason approved by the local authority, she or he will cease to be a Member of the local authority.

7.8. **Role of Cabinet Members**

The role of Cabinet Members shall be as follows:

- (1) To be the advocate of policies within their portfolio ;
- (2) To provide strong and fair leadership and clear political guidance;
- (3) To be politically accountable to the Council for overseeing the effective implementation of policies and strategies which fall within their portfolio;
- (4) To work with the Leader and other Cabinet Members in order to initiate and develop corporate strategies and policies which the majority group(s) wish(es) to pursue;
- (5) To keep himself/herself informed of any significant underspends/ overspends in the budgets for which their portfolio is responsible;
- (6) To promote the interests and image of the Council;
- (7) To contribute towards achieving the Corporate Plan objectives as embodied in the Council's Vision Statement.
- (8) To exercise collective responsibility for decisions of the Cabinet;
- (9) To make decisions as delegated under the Council's Constitution and to take some decisions relating to a matter within the remit of their portfolio responsibilities including executive decisions that have been delegated to them subject to the following:
 - (a) The Cabinet Member shall comply with the requirements of Article 12 of this Constitution relating to Decision-Making and Rules 20 and 21 of the Access to Information Rules and any other relevant Procedural Rules contained in the Constitution.

- (b) A Cabinet Member may refer any matter within their portfolio to the Cabinet for a decision.

7.9. Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

7.10. Responsibility for Functions

The Leader holds all responsibility for Cabinet functions and determines the Scheme of Delegation for the discharge of Cabinet functions. The Leader will determine which Cabinet functions are to be exercised by:

- (1) Themselves;
- (2) The Cabinet as a whole;
- (3) A Committee of the Cabinet;
- (4) An individual Member of the Cabinet;
- (5) An employee;
- (6) An Area Committee;
- (7) Joint Arrangements;
- (8) Another Local Authority

The Leader will maintain a list in Part 3 of this Constitution setting out which individual Members of the Cabinet, Committees of the Cabinet, employees, Area Committees, Joint Arrangements or other authorities are responsible for the exercise of particular Cabinet functions.

The Leader of the Council has allocated portfolio responsibility to individual Cabinet Members. Full details of their responsibilities are set out in Part 4 – Rules and Procedures – Leader and Cabinet Procedure Rules.

7.11. Appointment of Committees

The Council may appoint advisory Committees to advise the Cabinet or any Committee or individual Member of the Cabinet.

ARTICLE 8 - REGULATORY AND OTHER COMMITTEES

8.1. Regulatory and Other Committees

The Council will appoint the following Committees to discharge the functions listed in respect of each Committee in the table of Responsibility for Council Functions in Part 3 of this Constitution:

Planning Committee

Employees Joint Consultative Forum

Governance Committee

Licensing Committee

Appointments and Investigating Committee

Staff Appeals Board

Licensing Sub-Committee

Grants Appeals Panel

Audit Committee

ARTICLE 9 - AREA COMMITTEES AND FORUMS

9.1. Area Committees

The Council may appoint area Committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value and more efficient, transparent and accountable decision making.

ARTICLE 10 - JOINT ARRANGEMENTS

10.1. Arrangements to Promote Well Being

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

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

10.2. Joint Arrangements

- (1) The Council may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions which are not Cabinet functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint Committee with these other local authorities, including fixing the number of Members, their term of office and the area within which the Committee is to exercise its authority (as appropriate).
- (2) The Council may appoint persons to a joint Committee who are not Members of the Council.
- (3) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. Such arrangements may involve the appointment of joint Committees with these other local authorities including fixing the number of Members, their term of office and the area within which the Committee is to exercise its authority (as appropriate).
- (4) Except as set out below, the Cabinet may only appoint Cabinet Members to a joint Committee and those Members need not reflect the political composition of the local authority as a whole.
- (5) The Cabinet may appoint Members to a joint Committee from outside the Cabinet where:
 - the joint Committee is discharging a function in relation to five or more local authorities. In this case the Cabinet may appoint to the joint Committee any Member of the Council and the political balance requirements do not apply to such appointments; or
 - the function which the joint Committee is discharging is a function required by statute to be discharged by a joint Committee. In this case, the Cabinet may appoint to the joint Committee any Member of the Council and the political balance requirements do not apply to such appointments; or
 - the joint Committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint Committee any Councillor who is a Member for a ward which is wholly or partly contained within the area and the political balance requirements do not apply to such appointments.

- (6) Where joint arrangements involve a joint Committee to discharge a number of functions on behalf of the Council, some of which are the responsibility of the Cabinet, and some of which are the responsibility of the Full Council, appointments of Members of the joint Committee will be made by the Council with the agreement of the Cabinet. The political balance requirements will apply to appointments made in these circumstances.
- (7) Where appointment to the joint Committee is made in the circumstances described in (6) above and the Council only appoints one representative, that person need not be a Member of the Cabinet. However, where the Council appoints more than one representative to the joint Committee, in such circumstances at least one must be a Member of the Cabinet.
- (8) Details of any joint arrangements including any delegations to joint Committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

10.3. Access to Information

- (1) The Access to Information Rules in Part 4 of this Constitution apply.
- (2) 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.
- (3) If the joint Committee contains Members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

10.4. Delegation To and From Other Local Authorities

- (1) The Council may delegate non-Cabinet functions to another local authority or, in certain circumstances, the Cabinet of another local authority. (Where the function in question is the responsibility of the Cabinet of the other local authority, it may become the responsibility of the Cabinet of that local authority, but not of the local authority themselves).
- (2) The Cabinet may delegate Cabinet functions to another local authority or the Cabinet of another local authority in certain circumstances.
- (3) The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council.

10.5. Contracting Out

The Council, for functions which are not Cabinet functions, and the Cabinet, for Cabinet functions, may contract out to another body or organisation functions which may be exercised by an employee and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

ARTICLE 11 - EMPLOYEES

11.1. Management Structure

(1) General

The Full Council may engage such employees as it considers necessary to carry out its functions

(2) Corporate Management Team

The Corporate Management Team consists of the following posts:

- Acting Chief Executive
- Head of Legal and Democratic Services
- Head of Economic and Environmental Services
- Head of Strategic Housing and Planning Services
- Head of Finance, Revenues and Benefits
- Head of Community Services
- Head of Partnership Services
- Head of Crawley Homes
- Head of People and Technology

(3) Chief Officers

The Full Council will engage persons for the following posts who will be designated Chief Officers

Post	Functions and Areas of Responsibility
Acting Chief Executive (and Head of Paid Service)	<p>Overall corporate management and operational responsibility (including overall management responsibility for all employees)</p> <p>Overall responsibility for communications, legal and democratic services (such as elections, Committees, scrutiny and Member services), policy and performance improvement, planning, environmental health, housing strategy and finance (Head of Finance, Revenues and Benefits has Section 114 and 151 responsibilities). community services, partnership services, council housing, customer services, information and communications technology, procurement and human resources and development</p> <p>Provision of professional advice to all parties in the decision making process</p> <p>Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council)</p>

(4) **Head of Paid Service, Monitoring Officer and Chief Finance Officer**

The Council will designate the following posts as shown:

Post	Designation
Acting Chief Executive	Head of Paid Service (Acting)
Head of Legal and Democratic Services	Monitoring Officer
Legal Services Manager	Deputy Monitoring Officer (It should be noted that it is the function of the Monitoring Officer to appoint a Deputy and not that of the Council).
Head of Finance, Revenues and Benefits	Chief Finance Officer (Section 114 of the Local Government Act 1988; and Section 151 of the Local Government Act 1972) (*with effect from 16.03.11)

(5) **Structure**

The Head of Paid Service will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of employees. This is set out in Part 7 of this Constitution.

11.2. Functions of the Head of Paid Service

(1) **Discharge of Functions by the Council**

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

(2) **Restrictions on Functions**

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

11.3. Functions of the Monitoring Officer

(1) **Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, employees and the public.

(2) **Ensuring Lawfulness and Fairness of Decision Making**

After consulting with the Head of Paid Service and the Chief Finance Officer, the Monitoring Officer will report to the Full Council (or to the Cabinet in relation to a Cabinet function) if they consider that any proposal, decision or omission would give rise to unlawfulness or if any

decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

The Council (or the Cabinet in relation to a Cabinet function) must meet within 21 days of being sent copies to consider the report. As soon as practicable after their meeting, the Cabinet shall provide a report to the Council and the Monitoring Officer explaining what, if any, action is to be taken in consequence of the report, and when, and the reasons for that action or for not taking the action.

Where such a report is made by the Monitoring Officer, the Overview and Scrutiny Commission should consider whether it would be appropriate to hold a short enquiry into the matter which is the subject of that report prior to the Cabinet's consideration of it.

(3) Code of Conduct Matters

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

(4) Conducting Investigations

The Monitoring Officer will appoint a suitably qualified person to conduct investigations where an allegation has been referred for investigation.

(5) Proper Officer for Access to Information

The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant employee reports and background papers are made publicly available as soon as possible.

(6) Advising Whether Cabinet Decisions Are Within the Budget and Policy Framework

The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

(7) Providing Advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

(8) Restrictions on Posts

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

(9) Monitoring Officer Protocol

The Monitoring Officer Protocol is set out in Part 5 of this Constitution.

11.4. **Functions of the Chief Finance Officer**

(1) **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 Full Council (or to the Cabinet in relation to a Cabinet function) and the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

The Council (or the Cabinet in relation to a Cabinet function) must meet within 21 days of being sent copies to consider the report. As soon as practicable, the Council's external auditor shall be advised of the date, time and place of such a meeting. The course of conduct which led to the report being made shall not be pursued until after consideration has been given to the Chief Finance Officer's report. As soon as practicable after their meeting, the Cabinet shall provide a report to the Council, the Chief Finance Officer and the Council's external auditor explaining what, if any, action is to be taken in consequence of the report, and when, and the reasons for that action or for not taking the action.

Where such a report is made by the Chief Finance Officer, the Overview and Scrutiny Commission should consider whether it would be appropriate to hold a short enquiry into the matter which is the subject of that report prior to the Cabinet's consideration of it.

(2) **Administration of Financial Affairs**

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

(3) **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.

(4) **Providing Advice**

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and employees in their respective roles.

(5) **Give Financial Information**

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

11.5. **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 employees, accommodation and other resources as are in those officers' opinions sufficient to allow their duties to be performed.

11.6. Functions of the Head of Legal and Democratic Services

- (1) To conduct and appear on the Council's behalf in proceedings before any court, public inquiry or tribunal as far as a Right of Audience is available;
- (2) To obtain the opinion of Counsel and to instruct Counsel to represent the Council in any court proceedings, public inquiry or tribunal;
- (3) To instruct solicitors in any matter where the Head of Legal and Democratic Services deems it in the best interest of the Council to instruct London or local agents;
- (4) To serve any notices being administrative acts consequently upon effecting the decisions of the Council or for the purpose of obtaining any information necessary to enable the Council to reach a decision;
- (5) To authorise an employee of the Council or other specified person to enter upon land or premises in accordance with any statutory provision providing for any such authorisation;
- (6) On behalf of the Council, to determine applications for formal registration or certification made in pursuance of any legislation imposing such a function upon the Council, in any cases where the power to register has not been formally delegated to a specific employee;
- (7) To be Monitoring Officer for the purpose of the Regulation of Investigatory Powers Act 2000.

11.7. Conduct

Employees will comply with the Employees' Code of Conduct and the Protocol on Employee/Member Relations set out in Part 5 of this Constitution.

11.8. Employment

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

ARTICLE 12 - DECISION MAKING

12.1. Responsibility for Decision Making

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

12.2. Principles of Decision Making

The Council will observe the following principles when making decisions:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from employees;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes;
- (f) explanation of options considered and reasons for decisions;
- (g) due regard to the statutory framework, guidance and codes of conduct;
- (h) previously taken Council decisions.

12.3. Types of Decision

(a) Decisions reserved to Full Council

Decisions relating to the functions listed in Article 4.2 will be made by the Full Council and not delegated.

(b) Key decisions

- (1) A key decision is likely
 - (i) To result in the Council incurring expenditure which is, or in the making of savings which are deemed significant in financial terms:
 - (a) By not being in the Annual Budget and Capital Programme approved by the Full Council;
 - (b) In the case of revenue expenditure, any projects and new commitments likely to exceed £100,000 per annum;
 - (c) In the case of capital expenditure, any projects if they involve entering into new commitments in excess of £500,000;
 - (d) Any contract awards exceeding £500,000

NOTE: Expenditure in excess of the above levels will not constitute a key decision if such expenditure is made as

part of the implementation of, and in accordance with, a decision which itself was a key decision

OR

(ii) To be significant in terms of its effects (impacts) on communities (eg. A significant number of people) living or working in an area comprising two or more wards or electoral divisions in the area of the Council.

(2) A decision taker may only make a key decision in accordance with the requirements of the Leader and Cabinet Procedure Rules set out in Part 4 of this Constitution.

(3) Generally, a key decision will only be made by the Leader/Cabinet/Cabinet Members, a Committee of the Cabinet, a Joint Committee (or Sub Committee thereof) or an area Committee (if any).

(c) **Significant Operational Executive (Non Key) Decisions**

A Significant Operational Decision:

- (i) Results in revenue expenditure or making savings (including the receipt or loss of income) between £80,000 and £99,999 per year;
- (ii) Results in capital expenditure (i.e. if they involve entering into new commitments and/or making savings) and/or contract awards of between £250,000-£499,999;
- (iii) Takes place when, in the opinion of the Acting Chief Executive, Head of Service or Monitoring Officer, a published record of the decision is required to provide openness and transparency. A significant decision should be recorded in order to comply with Regulation 13 (Recording of executive decisions made by individuals) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (No. 2089).

12.4. **Decision Taking by Full Council**

Subject to Article 12.8, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

12.5. **Cabinet Decisions**

Subject to Article 12.8, the Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter.

(a) **Decisions taken by the Cabinet**

Such decisions will be taken in accordance with Access to Information Procedure Rule 20.

(b) **Decisions taken by Individual Cabinet Members of the Cabinet**

Such decisions will be taken in accordance with Access to Information Procedure Rule 21.

(c) **Decisions taken by an Officer**

Such decisions will be taken in accordance with Access to Information Procedure Rule 21.

12.6. Decision Making by the Overview and Scrutiny Commission

The Overview and Scrutiny Commission (and its panels) will follow the Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

12.7. Decision Making by Other Committees and Sub-Committees Established by the Council

Subject to Article 12.8, other Council Committees or Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution and apply them.

12.8. Decision Making by Council Bodies Acting as Tribunals

The Council, a Councillor or an employee 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 contained in Article 6 of the European Convention on Human Rights and have regard to any other of the applicant's human rights or those of any other persons as may be affected by the outcome of that decision.

ARTICLE 13 - FINANCE, CONTRACTS AND LEGAL MATTERS

13.1. Financial Management

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

13.2. Contracts

All expenditure incurred by the Council relating to the provision of goods and services will comply with the Procurement Code set out in Part 4 of this Constitution.

13.3. Legal Proceedings

The Head of Legal and Democratic Services shall act as Solicitor to the Council. They are authorised to institute, defend or participate in any legal proceedings (either on their own initiative or following consultation with other Heads of Service where appropriate)

- (1) on any matters arising from the functions of the Council;
- (2) in any case where such action is necessary to give effect to decisions of the Council;
- (3) or in any case where the Head of Legal and Democratic Services considers that such action is necessary to protect the Council's interests;

subject to reports being submitted to the Cabinet Member or relevant Committee Chair by the Head of Legal and Democratic Services in relation to particularly significant cases (or by the Head of Finance, Revenues and Benefits in respect of significant insurance related cases).

Subject to any specific delegation, the Head of Legal and Democratic Services is also authorised to give a simple caution as opposed to prosecution where this would be appropriate, subject to consultation with the relevant Cabinet Member/Chair and Head of Service as to whether this would be the appropriate course of action.

The Head of Legal and Democratic Services may authorise employees to appear in the Magistrates' Court and County Courts pursuant to Section 223 of the Local Government Act 1972 and Section 60 of the County Courts Act 1984.

13.4. Authentication of Documents

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

The authentication of contracts entered into on behalf of the local authority is also regulated by the Procurement Code set out in Part 4 of this Constitution.

13.5. Common Seal of the Council

- (1) The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal and Democratic Services and shall be kept secured by locks, the keys of which shall be kept under secure arrangements.
- (2) A decision of the Council, the Cabinet, a Committee or an employee to which the Council have delegated their powers in this behalf, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. However, a resolution of the Council (or of the Cabinet or a Committee where the Cabinet or the Committee has the power) authorising the acceptance of any tender, the purchase, sale, letting or taking of any property, the issue of any stock, the presentation of any petition, memorial or address, the making of any rate or contract, or the doing of any other matter or thing, shall be sufficient authority for sealing any document necessary to give effect to the resolution.
- (3) The Common Seal will be affixed to those documents which in the opinion of the Head of Legal and Democratic Services should be sealed. The affixing of the Common Seal will be attested by two employees being either the Acting Chief Executive, and/or the Head of Legal and Democratic Services and/ or some other person authorised by the Acting Chief Executive or the Head of Legal and Democratic Services for the purpose who shall authenticate the impression of the Seal with their signatures PROVIDED that, in the case of any document of formal or ceremonial importance to the Borough or of a character which the Council has resolved shall be attested by the Mayor, they, or in their absence the Deputy Mayor, shall be present and shall likewise authenticate the impressed seal.
- (4) An entry of the sealing of every deed and other document to which the Common Seal shall have been affixed will be made by the Acting Chief Executive or employee attesting to the said sealing in a book to be provided for that purpose and will be signed by all persons attesting to the said sealing.

ARTICLE 14 - REVIEW AND REVISION OF THE CONSTITUTION

14.1. Duty to Monitor and Review the Constitution

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

14.2. Changes to the Constitution

(1) Approval

Changes to the Constitution may be considered by the Governance Committee or, where appropriate, the Cabinet or any other Committee of the Council, but in any event shall be referred to the Council for determination.

(2) Change from a Leader and Cabinet Form of Cabinet to Alternative Arrangements

The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals.

ARTICLE 15 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

15.1. Suspension of the Constitution

(a) **Limit to Suspension**

The Articles of this Constitution may not be suspended. The Procedure Rules contained in Part 4 of this Constitution may be suspended by the Full Council to the extent permitted within those Rules and the law.

(b) **Procedure to Suspend**

A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of Councillors are present. 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.

15.2. Interpretation

- (a) The ruling of the Mayor as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.
- (b) The headings do not form part of the Constitution document and are not to be taken into account in its construction or interpretation.
- (c) For the purposes of this Constitution, any reference to clear working days, shall refer to days on which the Council Offices are open to the public but shall exclude both the day on which notice is given and the day of the meeting.
- (d) For the purposes of this Constitution, any reference to clear days shall exclude Saturdays, Sundays and Bank Holidays and shall also exclude both the day on which notice is given and the day of the meeting.
- (e) Reference in this Constitution to the Acting Chief Executive shall be construed as reference to the Head of Service on any occasion when the Acting Chief Executive is absent or unable to act.
- (f) Reference in this Constitution to the Leader shall be construed as reference to the Deputy Leader on any occasion when the Leader is absent or unable to act. If the Deputy Leader is unable to act of the office is vacant, the Cabinet must act in the Leader's place or arrange for a Member of the Cabinet to do so.
- (g) References in this Constitution to a Cabinet Member or Portfolio Holder shall be construed as reference to the Chair of the Cabinet on any occasion when that Cabinet Member or Portfolio Holder is absent or unable to act.

15.3. **Publication**

- (a) The Head of Legal and Democratic Services will give a copy of this Constitution to each Member of the authority upon delivery to them of that individual's declaration of acceptance of office on the Member first being elected to the Council.
- (b) The Head of Legal and Democratic Services will ensure that copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
- (c) The Head of Legal and Democratic Services will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

SCHEDULE 1 - DESCRIPTION OF CABINET ARRANGEMENTS

The following parts of this Constitution constitute the Cabinet arrangements:

1. Article 6 (Overview and Scrutiny Commission) and the Scrutiny Procedure Rules
2. Article 7 (The Cabinet) and the Cabinet Procedure Rules
3. Article 9 (Area Committees and Forums) - Currently there is no delegation of functions by the Cabinet to Area Committees
4. Article 10 (Joint Arrangements) - Currently there is no delegation of functions by the Cabinet under joint arrangements.
5. Article 12 (Decision making) and the Access to Information Procedure Rules
6. Part 3 (Responsibility for Functions)

PART 3 -

RESPONSIBILITY

FOR FUNCTIONS

SCHEME OF DELEGATION - TERMS OF REFERENCE: GENERAL CONDITIONS

In addition to any function delegated to the Acting Chief Executive within this Constitution, any decision delegated to the Head of Paid Service, Chief Executive or Deputy Chief Executive by resolution of the Full Council, Cabinet or Committee shall be taken by the Acting Chief Executive until such time as a Chief Executive and Deputy Chief Executive are in post

1. All matters delegated to the Cabinet, individual Cabinet Members, Committees, and employees shall be exercised in accordance with (a) the Council's Constitution and (b) any agency agreement or scheme.
2. No expenditure shall be incurred unless it is (a) provided for in estimates, (b) in accordance with any policy or directive of the Council or Cabinet and (c) in accordance with any annual or standing contract.
3. In the case of matters delegated to employees where any matter involves professional or technical considerations not within the sphere of competence of the employee concerned, they will consult with the appropriate professional or technical employee exercising powers under the Scheme of Delegation.
4. In lieu of exercising their delegated powers, an employee may refer the matter in writing to the Acting Chief Executive or Head of Service, to the Cabinet or to the appropriate Committee which shall then have the delegated power to determine the issue on behalf of the Council.
5. In lieu of exercising its delegated powers, a Committee (but not the Cabinet) may decide to refer a matter to Council. The Cabinet shall not exercise its delegated powers when a decision has been called-in in accordance with the Scrutiny Procedure Rules contained in the Council's Constitution.

The Licensing Committee (or, as provided in the Scheme of Delegation, its Sub-Committee) shall exercise all functions under the Licensing Act 2003 other than the determination, publication and review of the Council's Licensing Policy Statement and any consultation on the creation or review of the policy unless the Licensing Committee is prevented from carrying out its functions under the Act by virtue of legislation, statutory guidance or constitutional rules concerning interests, political balance or the quorum of the Committee.

6. In the absence of the appropriate Cabinet Member, or at the Cabinet Member's request, the Leader may decide to determine a Cabinet function delegated to a Cabinet Member themselves or refer the matter to the Cabinet or a Committee of the Cabinet.
7. In the absence of the appropriate officer from illness or leave, where a decision cannot reasonably be delayed until the return of the officer, that officer may sub-delegate their functions along the same principles as specified in the Executive Decision Making Sub-Delegation Scheme (ie:
 - In respect of functions within their remit.

- Subject to consultation with the relevant Cabinet Member and Acting Chief Executive when appropriate e.g. when taking key decisions, significant operational decisions and politically sensitive decisions)
8. In managing the service the Acting Chief Executive and all Heads of Service shall be authorised in their discretion to exercise such powers as may be provided by the relevant legislation including the service or receipt of notices, the making of agreements, the making, revoking or amending of orders, the authorisation of any action and the authorisation of named employees to enforce specific powers.
 9. To facilitate the scrutiny of decisions made under delegated authority, any employee dealing with a matter under a delegated authority shall keep an adequate record of the exercise of that power.
 10. Reference in the scheme to the exercise of a power by a Head of Service includes reference to an employee acting in accordance with arrangements made by that Head of Service in writing for the organisation and management of their service area.
 11. Day to day operational decisions relating to the management of a service area shall be the responsibility of the Acting Chief Executive and Head of Service.
 12. Reference to a statutory provision includes any amendments, re-enactment or subordinate legislation thereof.
 13. An executive decision making officers' operational online toolkit is available on the Council's intranet to help make it clearer to officers and Members who has the authority to take an executive decision and the processes to be followed.
 14. Any changes to the Toolkit and associated processes will be the responsibility of the Monitoring Officer who will consult with Group Leaders on any more significant proposed changes.
 15. The officers taking any decisions delegated to them (and, ultimately, the Acting Chief Executive and his respective Head of Service) will be responsible for following the processes initially although the Monitoring Officer will have the final say on the interpretation and use of the toolkit.

(NB. The Leader holds all responsibility for Cabinet functions and determines the Scheme of Delegation for the discharge of Cabinet functions. The Leader will determine which Cabinet functions are to be exercised by them personally and which are to be exercised by the Cabinet, Cabinet Committees, Individual Cabinet Members, employees, Area Committees, Joint Arrangements or another Local Authority. This Part of the Constitution reflects the Leader's current delegation of those functions.)

Part 3 of this Constitution details:

- Local Choice Functions

- Council / Committee Functions
- Cabinet (Executive) Functions (including the Cascade and Generic Delegation Scheme)

RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

The powers and duties of the Council relating to the functions set out below are delegated to the decision making body indicated

Local Choice Function	Decision Making Body	Membership	Delegation of Functions
<p>1. The determination of an appeal against any decision made by or on behalf of the Authority</p> <p>(In no case will an appeal be determined by anyone involved in making the original decision)</p>	<p>(a) Staff Appeals Board (in respect of appeals against dismissal, grading and grievances by employees)</p>	<p>3 Members drawn from a membership of 26</p>	<p><u>The following function is delegated to the Acting Chief Executive/appropriate Head of Service:</u> Appeals against disciplinary warnings</p> <p><u>The following function is delegated to the Acting Chief Executive/appropriate Head of Service:</u> Appeals against grievances (Appeals will only go forward to the Staff Appeals Board in limited circumstances as outlined in the Council's Grievance Procedure)</p> <p><u>The following function is delegated to the Acting Chief Executive/Head of Service or a Senior Manager and members of the Human Resources team:</u> Appeals against gradings</p>

Local Choice Function	Decision Making Body	Membership	Delegation of Functions
	(b) Licensing Committee for licensing related appeals	15 Members	
	(c) The Cabinet in respect of housing related appeals	7 Members	<u>The following function is delegated to a panel of officers appointed for the purpose:</u> Housing related appeals
	(d) Benefits Review Board	To be re-constituted should the need arise.	
	(e) Grants Appeal Panel (Appeals in respect of refusal of applications for grants or for discretionary business rate relief.)	5 Members drawn from a membership of 26 (The Cabinet Member for Public Protection and Community Engagement to attend in an advisory and non-voting capacity)	
2. The appointment of review boards under regulations under subsection (4) of section 34 (determination of claims and reviews) of the Social Security Act 1998	The Full Council	All Councillors	
3. Any function relating to contaminated land	Cabinet	See 1 (c) above	

Local Choice Function	Decision Making Body	Membership	Delegation of Functions
4. The discharge of any function relating to the control of pollution or the management of air quality	Cabinet	See 1(c) above.	
5. The service of an abatement notice in respect of a statutory nuisance	Cabinet	See 1(c) above.	
6. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area	Cabinet	See 1(c) above.	
7. The inspection of the authority's area to detect any statutory nuisance	Cabinet	See 1(c) above.	
8. The investigation of any complaint as to the existence of a statutory nuisance	Cabinet	See 1 (c) above.	
9. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interest in land or premises	Planning Committee	15 Members	<u>This function is delegated to the Head of Economic and Environmental Services</u>

Local Choice Function	Decision Making Body	Membership	Delegation of Functions
10. The obtaining of particulars of persons interested in land or premises under section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Governance Committee	11 Members	<u>This function is delegated to the appropriate Head of Service</u>
11. The appointment of any individual (a) to any office other than an office in which he is employed by the Council (b) to any body other than (i) the authority (ii) a joint Committee of two or more authorities: or (c) to any Committee or Sub-Committee of such a body, and the revocation of any such appointment	The Cabinet will make appointments to outside bodies in connection with functions which are the responsibility of the Cabinet and all other appointments will be made by Full Council.	See 1(c) above.	
12. The making of agreements with other local authorities for the placing of employees at the disposal of those other local authorities	Cabinet	See 1(c) above	

RESPONSIBILITY FOR COUNCIL FUNCTIONS APPOINTMENTS AND INVESTIGATING COMMITTEE

As far as possible, the functions of the Appointments and Investigating Committee will be carried out by a politically balanced panel of between 3 and 7 Members drawn from the membership of that Committee.

Appointments

Any panel making recommendations relating to the appointment of the Chief Executive (The Head of Paid Service) should consist of seven Members (with a quorum of five), whilst a panel appointing the Deputy Chief Executive should consist of six Members (with a quorum of four). Head of Service appointments should be made by a panel of five (with a quorum of three).

Disciplinary, Capability and Grievance Matters

Any panel making a decision on a disciplinary or capability procedure or under the grievance procedure relating to a Chief Officer shall comprise of 3 Members who will be appointed by the Leader, one of whom shall be a Cabinet Member. In the case of an appeal made by a Statutory Chief Officer (the Head of Paid Service, Monitoring Officer and Chief Finance Officer), a hearing will take place at Full Council, whereas an appeal made by a non-statutory Chief Officer (all other Heads of Services) will be heard by the Staff Appeals Board.

Any panel making a decision on a recommendation from an Independent Person under Section 28(7) of The Localism Act 2011 when considering a Code of Conduct Complaint shall comprise of 3 Members.

Membership: 29 Members

Functions of the Appointments and Investigating Committee

- (1) The appointment of the Head of Paid Service, subject
 - (a) to the provisions of Employment Procedure Rule 4(2) (requiring that the Cabinet be given the opportunity to raise an objection) and
 - (b) to the approval of any such appointment by Full Council, before an offer of appointment is given.*

Delegation of Functions

The following function is delegated to the Head of Paid Service or their nominee
To make appointments (except those appointments at Head of Service level or above).

Functions of the Appointments and Investigating Committee

- (2) The appointment of the Deputy Chief Executive and all Heads of Service, subject to the requirements of Employment Procedure Rule 4(2)(requiring that the Cabinet be given the opportunity to raise an objection).

Disciplinary and Capability Matters Relating to Statutory Chief Officers

- (3) The initial decision to instigate an investigation process.
- (4) Decision to determine whether there is a case to answer, decision to instigate a formal investigation and the appointment of an investigator.
- (5) Action in accordance with any disciplinary code or capability procedure approved by the Council in respect of the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer, including dismissal on associated grounds, subject to the requirements of Employment Procedure Rule 7(2) (requiring that the Cabinet be given the opportunity to raise an objection).
- (6) Consideration of a report into any allegation of misconduct, or into capability or some other substantial reason, of the Head of Paid Service, Monitoring Officer and Chief Finance Officer and to the approval of any dismissal by Full Council, before notice of dismissal is given

Delegation of Functions

The following function is delegated to the Head of Paid Service or their nominee

Temporary appointment of relief employees where appropriate

The following function is delegated to the appropriate Head of Service and/or the Head of People and Technology

Approval of an employee's job title

Functions of the Appointments and Investigating Committee

- (7) To consider any advice, views or recommendations from the Independent Panel.
- (8) Action in accordance with any disciplinary code or capability procedure for the suspension from duty of the Head of Paid Service, Monitoring Officer or Chief Finance Officer.

Disciplinary and Capability Matters Relating to Non Statutory Chief Officers.

- (9) Action in accordance with any disciplinary code or capability procedure approved by the Council in respect of all Heads of Service including dismissal on associated grounds, subject to the requirements of Employment Procedure Rules 7(2) (requiring that the Cabinet be given the opportunity to raise an objection).

Delegation of Functions

This function is delegated concurrently with the Leader of the Council.

The following function is delegated to the Acting Chief Executive and the Leader

The initial decision to instigate an investigation process.

The following function is delegated to the Acting Chief Executive and the Leader

Decision to determine whether there is a case to answer, decision to instigate a formal investigation and the appointment of an investigator. These delegations do not apply in respect of any actions against the Head of Paid Service, Chief Finance Officer and the Monitoring Officer.

The following function is delegated to the Acting Chief Executive
Action of suspension in accordance with any disciplinary code or capability procedure approved by the Council in respect of Chief Officers excluding the Chief Finance Officer and the Monitoring Officer.

The following function is delegated to the Acting Chief Executive or an officer nominated by them

Action in accordance with any disciplinary code or capability

Functions of the Appointments and Investigating Committee

- (10) Action in accordance with any grievance procedure approved by the Council.
- (11) The duty to appoint an Electoral Registration Officer*
- (12) The duty to appoint a Returning Officer for Borough Elections*
- (13) Duty to provide staff, etc to person nominated by the Monitoring Officer under Section 82A(4) of the Local Government Act 2000
- (14) Authorisation of overtime where unavoidable including, in exceptional circumstances, work over the overtime limit defined in the National Conditions of Service

Delegation of Functions

procedure approved by the Council in respect of employees below the level of Head of Service including, as appropriate, the suspension, relegation and dismissal on associated grounds. The Acting Chief Executive has currently nominated Heads of Service (or other senior nominated employees acting on their behalf) to undertake these functions on their behalf.

The following function is delegated to the Acting Chief Executive
Action in accordance with any grievance procedure (excluding appeals) approved by the Council involving Heads of Service but excluding the Head of the Paid Service, the Chief Finance Officer and the Monitoring Officer. Grievances raised against the Head of Paid Service will be dealt with by the Appointments and Investigating Committee.

The following function is delegated to the appropriate Head of Service

Authorisation of overtime where unavoidable including, in exceptional circumstances, work over the overtime limit defined in the National Conditions of Service

Functions of the Appointments and Investigating Committee

- (15) Exercise of any discretion given by national and local conditions of service apart from those requiring negotiation and agreement by the Council (e.g. Part 3 of the NJC Conditions of Service).
- (16) Implementation of decisions of recognised joint negotiating bodies regarding salaries, wages and conditions of service.
- (17) Granting of approved staff benefits to individual posts including essential car users' schemes and reimbursement of professional subscriptions.
- (18) Granting of relocation assistance in accordance with the Council's scheme
- (19) Granting of concessionary leave on compassionate grounds
- (20) Granting of additional or accelerated increments to staff to reflect special merit or to adjust anomalies in a work area.

Delegation of Functions

The following function is delegated to the appropriate Head of Service

Exercise of any discretion given by national and local conditions of service apart from those requiring negotiation and agreement by the Council (e.g. Part 3 of the NJC Conditions of Service).

The following function is delegated to the Head of People and Technology

Implementation of decisions of recognised joint negotiating bodies regarding salaries, wages and conditions of service.

The following function is delegated to the Head of People and Technology in consultation with the relevant Head of Service

Granting of approved staff benefits to individual posts including essential car users' schemes and reimbursement of professional subscriptions.

The following function is delegated to the appropriate Head of Service

Granting of relocation assistance in accordance with the Council's scheme

The following function is delegated to the appropriate Head of Service (or the Head of People and Technology)

Granting of concessionary leave on compassionate grounds.

The following function is delegated to the Head of People and Technology in consultation with the appropriate Head of Service

Granting of additional or accelerated increments to staff to reflect special merit or to adjust anomalies in a work area.

Functions of the Appointments and Investigating Committee

- (21) Issue of certificates confirming for the purposes of S3(3) of the Local Government Act 1989 that the “sensitive duties criteria” does not apply
- (22) Implementation of job evaluation reviews
- (23) The prior agreement of proposed changes in responsibilities to existing posts which are likely to result in an increase in salary, before the post is reassessed through the job evaluation process.
- (24) The application of nationally negotiated pay awards to locally agreed pay structures

Delegation of Functions

The following function is delegated to the Head of People and Technology

Issue of certificates confirming for the purposes of S3(3) of the Local Government Act 1989 that the “sensitive duties criteria” does not apply

The following function is delegated to the Head of People and Technology

Implementation of job evaluation reviews

The following function is delegated to the Acting Chief Executive

The prior agreement of proposed changes in responsibilities to existing posts which are likely to result in an increase in salary, before the post is reassessed through the job evaluation process.

The following function is delegated to the Head of People and Technology

The application of nationally negotiated pay awards to locally agreed pay structures.

The following function is delegated to the Head of People and Technology following consultation with the Cabinet Member for Resources

To approve minor amendments to nationally agreed pay structures, following consultation with the Cabinet Member for Resources and in line with the Council’s overall policies and the budget, and subject to the publication of such decisions in the Members’ Information Bulletin.

Functions of the Appointments and Investigating Committee

- (25) To approve any exceptions that may occur under paragraph 4.4 of Report ODI/10 relating to the Recruitment Incentive Scheme and the associated Retention Incentive Scheme
- (26) Minor changes to Human Resources policies and procedures which are in line with the Council's overall policies and the budget, subject to the publication of such decisions in the Members' Information Bulletin
- (27) To make a decision on a recommendation from an Independent Person when acting pursuant to Section 28(7) of The Localism Act 2011, when considering a Code of Conduct Complaint.

* These matters may be considered by the Appointments and Investigating Committee but shall be referred to the Council for determination

See also Council functions

Delegation of Functions

The following function is delegated to the Head of People and Technology following consultation with the Cabinet Member for Resources

To approve any exceptions that may occur under paragraph 4.4 of Report ODI/10 relating to the Recruitment Incentive Scheme and the associated Retention Incentive Scheme.

The following function is delegated to the Head of People and Technology following consultation with the Cabinet Member for Resources

Minor changes to Human Resources policies and procedures which are in line with the Council's overall policies and the budget, subject to the publication of such decisions in the Members' Information Bulletin

The following function is delegated to the Head of Legal and Democratic Services in consultation with Party Group Leaders

The appointment of Members to serve on the Panel

RESPONSIBILITY FOR COUNCIL FUNCTIONS AUDIT COMMITTEE

The role of the Audit Committee will be to review and assess the adequacy of the Council's internal audit and risk management arrangements.

The powers and duties of the Council relating to the functions set out below are delegated to the Audit Committee

Membership: Not more than one Member shall be a Cabinet Member and that Member shall not Chair the Committee.

Membership: 5 Members (plus 2 substitutes)

Functions of the Audit Committee

- (1) Consider and review the adequacy of the Internal Audit Budget and Resource Plan.
- (2) Approve the Internal Audit Plans ensuring that appropriate risk assessments have been carried out when formulating these; and to monitor performance against the plans.
- (3) Review Internal Audit Progress Reports which outline the main issues arising, and seek assurance from management, directly or via the Audit and Risk Manager, that appropriate action has been taken where necessary.
- (4) Review the effectiveness of the Council's Risk Management Arrangements
- (5) Consider reports received from External Audit and other external inspection agencies.

Delegation of Functions (concurrently with the Audit Committee)

Functions of the Audit Committee

- (6) Contribute to the Council's response to the External Auditors (Ernst and Young):
 - Annual audit and inspection letter to the Council
 - Opinion and reports to Members
- (7) Receive the Annual Report of the Audit and Risk Manager.
- (8) Seek assurance that there is effective liaison between External and Internal Audit and other relevant bodies.
- (9) Consider the effectiveness of the Council's Counter Fraud and Anti-corruption arrangements.
- (10) Approve the Council's Financial Statements and seek assurances from the Governance Committee that the Annual Governance Statement properly reflects the risk environment and any actions required to improve it.
- (11) To consider matters referred to the Committee in relation to petitions submitted under the Crawley Borough Council Petitions Scheme.
- (12) To consider matters relating to the Regulation of Investigatory Powers Act 2000 (RIPA).

Delegation of Functions (concurrently with the Audit Committee)

The following function is delegated to the relevant Head of Service, the Monitoring Officer, the Deputy Monitoring Officer, the Fraud and Inspections Manager or the Audit and Risk Manager.
Referral of cases of fraud to the police.

The following function is delegated to the Head of Legal and Democratic Services.
To make minor administrative and/or technical changes to the Council's Corporate Policy and Procedural Guidance on RIPA.

RESPONSIBILITY FOR COUNCIL FUNCTIONS COAST TO CAPITAL JOINT COMMITTEE

On 22 October 2014, the Full Council formally agreed the establishment of the Coast to Capital Joint Committee.

Functions of the Coast to Capital Joint Committee

Report LDS/087 details the terms of reference and functions of the Coast to Capital Joint Committee

RESPONSIBILITY FOR COUNCIL FUNCTIONS

The powers and duties of the Full Council relating to the functions set out below are delegated as follows:

Functions of the Full Council

Power to determine the terms and conditions on which staff hold office (including procedures for their dismissal and redundancy procedures)

Delegation of Functions

The following function is delegated to the Head of People and Technology and Head of Finance, Revenues and Benefits and the relevant Head of Service

To approve operational staffing changes below Head of Service level (including numbers of posts, post types, job duties, grades, deployment of posts, redundancies, flexible retirement and retirement in the interest of efficiency of the service and retirement in exceptional circumstances as set out in the Council's pensions discretions) to meet the operational needs of the service within the limits of the approved financial budget and financial procedure rules, subject to compliance with Council policies and to no significant service implications.

In the case of redundancies, consultation must take place with the Leader, the Cabinet Member for Resources and the appropriate Cabinet Member for the service area before exercising these delegated powers and, where the Leader or either of these Cabinet Members has an objection to the proposals, or where the proposals do not meet the provisos relating to finance or policy outlined above, then the decision is reserved to Full Council.

Functions of the Full Council

Delegation of Functions

The following function is delegated to the Acting Chief Executive

To approve operational staffing changes at Head of Service and above (including numbers of posts, post types, job duties, grades, deployment of posts, redundancies, flexible retirement and retirement in the interest of efficiency of the service) to meet the operational needs of the service within the limits of the approved financial budget and Financial Procedure Rules, subject to compliance with Council policies and to no significant service implications.

This delegation does not apply to the posts of Head of Paid Service, the Monitoring Officer or the Chief Finance Officer. Neither does it relate to dismissals on the grounds of conduct or capability – such dismissals are a function of the Appointments and Investigating Committee.

In the case of operational changes at Head of Service level or above, consultation must take place with the Leader, the Cabinet Member for Resources and the appropriate Cabinet Member for the service area before exercising these delegated powers and, where the Leader or either of these Cabinet Members has an objection to the proposals, or where the proposals do not meet the provisos relating to finance or policy outlined above, then the decision is reserved to Full Council. Where such operational changes relate to redundancy or retirement in the interest of efficiency of the service the requirements of Employment Procedure Rule 7(2) will apply (requiring that the Cabinet be given the opportunity to raise an objection)

RESPONSIBILITY FOR COUNCIL FUNCTION GOVERNANCE COMMITTEE

The role of the Governance Committee

The Governance Committee will deal with Constitutional matters, the Conduct of Members, Political Management Arrangements, Corporate Governance, Members' Allowances, Elections and all non-Executive functions not specifically delegated to another Committee or Sub-Committee of the Council.

The powers and duties of the Council relating to the functions set out below are delegated to the Governance Committee

Membership: 11 Members

Functions of the Governance Committee

Delegation of Functions (concurrently with the Governance Committee)

(1) Functions relating to elections

- | | |
|---|--|
| (a) Power to assign employees in relation to the requisitions of the registration officer | This function is delegated to the Electoral Services Manager |
| (b) Duty to provide assistance at European Parliamentary Elections | This function is delegated to the Local Returning Officer |
| (c) Duty to divide the constituency into polling districts* | |
| (d) Power to divide electoral divisions into polling districts at local government elections* | |
| (e) Powers in respect of holding elections | This function is delegated to the Returning Officer |

Functions of the Governance Committee

- (f) Power to pay expenses properly incurred by electoral registration officers
- (g) Power to fill vacancies in the event of insufficient nominations*
- (h) Duty to declare vacancy in office in certain cases*
- (i) Duty to give public notice of a casual vacancy
- (j) Power to determine fees and conditions for supply of copies of, or extracts from, elections documents
- (k) Making a request for single-Member electoral areas (relating to Section 14A(1) of the Local Government Act 1992)*
- (l) Duty to consult on change of scheme for elections (relating to Sections 33(2), 38(2) and 40(2) of the Local Government and Public Involvement in Health Act 2007)
- (m) Power to pass a resolution to change a scheme for elections (under Section 32(1), 37(1) or 39(1) of the Local Government and Public Involvement in Health Act 2007)*
- (n) Duties relating to publicity (relating to Sections 35, 41 and 52 of the Local Government and Public Involvement in Health Act 2007)

Delegation of Functions (concurrently with the Governance Committee)

This function is delegated to the Head of Legal and Democratic Services

This function is delegated to the Returning Officer

This function is delegated to the Returning Officer

This function is delegated to the Head of Legal and Democratic Services

Functions of the Governance Committee

- (o) Duties relating to notice to Electoral Commission (relating to Sections 36 and 42 of the Local Government and Public Involvement in Health Act 2007)
- (p) Functions relating to change of name of electoral area (relating to Section 59 of the Local Government and Public Involvement in Health Act 2007)*

* These matters may be considered by the Governance Committee but shall be referred to the Council for determination

(2) Functions relating to a change in governance arrangements

- (a) Take decision whether to change governance arrangements (Local Government Act 2000)*
- (b) Duty to comply with direction given by the Secretary of State (The Local Government Act 2000)
- (c) Take decision whether a change of the kind set out in Section 9MA and 9MB of the Act should be subject to approval in a referendum under 9M of the Local Government Act 2000 *
- (d) Duty to hold referendum (The Local Government Act 2000)
- (e) Duty to publish notice if proposals not approved in referendum (The Local Government Act 2000)

Delegation of Functions (concurrently with the Governance Committee)

This function is delegated to the Head of Legal and Democratic Services

This function is delegated to the Head of Legal and Democratic Services

This function is delegated to the Head of Legal and Democratic Services

This function is delegated to the Head of Legal and Democratic Services

Functions of the Governance Committee

- (f) Duty to deal with a referendum by Petition*
- (g) Duty to implement new governance arrangements (The Local Government Act 2000)

*These matters may be considered by the Governance Committee but shall be referred to the Council for determination.

(3) Functions relating to community governance reviews

- (a) Duties relating to community governance reviews (relating to Section 79 of the Local Government and Public Involvement in Health Act 2007)*
- (b) Functions relating to community governance petitions (relating to Sections 80, 83, 84 and 85 of the Local Government and Public Involvement in Health Act 2007)
- (c) Functions relating to terms of reference of review (relating to Sections 81(4) to (6) of the Local Government and Public Involvement in Health Act 2007)*
- (d) Power to undertake a community governance review (relating to Section 82 of the Local Government and Public Involvement in Health Act 2007)*
- (e) Functions relating to making of recommendations (relating to Sections 87 to 92 of the Local Government and Public Involvement in Health Act 2007)*

Delegation of Functions (concurrently with the Governance Committee)

This function is delegated to the Head of Legal and Democratic Services

This function is delegated to the Head of Legal and Democratic Services

Functions of the Governance Committee

- (f) Duties when undertaking a review (relating to Sections 93 to 95 of the Local Government and Public Involvement in Health Act 2007)*
- (g) Duty to publicise the outcome of a review (relating to Section 96 of the Local Government and Public Involvement in Health Act 2007)
- (h) Duty to send two copies of the order to the Secretary of State and Electoral Commission (relating to Section 98(1) of the Local Government and Public Involvement in Health Act 2007)
- (i) Making an order giving effect to recommendations made in a community governance review (under Section 86 of the Local Government and Public Involvement in Health Act 2007)*
- (j) Power to make agreements about incidental matters (relating to Section 99 of the Local Government and Public Involvement in Health Act 2007)*

*These matters may be considered by the Governance Committee but shall be referred to the Council for determination

(4) Standards Functions

- (a) Duty to promote and maintain high standards of conduct by:
 - (i) Members and Co-opted Members of the Council and
 - (ii) Employees

Delegation of Functions (concurrently with the Governance Committee)

This function is delegated to the Head of Legal and Democratic Services

This function is delegated to the Head of Legal and Democratic Services

Functions of the Governance Committee

- (b) *Duty to adopt a Code of Conduct dealing with the Conduct expected of Members and Co-opted Members of the Council when acting in that capacity and including provision in respect of the registration and disclosure of (i) pecuniary interests and (ii) interests other than pecuniary interests.
- (c) Power to revise the existing Code of Conduct or adopt a replacement Code of Conduct.
- (d) * Duty to appoint one or more Independent Persons for the following purposes:
 - (i) To give the Council views on any allegations it has decided to investigate, before a decision is reached;
 - (ii) At the discretion of the Council, to give the Council views on any other allegations; and
 - (iii) At the discretion of a Member or Co-opted Member to give the Member views on any allegations relating to the behaviour of the Member
- (e) *Power to make Standing Orders to provide for the exclusion of a Member or Co-opted Member of the Council from a meeting while any discussion or vote takes place in which that person may not participate.
- (f) Power to grant a Member or Co-opted Member a dispensation from the restriction on speaking and/or voting when any matter in which that person has a disclosable pecuniary interest is to be considered at a meeting of the Council or any of its committees, sub-committees, joint committees or joint sub-

Delegation of Functions (concurrently with the Governance Committee)

The following functions are delegated to the Monitoring Officer

- (i) Receipt of written applications for Dispensations under Section 33 of the Localism Act 2011.
- (ii) To grant applications for Dispensations pursuant to the provisions in Section 33 of the Localism Act 2011.

Functions of the Governance Committee

committees.

(g) To provide advice, guidance and to ensure that all Members and employees have access to training in all aspects of their respective Code of Conduct that this training is actively promoted and that Members are aware of the Standards expected of Members under the Code of Conduct.

(h) To establish and maintain a Register of Interests.

(i) Power to exclude the details of sensitive interests from the register of interests

Delegation of Functions (concurrently with the Governance Committee)

(iii) the discretion to refer applications for Dispensations to the Governance Committee if considered appropriate following consultation with the Independent Person.

The following functions are delegated to the Monitoring Officer

- (i) Duty to establish and maintain a register of interests of Members and Co-opted Members of the Council
- (ii) Power to remove entries from the register of interests once the person concerned no longer had the interest or is no longer a Member or Co-opted Member of the Council
- (iii) Duty to make a register of interests available to public inspection and publish this on the Council's website
- (iv) Duty to register disclosable pecuniary interests which are notified by a Member or Co-opted Member to the Monitoring Officer pursuant to Section 31 of the Localism Act 2011 after arising and being declared at a meeting.

The following function is delegated to the Monitoring Officer

Power to exclude the details of sensitive interests from the register of interests

Functions of the Governance Committee

- (j) To consider any application for officer exemptions from political restriction (under Section 3A of The Local Government and Housing Act 1989) or give directions to include a post in the list and adjustment to the list of politically restricted posts to reflect changes in salary level and to reflect changes in responsibilities.

NB (a) items above marked * although can be considered by this Committee they can only be discharged by the Full Council

(5) To Monitor and Review the Corporate Governance of the Council including giving consideration of the Authority's Annual Governance Statement.*

*** The Audit Committee will retain responsibility for approval of the Annual Governance Statement as part of the approval of the Council's Annual Accounts.**

(6) The following matters may be considered by the Governance Committee but shall be referred to the Council for determination:

- (a) The promotion of or opposition to local or personal Bills
- (b) The Members' Allowances Scheme
- (c) Proposals for the monitoring, review and adoption of, and changes to the Constitution (except where it relates to the Scheme of Delegation for Cabinet functions in which case it

Delegation of Functions (concurrently with the Governance Committee)

The following function is delegated to the Head of People and Technology

To consider any application for officer exemptions from political restriction (under Section 3A of The Local Government and Housing Act 1989) or give directions to include a post in the list and adjustment to the list of politically restricted posts to reflect changes in salary level and to reflect changes in responsibilities.

This function is delegated to the Head of Legal and Democratic Services

To make changes as a result of legislative changes and clerical and

Functions of the Governance Committee

will be delegated to the Leader).

- (d) The making, amendment, revocation or re-enactment of byelaws
- (e) The appointment of employees for particular purposes (appointment of “proper officers”)
- (f) The designation of an officer as the head of the authority’s paid service, and the provision of staff, etc. (Section 4 of the Local Government and Housing Act, 1989)
- (g) The designation of an officer as the Monitoring Officer, and the provision of staff, etc. (Section 4 of the Local Government and Housing Act, 1989)
- (h) The designation of an officer as the Chief Finance Officer, and the provision of staff, etc. (Section 114 of the Local Government Act 1988; and Section 151 of the Local Government Act 1972)
- (i) Powers relating to Overview and Scrutiny Committees (voting rights of co-opted Members) under Paragraphs 12 and 14 of Schedule 1 to the Local Government Act 2000

Delegation of Functions (concurrently with the Governance Committee)

typographical corrections to the Constitution

This function is delegated to the appropriate Head of Service and the Head of Legal and Democratic Services
The enforcement of byelaws

Functions of the Governance Committee

Delegation of Functions (concurrently with the Governance Committee)

(7) Other Functions

- (a) Other than in the case of functions which are the responsibility of the Cabinet, decisions relating to the contracting out of a function or service (in accordance with the De Regulation and Contracting Out Act 1994) and to whom to award the contract together with the function of revoking such a contract.
- (b) To consider matters referred to the Committee in relation to petitions submitted under the Crawley Borough Council Petition Scheme.

**RESPONSIBILITY FOR COUNCIL FUNCTIONS
GRANTS APPEALS PANEL**

The powers and duties of the Council relating to the functions set out below are delegated to the Grants Appeals Panel. As far as possible, the functions of the Grants Appeals Panel will be carried out by a politically balanced panel of 5 Members drawn from the membership of that panel.

Membership: 26 Members

(The Cabinet Member for Public Protection and Community Engagement to attend in an advisory and non-voting capacity for grants appeals)

Functions of the Grants Appeals Panel

Delegation of Functions (concurrently with the Grants Appeals Panel)

- (1) To determine appeals by voluntary organisations in respect of grant applications received for the financial year
- (2) To determine appeals against the refusal of applications for discretionary business rate relief

RESPONSIBILITY FOR COUNCIL FUNCTIONS THE INDEPENDENT PANEL

At least 20 days before the Council considers whether or not to approve a proposed dismissal of a Statutory Chief Officer of the Council namely The Head of Paid Service, The Monitoring Officer and The Chief Finance Officer, the Independent Panel will be appointed and comprise of at least two Independent Persons in accordance with paragraph 5 of Schedule 3 to The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.

Such a Panel will be arranged by The Head of Legal and Democratic Services or in the case of any action against that Officer, by the Deputy Monitoring Officer.

Functions of the Independent Panel

- (1) To offer advice, views or recommendations on the dismissal of the Statutory Officers of the Council namely the Head of Paid Service (Chief Executive or Acting Chief Executive), The Monitoring Officer (The Head of Legal and Democratic Services) and The Chief Finance Officer (Head of Finance, Revenues and Benefits), in accordance with the Local Authorities (Standing Orders) (England) (Amendments) Regulations 2015

Delegation of Functions (concurrently with the Independent Panel)

RESPONSIBILITY FOR COUNCIL FUNCTIONS LICENSING

The powers and duties of the Council relating to the functions set out below are delegated to the Licensing Committee

Membership: 15 Members

Functions of the Licensing Committee

Taxi, gaming, entertainment, food and miscellaneous licensing functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations and as set out below:

- (1) Power to issue licences authorising the use of land as a caravan site (“site licences”)
- (2) Power to license the use of moveable dwellings and campsites
- (3) Power to license hackney carriages and private hire vehicles

Delegation of Functions (concurrently with the Licensing Committee)

The following functions are delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning:

- (a) Determination of all applications for private hire vehicle and hackney carriage vehicle licences and to exercise the Council’s powers in relation to such licences, including suspension and revocation
- (b) The nomination of further garages (as the need arises) from those applicants who respond to the appropriate advertisement to undertake, on the Council’s behalf, under section 47 of the Road Traffic Act, 1988, hackney carriage and private hire

Functions of the Licensing Committee

- (4) Power to license drivers of hackney carriages and private hire vehicles (including the power to issue permits for the operation of mini buses)

Delegation of Functions (concurrently with the Licensing Committee)

- vehicle tests.
- (c) Simple cautioning as an alternative to prosecution in respect of offences arising under the Taxi and Private Hire provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act, 1847

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning in consultation with the Chair of the Licensing Committee

- (d) Determination as to whether a simple caution is the appropriate course of action in respect of offences under the Taxi and Private Hire provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act, 1847

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

- (e) To display the amended standard condition relating to the roof signs for hackney carriage vehicles if the Licensing Officer who inspects a vehicle when it is presented for its pre-licence inspection is satisfied that any in-built roof sign already on the vehicle is an acceptable alternative to the standard roof sign

The following functions are delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning.

- (a) Determination of all applications for private hire drivers' licences and hackney carriage drivers' licences and to exercise the Council's powers in relation to such licences, including suspension and revocation.

Functions of the Licensing Committee

- (5) Power to license operators of hackney carriages and private hire vehicles

Delegation of Functions (concurrently with the Licensing Committee)

- (b) Simple cautioning as an alternative to prosecution in respect of offences arising under the Taxi and Private Hire provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act, 1847.
- (c) Appointment of authorised officers to act under the Disability Discrimination Act 1995 (as amended) and the Equality Act 2010

The following function is delegated to the Head of Legal and Democratic Services in consultation with the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning and the Chair of the Licensing Committee

- (d) Determination as to whether a simple caution is the appropriate course of action in respect of offences under the Taxi and Private Hire provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act, 1847

The following functions are delegated to Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning.

- (a) Determination of all applications for private hire operator licences, including the suspension and revocation of such licences.
- (b) Simple cautioning as an alternative to prosecution in respect of offences arising under the Taxi and Private Hire provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act, 1847.

Functions of the Licensing Committee

- (6) Power to register pool promoters
- (7) Power to grant track betting licences
- (8) Power to license inter-track betting schemes
- (9) Power to grant permits in respect of premises with amusement machines
- (10) Power to register societies wishing to promote lotteries.

Delegation of Functions (concurrently with the Licensing Committee)

The following function is delegated to the Head of Legal and Democratic Services in consultation with the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning and the Chair of the Licensing Committee

- (c) Determination as to whether a simple caution is the appropriate course of action in respect of offences under the Taxi and Private Hire provisions of the Local Government (Miscellaneous Provisions) Act 1976 and the Town Police Clauses Act, 1847

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning.

- (d) In connection with paragraphs 3, 4 and 5 above, appointment of “authorised officers” for the purposes of Section 80 of the Local Government (Miscellaneous Provisions) Act, 1976

Functions of the Licensing Committee

- (11) Power to grant permits in respect of premises where amusements with prizes are provided
- (12) Power to license sex establishments
- (13) Power to license performances of hypnotism
- (14) Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis
- (15) Power to license pleasure boats and pleasure vessels

Delegation of Functions (concurrently with the Licensing Committee)

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning.

The determination of applications for licences for amusement with prizes

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to license sex establishments in accordance with the Council's policy where no objection has been lodged

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to license performances of hypnotism

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to license premises for acupuncture, tattooing, earpiercing and electrolysis.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to license pleasure boats and pleasure vessels

Functions of the Licensing Committee

(16) Power to control and license market and street trading

(17) Power to keep list of persons entitled to sell non-medicinal poisons

(18) Power to register premises for the preparation of food

Delegation of Functions (concurrently with the Licensing Committee)

The following functions are delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

- (a) Determination of street trading consents under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982
- (b) Simple cautioning as an alternative to prosecution in respect of offences arising under Section 3 and schedule 4 to the Local Government (Miscellaneous Provisions) Act, 1982 - Street Trading
- (c) Waiver of street trading consent charge where the organisation has charitable status, otherwise in cases of doubt in consultation with the Chair

The following function is delegated to the Head of Legal and Democratic Services in consultation with the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning and the Chair of the Licensing Committee

- (d) Determination as to whether a simple caution is the appropriate course of action in respect of offences under Section 3 and schedule 4 to the Local Government (Miscellaneous Provisions) Act, 1982 - Street Trading

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Registration of premises under the Food Safety Act, 1990

Functions of the Licensing Committee

- (19) Power to issue or renew scrap metal licenses under the Scrap Dealers Metal Act 2013 including the imposing of conditions under Section 3(8)
- (20) Power to revoke, vary or impose conditions upon scrap metal licences under the Scrap Metal Dealers Act 2013.
- (21) Power to authorise persons to take enforcement action under the Scrap Metal Dealers Act 2013
- (22) Power to issue closure notices and cancellation notices under Schedule 2 of the Scrap Metal Dealers Act 2013

Delegation of Functions (concurrently with the Licensing Committee)

The following functions are delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

- (a) The power to consult with any persons regarding the suitability of an applicant for a licence under the Scrap Metal Dealers Act 2013.
- (b) Determination of applications for the issue and renewal of scrap metal licenses under the Scrap Metal Dealers Act 2013, including the imposing of conditions under Section 3(8), where the Applicant has not requested a hearing.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to vary or impose conditions on a scrap metal licence under Section 4, where the licensee has not requested a hearing.

- (a) Power to revoke a scrap metal licence, where the licensee has not requested a hearing

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to authorise persons to take enforcement action under the Scrap Metal Dealers Act 2013.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to issue closure notices and cancellation notices under Schedule 2 of the Scrap Metal Dealers Act 2013

Functions of the Licensing Committee

- (23) Power to enter and inspect sites licensed under the Scrap Metal Dealers Act 2013
- (24) Power to issue, amend or replace safety certificates (whether general or special) for sports grounds
- (25) Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds

Delegation of Functions (concurrently with the Licensing Committee)

The following function is delegated to Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to enter and inspect sites licensed under the Scrap Metal Dealers Act 2013

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

The determination of applications for Sports Grounds and Centres (except where a valid objection has been made and not withdrawn)

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

The determination of applications for Sports Grounds and Centres (except where a valid objection has been made and not withdrawn)

Functions of the Licensing Committee

(26) Power to license premises for the breeding of dogs

(27) Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business (including the power to license guard dogs)

Delegation of Functions (concurrently with the Licensing Committee)

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

(a) Determination of licences under the Breeding of Dogs Act, 1973 as amended and repealed by the Breeding and Sale of Dogs (Welfare) Act, 1999.

The following function is delegated to Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning jointly with the Head of Legal and Democratic Services

(b) Appointment of authorised officers to enter breeding establishments for inspection purposes under the Breeding of Dogs Act 1991 as amended and repealed by the Breeding and Sale of Dogs (Welfare) Act, 1999

The following functions are delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

- (a) Determination of applications for licences under the Animal Boarding Establishments Act, 1963
- (b) Determination of applications for licences under the Riding Establishments Act, 1964 (as amended)
- (c) Determination of applications for licences under the Pet Animals Act 1951
- (d) Appointment of authorised officer to act under the Guard Dogs Act 1975

Functions of the Licensing Committee

(28) Power to appoint authorised officers to act under the Animal Welfare Act 2006

(29) Power to register animal trainers and exhibitors

(30) Power to license zoos

(31) Power to license dangerous wild animals

(32) Power to license persons to collect for charitable and other causes

Delegation of Functions (concurrently with the Licensing Committee)

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Appointment of authorised officers to act under the Animal Welfare Act 2006

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Determination of licences under the Zoo Licensing Act, 1981

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Determination of applications for licences under the Dangerous Wild Animals Act 1976

The following functions are delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

- (a) Determination of applications for Street Collection Permits
- (b) Determination of applications for House to House Collection Permits
- (c) Appointment of authorised officers to act under the House to House Collections Act 1939.

Functions of the Licensing Committee

- (33) Power to grant consent for the operation of a loudspeaker
- (34) Power to institute legal proceedings relating to the operation of a loudspeaker in the street
- (35) Power to approve meat product premises
- (36) Power to approve premises for the production of minced meat or meat preparations
- (37) Power to approve dairy establishments

Delegation of Functions (concurrently with the Licensing Committee)

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to grant consent for the operation of a loudspeaker

The following function is delegated to the Head of Legal and Democratic Services in consultation with the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to institute legal proceedings relating to the operation of a loudspeaker in the street

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to approve meat product premises

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to approve premises for the production of minced meat or meat preparations

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Determination of applications for the purposes of milk registration and milk dealers

Functions of the Licensing Committee

- (38) Power to approve egg product establishments
- (39) Power to approve fish product premises
- (40) Power to approve fishery product establishments
- (41) Power to register auction and wholesale markets
- (42) Duty to keep register of local food business premises
- (43) Power to register food business premises

Delegation of Functions (concurrently with the Licensing Committee)

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to approve egg product establishments

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to approve fish product premises

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to approve fishery product establishments

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to register auction and wholesale markets

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Duty to keep register of local food business premises

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to register food business premises

Functions of the Licensing Committee

- (44) Functions relating to the
- (i) Food Safety Act, 1990 (as amended) and any Orders or Regulations made thereunder or relating to the foregoing or having effect by virtue of the European Communities Act 1972, and any modification or re-enactment to the foregoing
 - (ii) Food Safety and Hygiene (England) Regulations 2013
 - (iii) Food Information Regulations 2014

- (45) Appointment of authorised officers

Delegation of Functions (concurrently with the Licensing Committee)

The following functions are delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

- (a) Registration of premises under the Food Safety Act, 1990
- (b) Simple cautioning, as an alternative to prosecution, in respect of offences arising under the
 - (i) Food Safety Act, 1990
 - (ii) Food Safety and Hygiene (England) Regulations 2013
 - (iii) Food Information Regulations 2014
- (c) the service of all statutory notices and exercise of the Council's regulatory functions under the Food Safety Act, 1990

The following function is delegated to the Head of Legal and Democratic Services in consultation with the Chair and Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

- (d) Determination as to whether a simple caution is the appropriate course of action in respect of offences under the legislation referred to in paragraph (b) above.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Appointment of authorised officers under the Food Safety Act, 1990; European Communities Act 1972; Health Protection (Local Authority Powers) Regulations 2010; Health Protection (Notification) Regulations 2010; Health Protection (Part 2A Orders) Regulations 2010; Regulation (EC) no. 178/2002; Regulation (EC) no. 852/2004; Regulation (EC) no. 853/2004 and Regulation (EC) no. 854/2004 the

Functions of the Licensing Committee

- (46) Authorisation of entry
- (47) The power to make a closing order with respect to take-away food shops
- (48) Power to grant permission for the provision, etc. of services, amenities, recreation and refreshment facilities on highways, and related powers under Sections 115E, F and K of the Highways Act 1980
- (49) Duty to publish notice in respect to proposal to grant permission under Section 115E of the Highways Act 1980

Delegation of Functions (concurrently with the Licensing Committee)

General Food Regulations 2004 (as amended); the Official Feed and Food Controls (England) Regulations 2009; the Trade in Animals and Related Products Regulations 2011; the Food Safety and Hygiene (England) Regulations 2013, the Animal By-Products (Enforcement) (England) Regulations 2011, the Organic Products Regulations 2009 and Food Information Regulations 2014.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Authorisation of any person to enter and inspect premises and take samples as appropriate in accompaniment with duly authorised Planning and Environmental Services Staff to enable the effective enforcement of environmental legislation delegated to the Licensing Committee

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

The power to make a closing order with respect to take-away food shops

Functions of the Licensing Committee

- (50) Power to appoint authorised officers to act under the Transport Act 1980 and Transport Act 1985

- (51) Power to review and set fees for hackney carriage and private hire driver, vehicle and operator licences

- (52) Power to set fees for scrap metal dealer sites and mobile collector licences

Health and Safety

- (53) Functions relating to Health and Safety under any "relevant statutory provision" within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that these functions are discharged otherwise than in the Council's capacity as an employer

Delegation of Functions (concurrently with the Licensing Committee)

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Appointment of authorised officers to act under the Transport Act 1980 and Transport Act 1985.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning in consultation with the Chair of the Licensing Committee

The power to review and set fees for hackney carriage and private hire driver, vehicle and operator licences, unless an objection is received concerning the advertised fees and charges

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

- (a) Simple cautioning, as an alternative to prosecution, in respect of offences arising under the Health and Safety at Work Act, 1974
- (b) Service of all statutory notices and exercise of the Council's regulatory functions under the Young Persons (Employment) Act 1938.

The following function is delegated to the Head of Legal and Democratic Services in consultation with the Chair and Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Functions of the Licensing Committee

- (54) Review of fees and charges, including the annual review, in respect of the functions of the Licensing Committee, in order to recover the cost of the service as allowed by statute or

Delegation of Functions (concurrently with the Licensing Committee)

- (c) Determination as to whether a simple caution is the appropriate course of action in respect of offences under the legislation referred to in paragraph (a) above

The following function is delegated to Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning jointly with the Head of Legal and Democratic Services

- (d) Appointment of inspectors (including employees of the Health and Safety Executive) under Section 19 for the purposes of Section 20 (Powers of Inspectors), Section 21 (Improvement Notices), Section 22 (Prohibition Notices) and Section 25 (Power to deal with imminent danger) of the Health and Safety at Work, etc. Act, 1974.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning after consultation with the Head of Legal and Democratic Services

- (e) That such appointment under Section 19 of the Health and Safety at Work etc. Act 1974 may include specific power to institute proceedings under Section 33 of the Act for offences under the Act and regulations made, or having effect, thereunder.

Functions of the Licensing Committee

where statutory provisions do not apply, by the limits set out in the budget strategy

- (55) Authorisation to apply to a Court for, and to execute, warrants to enter property in connection with the performance of duties and functions under environmental legislation, the Public Health Acts or the National Assistance Act
- (56) Authorisation to carry out works required by a Notice served by the Council under environmental legislation in the event of default by the recipient of the Notice, and authorisation to charge for the carrying out of such works
- (57) Power to enforce offences relating to the display of non-smoking signs
- (58) Power to enforce offences relating to smoking in smoke-free places

Delegation of Functions (concurrently with the Licensing Committee)

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Authorisation to apply to a Court for, and to execute, warrants to enter property in connection with the performance of duties and functions under environmental legislation, the Public Health Acts or the National Assistance Act

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Authorisation to carry out works required by a Notice served by the Council under environmental legislation in the event of default by the recipient of the Notice, and authorisation to charge for the carrying out of such works.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to enforce offences relating to the display of non-smoking signs under Section 6(5) of the Health Act 2006.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to enforce offences relating to smoking in smoke-free places under Section 7(4) of the Health Act 2006.

Functions of the Licensing Committee

- (59) Power to transfer enforcement functions to another enforcement authority under the Smoke-free (Premises and Enforcement) Regulations 2006.
- (60) To appoint authorised officers
- (61) Approval of the Health and Safety Service Plan
- (62) Approval of the Food Service
- (63) Power to issue and cancel closure notices under Section 19 of the Criminal Justice and Police Act 2001.
- (64) Power to make a complaint for a closure order under Section 20 of the Criminal Justice and Police Act 2001.

Delegation of Functions (concurrently with the Licensing Committee)

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

To appoint authorised officers for the purposes of the Smoke-free General Provisions Regulations 2007; Smoke-free (Exemptions and Vehicles) Regulations 2007; Smoke-free (Penalties and Discounted Amounts) Regulations 2007 and Sunbeds (Regulation) Act 2010.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning and the Head of Legal and Democratic Services

Power to issue and cancel closure notices under Section 19 of the Criminal Justice and Police Act 2001.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning and the Head of Legal and Democratic Services

Power to make a complaint for a closure order under Section 20 of the Criminal Justice and Police Act 2001.

Functions of the Licensing Committee

- (65) Power to certify that the need for a closure order has ceased under Section 22 of the Criminal Justice and Police Act 2001
- (66) Power to nominate authorised persons to enforce a closure order under Section 25 of the Criminal Justice and Police Act 2001.
- (67) Power to bring a prosecution for obstructing an authorised person in the course of enforcing a closure notice under 98 25 of the Criminal Justice and Police Act 2001.
- (68) Power to bring a prosecution for contravening a closure notice under Section 25 of the Criminal Justice and Police Act 2001.

Delegation of Functions (concurrently with the Licensing Committee)

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning and the Head of Legal and Democratic Services

Power to certify that the need for a closure order has ceased under Section 22 of the Criminal Justice and Police Act 2001

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning and the Head of Legal and Democratic Services

Power to nominate authorised persons to enforce a closure order under Section 25 of the Criminal Justice and Police Act 2001.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning and the Head of Legal and Democratic Services

Power to bring a prosecution for obstructing an authorised person in the course of enforcing a closure notice under Section 25 of the Criminal Justice and Police Act 2001.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning and the Head of Legal and Democratic Services:

Power to bring a prosecution for contravening a closure notice under Section 25 of the Criminal Justice and Police Act 2001.

The powers and duties of the Council relating to its functions as the Licensing Authority under the Licensing Act 2003 are delegated to the Licensing Committee, or otherwise as set out below, save that approval of the Council's Statement of Licensing Policy and Statement of Gambling Policy and any amendments to or revision thereof shall be carried out by the Full Council.

Licensing Sub-Committee Membership - The Sub-Committee will consist of the following Members from whom three Members will be called upon to determine any given application. The quorum of the Sub-Committee will, therefore, be three.

Membership: 15 Members

Functions of the Licensing Committee under the Licensing Act 2003	Delegation of Functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)	Delegation of Functions (concurrently with the Licensing Committee and Licensing Sub-Committee)
(69) The power to license the sale and supply of alcohol, entertainment and late night refreshment as set out in the Licensing Act 2003.		
(70) Determination of applications for personal licences.	Determination of applications for personal licences where representations have been made in respect of that application.	<p><u>The following functions are delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning</u></p> <p>(a) The determination of applications for personal licences where no representations have been made. The determination of applications for personal licences where representations have been made but all parties, including the applicant and the maker(s) of the representation(s) agree to the determination of the application by the Head of Economic and Environmental</p>

Functions of the Licensing Committee under the Licensing Act 2003

Delegation of Functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)

Delegation of Functions (concurrently with the Licensing Committee and Licensing Sub-Committee)

Services and/or Head of Strategic Housing and Planning

(71) Determination of applications for premises licences/ club premises certificates.

Determination of applications for personal licences made by persons with unspent conviction(s)

Determination of applications for premises licences/ club premises certificates where representations have been made in respect of that application.

The following functions are designated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

- (a) Determination of applications for premises licences/club premises certificates if no representations have been made.
- (b) The determination of applications for premises licences/ club premises certificates where representations have been made but all parties, including the applicant and the maker(s) of the representation(s) agree to the determination of the application by the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Functions of the Licensing Committee under the Licensing Act 2003

Delegation of Functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)

Delegation of Functions (concurrently with the Licensing Committee and Licensing Sub-Committee)

(72) Determination of applications for provisional statements.

Determination of applications for provisional statements where representations have been made in respect of that application.

The following functions are delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

- (a) Determination of applications for provisional statements if no representations have been made in respect of that application.
- (b) The determination of applications for provisional statements where representations have been made but all parties, including the applicant and the maker(s) of the representation(s) agree to the determination of the application by the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

(73) Determination of applications to vary premises licences/club premises certificates including applications for minor variations to premises licences/club premises certificates.

Determination of applications to vary premises licences/club premises certificates if representations have been made in respect of the application.

The following functions are delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

- (a) Determination of applications to vary premises licences/club premises certificates where no representations have been made in respect of that application.

Functions of the Licensing Committee under the Licensing Act 2003

Delegation of Functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)

Delegation of Functions (concurrently with the Licensing Committee and Licensing Sub-Committee)

- (74) Power to require the provision of sanitary appliances at places of entertainment under S 20 of the Local Government (Miscellaneous Provisions) Act 1976

- (b) The determination of applications to vary premises licences/club premises certificates where representations have been made but all parties, including the applicant and the maker(s) of the representation(s) agree to the determination of the application by the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning.
- (c) The determination of applications for minor variations to premises licences (in accordance with Section 41B of the Licensing Act 2003), and the determination of applications for minor variations to club premises certificates (in accordance with Section 86B of the Licensing Act 2003).

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to require the provision of sanitary appliances at places of entertainment under Section 20 of the Local Government (Miscellaneous Provisions) Act 1976

Functions of the Licensing Committee under the Licensing Act 2003

Delegation of Functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)

Delegation of Functions (concurrently with the Licensing Committee and Licensing Sub-Committee)

(75) Determination of applications to vary a Designated Premises Supervisor where a representation has been made by the Chief Officer of Police in respect of the application.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Determination of all applications to vary a Designated Premises Supervisor EXCEPT where a representation has been made by the Chief Officer of Police in respect of the application (such applications to be determined by the Licensing Committee).

(76) Determination of requests to remove a designated personal licence holder's name from a premises licence or club premises certificate.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Determination of requests to remove a designated personal licence holder's name from a premises licence or club premises certificate.

(77) Determination of applications for transfer of premises licences where representations have been made by the Chief Police Officer in respect of the application.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Determination of all applications for transfer of premises licence EXCEPT where representations have been made by the Chief Police Officer in respect of the application

Functions of the Licensing Committee under the Licensing Act 2003

Delegation of Functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)

Delegation of Functions (concurrently with the Licensing Committee and Licensing Sub-Committee)

(78) Determination of applications for Interim Authority where representations have been made by the Chief Police Officer in respect of the application.

(such applications to be determined by the Licensing Committee).

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Determination of all applications for Interim Authority EXCEPT where representations have been made by the Chief Police Officer in respect of the application (such applications to be determined by the Licensing Committee).

(79) Determination of applications to review premises licences/club premises certificates.

Determination of applications to review premises licences/club premises certificates.

(80) Decisions on whether a complaint is irrelevant, frivolous, vexatious, etc.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning in accordance with the Act and the appropriate guidance

Decisions on whether a complaint is irrelevant, frivolous, vexatious, etc. in accordance with the Licensing Act 2003 and the appropriate guidance.

Functions of the Licensing Committee under the Licensing Act 2003

Delegation of Functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)

Delegation of Functions (concurrently with the Licensing Committee and Licensing Sub-Committee)

(81) Decision to object to an application made under the Licensing Act 2003 when the local authority is a consultee and not the lead authority.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Decision to object to an application made under the Licensing Act 2003 when the local authority is a consultee and not the lead authority.

(82) Determination of the appropriate responses to temporary event notices where representations have been made by a relevant person in respect of that notice, and issue a counter notice if such a counter notice is found to be necessary.

Determination of the appropriate responses to temporary event notices where representations have been made by a relevant person in respect of that notice, and issue a counter notice if such a counter notice is found to be necessary.

(83) Determination as to whether a simple caution is the appropriate course of action in respect of offences under the Licensing Act 2003.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning in consultation with the Head of Legal and Democratic Services

Determination as to whether a simple caution is the appropriate course of action in respect of offences under the Licensing Act 2003.

Functions of the Licensing Committee under the Licensing Act 2003

- (84) Simple cautioning as an alternative to prosecution in respect of offences arising from the Licensing Act 2003.
- (85) The instigation or defence of, or participation in, any civil or criminal legal proceedings necessary or appropriate to the exercise and/or fulfilment of any other Council's powers, duties and functions under the Licensing Act 2003.
- (86) Instruction of any other local authority to act as agents on behalf of the Council under the provisions of Section 101 of the Local Government Act 1972 in connection with the powers conferred above.

Delegation of Functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)

Delegation of Functions (concurrently with the Licensing Committee and Licensing Sub-Committee)

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Simple cautioning as an alternative to prosecution in respect of offences arising from the Licensing Act 2003.

The following function is delegated to the Head of Legal and Democratic Services

The instigation or defence of, or participation in, any civil or criminal legal proceedings necessary or appropriate to the exercise and/or fulfilment of any other Council's powers, duties and functions under the Licensing Act 2003.

The following function is delegated to the Head of Legal and Democratic Services

Instruction of any other local authority to act as agents on behalf of the Council under the provisions of Section 101 of the Local Government Act 1972 in connection with the powers conferred above.

Functions of the Licensing Committee under the Licensing Act 2003

Delegation of Functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)

Delegation of Functions (concurrently with the Licensing Committee and Licensing Sub-Committee)

(87) Service of all statutory notices under the Licensing Act 2003.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning
Service of all statutory notices under the Licensing Act 2003.

(88) The service of a counter notice under Section 107 of the Licensing Act 2003 in response to a temporary event notice where the permitted limits have been exceeded.

The service of a counter notice under Section 107 of the Licensing Act 2003 in response to a temporary event notice where the permitted limits have been exceeded.

That the following function should be delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning after consultation with the Chair of the Licensing Committee
The service of a counter notice under Section 107 of the Licensing Act 2003 in response to a temporary event notice where the permitted limits have been exceeded.

(89) In respect of applications made under the Licensing Act, 2003, to act as a signatory to licences granted under delegated powers by the Licensing Committee, the Licensing Sub-Committee or officers.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning
In respect of applications made under the Licensing Act, 2003, to act as a signatory to licences granted under delegated powers by the Licensing Committee, the Licensing Sub-Committee or officers.

Functions of the Licensing Committee under the Licensing Act 2003

Delegation of Functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)

Delegation of Functions (concurrently with the Licensing Committee and Licensing Sub-Committee)

(90) Designation of an authorised officer

Power to designate an officer as an authorised officer under Part 3 Section 13(2) of the Licensing Act 2003.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to designate an officer as an authorised officer under Part 3 Section 13(2) of the Licensing Act 2003.

Functions of the Licensing Committee under the Gambling Act 2005

Delegation of Functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)

Delegation of Functions (concurrently with the Licensing Committee and Licensing Sub-Committee)

(91) The setting of fees in connection with functions appertaining to the Gambling Act (to the extent that the Council has authority so to do)

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

The setting of fees in connection with functions appertaining to the Gambling Act.

(92) Determination of applications made under the Gambling Act 2005 for premises licences

Determination of applications made under the Gambling Act 2005 for premises licences where objections have been received and not withdrawn

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

The determination of applications made under the Gambling Act 2005 for premises licences where no objections have been received or where objections have been withdrawn.

(93) Determination of applications made under the Gambling Act 2005 for the variation of a licence

Determination of applications made under the Gambling Act 2005 for the variation of a licence where objections have been received and not withdrawn

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

The determination of applications made under the Gambling Act 2005 for the variation of a licence where no objections have been received or where objections have been withdrawn.

Functions of the Licensing Committee under the Gambling Act 2005

Delegation of Functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)

Delegation of Functions (concurrently with the Licensing Committee and Licensing Sub-Committee)

(94) Determination of applications made under the Gambling Act 2005 for a transfer of a licence

Determination of applications made under the Gambling Act 2005 for a transfer of a licence where objections have been received from the Commission.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

The determination of applications made under the Gambling Act 2005 for a transfer of a licence where no objections have been received from the Commission

(95) Determination of applications made under the Gambling Act 2005 for a provisional licence

Determination of applications made under the Gambling Act 2005 for a provisional licence where objections have been received and not withdrawn

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Determination of applications made under the Gambling Act 2005 for a provisional licence where no objections have been received or where objections have been withdrawn.

(96) Review of a premises licence under the Gambling Act 2005.

Review of a premises licence under the Gambling Act 2005.

(97) Determination of applications for club gaming/club machine permits

Determination of applications for club gaming/club machine permits where objections have been received and not withdrawn

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Determination of applications for club gaming/club machine permits where no objections have been received or where

Functions of the Licensing Committee under the Gambling Act 2005

Delegation of Functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)

Delegation of Functions (concurrently with the Licensing Committee and Licensing Sub-Committee)

(98) Cancellation of applications for club gaming/club machine permits.

Cancellation of applications for club gaming/club machine permits.

objections have been withdrawn.

(99) Determination of other permits under the Gambling Act 2005.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Determination of other permits under the Gambling Act 2005.

(100) Cancellation of licensed premises gaming machine permits

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Cancellation of licensed premises gaming machine permits.

(101) Consideration of temporary use notice

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Consideration of temporary use notice

(102) Decision to give a counter notice to a temporary use notice.

Decision to give a counter notice to a temporary use notice.

Functions of the Licensing Committee under the Gambling Act 2005

Delegation of Functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)

Delegation of Functions (concurrently with the Licensing Committee and Licensing Sub-Committee)

(103) Determination as to whether a person is an Interested Party.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning in accordance with the Act and the appropriate guidance

Determination as to whether a person is an Interested Party in accordance with the Gambling Act 2005 and the appropriate guidance.

(104) Determination as to whether objections are relevant.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning in accordance with the Act and the appropriate guidance

Determination as to whether objections are relevant in accordance with the Gambling Act 2005 and the appropriate guidance.

(105) Determination as to whether an objection is frivolous, vexatious or repetitive

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning in accordance with the Act and the appropriate guidance

Determination as to whether an objection is frivolous, vexatious or repetitive in accordance with the Gambling Act 2005 and

Functions of the Licensing Committee under the Gambling Act 2005

Delegation of Functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)

Delegation of Functions (concurrently with the Licensing Committee and Licensing Sub-Committee)

(106) Power to designate an officer of a licensing authority as an authorised person

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to designate an officer of a licensing authority as an authorised person for a purpose relating to premises under Section 304 of the Gambling Act 2005.

(107) Power to institute criminal proceedings for offences

The following function is delegated to the Head of Legal and Democratic Services jointly with the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Power to institute legal proceedings under the Gambling Act 2005.

(108) Power to exchange information

Functions relating to exchange information in accordance with Section 30 of the Gambling Act 2005.

The following functions are delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

- (a) Power to exchange information under Section 350 of the Gambling Act 2005.
- (b) Functions relating to exchange information in accordance with

Functions of the Licensing Committee under the Gambling Act 2005

Delegation of Functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)

Delegation of Functions (concurrently with the Licensing Committee and Licensing Sub-Committee)

Section 30 of the Gambling Act 2005.

(109) Power to provide information to the Gambling Commission

Duty to comply with requirement to provide information to Gambling Commission in accordance with Section 29 of the Gambling Act Order.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Duty to comply with requirement to provide information to Gambling Commission in accordance with Section 29 of the Gambling Act Order.

(110) Power to provide occasional use notices

Functions relating to occasional use notices in accordance with Section 39 of the Gambling Act 2005.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Functions relating to occasional use notices in accordance with Section 39 of the Gambling Act 2005.

(111) To make order disapplying Section 279 or 282(1) of the Gambling Act 2005 in relation to specified premises in accordance with Section 284 of the Gambling Act 2005.

To make order disapplying Section 279 or 282(1) of the Gambling Act 2005 in relation to specified premises in accordance with Section 284 of the Gambling Act 2005.

Functions of the Licensing Committee under the Gambling Act 2005

Delegation of Functions to the Licensing Sub-Committee (concurrently with the Licensing Committee)

Delegation of Functions (concurrently with the Licensing Committee and Licensing Sub-Committee)

(112) Registration and regulation of small society lotteries

Functions relating to the registration and regulation of small society lotteries in accordance with Part 5 of Schedule 11 to the Gambling Act 2005.

The following function is delegated to the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning

Functions relating to the registration and regulation of small society lotteries in accordance with Part 5 of Schedule 11 to the Gambling Act 2005.

Where an application made under the Licensing Act 2003 or the Gambling Act 2005 has been submitted by or on behalf of an employee or Member of the Council, it shall not be determined by an officer under delegated powers.

RESPONSIBILITY FOR COUNCIL FUNCTION OVERVIEW AND SCRUTINY COMMISSION

The functions conferred by Section 21 of the Local Government Act 2000 or regulations under Section 32 of the Local Government Act 2000 will be discharged by the Overview and Scrutiny Commission

Membership: 13 Members

Functions of the Overview and Scrutiny Commission

- (1) The performance operation of all overview and scrutiny functions on behalf of the Council.
- (2) The appointment of task-orientated, time-limited scrutiny panels, with membership that reflects the political balance of the Council, and the setting of such terms of reference and duration as it considers appropriate to fulfil those functions by carrying out overview and scrutiny on functional matters or cross-cutting themes or with an area focus.
- (3) To receive requests from the Cabinet for scrutiny involvement in policy review and development and decide how to respond.
- (4) To monitor the Cabinet's Forward Plan and, where appropriate, comment on proposals prior to the Cabinet taking a decision.
- (5) To receive all appropriate budget monitoring information particularly in relation to the transformation plan including measures.

Delegation of Functions (concurrently with the Overview and Scrutiny Commission)

Functions of the Overview and Scrutiny Commission

- (6) To approve and co-ordinate an annual overview and scrutiny work programme, noting the programme of any scrutiny panels it appoints so as to ensure that the Overview and Scrutiny Commission's and scrutiny panels' time is effectively and efficiently utilised.
- (7) To ensure community and voluntary sector organisations, users of services and others are appropriately involved in giving evidence to relevant scrutiny panels.
- (8) To review the annual Transformation Plan and to scrutinise the implementation of current and previously completed reviews.
- (9) To review the implementation of other completed scrutiny reviews.
- (10) Where appropriate, to review any other issue affecting the Borough but for which the Council is not directly responsible.
- (11) To discuss any local government matter or local crime and disorder matter referred to the Commission by a Councillor, to review or scrutinise such a matter and, where appropriate, make reports or recommendations to the Council or the Cabinet.
- (12) To discuss any item relevant to the functions of the Commission referred to the Commission by a Member of the Commission, to review or scrutinise such a matter and, where appropriate, make reports or recommendations to the Council or the Cabinet.

Delegation of Functions (concurrently with the Overview and Scrutiny Commission)

Functions of the Overview and Scrutiny Commission

- (13) To review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions and, where appropriate, make reports or recommendations thereon.
- (14) Ensuring effective scrutiny of the Treasury Management Strategy and policies.
- (15) To consider any petition before its consideration by the appropriate decision-maker.
- (16) To consider a petition referred to the Commission before its consideration by the appropriate decision-maker.

Scrutiny Procedure Rule 8 sets out the process to be followed in respect of functions (10), (11), (12) and (13) above.

Delegation of Functions (concurrently with the Overview and Scrutiny Commission)

RESPONSIBILITY FOR COUNCIL FUNCTIONS PLANNING

The powers and duties of the Council relating to the functions set out below are delegated to the Planning Committee, save that any decision to grant planning permission for a development which would be a material departure from the approved Local Plan shall be submitted to the Council for approval

Membership: 15 Members

Functions of the Planning Committee

Planning and conservation

Functions relating to town and country planning and development control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (the Functions Regulations) and as set out below:

- (1) Power to determine applications for planning permission

Delegation of Functions (concurrently with the Planning Committee)

The following functions are delegated to the Head of Economic and Environmental Services

- (a) The service of notices requiring further information on outline planning applications or in the case of a validation dispute in accordance with Part 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 or any subsequent re-enactment of that provision

Functions of the Planning Committee

Delegation of Functions (concurrently with the Planning Committee)

- (b) The determination of the appropriate statutory notices for giving publicity to applications made under the Town and Country Planning Act 1990
- (c) The determination of applications for developments submitted to the Council (including the power to grant permission for development already carried out) for:
 - (i) planning permission under Part III of the Town and Country Planning Act, 1990;
 - (ii) consent to carry out works to trees (including felling) under Part VIII of the Town and Country Planning Act 1990;
 - (iii) consent to display advertisements under Part VIII of the Town and Country Planning Act 1990;
 - (iv) consent to carry out works on or other development in connection with listed buildings under the Planning (Listed Building and Conservation Areas) Act 1990 and;
 - (v) consent to carry out work in a conservation area under the Planning (Listed Building and Conservation Areas) Act 1990

EXCEPT WHERE:

- (a) a request has been received from a Member of the Council for an application to come before the Committee, or;
- (b) the application has been submitted by or on behalf of an employee or Member of the Council or;
- (c) the Head of Economic and Environmental Services considers an application, that would otherwise be delegated, should come before the Committee or;
- (d) the application is for a major development (as defined

Functions of the Planning Committee

Delegation of Functions (concurrently with the Planning Committee)

- under the Development Management Procedure Order) of any kind or;
- (e) the Head of Economic and Environmental Services is minded to approve the development and any of the following applies:
 - (i) an approval would constitute a departure from the Local Plan or;
 - (ii) 4 or more objections have been received in writing during the Council's normal consultation period from different individuals living in different households or;-
 - (iii) one or more objection has been received in writing during the Council's normal consultation period from a recognised residents' association, amenity or conservation group or;
 - (iv) one or more objection has been received in writing during the Council's normal consultation period from a statutory consultee or;
 - (v) the proposal involves the Borough Council as the applicant either alone or jointly with another person.
 - (d) The determination of those matters imposed by condition, including
 - (a) matters reserved for subsequent approval following the grant of outline permission (other than when the exceptions in 1(c) a,b,c or e above apply);
 - (b) details submitted pursuant to discharge a condition imposed on a planning permission;

Functions of the Planning Committee

- (2) Power to decline to determine application for planning permission

Delegation of Functions (concurrently with the Planning Committee)

- (c) minor variations to approved development/ planning permissions to conservation areas and listed building consents, where no formal application is deemed necessary;
- (d) amendment, relaxation or removal of conditions attached to a planning permission or an approval of reserved matters (* including the determination of applications where the development has already been carried out)
- (e) The approval of working amendments to plans and drawings approved in accordance with the provisions of the Town and Country Planning Act 1990 and Regulation 10 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 or any subsequent re-enactment of that provision
- (f) The agreement of the procedures for handling appeals lodged against decisions made by the Council under the Town and Country Planning Act 1990
- (g) Requests for screening and scoping opinions of the local planning authority with respect to the Environmental Impact Regulations

The following function is delegated to the Head of Economic and Environmental Services

The power to decline to determine repetitive applications under Section 17 of the Planning and Compensation Act 1991.

Functions of the Planning Committee

- (3) Duties relating to the making of determinations of planning applications under Sections 69 and 92 of the Town and Country Planning Act 1990 and Article 15-18, 20-24, 27-30, 33-35 and 37 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 or any subsequent re-enactment of that provision and directions made thereunder
- (4) Power to make determinations on Notification for Prior Approval and agree certain other matters relating to the exercise of permitted development rights including any clearance of conditions (except Prior Approval Notifications for electronic communications apparatus under Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any subsequent re-enactment of that provision.
- (5) Power to enter into agreement regulating development or use of land

Delegation of Functions (concurrently with the Planning Committee)

The following function is delegated to the Head of Economic and Environmental Services

Duties relating to the making of determinations of planning applications under Sections 69 and 92 of the Town and Country Planning Act 1990 and Article 15-18, 20-24, 27-30, 33-35 and 37 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 or any subsequent re-enactment of that provision and directions made thereunder.

The following function is delegated to the Head of Economic and Environmental Services

Power to make determinations on Notification for Prior Approval and agree certain other matters relating to the exercise of permitted development rights, including any clearance of conditions (except Prior Approval Notifications under Par 16) including the power to grant permission where the development has already been carried out.

The following function are delegated to the Head of Economic and Environmental Services

- (a) Power to authorise the entering into of agreements regulating development or the use of land under Section 106 of the Town and Country Planning Act 1990.
- (b) Power to make a determination on an application under Section 106A and 106BA of the Town and Country Planning Act 1990.
- (c) Power to make representations in an appeal to the Planning Inspectorate under Sections 106B and 106BC of the Town and Country Planning Act 1990.

Functions of the Planning Committee

- (6) Power to issue a certificate of existing or proposed lawful use or development
- (7) Power to serve a completion notice
- (8) Power to respond to consultations

Delegation of Functions (concurrently with the Planning Committee)

The following functions are delegated to the Head of Legal and Democratic Services

- (d) To enter into and complete legal agreements where these are considered necessary in connection with the grant of planning permission under delegated powers.
- (e) To agree minor variations or alterations of an agreement under Section 106 of the Town and Country Planning Act 1990 as amended not affecting the substance of the obligations

The following function is delegated to the Head of Economic and Environmental Services or the Head of Legal and Democratic Services

Determination of applications submitted pursuant to Section 191 and Section 192 of the Town and Country Planning Act 1990 for proposed lawful use and development certificates and certificates of lawful, established use and development

The following function is delegated to the Head of Economic and Environmental Services

The power to determine the Council's response to:

- (i) consultations from West Sussex County Council in respect of Regulation 3 development;
- (ii) consultations from statutory undertakers and other bodies for which planning permission is deemed to have been granted by the Town and Country Planning General Permitted Development Order 2015 or any subsequent enactment of that order;
- (iii) consultations and applications for prior approval from any

Functions of the Planning Committee

- (9) Power to authorise entry onto land under Section 196A of the Town and Country Planning Act 1990 or the right of entry under warrant under Section 196B of the same Act.
- (10) Power to require the discontinuance of a use of land under Section 102 of the Town and Country Planning Act, 1990
- (11) Power to serve a planning contravention notice, breach of condition notice, stop notice or a temporary stop notice

Delegation of Functions (concurrently with the Planning Committee)

statutory undertakers, electronic communications and telecommunication operators.

UNLESS any of the exceptions a,c or e as stated in 1(c) apply.

The following function is delegated to the Head of Economic and Environmental Services

Power to authorise entry onto land without a warrant under Section 196A of the Town and Country Planning Act 1990 or the right of entry under warrant under Section 196B of the same Act, together with supplementary powers under Section 196C of the Act including demonstrating authority to enter.

(a) The following functions are delegated to the Head of Economic and Environmental Services or the Head of Legal and Democratic Services

Under the Town and Country Planning Act 1990

- the service of planning contravention notices (S1)
- the service of breach of condition notices (S2)
- The service of a temporary stop notice

(b) The following function is delegated to the Head of Economic and Environmental Services or the Head of Legal and Democratic Services (after consultation with the Chair)

The service of Stop Notices under S183 of the Town and Country Planning Act, 1990

Functions of the Planning Committee

- (12) Power to apply to the Magistrates Court for a Planning Enforcement Order
- (13) Power to issue an enforcement notice
- (14) The power to execute works the subject of an enforcement notice and to recover the cost of the works in accordance with Section 178 of the Town and Country Planning Act, 1990

Delegation of Functions (concurrently with the Planning Committee)

- (c) The following function is delegated to the Head of Economic and Environmental Services or the Head of Legal and Democratic Services

The right to withdraw a breach of condition notice after it has been issued or to waiver or relax any requirement of the notice.

The following function is delegated to the Head of Economic and Environmental Services and the Head of Legal and Democratic Services

Power to apply to the Magistrates Court for a Planning Enforcement Order under Section 171 of the Town and Country Planning Act 1990.

The following functions are delegated to the Head of Economic and Environmental Services or the Head of Legal and Democratic Services

- (a) The issue and service of enforcement notices.
- (b) To take all steps necessary to terminate breaches of planning control where enforcement action has been authorised including civil or criminal proceedings where appropriate.
- (c) The right to withdraw an enforcement notice after it has been issued or to waiver or relax any requirement of the notice (Section 173A of the Town and Country Planning Act 1990)

The following function is delegated to the Head of Economic and Environmental Services in consultation with the Head of Legal and Democratic Services

The power to execute works the subject of an enforcement notice and to recover the cost of the works in accordance with Section 178 of the Town and Country Planning Act, 1990

Functions of the Planning Committee

- (15) Power to apply for an injunction restraining a breach of planning control under Section 187B of the Town and Country Planning Act, 1990
- (16) Power to determine applications for hazardous substances consent, and related powers
- (17) Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject
- (18) Power to require proper maintenance of land under Section 215(1) of the Town and Country Planning Act 1990
- (19) Power to authorise entry under Sections 88(2) (a), (b), (c) and (d) of the Planning (Listed Buildings and Conservation Areas) Act, 1990

Delegation of Functions (concurrently with the Planning Committee)

The following function is delegated to the Head of Legal and Democratic Services

Power to apply for an injunction restraining a breach of planning control

The following function is delegated to the Head of Economic and Environmental Services or the Head of Strategic Housing and Planning

Power to require proper maintenance of land

The following function is delegated to the Head of Legal and Democratic Services, the Head of Economic and Environmental Services or the Head of Strategic Housing and Planning

To serve notices under Section 215 of the Town and Country Planning Act 1990 on owners of land

The following functions are delegated to the Head of Economic and Environmental Services

Power to authorise entry under Sections 88(2) (a), (b), (c) and (d) of the Planning (Listed Buildings and Conservation Areas) Act, 1990

Functions of the Planning Committee

- (20) Power to authorise an application to a Court for a warrant to enter land under section 88A of the Planning (Listed Buildings and Conservation Areas) Act 1990
- (21) Power to issue a listed building enforcement notice
- (22) Power to serve a building preservation notice and related powers
- (23) Power to issue enforcement notice in relation to demolition of unlisted building in conservation area.
- (24) Powers to acquire a listed building in need of repair and to serve a repairs notice
- (25) Power to execute urgent works under Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act, 1990

Delegation of Functions (concurrently with the Planning Committee)

The following function is delegated to the Head of Economic and Environmental Services

Power to authorise an application to a Court for a warrant to enter land under section 88A of the Planning (Listed Buildings and Conservation Areas) Act 1990

The following function is delegated to the Head of Economic and Environmental Services

Power to issue a listed building enforcement notice.

The following function is delegated to the Head of Economic and Environmental Services

Power to serve a building preservation notice and related powers.

The following function is delegated to the Head of Economic and Environmental Services

Power to issue enforcement notice in relation to demolition of unlisted building in conservation area under Section 74 of the Planning (Listed Building and Conservation Areas) Act, 1990

The following function is delegated to the Head of Economic and Environmental Services

Powers to acquire a listed building in need of repair and to serve a repairs notice.

The following function is delegated to the Head of Economic and Environmental Services

Power to execute urgent works under Section 54 of the Planning

Functions of the Planning Committee

- (26) Power to apply for an injunction in relation to a listed building under Section 44A of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990
- (27) Power to approve schemes submitted to the Council by developers and other applicants for planning permission in pursuit of agreements and obligations entered into under section 106 of the Town and Country Planning Act 1990.
- (28) Power to revoke planning permission issued under the scheme of delegation
- (29) Power to issue a deemed refusal in accordance with Regulation 10 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, where an applicant has not confirmed their intention to provide an Environmental Assessment within the statutory

Delegation of Functions (concurrently with the Planning Committee)

(Listed Buildings and Buildings in Conservation Areas) Act, 1990.

The following function is delegated to the Head of Economic and Environmental Services

Power to apply for an injunction in relation to a listed building under Section 44A of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.

The following functions are delegated to the Head of Economic and Environmental Services

Power to approve schemes submitted to the Council by developers and other applicants for planning permission in pursuit of agreements and obligations entered into under section 106 of the Town and Country Planning Act 1990.

Where the scheme concerns the provision of affordable housing, such power is to be exercised in consultation with the Head of Strategic Housing and Planning

The following function is delegated to the Head of Economic and Environmental Services

Power to revoke planning permission issued under the scheme of delegation

The following function is delegated to the Head of Economic and Environmental Services

Power to issue a deemed refusal where an applicant has not confirmed their intention to provide an Environmental Assessment within the statutory period.

Functions of the Planning Committee

period

Miscellaneous Functions

- (30) Powers relating to the preservation of trees, including:
- dealing with applications for dispensation with respect to the duty to replace trees
 - dealing with applications for dispensation of the duty to replace trees in conservation areas
 - dealing with applications to enforce the duty to replace trees in conservation areas
 - power to give directions as to the replanting of land
 - power to revoke or modify a tree preservation order
- (31) Power to deal with complaints about high hedges.

Delegation of Functions (concurrently with the Planning Committee)

The following functions are delegated to the Head of Economic and Environmental Services or the Head of Legal and Democratic Services

- (a) The making of tree preservation orders and provisional tree preservation orders, including the confirmation and modification of orders provided no objections have been lodged by a third party during the Council's normal consultation period.
- (b) Dealing with applications and duties relating to the replacement of trees following an application to fell, as defined by Section 206 of the Town and Country Planning Act 1990 and the enforcement of the replacement of trees under Section 207 of the same Act
- (c) A decision to revoke or vary a tree preservation order

The following functions are delegated to the Head of Economic and Environmental Services in consultation with the Chair of the Planning Committee

- (a) Approval of any charging scheme to be imposed in respect of the Council's functions under Part 8 of the Anti-Social Behaviour Act, 2003 (dealing with complaints about high hedges).
- (b) Power to deal with complaints about high hedges including the service of remedial notices, handling of any appeals or other decisions from relevant authorities and powers of entry in relation to carrying out of such duties as set out under Part 8 of the Anti-Social Behaviour Act 2003 or any subsequent re-enactment of that provision.

Functions of the Planning Committee

- (32) Powers relating to the protection of important hedgerows
- (33) The designation of employees as authorised officers
- (34) Power to create footpath or bridleway by agreement (Section 25 of the Highways Act, 1980)
- (35) Power to create footpaths and bridleways (Section 26 of the Highways Act, 1980)

Delegation of Functions (concurrently with the Planning Committee)

The following functions are delegated to the Head of Economic and Environmental Services

- (a) The determination of hedgerow applications submitted under the Hedgerows Regulations 1997 and the service of retention/replacement notices
- (b) The appointment of authorised officers to enter land in the exercise of a right of entry conferred by the Hedgerows Regulations 1997

The following function is delegated to the Head of Legal and Democratic Services, in conjunction with the Head of Economic and Environmental Services

- (c) Legal proceedings (including injunction proceedings) in respect of the unauthorised removal of hedgerows to which the Hedgerows Regulations 1997 apply

The following functions are delegated to the Head of Economic and Environmental Services or the Head of Strategic Housing and Planning

The designation of employees as authorised officers for the purposes of the Town and Country Planning Acts

Functions of the Planning Committee

- (36) Power to stop up footpaths and bridleways (Section 118 of the Highways Act, 1980)
- (37) Power to determine application for public path extinguishment order (sections 118ZA and 118C(2) of the Highways Act, 1980)
- (38) Power to make a rail crossing extinguishment order (Section 118A of the Highways Act, 1980)
- (39) Power to make a special extinguishment order (Section 118B of the Highways Act, 1980)
- (40) Power to divert footpaths and bridleways (Section 119 of the Highways Act 1980)
- (41) Power to make a public path diversion order (Sections 119ZA and 119C(4) of the Highways Act, 1980)
- (42) Power to make a rail crossing diversion order (Section 119A of the Highways Act, 1980)
- (43) Power to make a special diversion order (Section 119B of the Highways Act, 1980)
- (44) Power to require applicant for order to enter into agreement (Section 119C(3) of the Highways Act, 1980)

Delegation of Functions (concurrently with the Planning Committee)

Functions of the Planning Committee

- (45) Power to make an SSSI diversion order (Section 119D of the Highways Act 1980)
- (46) Duty to keep register with respect to applications (Sections 118ZA, 118C, 119ZA and 119C of the Highways Act, 1980)
- (47) Power to decline to determine certain applications (Section 121C of the Highways Act, 1980)
- (48) Duty to assert and protect the rights of the public to use and enjoyment of highways (Section 130 of the Highways Act, 1980)
- (49) Duty to serve notice of proposed action in relation to obstruction (Section 130A of the Highways Act, 1980)
- (50) Power to apply for variation of order (Section 130 B of the Highways Act, 1980)
- (51) Power to extinguish certain public rights of way (Section 32 of the Acquisition of Land Act, 1981)
- (52) Power to extinguish public right of way over land acquired for clearance (Section 294 of the Housing Act, 1981)
- (53) Power to authorise stopping up or diversion of footpath or bridleway (Section 257 of the Town and Country Planning Act 1990)

Delegation of Functions (concurrently with the Planning Committee)

Functions of the Planning Committee

- (54) Power to extinguish public rights of way over land held for planning purposes (Section 258 of the Town and Country Planning Act, 1990)
- (55) Power to authorise the stopping up or diversion of a highway (Section 247 of the Town and Country Planning Act 1990)
- (56) Registration of common land and town or village green under Part 1 of the Commons Act 2006 (c.26) and the Commons Registration (England) Regulations 2008 (S.I. 2008/1961)
- (57) Power to apply for an enforcement order against unlawful works on common land under Section 41 of the Commons Act 2006
- (58) Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference under Section 45(2)(a) of the Commons Act 2006
- (59) Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town and village greens under Section 45(2)(b) of the Commons Act 2006

Delegation of Functions (concurrently with the Planning Committee)

**RESPONSIBILITY FOR COUNCIL FUNCTIONS
STAFF APPEALS BOARD**

The powers and duties of the Council relating to the functions set out below are delegated to the Staff Appeals Board

Membership: The Board will consist of the following Members from whom three Members (of whom at least one shall be an opposition Member) will be called upon to determine an appeal. The quorum of the Board will, therefore, be three. The Board will be supported by a Senior Human Resources Representative in an advisory role only.

Membership: 26 Members

Functions of the Staff Appeals Board

- (1) To consider appeals against dismissal, grading and grievances by employees of the Council

Delegation of Functions (concurrently with the Staff Appeals Board)

The following function is delegated to the Acting Chief Executive/appropriate Head of Service
Appeals against disciplinary warnings

The following function is delegated to the Acting Chief Executive/relevant Head of Service
Appeals against grievances
(Appeals will only go forward to the Staff Appeals Board in limited circumstances as outlined in the Council's Grievance Procedure)

The following function is delegated in accordance with the current local agreement on job evaluation
Appeals against gradings

Functions of the Staff Appeals Board

- (2) To hear appeals by non-statutory Chief Officers in respect of any disciplinary, capability or grievance procedure.

Delegation of Functions (concurrently with the Staff Appeals Board)

The following function is delegated to the Acting Chief Executive, in consultation with the Leader of the Council and the Cabinet Member for Customer and Corporate Services

Authority to agree a Settlement Agreement in circumstances where an employee or former employee of the Council has made a claim or has a potential claim against the Council. In addition, where the Settlement Agreement includes an amount of financial compensation, the Acting Chief Executive, in consultation with the Leader of the Council and the Cabinet Member for Resources, has delegated authority to agree the amount following consultation with the Head of Legal and Democratic Services (where the Acting Chief Executive is the subject of the agreement then the Section 151 Officer will replace them in the authorisation process).

RESPONSIBILITY FOR CABINET FUNCTIONS

Membership:	Councillor P K Lamb	(Leader of the Council)
	Councillor S J Joyce	(Deputy Leader of the Council)
Councillors	S J Joyce	(Cabinet Member for Housing)
	G Thomas	(Cabinet Member for Environmental Services and Sustainability)
	C J Mullins	(Cabinet Member for Wellbeing)
	M G Jones	(Cabinet Member for Public Protection and Community Engagement)
	P C Smith	(Cabinet Member for Planning and Economic Development)
	A C Skudder	(Cabinet Member for Resources)

All the powers and duties of the Council are allocated to the Leader **EXCEPT**:

- (i) approval or adoption of the Policy Framework, which means the plans and strategies set out in the Policy Framework Procedure Rules within this Constitution.
- (ii) approval of the budget including the Council's financial strategy, annual budget and rules for variations to the approved spending plans - approval to include the allocation of financial resources (revenue and capital) to services or projects, proposed contingency funds, setting the Council tax and determining overall limits in relation to borrowing requirements in connection with the discharge of the function of formulating a plan or strategy for the control of the Council's borrowing, capital expenditure or investments, the giving of instructions requiring the Cabinet to reconsider any draft plan or strategy submitted by the Cabinet for the Council's consideration, the amendment of any draft plan or strategy submitted by the Cabinet for the Council's consideration; and the adoption (with or without modification) of the plan or strategy.

(The Cabinet will be responsible for putting draft proposals to the Council on the above issues.)

- (iii) approval or adoption of any applications (whether in draft form or not) to the Secretary of State for approval of the inclusion of a disposal in a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or for consent to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985
- (iv) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of the Constitution (when adopted), making decisions about any matter in the discharge of a Cabinet function which is covered by the policy framework or the budget where

the Cabinet is minded to make it in a manner which would be contrary (a) to the policy framework or (b) contrary to/ or not wholly in accordance with the budget (including any part of the budget as varied from time to time within the limits set in the Procurement Code//Financial Procedure Rules or otherwise) or (c) contrary to/not wholly in accordance with the virement limits determined by the Council whether by means of the Procurement Code/Council Procedure Rules/Financial Procedure Rules or otherwise.

In such cases the Cabinet shall not determine the matter itself but shall refer it to Council for determination

- (v) appointing the Leader (Note: the appointment of Members of the Cabinet is the responsibility of the Leader)
- (vi) agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them
- (vii) appointing representatives to outside bodies unless the appointment is a Cabinet function and has been delegated by the Leader
- (viii) adopting a Members Allowances Scheme
- (ix) changing the name of the area, conferring the title of honorary alderman or freedom of the Borough
- (x) approving the appointment or dismissal of the Head of Paid Service, and approving the dismissal of the Monitoring Officer and the Chief Finance Officer
- (xi) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills
- (xii) all local choice functions set out in Part 3 of the Constitution which the Council decides should be undertaken by itself rather than the Cabinet
- (xiii) adoption and changes to the Constitution
- (xiv) issues which fall within the terms of reference of other Committees appointed by the Council
- (xv) all matters which, by law, must be reserved to Council
- (xvi) payments or benefits in cases of maladministration*

- (xvii) functions relating to local government pensions*
- (xviii) if it is proposed that no action is to be taken on, or not the action recommended in, a final report of the Ombudsman, consideration of that report
- (xix) approval of an annual treasury management strategy
- (xx) agreeing to establish a joint Committee to be, for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004, a local planning authority
- (xxi) agreeing to confer additional functions on a joint Committee
- (xxii) power to request the dissolution of a joint Committee
- (xxiii) power to resolve not to issue any casino premises licenses within the Borough under Section 166 of the Gambling Act 2005.
- (xxiv) passing a resolution to make a change in alternative governance arrangements under Section 33F of the Local Government and Public Involvement in Health Act 2007
- (xxv) Approval of an allowance for the Mayor and Deputy Mayor other than where the allowance is updated for inflation in accordance with the Budget Strategy

* The matters marked with an asterisk shall be considered by the Cabinet but must be referred to the Council for determination

CASCADE AND GENERIC DELEGATION SCHEME

In addition to any function delegated to the Acting Chief Executive within this Constitution, any decision delegated to the Head of Paid Service, Chief Executive or Deputy Chief Executive by resolution of the Full Council, Cabinet or Committee shall be taken by the Acting Chief Executive until such time as a Chief Executive and Deputy Chief Executive are in post.

PRINCIPLES OF THE SCHEME OF DELEGATION FOR OFFICERS

1. The exercise of any powers or duties in pursuance of this Scheme shall be in accordance with:
 - (a) any policy or direction approved by the Full Council; or
 - (b) any policies approved by the Cabinet acting under delegated powers; and
 - (c) due observance of issues of propriety at all times.
2. All functions reserved to the Full Council by Statute, Standing Orders or Financial Regulations are excluded from the Scheme.
3. The exercise of functions (delegated powers) in respect of any matter involving the expenditure of money shall only take place provided financial provision has been identified in the Budget approved by the Full Council or financial approval has been obtained from the Cabinet or Cabinet Member.
4. Any powers or duties delegated to a Chief Officer may be exercised by any other person duly authorised by them in writing from time to time.
5. References to the term Chief Officer shall include the Acting Chief Executive, Monitoring Officer, Chief Finance Officer and Heads of Service.
6. Officers are appointed to undertake particular roles. Those roles may be established by the terms of their appointment, job or role description, their position in the organisation, or from a specific instruction or the allocation of specific responsibilities by their manager. Officers' roles may vary from time to time to reflect changes in service delivery, staffing levels and to protect the Council's interests.
7. In order to ensure the smooth functioning of the authority and the efficient delivery of all of the services that it is responsible for, the Full Council and the Leader delegate to officers all of the powers that they need to do whatever their role requires of them from time to time.

CASCADE OF POWERS

8. Officers' powers have been delegated by means of a standing cascade. That means that there are no long lists in this constitution of specific powers and who those powers have been delegated and sub-delegated to.
9. Instead, there is a standing delegation of all necessary powers from the Full Council and the Leader (and their committees) to the Acting Chief Executive. From the Acting Chief Executive there is a standing delegation directly on to the Heads of Service. The cascade continues down through the Heads of Service to managers and relevant officers in each Service.

10. In each case the powers delegated are the full range and extent of powers vested in the authority from time to time as necessary in order to discharge functions, implement decisions, and undertake the efficient operational management of the Services that the Acting Chief Executive and Heads of Service are responsible for from time to time.
11. This includes the power to do anything ancillary or incidental to, arising from, or necessary to give effect to or facilitate the exercise of powers and the discharge of functions delegated to officers.
12. Officers should be aware that the Head of Finance, Revenues and Benefits has statutory duties in relation to the financial administration and stewardship of the authority. Similarly the Head of Legal and Democratic Services shall act as Solicitor to the Council and they are authorised to institute, defend or participate in any legal proceedings to protect the interests of the Authority. These statutory responsibilities cannot be overridden.

USE OF POWERS

13. When officers act under delegated powers, they do so in the name of their Head of Service, the Acting Chief Executive who will retain ultimate responsibility for ensuring that powers are exercised at the appropriate level by suitably competent and qualified officers.
14. It is for Managers, in conjunction with the Acting Chief Executive and/or Head of Service, to determine, record and keep under review the extent to which officers in their service are authorised to exercise delegated powers in their name. They shall do this by ensuring that there is clarity in setting out their Service and team structures and defining the respective roles of their officers.
15. The Acting Chief Executive and each Head of Service will be responsible for producing a sub-delegation scheme setting out which officers are responsible for taking which decisions (using a template provided by the Monitoring Officer) and keeping these updated and available on the intranet.
16. It is the responsibility of each officer in the chain of cascade to ensure that powers are being exercised at the most appropriate level by suitably competent and qualified officers. They shall at all times have due regard for the nature, subject matter, and likely impact of any decision and liaise closely with those above them in the chain of cascade, including relevant Cabinet Members and Ward Members where deemed appropriate, especially where a matter has potentially significant strategic, policy or operational implications or is deemed to be politically sensitive.
17. Any ambiguity that may arise as to whether or not a particular officer is, by reference to the terms of their appointment, job or role description, or their position in the organisation, authorised in respect of any particular function is to be resolved by reference back up through the chain of cascade to Managers, Heads of Service, or ultimately to the Acting Chief Executive as appropriate who shall, where necessary, give written confirmation of the allocation of any given responsibility.
18. In exceptional circumstances, and with the agreement of those above them in the chain of cascade, Officers may decline to exercise powers which rest with them where it is considered, in all the circumstances, that it would be more appropriate for another officer (further up the chain of cascade) or for a Cabinet Member or the Leader to exercise the power instead.

19. Unless specifically prohibited by the terms of any authorisation, officers may arrange for any power which rests with them to be discharged by another suitably competent and qualified officer but they shall remain responsible for any powers so exercised.
20. Officers may direct that certain types of decisions or decisions on particular matters be reserved to them (or to another officer) notwithstanding that they would ordinarily be taken at a point further along the chain of cascade.
21. Where the duly empowered officer closest to the point of service delivery is unavailable or unable to act then, subject to any specific arrangements that may have been put in place, a suitably qualified and competent officer who is most proximate to the absent officer in the chain of cascade is empowered to act in place of that officer. This will usually follow the chain of cascade or line of management back up through Managers and Heads of Service to the Acting Chief Executive.
22. In the event of the Acting Chief Executive being absent or otherwise unable to act, the appropriate Head of Services shall be authorised to act in their place.

CONTROLS ON THE USE OF POWERS

23. Officers are not empowered in respect of matters that are specifically reserved to Members or which amount to the adoption or implementation of new policy.
24. Officers are only empowered to act in respect of matters which fall wholly within their Service area responsibilities and levels of competence.
25. Officers who propose to exercise powers in respect of any matter that is not wholly within their Service area responsibilities or levels of competence shall be obliged to act in consultation with and take appropriate advice from those officers with the relevant responsibilities and expertise and particularly from the Head of Finance, Revenues and Benefits and the Head of Legal and Democratic Services in respect of financial and legal considerations.
26. Before taking decisions officers shall be satisfied that they can demonstrate, by keeping appropriate records, that they are duly authorised to act and that they have undertaken all appropriate consultation.
27. Officers must at all times observe and abide by the principles and controls governing officer decision making contained in Article 12 of the Constitution (Decision Making)

OFFICER DELEGATION SCHEME

28. For the avoidance of doubt the cascade of power through the officer structure includes the power to take all action necessary in connection with or ancillary to:

PLEASE NOTE: The following delegations are based on “non-key (operational) decisions”. However, please be mindful that in some circumstances a decision may become “key” in which case the relevant process should be followed. In situations of doubt please contact the Democratic Services Team for advice.

	Officer Delegations
1.	The authorisation of officers as may be required by statute (whether inter alia as “Proper Officers”, “Appointed Officer”, “Qualified Officer”, “Designated Officer”, “Specific Point of Contact” or otherwise) to undertake certain roles, or to exercise or discharge any powers, duties or functions including investigatory or regulatory functions and affecting entry to land or premises
2.	All matters in respect of the instruction of or the conduct of legal (or quasi legal) proceedings (including the authentication or execution of documents) are reserved to the Head of Legal and Democratic Services (and their duly authorised officers) who shall be authorised to institute, defend, settle, discontinue or otherwise participate in any such proceedings or take any other action considered necessary to give effect to decisions of or protect the interests of the Authority.
3.	In exercising their delegated powers Chief Officers may serve, receive and act upon: <ul style="list-style-type: none"> • the issuing, service, variation, or withdrawal of any notice, direction, determination, requisition, ultimatum or demand; • the making, confirmation, variation or withdrawal of any order or regulation • the formation, variation or termination of any contract or agreement • the granting, variation, withdrawal or termination of any permission, notice, authorisation, licence or consent in the exercise of any discretionary power or in complying with any duty of the Council.
4.	The introduction, setting, reviewing and variation of fees and charges for the delivery of services and for the issue of any licence, registration, permit, consent or approval (<i>Excluding the review of fees and charges in respect of the functions of the Licensing Committee</i>)
5.	The approval of documents for public/stakeholder consultation, the carrying out of consultation, responding to consultation in line with this Council’s Protocol, adoption of documents following consultation and the submission of documents to the appropriate authority.
6.	The acceptance and determination of applications (including grants) made in accordance with Council policy/procedure and other legislation.
7.	The day-to-day management of services, including (but not limited to) the implementation, and monitoring (as well as necessary minor amendments) of approved Council’s policies, practices, strategies and schemes.
8.	The Head of Finance, Revenues and Benefits has statutory duties in relation to the financial administration and stewardship of the authority and his statutory responsibility cannot be overridden. The Financial Procedure Rules, Procurement Code and approved Council Budget set out the financial limits that officers must work within and the procedures they must follow. This also includes the financial limits in respect of the purchase and disposal of land.
9.	The management and maintenance of residential Council owned properties (including garages) and tenancies (including but not limited to the renewal of leases, rent reviews, rent guarantees, service charges, sale, purchase and re-purchase of properties).
10.	The management and maintenance of non-residential Council properties and land including but not limited to the renewal of leases, rent reviews, service charges, the approval of the annual programme of building maintenance works where the cost does not exceed £100,000 and excluding the purchase and disposal of land.

RESPONSIBILITY FOR CABINET FUNCTIONS

Employees' Joint Consultative Forum (EJCF)

Membership: All Cabinet Members

Employees' Side: J Braidley and E Chipperfield

The following functions may be carried out by the Employees' Joint Consultative Forum on behalf of the Cabinet. The main object of the Forum will be to facilitate consultation between the Council and its employees and to maintain and improve relations between both sides. The Forum is not a decision making body but may make recommendations where appropriate to the Cabinet.

- (i) The development of a full understanding of, and interest in the work of the Council, so that all parties can work constructively in developing and providing an efficient service.
- (ii) Ensuring that employee representatives are well informed about the current issues, economic situation and activities of the Council and any proposals for the future.
- (iii) Provision of information and consultation on any proposed change or development of services or structures with potential employment implications.
- (iv) Informing and consulting on decisions likely to lead to substantial changes in terms and conditions or contracts of employment, including local conditions of service or training arrangements and, where appropriate, the local implementation of national agreements.
- (v) Discussing the issues arising from the operation of agreed procedures and conditions and assisting in the prevention of misunderstanding.

PROPER OFFICERS

STATUTE	DUTY/RESPONSIBILITY	DESIGNATION	RESPONSIBLE EMPLOYEE
Section 52. Representation of the People Act 1983	Acts may be undertaken in the event of the incapacity or vacancy of the Registration Officer.	Proper Officer	Head of Legal and Democratic Services
Section 67. Representation of the People Act 1983	The duties and responsibilities of the appropriate employee.	Proper Officer	Acting Chief Executive
Section 83(1) Local Government Act 1972	Witness and receipt of declarations of acceptance of office.	Proper Officer	Head of Legal and Democratic Services or in their absence Democratic Services Manager
Section 84(1) Local Government Act 1972	Receipt of declaration of resignation of office.	Proper Officer	Head of Legal and Democratic Services or in their absence Democratic Services Manager
Section 89(1) Local Government Act 1972	Receipt of notice of casual vacancy from two local government electors.	Proper Officer	Head of Legal and Democratic Services
Section 30(5) Local Government Act 1974	To give public notice of report by the Local Commissioner.	Proper Officer	Head of Legal and Democratic Services
Section 88(2) Local Government Act 1972	Convening of meeting of Council to fill casual vacancy in the office of Chairman.	Proper Officer	Head of Legal and Democratic Services
Section 100B(2) Local Government Act 1972	Exclude any report relating to an item not likely to be considered in public.	Proper Officer	Head of Legal and Democratic Services or in their absence Democratic Services Manager

STATUTE	DUTY/RESPONSIBILITY	DESIGNATION	RESPONSIBLE EMPLOYEE
Section 100B(7) Local Government Act 1972	Supply to a newspaper copies of documents already supplied to Members.	Proper Officer	Head of Legal and Democratic Services
Section 100C(2) Local Government Act 1972	Make a written summary of proceedings.	Proper Officer	Head of Legal and Democratic Services
Section 100D(1) Local Government Act 1972 Reg. 6 Local Authorities (Cabinet Arrangements) (Access to Information) (England) Regulations 2000	Compile a list of background papers. Inspection of background papers.	Proper Officer	The employee in whose name the report is written provided that in the case of reports written in the name of more than one employee the proper officer shall be the first named employee. In the case of reports not written in the name of an officer or employees, the proper officer shall be the Head of Legal and Democratic Services or such other employee identified by her as having the principal interest in the report.
Section 100D(5) Local Government Act 1972	Decide what comprises a background paper.	Proper Officer	The proper officer appointed for the purposes of Section 100D(1).
Section 100F(2) Local Government Act 1972	Decide whether a document discloses exempt information.	Proper Officer	Head of Legal and Democratic Services or in their absence Democratic Services Manager

STATUTE	DUTY/RESPONSIBILITY	DESIGNATION	RESPONSIBLE EMPLOYEE
Section 210 Local Government Act 1972	Vesting of charities.	Proper Officer	Acting Chief Executive.
Section 225 Local Government Act 1972	Deposit of documents.	Proper Officer	Head of Legal and Democratic Services
Section 228 Local Government Act 1972	Inspection of documents.	Proper Officer	Head of Legal and Democratic Services
Section 229 Local Government Act 1972	Certification of photographic copies of documents.	Proper Officer	Head of Legal and Democratic Services
Section 234 Local Government Act 1972	Authentication of documents.	Proper Officer	Head of Legal and Democratic Services
Section 236 Local Government Act 1972	To send copies of bylaws for parish records.	Proper Officer	Head of Legal and Democratic Services
Section 236 Local Government Act 1972	To send copies of bylaws to County Council.	Proper Officer	Head of Legal and Democratic Services
Section 248 Local Government Act 1972	Keep a roll of freemen	Proper Officer	Head of Legal and Democratic Services
Schedule 12, paragraph 4(2)(b) Local Government Act 1972	Signing of summonses to Council meetings.	Proper Officer	Head of Legal and Democratic Services
Schedule 12, paragraph 4(3) Local Government Act 1972	Receipt of notices regarding address to which summons to meeting is to be sent.	Proper Officer	Head of Legal and Democratic Services

STATUTE	DUTY/RESPONSIBILITY	DESIGNATION	RESPONSIBLE EMPLOYEE
Schedule 14, paragraph 25(7) Local Government Act 1972	Certification of resolutions under paragraph 25 of Schedule 14.	Proper Officer	Head of Legal and Democratic Services
Sections 3, 71 and Schedule 2 Licensing Act 1964 and 204(3) Local Government Act 1972	To receive a notice on an application for a Justices Licence.	Proper Officer	Head of Economic and Environmental Services
Section 3 Compulsory Purchase (Vesting Declaration) Act 1981	Notice under this Act to be registered in the Local Land Charges Register.	Proper Officer	Head of Legal and Democratic Services
Section 116 Local Government Finance Act 1988	Notify the auditor of steps taken under Section 115 of this Act.	Proper Officer	Head of Legal and Democratic Services
Local Government (Committees and Political Groups) Regulations 1990	The giving of, delivery to and receipt of notices and expressions of wishes.	Proper Officer	Head of Legal and Democratic Services
Section 2, Local Government and Housing Act 1989	Deposit of list of politically restricted posts.	Proper Officer	Head of People and Technology
Section 15, Local Government and Housing Act 1989	Receipt of notices - political groups.	Proper Officer	Head of Legal and Democratic Services
Section 19, Local Government and Housing Act 1989	Receiving notice of Members' prejudicial interests and the maintenance of required records.	Proper Officer	Head of Legal and Democratic Services
Section 115(2) Local Government Act 1972	Accountability of officers.	Proper Officer	Head of Finance, Revenues and Benefits

STATUTE	DUTY/RESPONSIBILITY	DESIGNATION	RESPONSIBLE EMPLOYEE
Section 146(1)(a) and (b) Local Government Act 1972	Declaration and certificates with regard to securities.	Proper Officer	Head of Finance, Revenues and Benefits
Section 54 Town and Country Planning Act 1971	Deposit of list of buildings of special architectural or historic interest.	Proper Officer	Head of Economic and Environmental Services
Section 191 Local Government Act 1972	Function under the Ordnance Survey Act 1841	Proper Officer	Head of Economic and Environmental Services
Section 295 Highways Act 1980	Service of notice requiring owner to remove old materials.	Proper Officer	Head of Economic and Environmental Services
Section 321 and Schedules 9 and 15 Highways Act 1980	To sign any notice, consent, approval, order etc. under this Act.	Proper Officer	Head of Legal and Democratic Services
Section 61 Building Act 1984	Access to the repair etc. of a drain.	Proper Officer	A person appointed by the Acting Chief Executive
Section 78 Building Act 1984	Exercise the powers of the local authority in relation to emergency measures to dangerous buildings.	Proper Officer	Head of Economic and Environmental Services
Section 93 Building Act 1984	Authentication of documents.	Proper Officer	A person appointed by the Acting Chief Executive
Section 351 Housing Act 1985	To keep a register of houses in multiple occupation etc.	Proper Officer	Head of Strategic Housing and Planning
Section 606 Housing Act 1985	Report in writing on an unfit house or need for a clearance area and inspect a house or area on complaint.	Proper Officer	Head of Economic and Environmental Services

STATUTE	DUTY/RESPONSIBILITY	DESIGNATION	RESPONSIBLE EMPLOYEE
Section 212 (2) and (4) Local Government Act 1972	Act on behalf of Council as registering authority under Local Land Charges Act 1975	Proper Officer	Head of Legal and Democratic Services
Local Government (Miscellaneous Provisions) Act 1976	Certification of copies of formal documents as evidence in legal proceedings.	Proper Officer	Head of Legal and Democratic Services
Local Government Act 1972 Schedule 14 (para 13) Public Health (Control of Disease) Act 1984 Public Health (Aircraft) Regulations 1979 (as amended) National Assistance Act 1948 National Assistance (Amendment) Act 1951 Public Health Act 1936 Public Health 1961 Public Health (International Trains) Regulations 1994 The Health Protection (Notification) Regulations 2010	Power to act in relation to notifiable disease and related matters.	Proper Officer/Medical Officer	Person appointed by the Head of Economic and Environmental Services and/or Head of Strategic Housing and Planning
Regulation 4, Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000	Publication of verification number for petitions.	Proper Officer	Acting Chief Executive

STATUTE	DUTY/RESPONSIBILITY	DESIGNATION	RESPONSIBLE EMPLOYEE
Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000 apart from Regulation 4	Responsibilities in relation to petitions etc.	Proper Officer	Head of Legal and Democratic Services
Local Authorities (Cabinet Arrangements) (Access to Information) (England) Regulations 2000 (Reg. 3 and 4, 5, 9, 11, 15, 17, 21)	Recording of decisions Inspection of documents Access to papers Publicity in connection with key decisions Exceptions to forward plans Additional rights Committees for Members Confidential information	Proper Officer	Head of Legal and Democratic Services
Any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972 to the Clerk of the Council or the Town Clerk of a Borough which, by virtue of any of the provisions of the said Act, is to be construed as a reference to the Proper Officer of the Council.		Proper Officer	Acting Chief Executive

STATUTE	DUTY/RESPONSIBILITY	DESIGNATION	RESPONSIBLE EMPLOYEE
Any reference in any local statutory provisions to the work of a specified Council or the Town Clerk of a specified Borough which, by virtue of any order made under Section 254 of the Local Government Act 1972, is to be construed as a reference to the Proper Officer of the Council.		Proper Officer	Acting Chief Executive
Local Authorities (Standing Orders) (England) Regulations 2001		Proper Officer	Head of People and Technology
Part 1 – Listed Buildings, Planning (Listed Buildings and Conservation Area) Act 1990 (c.9)	To serve formal notice on the owner / occupier of a building to inform them that the building has been listed	Proper Officer	Acting Chief Executive
Localism Act 2011	Receipt of written applications for dispensations under Section 33 of the Localism Act 2011	Proper Officer	Monitoring Officer
Localism Act 2011	Grant applications for dispensations pursuant to the provisions in Section 33 of the Localism Act 2011	Proper Officer	Monitoring Officer
The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012	Determination, in consultation with the Leader, to respond to any representations received about why a Cabinet meeting, or part of a Cabinet meeting, should be held in public following publication of a notice of intention to meet in private	Proper Officer	Head of Legal and Democratic Services

In the event of any Officers appointed as Proper Officers being absent or otherwise unable to act, the Acting Chief Executive shall be authorised to act as Proper Officer in their place.

In the event of the Acting Chief Executive being appointed as Proper Officer and being absent or otherwise unable to act, the appropriate Head of Service shall be authorised to act as Proper Officer in their place

PART 4 - RULES OF PROCEDURE

COUNCIL PROCEDURE RULES

COUNCIL PROCEDURE RULES

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Introduction and Interpretation

- (1) These procedure rules govern the conduct of Council meetings and also meetings of its Committees and Sub-Committees except where specified. Their purpose is to ensure that meetings operate effectively.
- (2) The person presiding at any meeting will decide on all matters of order and interpretation of these rules and their decision will be final and not open to discussion. However, in reaching their decision, the person presiding must give due consideration to the advice of the Monitoring Officer, and the person presiding will explain why they have made that decision.

1. ANNUAL MEETING OF THE COUNCIL

1.1. Timing and Business

The Annual Meeting of the Council will be held in May.

The annual meeting will:

- (i) elect a person other than a Member of the Cabinet to preside if the Mayor or Deputy Mayor are not present;
 - (ii) elect the Mayor;
 - (iii) elect the Deputy Mayor;
 - (iv) approve the minutes of the last meeting;
 - (v) extend a vote of thanks to the outgoing Mayor and Mayoress/Mayor's Escort;
 - (vi) extend a vote of thanks to the outgoing Deputy Mayor and Deputy Mayoress/Deputy Mayor's Escort;
 - (vii) receive notification of apologies for absence;
 - (viii) receive any declarations of interest from Members;
 - (ix) receive the Returning Officer's report of results of elections;
 - (x) receive any announcements from the Mayor and/or Acting Chief Executive;
 - (xi) elect the Leader if required (as set out in Article 7 of this Constitution);
 - (xii) appoint at least one scrutiny Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Cabinet functions (as set out in Part 3 of this Constitution);
 - (xiii) agree the scheme of delegation relating to the Council and its Committees (as set out in Part 3 of this Constitution);
 - (xiv) receive the Leader's written record of delegations made by them for Cabinet functions for inclusion in the Council's Scheme of Delegation;
 - (xv) consider any business set out in the notice convening the meeting;
 - (xvi) consider any urgent business arising since the last Ordinary Meeting and brought forward by the (i) Cabinet or (ii) Acting Chief Executive;
- and

- (xvii) deal with any recommendation of a non-controversial nature contained in the reports of any meetings of the Cabinet, Overview and Scrutiny Commission and the regulatory Committees which have taken place since the last Ordinary Meeting of the Council.

1.2. **Selection of Councillors on Committees and Outside Bodies**

At the Annual Meeting, the Council meeting will consider the report of the Head of Legal and Democratic Services and:

- (i) decide which Committees to establish for the municipal year;
- (ii) decide the size and terms of reference for those Committees;
- (iii) decide the allocation of seats (and substitutes if any) to political groups in accordance with the political balance rules;
- (iv) receive nominations from party group leaders of Councillors to serve on each Committee and outside body;

The Head of Legal and Democratic Services will have the authority, during the Council year, to vary the appointments to outside bodies relating to Council functions to give effect to the wishes of a political group in relation to seats allocated to it subject to the change being reported in the Members' Information Bulletin.

- (v) appoint to those Committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet; and
- (vi) appoint the Chairs and Vice-Chairs of the Council's Committees and Sub-Committees.

- 1.3. Petitions will not be considered at the Annual Meeting of the Council.

2. **ORDINARY MEETINGS**

- 2.1. Ordinary Meetings of the Council will take place in accordance with the agreed programme.

Ordinary Meetings will:

- (i) elect a person other than a Member of the Cabinet to preside if the Mayor and Deputy Mayor are not present;
- (ii) receive notification of apologies for absence;
- (iii) receive any declarations of interest from Members;
- (iv) receive communications brought forward by the Mayor, Leader or the Acting Chief Executive, including any urgent petitions.
- (v) provide an opportunity for the Mayor to make presentations of awards as appropriate.
- (vi) receive questions (not statements) from, and provide answers to, the public in accordance with Rule 10 in relation to matters which in the opinion of the person presiding at the meeting are relevant to the functions of the Council;
- (vii) make appointments or fill vacancies on Committees, joint boards, joint Committees or other bodies.

- (viii) consider relevant petitions submitted under the Crawley Borough Council Petitions Scheme (see Part 5 of this Constitution);
- (ix) approve the minutes of the last meeting;
- (x) prior to receiving the minutes of the Cabinet, Overview and Scrutiny Commission and the regulatory Committees, provide Councillors with the opportunity to indicate which resolved items and recommendations they wish to reserve for debate.

(There shall be no debate on any item included in the minutes of the Cabinet, Overview and Scrutiny Commission, or of a regulatory Committee, where the item in those minutes has been previously debated at an Extraordinary Meeting of the Council held earlier in the same Committee cycle and where a decision has been made on that matter at the Extraordinary Meeting).

- (xi) receive the minutes of the Cabinet, Overview and Scrutiny Commission and of the regulatory Committees. The receipt of the minutes will be moved by the Deputy Mayor (or the Mayor's nominee in the absence of the Deputy Mayor) and a seconder shall not be required for this motion.
- (xii) approve 'en bloc' any unreserved items including any specific recommendations contained therein. Items requiring individual consideration as required by law shall not be dealt with in this manner. The unreserved items shall be proposed for approval by the Deputy Mayor (or the Mayor's nominee in the absence of the Deputy Mayor) and a seconder shall not be required for this motion.
- (xiii) Deal with
 - (a) any decision called in accordance with Scrutiny Procedure Rule 14
 - (b) the reserved matters in the order set out in the Minute Book (subject to any ruling from the person presiding to the contrary).

The reserved items which include a recommendation will be voted upon as each debate ends

In the case of a previously resolved item which has been reserved for debate, the Member who has reserved the item will speak first. The Cabinet Member / Chair will sum up at the end and have the right of reply.

In the case of a **recommendation to the Council** which has been reserved for debate, or of a **call-in**, the appropriate Cabinet Member or Chair will speak first in the debate. They will be followed by the Councillor who has reserved the item, or called it in, who shall be entitled to speak for five minutes. Normal debating rules will apply and the Cabinet Member/Chair will then sum up at the end and have the right of reply. All Cabinet recommendations shall be moved by the Leader (unless the Leader did not chair the Cabinet meeting).

The minutes of any meeting of the Cabinet, Overview and Scrutiny Commission or a regulatory Committee held more than nine clear working days before the meeting will be submitted.

Should minutes of the Cabinet, Overview and Scrutiny Commission or a regulatory Committee be held within the nine day period - which

contain recommendations to Council or call-in, those minutes too will be submitted. In all other circumstances, the minutes of such meetings will be discussed at the next following meeting of the Council.

- (xiv) consider motions of which notice has been given under Council Procedure Rule Number 13.
- (xv) Note the answers to Members' written questions under Council Procedure Rule Number 11.3;
- (xvi) receive any announcements from Members of the Cabinet, if necessary, on issues relating to their Portfolio not covered elsewhere on the agenda;
- (xvii) deal with questions to Cabinet Members on general matters relating to their Portfolio,
- (xviii) deal with questions to Committee chairs on general matters relating to their Committees,

The order of business will be agreed by the Leader, the Mayor and the Opposition Group Leaders prior to the issue of the summons for the meeting and may be varied at the meeting at the discretion of the Mayor.

2.2. **Duration of Meeting: Guillotine**

(a) **Concluding the Meeting**

If the business of the Council meeting has not been concluded within two and a half hours, unless the majority of Members present vote for the meeting to continue for a period up to 30 minutes if required, the following procedure will be implemented. (Following the meeting's initial extension, consideration will be given to extending the meeting by further periods of up to 30 minutes if required).

(b) **Motions and Recommendations Not Dealt With**

If there are any other motions or recommendations on the agenda that have not been dealt with within the two and half hours, or at the expiry of any agreed extension(s), they are deemed formally moved and seconded (together with any amendments). No speeches will be allowed on these items and the vote will be taken in the usual way. This process will also apply in instances where the Council is statutorily required to make a decision about a matter before a particular date.

(c) **Recorded Vote**

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

(d) **Motions Which May Be Moved**

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

(e) **Close of the Meeting**

When all motions and recommendations have been dealt with, the Mayor will declare the meeting closed.

3. EXTRAORDINARY MEETINGS

3.1. Calling Extraordinary Meetings

Those listed below may request the Head of Legal and Democratic Services to call Council meetings in addition to Ordinary Meetings:

- (i) the Council by resolution;
- (ii) the Mayor;
- (iii) any nine Members of the Council if they have signed a request presented to the Mayor and the Mayor has (a) refused to call a meeting, or (b) without so refusing has failed to call a meeting within seven days of the presentation of the request. The request should state the business to be transacted and this will be the only business to be transacted at the meeting.

The Head of Legal and Democratic Services as Monitoring Officer may also decide to call a Council meeting in addition to Ordinary Meetings.

3.2. An Extraordinary Meeting of the Council will:

- (a) elect a person other than a Member of the Cabinet to preside if the Mayor and Deputy Mayor are absent;
- (b) receive notification of apologies for absence;
- (c) receive any declarations of interest from Members;
- (d) deal with any business required by statute;
- (e) deal with the business specified in the request summoning the Extraordinary Meeting or specifically required by the Council or the Mayor to be dealt with at the Extraordinary Meeting (and no other matter);
- (f) deal with any recommendation of a non-controversial nature contained in the reports of any meetings of the Cabinet, Overview and Scrutiny Commission and the regulatory Committees which have taken place since the last Ordinary Meeting of the Council.

3.3. Notice of the time, date and place of any Extraordinary Meeting of the Council will be sent by the Head of Legal and Democratic Services to every Member of the Council not less than five clear working days before the meeting is to be held.

3.4. Petitions will not be considered at Extraordinary Meetings of the Council.

4. APPOINTMENT OF SUBSTITUTE MEMBERS OF COMMITTEES AND SUB-COMMITTEES

4.1. Allocation

As well as allocating seats on Committees and Sub-Committees, the Council may allocate seats in the same manner for substitute Members.

4.2. Number

For each Committee or Sub-Committee, the Council may appoint one substitute in respect of each political group which holds seats on that Committee or Sub-Committee.

4.3. Powers and Duties

Substitute Members will have all the powers and duties of any ordinary Member of the Committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

4.4. Substitution

Substitute Members may attend meetings in that capacity only;

- (i) to take the place of the ordinary Member for whom they are the designated substitute;
- (ii) where the ordinary Member will be absent for the whole of the meeting; and
- (iii) after notifying the Head of Legal and Democratic Services before the commencement of the meeting of the intended substitution.

5. TIME AND PLACE OF MEETINGS

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

The Annual Meeting and other meetings of the Council for the transaction of general business will be held at 7.30p.m. or such other time as the Council, or Mayor in case of urgency, may from time to time determine.

6. NOTICE OF AND SUMMONS TO MEETINGS

The Head of Legal and Democratic Services will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear days before a meeting, the Head of Legal and Democratic Services will send a summons signed by them to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

7. CHAIR OF MEETING

At a meeting of the Council the Mayor, or in their absence the Deputy Mayor shall preside. If both the Mayor and the Deputy Mayor are absent from a meeting of the Council, such Member as the Council shall choose other than a Member of the Cabinet shall preside.

The person presiding at the meeting may exercise any power or duty of the Mayor. Where these rules apply to Committee and Sub-Committee meetings, references to the Mayor also include the Chair of Committees and Sub-Committees.

8. CONDUCT

Everyone present at a Council Meeting should:

- a) treat others with courtesy and respect.
- b) conduct themselves in a way that does not cause offence to others or limits in any other way others' ability to participate in meetings.
- c) only speak when called on by the Mayor and through the Mayor.

Unacceptable conduct includes:

- a) using abusive or unbecoming language or making comments of a personal nature about another person.
- b) derogatory remarks or actions.
- c) preventing others from expressing their views by interrupting or talking while they are speaking.

9. QUORUM

The quorum of a meeting will be one quarter of the whole number of Members (rounded up where necessary to the next number).

This is provided that in no case shall the quorum of a Full Council be less than ten Members, of a Committee less than three Members or of a Sub-Committee or a Scrutiny Panel less than two Members.

The quorum for the Staff Appeals Board will be three.

The quorum of the Appointments and Investigating Committee will be between 3 and 7 Members (Part 3 of the Constitution, Responsibility for Functions of the Appointments and Investigating Committee, refers).

The quorum for the Licensing Committee when dealing with matters under the Licensing Act 2003 or the Gambling Act 2005 will be ten Members.

The quorum of the Licensing Sub-Committee will, however, be three Members.

During any meeting if the Mayor (or Chair) counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately, except where the transaction of business is authorised by a statute or, in the case of a Committee or Sub-Committee, is ordered by the Council

Remaining business will be considered at a time and date fixed by the Mayor (or Chair). If they do not fix a date, the remaining business will be considered at the next Ordinary Meeting.

10. QUESTIONS BY THE PUBLIC AT COUNCIL

10.1. General

Members of the public may ask questions at Ordinary Meetings of the Full Council. The Mayor will provide clear guidance to members of the public (and those present) when addressing questions to the Full Council.

10.2. Notice of Questions

Members of the public do not need to give prior notice of their questions. They may signify their wish to ask a question by raising their hand. Questions are to be concise to enable as many as possible to be considered in the time available. All questions will be directed to the Mayor and each questioner will be invited to give their name and the ward they live in. The Mayor may invite any Member to respond. No Member will speak more than once on any individual question and will confine their comments to responding to the question.

10.3. Scope of Questions

The Mayor may reject a question if, in their opinion, it:

- is not about a matter for which the local authority has powers or duties or which affects the borough;
- is defamatory, frivolous or offensive;
- requires the disclosure of confidential or exempt information;
- is substantially the same as a question which has been put to a meeting of the Council in the past 6 months.

10.4. Supplemental Question

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to their original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 10.3 above.

10.5. Written Answers

Any question which cannot be dealt with during public question time, either because of lack of time or because the information is not readily available, will be dealt with by a written answer.

10.6. Reference of Question to the Cabinet or a Committee

Unless the Mayor decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Cabinet or the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

10.7. Conclusion of Public Question Time

The Mayor shall conclude public question time when all questions have been answered or a period of 30 minutes has expired whichever is the sooner.

10.8. **Suspension of Rules**

During public question time the provisions of Council Procedure Rule 16 (Rules of Debate) shall not apply.

11. **QUESTIONS BY MEMBERS**

11.1. **A written or oral question may be rejected if it:**

- is defamatory, frivolous or offensive;
- requires the disclosure of confidential or exempt information;
- and further in the case of a written question, would incur disproportionate cost and time to answer and the Head of Service having consulted with the relevant Cabinet Member makes a decision not to provide an answer on these grounds.

11.2. **Oral Questions of Cabinet Members**

There shall be a period of up to 15 minutes during which time any Member of the Council may ask any Member of the Cabinet any question about any issue relevant to their portfolio. Every question shall be put and answered without discussion. An answer may take the form of:

- (a) a direct oral answer or;
- (b) where the desired information is contained in a publication of the Council, a reference to that publication; or
- (c) where a reply to the question cannot conveniently be given orally, a written answer circulated subsequently to Members of the Council.

11.3. **Oral Questions of Committee Chairs**

There shall be a period of up to 15 minutes, during which time any Member of the Council may ask any Committee Chair any question relevant to the Committee which they Chair. Every question shall be put and answered without discussion. An answer may take the form of:

- (a) a direct oral answer; or
- (b) where the desired information is contained in a publication of the Council, a reference to that publication; or
- (c) where a reply to the question cannot conveniently be given orally, a written answer circulated subsequently to Members of the Council

11.4. **Written Questions**

- (i) Subject to Rule 11.1 and 11.4(ii), a Member of the Council may ask:
 - the Mayor;
 - a Member of the Cabinet;

Or

 - the Chair of any Committee

a question on any matter in relation to which the Council has powers or duties or which affects the Borough. Written Questions and Answers will be tabled in the Order Paper and be put without discussion.

- (ii) A Member may only ask a question under Rule 11.4 if either:
 - (a) they have given at least four clear working days notice in writing of the question to the Head of Legal and Democratic Services or have given notice by electronic means by sending it to democraticservices@ Crawley.gov.uk. In the latter case, acknowledgement of its receipt shall be obtained. (The effect of the notice given is that where a Council meeting is to be held on a Wednesday, notice must be delivered by Midnight of the Wednesday evening of the previous week); or
 - (b) the question relates to urgent matters, they have the consent of the Member to whom the question is to be put and the content of the question is given to the Head of Legal and Democratic Services by 12 noon on the day of the meeting. Every question shall be put and answered without discussion.

12. PRESENTATION OF PETITIONS

- 12.1. If a petition contains more than 1,000 signatures it will be debated by the Full Council unless it is a petition asking for a senior Council officer to give evidence at a public meeting (in which case it will be considered at a public meeting of the Cabinet, Full Council, a Committee or Sub Committee, or referred to the Cabinet Member, whichever has the power / authority to take decisions on the matter).
- 12.2. The Council will endeavour to consider a petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting.
- 12.3. The organiser of a petition to be considered at the meeting will be given up to 5 minutes to present the petition at the meeting. The petition will then be discussed by Members. A maximum of 30 minutes will be allowed at each meeting for consideration of petitions.
- 12.4. All petitions considered by the Full Council will be subject to a recorded vote where the decision is not unanimous. That decision could include taking the action requested in the petition, or referring the petition for consideration by the Cabinet or relevant Committee.

Details of the Council's Petition Scheme are contained in Part 5 of this Constitution.

13. NOTICE OF MOTIONS

13.1. Notice

Except for motions which can be moved without notice under Rule 14, written notice of every motion, signed by the Member or Members of the Council giving the notice (supported by the seconder) must be delivered to the Head of Legal and Democratic Services at least nine clear working days before the date of the meeting.

Electronic notices of motions and the seconding of that motion shall be sent to democraticservices@ Crawley.gov.uk and acknowledgement of its receipt shall be obtained. (The effect of this provision is that, where a Council meeting is to be held on a Wednesday, notice must be delivered by Midnight of the Wednesday evening, two weeks before).

A copy of all notices of motions will be available for public inspection on the Council's website following publication of the Council agenda to which the motion relates.

13.2. Motion Set Out in Agenda

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

If it should appear to the Head of Legal and Democratic Services that a motion of which they have received notice is not in order, they shall take the direction of the Mayor as to whether or not it shall be excluded from the summons.

If a motion, set out in the summons, is not moved either by a Member who gave notice or by some other Member on their behalf it shall, unless the Council agrees to its postponement, be treated as withdrawn and shall not be moved without fresh notice.

The Mayor may, if they consider it convenient and conducive to the despatch of business, allow a motion to be dealt with at the meeting at which it is brought forward. However, if the subject matter of any motion of which notice has been given is the responsibility of the Cabinet or any Committee or Committees it may, after being moved and seconded, stand referred without discussion to the Cabinet, or to such other Committee(s) as the Council may determine, for consideration and report back to the next Ordinary Meeting of the Council on a proposed course of action.

13.3. Scope

Motions must be about matters for which the Council has powers or duties or which affect the Borough. They must not be defamatory, frivolous, offensive, unlawful or improper.

14. MOTIONS AND AMENDMENTS WHICH MAY BE MOVED WITHOUT NOTICE

The following motions and amendments may be moved without notice:

- (a) to appoint a Chair of the meeting in the Chair's / Vice Chair's absence;
- (b) in relation to the accuracy of the minutes;
- (c) to change the order of business in the agenda;

- (d) motions relating to communications specially brought forward by the Mayor or Acting Chief Executive under Council Procedure Rule 2.1(iv);
- (e) to refer something to an appropriate body or individual;
- (f) to appoint a Committee or Member(s) to a Committee, arising from an item on the summons for the meeting;
- (g) to receive reports or adoption of recommendations of the Cabinet, Committees or officers and any resolutions following from them;
- (h) to withdraw a motion;
- (i) to extend the time limit for speeches;
- (j) to amend a motion;
- (k) to proceed to the next business;
- (l) that the question be now put;
- (m) to adjourn a debate;
- (n) to adjourn a meeting;
- (o) to authorise the sealing of documents;
- (p) to suspend a particular Council procedure rule;
- (q) to exclude the public and press in accordance with the Access to Information Rules;
- (r) to not hear further a Member named under Rule 22.3 or to exclude them from the meeting under Rule 22.4;
- (s) to give the consent of the Council where its consent is required by this Constitution.

15. MOTIONS ON EXPENDITURE

Any motion or amendment (which is moved otherwise than in pursuance of a recommendation or report of the Cabinet/any Committee) which if carried would materially increase the expenditure upon any service, reduce revenue or would involve capital expenditure, which is under the management of the Cabinet / any Committee, shall when proposed and seconded stand adjourned. That motion shall be referred to the Cabinet or Committee affected for formal consideration of the financial implications in advance of any budgetary commitment and prior to any action to implement the decision.

16. RULES OF DEBATE

16.1. No Speeches Until Motion Seconded

At Council meetings, motions will not be debated until they have been formally proposed and seconded.

16.2. Right to Require Motion in Writing

Unless notice of the motion or amendment has already been given, the Mayor may require it to be written down and handed to them before it is discussed. (In any event any amendment which contains more than 8 words shall be put in writing and a copy made available to all Members present. Note: Members

are asked to arrange for copies of all amendments to be made available in writing if the wording is known in advance of the meeting.)

16.3. **Secunder's Speech**

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

16.4. **Content of Speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order.

16.5. **When a Member May Speak Again**

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

- (a) to speak once on an amendment moved by another Member;
- (b) to move a further amendment if the motion has been amended since 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; and
- (f) by way of personal explanation.

16.6. **Amendments to Motions**

- (a) An amendment to a motion must be relevant to the motion and must not seek to add issues which do not strictly relate to the original motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words.

As long as the effect of (ii) to (iv) is not to have the effect of introducing a new proposal into the debate or of negating the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been dealt with.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. Further amendments may be moved to the amended motion.

- (e) After an amendment has been carried, the Mayor will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

16.7. Alteration of Motion

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

16.8. Withdrawal of Motion

A Member may withdraw a motion or amendment which they have moved with the consent or opposition of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion or amendment after the proposer has asked permission to withdraw it unless permission is refused.

16.9. Right of Reply

- (a) The proposer of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) In the case of an amendment being moved:
 - (i) If the proposer of the original motion accepts the amendment they have the right of reply at the close of the debate on the amended motion, but may not otherwise speak on it.
 - (ii) If the proposer of the original motion does not accept the amendment, but the amendment is carried and becomes the amended motion, the Member who moved the amendment then has the right of reply at the close of debate on the amended motion.
- (c) The proposer of the amendment has no right of reply to the debate on their amendment, but if the amendment is carried and becomes the amended motion, they will have a right of reply in the event of any amendment thereto being moved.
- (d) A Member exercising a right of reply shall not introduce new matter. After every right of reply a decision shall be taken without further discussion, subject to the right of the Mayor, if they think fit, to sum up the debate.

16.10. Mayor May Sum Up Debate

The Mayor may, if they think fit, sum up the debate before putting a motion or amendment; and, if such debate involves questions of a legal, administrative or technical nature, they may request the Acting Chief Executive, or appropriate officer to draw the attention of the Council to any relevant factors.

16.11. Motions Which May Be Moved During Debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a Member named under Rule 22.3 or to exclude them from the meeting under Rule 22.4 by the Mayor.

16.12. Closure Motions

- (a) A Member may move the following motions at the end of a speech of another Member:
 - (i) to proceed to the next business;
 - (ii) that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) (i) to proceed to the next business
If a motion to proceed to next business is seconded the Mayor will put the procedural motion to the vote immediately without giving the proposer of the original motion the right of reply. If the procedural motion is carried, the meeting will move to the next item of business without taking a decision on the item then under discussion.
- (ii) that the question be now put
If a motion that the question be now put is seconded, the Mayor will put the procedural motion to the vote immediately. If it is passed the Mayor will give the proposer of the original motion a right of reply before putting their motion to the vote.
- (iii) To adjourn a debate or to adjourn a meeting
If a motion to adjourn the debate or to adjourn the meeting is seconded the Mayor will put the procedural motion to the vote immediately without giving the proposer of the original motion the right of reply.

16.13. Point of Order

A Member may raise a point of order at any time. The Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the Council Procedure rule or law and the way in which they consider it has been broken. Once this has been verified by the Mayor, the Member will be invited to speak for up to 2 minutes.

16.14. Personal Explanation

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate.

16.15. Committee Reports

Any recommendations by a Committee at the Council will be taken in numerical 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.

16.16. 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 Council may debate this recommendation provided that the item has been identified as an item for debate under Council Procedure Rule 2.1 (xiii).

16.17. Offensive Amendments or Motions

If at any meeting the Mayor is of the opinion that any motion, amendment or business proposed to be moved or transacted is of a defamatory, frivolous 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 be not entertained or further permitted. If such a motion is carried, the matter will be considered as disposed of for that meeting.

16.18. Ruling of the Mayor

The ruling of the Mayor on any question of procedure or conduct shall not be open to discussion.

16.19. Contribution of Officers at Meetings

An officer of the Council attending the Council meeting may, with the consent of the Mayor if they consider it conducive to the conduct of any of the Council's business, contribute by way of advice, guidance or presentations on any report under consideration.

17. PREVIOUS DECISIONS AND MOTIONS

17.1. Motion to Rescind a Previous Decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least one third of the Members of the Council (13).

17.2. Motion Similar to One Previously Rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least one third of the Members of the Council (13). Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

17.3. Rules 17.1 and 17.2 shall not apply to motions moved in connection with the report or recommendation of a Committee or the Cabinet.

18. VOTING

18.1. Procedure

The Mayor will give clear instructions and guidance when a vote is to be taken. The Mayor will give clear instructions on the reasons for a vote and will request that all Members indicate their voting intentions clearly.

18.2. Majority

Unless this Constitution provides otherwise, or is required by statute, 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.

The Mayor will ascertain the numbers voting for or against any question, shall announce those numbers and declare the result.

18.3. Mayor's Casting Vote

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

18.4. Taking of Votes

Unless a recorded vote by roll call is demanded under Rule 18.5, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting. All Members should indicate their voting intentions by clearly raising their hand.

18.5. Recorded Vote

All petitions considered by Full Council will be subject to a recorded vote where the decision is not unanimous. Where a vote on a substantive motion or recommendation taken by Full Council on a major decision is not unanimous, a recorded vote will take place.

If any Member present at the meeting demands it, the Head of Legal and Democratic Services shall call the names in alphabetical order and each Member present shall declare themselves for or against the motion or that they abstain. This process will be taken down in writing and entered into the minutes. The Mayor will announce the result.

In accordance with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014, the Council at its Annual Budget meetings is

required to undertake a recorded vote when voting on any decision relating to the Annual Budget and Council Tax. This includes any amendments proposed at the meeting, substantive budget motions to agree the Budget, and setting Council Taxes, including precepts.

18.6. Right to Require Individual Vote to be Recorded

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

18.7. Voting on Appointments

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

19. MINUTES

19.1. Signing the Minutes

The Mayor will sign the minutes of the proceedings at the next suitable meeting. The Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

Any questions as to their accuracy as a record of a meeting of the Council shall be raised by motion. If no such question is raised, or if it is raised then as soon as it has been disposed of, the Mayor shall sign the minutes.

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

19.3. Form of Minutes

Minutes will contain all motions and amendments in the exact form and order the Mayor put them.

20. RECORD OF ATTENDANCE

All Members present during the whole or part of a meeting must sign their names in the attendance register before the conclusion of every meeting to assist with the record of attendance. Any omission may be remedied in the absolute discretion of the Head of Legal and Democratic Services.

Members who have conveyed their apologies for absence will be recorded as such in the minutes. Members who are not in attendance, but who have not

conveyed their apologies, will also be recorded in the minutes of a meeting as being absent.

21. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 23 (Disturbance by Public).

22. MEMBERS' CONDUCT

22.1. Only One Member Shall Speak at a Time

A Member when speaking shall address the Mayor. If two or more Members indicate a wish to speak, the Mayor shall call on one to speak and any others shall wait to be called. While a Member is speaking the other Members shall remain seated, unless rising to a point of order or in personal explanation.

22.2. Mayor Standing

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

22.3. Member Not to be Heard Further

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

22.4. Member to Leave the Meeting

If the Member continues to behave improperly after such a motion is carried, the Mayor may move that either the Member leaves the meeting or that the meeting is adjourned briefly and in any event for no longer than 15 minutes. If seconded, the motion will be voted on without discussion. If a motion that the Member leave the room is carried, the Member will leave the room immediately.

22.5. General Disturbance

If there is a general disturbance making orderly business impossible, the Mayor may adjourn the meeting for as long as they think necessary so that order may be restored.

23. DISTURBANCE BY PUBLIC

23.1. If there are general disturbances by member of the public, the Mayor has a number of powers, including:

- (1) to warn a particular person or order their removal from the meeting.
- (2) to adjourn the meeting to allow order to be restored.
- (3) to clear all or part of the public areas as necessary, and
- (4) to adjourn the meeting to another date and time as the Mayor deems appropriate so that the business of the meeting can be conducted.

24. SUSPENSION OF COUNCIL PROCEDURE RULES

24.1. Suspension

All of these Council Rules of Procedure except Rule 18.5 and 19.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

25. COMMITTEE PROCEDURE RULES

All of the Council Rules of Procedure apply to meetings of Full Council. None of the rules apply to meetings of the Cabinet. Only Rules 5-9, 12-14, 16-25 apply to meetings of Committees and Sub-Committees. Rule 7 refers to the application of the Rules to chairs of Committees and Sub-Committees.

25.1. Appointment of Committees and Sub-Committees

- (1) In May in each year the Head of Legal and Democratic Services shall communicate with Members of the Council and ask them to indicate whether they belong to a political group, and if not, upon which Committee(s) or Sub-Committee(s) they wish to serve and whether they would wish to be considered in filling vacancies on other bodies. The Head of Legal and Democratic Services will also write to the leaders of all political groups asking for their nominations to serve on the Committees and Sub-Committees of the Council, and if appropriate on the Cabinet (including for which portfolio they will be responsible), and on any other bodies to which the Council makes nominations.
- (2) The Head of Legal and Democratic Services shall submit a report to the Annual Council with the nominations of the party group leaders as to the constitution of the several standing Committees and Sub-Committees of the Council, and the Cabinet, having regard to the political composition of the Council.

25.2. Constitution of Committees and Sub-Committees

- (1) The Council shall at the Annual Meeting appoint the Leader of the Council (to a four year term of office, or note their appointment for the remainder of the four year term), Chairs, Vice-Chairs and Members of the standing Committees and Sub-Committees.
- (2) With the exception of the Leader, no Member shall be appointed to any of the positions referred to in (1) above so as to hold office later than the next Annual Meeting of the Council.
- (3) The Council may at any time dissolve a Committee, or change its Chair or Vice-Chair or alter its membership.
- (4) If at any time after the Annual Meeting or following a formal review of the representation of the different political groups on the Cabinet or Committees and Sub-Committees, a political group wishes to change its representatives on the seats on a Committee or Sub-Committee which are allocated to it, the Head of Legal and Democratic Services shall be authorised to make appointments to that body so as to give effect to the

change expressed by that political group provided that such change shall be reported in the Members' Information Bulletin.

25.3. Meetings of Committees and Sub-Committees

- (1) Subject to Council Procedure Rule 6, the Head of Legal and Democratic Services may summon special meetings of the Committees and Sub-Committees if they consider that urgent business is to be transacted. Subject as aforesaid they shall also at any time, at the request of (a) the Chair of a Committee or Sub-Committee, or (b) any three Members of a Committee or Sub-Committee signified by notice in writing, summon a special meeting of the Committee or Sub-Committee. The summons to the special meeting shall set out the business to be considered, and no business other than that set out in the summons shall be considered at that meeting.
- (2) The Head of Legal and Democratic Services may also give notice in writing of the cancellation of an Ordinary Meeting of a Committee or a Sub-Committee, if they consider that there is insufficient business requiring to be transacted at such meeting.
- (3) The Head of Legal and Democratic Services shall supply every Member of a Committee or Sub-Committee with a paper copy of the agenda and every relevant report or supporting document which accompanies the agenda.
- (4) Except where a body is sitting as a disciplinary, appeal or appointments panel, Committee documents will be provided electronically to all other Members of the Council, unless a Member specifically requests a paper copy.

25.4. Sub-Committees

- (1) Every Committee appointed by the Council may appoint Sub-Committees for purposes to be specified by the Committee but no new standing Sub-Committee shall be appointed without the prior concurrence of the Council
- (2) No act of the Sub-Committee shall have effect until approved by the relevant standing Committee unless the powers and duties are delegated to the Sub-Committee.
- (3) A Committee may at any time dissolve a Sub-Committee which it has appointed or alter its membership.
- (4) The Chair of a Standing Committee shall be an ex-officio Member of any Sub-Committee appointed by a Standing Committee unless they signify that they do not wish to serve.

25.5. Voting in Committees

- (1) All questions in Committees or Sub-Committees will be determined by show of hands of the Members present and voting. Any matter will be decided by a simple majority. In the case of an equality of votes the person chairing the meeting will have a second or casting vote.
- (2) No record of protest or dissent will be recorded upon the report or minutes of a Committee or Sub-Committee, except that:
 - (a) at a Committee or Sub-Committee any Member shall have the right to request a recorded vote, which shall be entered in the Minute Book of the standing Committee or Sub-Committee.

- (b) immediately after a vote is taken the Member may require that there is recorded in the Minute Book of the standing Committee or Sub-Committee whether they cast their vote for the question or against the question or whether they abstained from voting.

25.6. Proposer of Motion May Attend Committee or Sub-Committee

A Member of the Council who has moved a motion which has been referred to any Committee or Sub-Committee will receive notice of the meeting of the standing Committee or Sub-Committee at which it is proposed to consider the motion. They shall have the right to attend the meeting and if they attend will have an opportunity of explaining the motion (but not of voting).

25.7. Committee Meetings Open to All Members of the Council

Every Member of the Council has the right to attend the meetings of any standing Committee or Sub-Committee of the Council, other than:

- (i) the Appointments and Investigating Committee when it is dealing with either the appointments of individuals to posts or with individual disciplinary cases; and
- (ii) the Licensing Committee or the Licensing Sub-Committee when the Committee or Sub-Committee is meeting in closed session dealing with individual cases; and

However, a Member is not entitled to take part in the proceedings unless (a) a Member of the Committee, or (b) specifically authorised by the Council, or (c) having prior to the meeting indicated their wish to the Chair of the Committee to speak on a particular item and/or the Chair invites them to speak. A Member of the Council will not under any circumstances be entitled to vote at any meeting of a Committee of which they are not a Member.

Where a Member of the Council has a prejudicial interest in any business of the Council, they may attend a meeting (including a meeting of the Overview and Scrutiny Commission) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Staff Appeals Board Meetings – Only those Members who have been summoned to attend a meeting of the Staff Appeals Board have the right to attend that Board Meeting.

25.8. Deputations

- (1) When any deputation from business ratepayers, Council taxpayers, or any other persons, requests an interview with a Committee, the Head of Legal and Democratic Services will submit the request to the Chair of the Committee and, if it is decided to receive them, the deputation will be received at the following meeting.
- (2) In the case of a deputation, not more than four persons will be received and, unless the Committee decides otherwise, not more than two persons will be heard; no motion will be moved nor speech made by Members during the hearing but any Member may ask questions through the chair.

25.9. Petitions

All petitions will be dealt with under the Crawley Borough Council Petitions Scheme (see Part 5 of this Constitution).

Ordinary Petitions

- (1) The Petitions Officer will arrange for each ordinary petition to be reported to the next convenient meeting of the Council, or a Committee / Sub-Committee of the Council which has the power to take decisions on the matter if it is a Council matter.
- (2) Petitions which do not relate to an ordinary item of business will be considered before the normal business of the meeting, and will be considered in the order in which they were received, unless the Chair at the meeting determines otherwise.
- (3) A maximum of 30 minutes will be allowed at each meeting for considering all such petitions and consideration of the contents of any petitions not reached in the time allowed will be referred to the relevant Cabinet Member for consideration or deferred until the next meeting.
- (4) The Chair of the meeting may invite a relevant officer to set out the background to the issue before inviting the petition organiser to address the Committee for up to 3 minutes. The Chair may ask questions of the petition organiser, and will then invite any relevant Ward Councillors present to address the Committee on the matter for up to 3 minutes (each). The Chair will then invite the relevant officer(s) to advise the meeting, after which the matter will be open for debate among Members of the Committee.
- (5) Where the matter is to be determined by a Cabinet Member, they will take a decision on the matter. That decision may be a determination of the matter, or may be a decision to refer the matter for investigation and report back, or to refer it up to a meeting of the Council, Cabinet or a Committee of the Council for determination.

26. GENERAL

26.1. Urgent Action

- (1) If in their opinion urgent action is required in respect of any matter before a decision can be taken by the Council, or a Committee or Sub-Committee having appropriate authority, a written report will be prepared for consideration by the Acting Chief Executive who may after consultation and agreement in writing from the Chair or Vice Chair of the appropriate Committee or Sub-Committee to which the matter is delegated, take a decision thereon and any necessary action in furtherance of the functions of the Council, the Committee or Sub-Committee as appropriate in relation to that matter. If the decision is one which would normally be taken by the Full Council, the Acting Chief Executive shall also consult with the Mayor in addition to the Chair or Vice Chair of the appropriate Committee.
- (2) In the event of the Chair and Vice-Chair of a Committee or Sub-Committee as the case may be not being available for consultation, the Mayor shall be consulted in their stead.

- (3) Every such decision shall be reported to the next available Ordinary Meeting of the Council or of the appropriate Committee or Sub-Committee as the case shall require.

Note

Urgent Action in relation to Executive decisions is set out in the Leader and Cabinet Procedure Rules.

ACCESS TO INFORMATION PROCEDURE RULES

ACCESS TO INFORMATION PROCEDURE RULES

1. RULE 1 - SCOPE

These rules apply to all meetings of the Council, the Overview and Scrutiny Commission, area Committees (if any), and regulatory Committees and public meetings of the Cabinet (together called meetings) other than the Appointments and Investigating Committee or Staff Appeals Board when it is dealing with the appointment and dismissal of individuals and disciplinary cases.

2. RULE 2 - ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law, nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties from the provisions of the Freedom of Information Act 2000 and the Data Protection Act 1998.

3. RULE 3 - RIGHTS TO ATTEND MEETINGS

Members of the public may attend all meetings subject only to the exceptions in these rules and in the Council Procedure Rules contained within this Constitution.

4. RULE 4 - NOTICES OF MEETING

The Council will give at least five clear days notice of any meeting by posting details of the meeting on the notice board outside the main entrance to the Town Hall in The Boulevard, Crawley (the designated office) and on the Council's website.

5. RULE 5 - ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports open to the public available for inspection at the Town Hall, Crawley and on the Council's website at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the Head of Legal and Democratic Services shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection from the time the item was added to the agenda.

6. RULE 6 - SUPPLY OF COPIES

The Council will supply copies of:

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

to any person on payment of a charge for postage and any other costs.

7. RULE 7 - ACCESS TO MINUTES AND RECORDS OF DECISIONS

- 7.1. The Council will make available copies of the following for six years after a meeting:
- (a) the records of decisions taken by the bodies to which these apply (together with reasons for Cabinet decisions) excluding any part of the record when the meeting was not open to the public or which disclose exempt or confidential information;
 - (b) a summary of any part of the meeting not open to the public, where the record 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.
- 7.2. An officer will produce a written record of any non executive decision they have taken which was delegated to them either:
- (a) Under a specific express authorisation; or
 - (b) Under a general authorisation to officers to take such decisions and, the effect of the decision is to:
 - (i) Grant a permission or licence;
 - (ii) Affect the rights of an individual; or
 - (iii) Award a contract or incur expenditure which, in either case, materially affects the Council's financial position.

The written record will be produced as soon as reasonably practicable after the decision has been taken and will contain the following:

- (a) The date the decision was taken;
- (b) A record of the decision taken along with the reasons for the decision;
- (c) Details of alternative options, if any, considered and rejected; and
- (d) The source of that delegation.

Records of executive decisions are referred to in Paragraph 21.3 of these Procedure Rules.

8. RULE 8 - BACKGROUND PAPERS

8.1. List of Background Papers

The officer preparing the report will set out in every report and record of decision 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 / decision or an important part of the report / decision is based; and
- (b) which have been relied on to a material extent in preparing the report / decision

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) (and in respect of Cabinet reports / decisions, the advice of a Political Advisor).

8.2. Public Inspection of Background Papers

The Council will make available as soon as reasonably practicable for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

In relation to a decision, the Council will make available on the Council's website and at the Town Hall, Crawley (at all reasonable hours) a copy of the background papers included within the list.

9. RULE 9 - SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Town Hall, The Boulevard, Crawley. These rules constitute that written summary.

10. RULE 10 - EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1. Confidential Information – Requirement to Exclude Public

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

10.2. Exempt Information – Discretion to Exclude Public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. Such reports will be marked "not for publication", together with the category of information likely to be disclosed. Where possible any exempt information should be contained in an appendix to enable discussion of the main item to be held in public. Any resolution to exclude the public due to disclosure of exempt information must identify the part of the proceedings to which it applies and the description of exempt information being used. Such a decision to exclude the public is to be made by resolution of the relevant decision making body.

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.

10.3. Meaning of Confidential Information

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

10.4. Meaning of Exempt Information

10.4.1. Exempt information means information falling within the following 7 categories (subject to any condition).

Category	Condition
1. Information relating to any individual	Exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
2. Information which is likely to reveal the identity of an individual	Exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)	<p>Exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p> <p>“Financial or business affairs” includes contemplated, as well as past or current, activities.</p> <p>Information within paragraph 3 is not exempt if it must be registered under various statutes, such as</p> <ul style="list-style-type: none"> (a) the Companies Act 2006; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; <p>or</p> <ul style="list-style-type: none"> (f) the Charities Act 2011. <p>“Registered” in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).</p>
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or	Exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Category	Condition
<p>a Minister of the Crown and employees of, or officer-holders under, the authority</p>	<p>“Labour relations matters” are</p> <p>(a) as specified in paragraphs (a) to (g) of Section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992, i.e. matters which may be the subject of a trade dispute, within the meaning of that Act; or</p> <p>(b) any dispute about a matter falling within paragraph (a) above</p> <p>and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority</p> <p>“employee” means a person employed under a contract of service.</p> <p>“office-holder”, in relation to the authority, means the holder of any paid office appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.</p>
<p>5. Information in respect of which a claim to legal privilege could be maintained in legal proceedings</p>	<p>Exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>
<p>6. Information which reveals that the authority proposes –</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment</p>	<p>Exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p>

Category	Condition
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime	Exempt information if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

10.4.2. Information falling within any of the above categories is not exempt information if it relates to proposed development for which the local planning authority can grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

11. RULE 11 - EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

11.1. If the Head of Legal and Democratic Services thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

11.2. Paragraph 1.7 of the Leader and Cabinet Procedure Rules details arrangements for Cabinet meetings.

12. RULE 12 - APPLICATION OF RULES TO THE CABINET

12.1. Rules 13-24 below apply to the Cabinet and its Committees. If the Cabinet or its Committees meet to take a key decision then it must also comply with Rules 1-11 unless Rule 16 (general exception) or Rule 17 (special urgency) apply. While a Cabinet meeting is open to the public, any person attending the meeting for the purpose of reporting the proceedings is, so far as practicable, to be afforded reasonable facilities for taking their report.

12.2. A key decision is defined in Article 12 of this Constitution.

13. RULE 13 - PROCEDURE BEFORE TAKING KEY DECISIONS

13.1. Subject to 13.2 a decision by Cabinet to hold a meeting, or part of a meeting in private may not be taken unless:

- (a) A notice has been published in the Forward Plan at least 28 clear days before the meeting in question and made available on the Council's website and at the Town Hall, Crawley. This notice is to include a statement of the reasons for the meeting being held in private;
- (b) A further notice is included on the agenda and published on the Council's website and at the Town Hall, Crawley five clear days before the meeting. This notice is to include:
 - (i) A statement of the reasons for the meeting to be held in private
 - (ii) Details of any representations received by the Cabinet about why the meeting should be open to the public
 - (iii) A statement of its response to any such representations

- 13.2. If a matter has not been included in accordance with Rule 13.1 then the decision to hold a meeting, or part of a meeting, in private may still be taken if the Cabinet obtains the agreement of the Chair and the Vice Chair of the Overview and Scrutiny Commission (or in the Chair's absence the Mayor and in the Mayor's absence the Deputy Mayor) that the meeting is urgent and cannot reasonably be deferred. Should there not be consensus of views between the Chair and Vice Chair of the Overview and Scrutiny Commission, the view of the Chair will prevail. As soon as it is practicably possible a notice will be published on the Council's website and at the Town Hall, Crawley setting out the reason why the meeting is urgent and cannot be reasonably deferred.

14. RULE 14 - PUBLICITY IN CONNECTION WITH KEY DECISIONS

- 14.1. Subject to Rule 16 (general exception) and Rule 17 (special urgency), a key decision may not be taken unless:
- (a) a notice has been published in the Forward Plan in connection with the matter in question;
 - (b) the notice referred to in (a) has been available for public inspection for at least 28 clear days at the Town Hall, Crawley and on the Council's website; and
 - (c) where the decision is to be taken at a meeting of the Cabinet or its Committees/Sub Committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).
- 14.2. If a key decision to be taken by a Cabinet Member or by an Officer has appeared on the Forward Plan and the matter is referred to the Overview and Scrutiny Commission for consideration, then that key decision must not be taken until after the Commission has met to discuss the issue. If the matter is urgent, then the Chair of the Overview and Scrutiny Commission will be advised by the Head of Legal and Democratic Services of the reason as to why it is impracticable to defer the decision until after the Overview and Scrutiny Commission has met.

15. RULE 15 - THE FORWARD PLAN OF KEY DECISIONS

15.1. Purpose of the Forward Plan

The Council's Forward Plan serves two purposes:

- (a) It contains details of all the key decisions that will be taken in the upcoming months, with at least 28 days notice.
- (b) It provides the Notices of which of those key decisions, and at which meetings, is likely be taken in Part B Business – (Closed from the public) along with the justification for this.

The Forward Plan will be updated a least on a monthly basis and will be available for public inspection at the Town Hall, Crawley and on the Council's website.

15.2. Contents of Forward Plan

The Forward Plan will generally contain matters which will be the subject of a key decision to be taken by the Leader/Cabinet/Cabinet Member, a

Committee of the Cabinet, a Joint Committee (or Sub Committee thereof) or an area Committee (if any) in the course of the discharge of a Cabinet function.

It will give the following information:

- (a) That a key decision is to be made on behalf of the Council;
- (b) the matter in respect of which a decision is to be made;
- (c) where the decision taker is an individual, their name and title, if any and where the decision taker is a body, its name and a list of its Members;
- (d) the date on which, or the period within which, the decision will be taken;
- (e) a list of the documents to be submitted to the decision taker for consideration;
- (f) Contact details for obtaining any documents listed, subject to any prohibition or restriction on their disclosure, copies of, or extracts from;
- (g) That other documents relevant to those matters may be submitted to the decision maker; and
- (h) The procedure for requesting details of those documents (if any) as they become available.

15.3. Notices of Intention to Conduct Business in Private

A notice will be published in the Forward Plan in accordance with Rule 13 (Procedure Before Taking Key Decisions) if it is intended to hold a Cabinet meeting, or part of a meeting in private.

Confidential, exempt or particulars of the advice of a Political Advisor need not be included in the Forward Plan.

16. RULE 16 - GENERAL EXCEPTION

Subject to Rule 17 (special urgency), where the publication of the intention to make a key decision under Rule 15 is impracticable, that decision may only be made where:

- (a) the Head of Legal and Democratic Services has been given notice of the matter about which the decision is to be made and the reasons why it has been impracticable to apply Rule 15 has been given in writing to the Chair of the Overview and Scrutiny Commission, or in their absence each Member of that Committee and made available at the Town Hall, Crawley and on the Council's website; and
- (b) at least five clear days have elapsed since the notice given in paragraph (a) was made available.

17. RULE 17 - SPECIAL URGENCY

- 17.1. Where the date by which a key decision must be made makes compliance with Rule 16 (general exception) impracticable the decision may only be made where the decision maker has obtained agreement from the Chair and Vice Chair of the Overview and Scrutiny Commission that the taking of the

decision(s) is urgent and cannot be reasonably deferred (if there is no Chair of the Overview and Scrutiny Commission, or if the Chair of the Overview and Scrutiny Commission is unable to act, then the agreement of the Mayor, or in their absence, the Deputy Mayor will suffice). Should there not be a consensus of view between the Chair and Vice Chair of the Overview and Scrutiny Commission, the view of the Chair will prevail.

- 17.2. As soon as reasonably practicable after the decision maker has obtained this agreement the decision maker must publish a notice in the Forward Plan setting out the reasons that the meeting is urgent and cannot be reasonably deferred which must be made available at the Town Hall, Crawley and on the Council's website.

18. RULE 18 - REPORT TO COUNCIL

18.1. When the Overview and Scrutiny Commission can require a report

Where the Overview and Scrutiny Commission thinks that an Executive decision has been taken which was not treated as a key decision and the Commission are of the opinion that the decision should have been treated as a key decision the Commission may require the Leader/Cabinet to submit a report to the Council within such reasonable time as the Commission specifies.

Such a report will include details of:

- (a) the decision and the reasons for the decision;
- (b) the decision maker by which the decision was made; and
- (c) if the Leader/Cabinet are of the opinion that the decision was not a key decision and the reasons for that opinion.

18.2. Cabinet reports to Full Council

The Leader/Cabinet will prepare a report for submission to the next available meeting of the Full Council. However, if the next meeting of the Council is within 5 clear working days of the request from the Commission, then the report may be submitted to the meeting after that. A report to the Full Council under this Rule must include details of the decision and the reasons for the decision, the decision maker by which the decision was made and if the Leader/Cabinet are of the opinion that the decision was not a key decision, the reasons for that decision

18.3. Quarterly Reports on Special Urgency Decisions

In any event the Leader will submit a quarterly report to the Full Council on the Cabinet decisions taken in the circumstances set out in Rule 17 (special urgency) or annually where there have been none. The report will include the particulars of each decision made and a summary of the matters in respect of which each decision was made.

19. RULE 19 - FORMAL MEETINGS OF THE CABINET TO BE HELD IN PUBLIC

All formal meetings of the Cabinet will be held in public except where information that is confidential or exempt from disclosure is being discussed as defined under paragraphs 10.1 and 10.2 respectively.

The Cabinet may meet informally in private for the purpose of being briefed by employees on matters which are to be considered at a formal meeting of the Cabinet.

20. RULE 20 - RECORD OF EXECUTIVE DECISIONS

As soon as reasonably practicable after any meeting of a decision making body at which an executive decision was made the Head of Legal and Democratic Services, or the person presiding at the meeting, will produce a record of every decision made at that meeting. The record must include:

- (a) A record of the decision including the date it was made;
- (b) A record of the reasons for the decision;
- (c) Details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
- (d) A record of any conflict of interest relating to the matter decided which is declared by any Member of the decision making body which made the decision; and
- (e) In respect of any declared conflict of interest, a note of any dispensation granted.

21. RULE 21 – EXECUTIVE DECISIONS BY INDIVIDUAL MEMBERS OF THE CABINET AND OFFICERS

21.1. Reports Intended to be Taken Into Account

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

21.2. Provision of Copies of Reports to the Overview and Scrutiny Commission

On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Chair of the Overview or Scrutiny Commission as soon as reasonably practicable, and make it publicly available at the same time.

21.3. Record of Individual Decision

As soon as reasonably practicable after a Cabinet key decision or Significant Operational (non key) Decisions (see Article 12 – Decisions Making, for definitions) has been taken by an individual Member of the Cabinet or an executive decision taken by an officer which was delegated to them either:

- (a) Under a specific express authorisation; or
- (b) Under a general authorisation to officers to take such decisions and, the effect of the decision is to:
 - (i) Grant a permission or licence;
 - (ii) Affect the rights of an individual; or
 - (iii) Award a contract or incur expenditure which, in either case, materially affects the Council's financial position,

they will prepare, or instruct the Head of Legal and Democratic Services to prepare, a record of the decision, a statement including:

- (a) A record of the decision including the date it was made;
- (b) A record of the reasons for the decision;
- (c) Details of any alternative options considered and rejected by the Member/officer when making the decision;
- (d) A record of any conflicts of interest declared by any Cabinet Member who is consulted by the Member/officer which relates to the decision; and
- (e) In respect of any declared conflict of interest, a note of any dispensation granted.

The provisions of Rules 7 and 8 (inspection of documents after meetings) and Scrutiny Procedure Rule 14 will also apply to the making of decisions by individual Members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a Political Adviser.

22. RULE 22 – RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF THE OVERVIEW AND SCRUTINY COMMISSION

22.1. Rights to Copies

Subject to Rule 22.2 below, a Member of the Overview and Scrutiny Commission will be entitled to a copy of any document which is in the possession or control of the Cabinet (or its Committees) and which contains material relating to:

- (a) any business that has been transacted at a formal meeting of the Cabinet (or its Committees); or
- (b) any decision taken by an individual Member of the Cabinet or an officer of the Council in accordance with executive arrangements.

Subject to 22.2, below where a Member of the Overview and Scrutiny Commission requests a document which falls within (a) or (b) this must be provided by the Cabinet as soon as reasonably practicable and in any case no later than 10 clear days after the request is received by the Cabinet.

22.2. Limit on Rights

No Member of the Overview and Scrutiny Commission will be entitled to:

- (a) any report that is in draft form other than those provisionally referred from the Forward Plan by the Overview and Scrutiny Commission;

- (b) any report or part of a report or background paper that contain exempt or confidential information, unless that information is relevant to:
 - a. an action or decision they are reviewing or scrutinising; or
 - b. any review contained in any programme of work of the Overview and Scrutiny Commission; or
- (c) a document or part of a document containing advice provided by the Political Advisor.

Where it is determined by the Cabinet that a Member of the Overview and Scrutiny Commission is not entitled to a copy of a document or part of any such document for a reason set out above it must provide the Overview and Scrutiny Commission with a written statement setting out its reasons for that decision.

23. RULE 23 - ADDITIONAL RIGHTS OF ACCESS TO DOCUMENTS FOR MEMBERS OF THE COUNCIL

- 23.1. Subject to paragraph 23.3, all Members will be entitled to inspect any document which is in the possession of, or under the control of the Leader and Cabinet or its committees, and contains material relating to any business to be transacted at a public meeting. Such a document must be available for inspection by any Member of the Council at least five clear days before the meeting. Where the meeting is convened at shorter notice, these documents must be available for inspection when the meeting is convened and where an item is added to the agenda at shorter notice, the document must be available for inspection when the item is added to the agenda.
- 23.2. Subject to paragraph 23.3 all Members will be entitled to inspect any document which is in the possession of, or under the control of the Leader and Cabinet or its committees, and contains material relating to any business transacted at a private meeting or any decision made by an individual Cabinet Member or an officer in accordance with executive arrangements. Such a document must be available for inspection by any Member of the Council when the meeting concludes or immediately after the decision has been made and this must be within 24 hours.
- 23.3. Notwithstanding Rules 23.1 and 23.2, nothing in these Rules requires any document to be made available for inspection if either (a), (b) or (c) below applies:
 - (a) It contains exempt information falling within paragraph 1, 2, 4, 5 and 7 of the categories of exempt information.
 - (b) It contains information falling within paragraph 3 of the categories of information which relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract.
 - (c) It contains the advice of a political advisor.
- 23.4. However, notwithstanding these rules, copies of all exempt reports to Cabinet will be sent to all Members of the Council. This also applies to exempt reports of the Council and its committees.
- 23.5. The contents of any document provided to Members which is marked as exempt shall be treated as such unless and until it becomes public in the ordinary course of the Council's business.

- 23.6. These rights of a Member set out in Rule 23 are additional to any other common law rights they may have.

24. REPORTING PROCEDURES OF A MEETING

- 24.1. Any person attending a meeting of the Council which is open to the public is permitted to report the proceedings. The Protocol on Use of Social Media, Photography, Filming and Recording at Meetings set out in Part 5 of this Constitution relates.
- 24.2. Reporting on proceedings at a meeting means:
- (a) Filming, photographing or making an audio recording of the proceedings at the meeting;
 - (b) Using any other means for enabling people not present at the meeting to see or hear proceedings at the meeting as it takes place or later; or
 - (c) Reporting or providing commentary on proceedings at the meeting, orally or in writing, so that the report or commentary is available to people not present, as the meeting takes place or later.
- 24.3. Any person who attends a meeting of the Council to report the proceedings may use any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities.
- 24.4. When the meeting is not open to the public, the Council may also prevent any person from reporting proceedings using methods:
- (a) Which can be used without that person's presence at the meeting; and
 - (b) Which enable people not present at the meeting to see or hear the proceedings at the meeting as it takes place or later.

BUDGET PROCEDURE RULES

BUDGET PROCEDURE RULES

1. The Framework for Cabinet Decisions

The Cabinet is responsible for proposing the budget to the Council.

The Council will be responsible for the adoption of its budget as set out in Article 4. Once the budget is in place, it will be the responsibility of the Cabinet to implement it.

2. Process for Developing the Framework

The process by which the budget shall be developed is:

- (a) The Cabinet will publicise by including in the Forward Plan a timetable for making proposals to the Council for the adoption of the budget.
- (b) The Council will inform itself, through appropriate methods, about the views of stakeholders on the relative priorities of key issues and services. On a three year basis, this will include a household survey; other devices such as the Citizens' Panel and the Business Panel may be utilised.
- (c) The Budget Strategy encourages a multi-tier approach to decision making rather than a compressed process examining each year in isolation. Nevertheless, there is an annual cycle which is based on the Cabinet making recommendations to the Full Council for the approval of the Budget Strategy, with prior consideration by the Overview and Scrutiny Commission, followed by examination of options by the Budget Advisory Group.
- (d) The views of the Budget Advisory Group shall be reported to the Cabinet either in a separate report or as part of the consideration of the final budget and Council tax.
- (e) The Cabinet will subsequently make recommendations to the Full Council on the final budget and on the level of Council Tax in February or March of each year.
- (f) If the Council has objections to the Cabinet's proposals referred to in paragraph (e) above, whether or not it has any intention of making any modifications, it must, before making any decision, inform the Leader of those objections and give them instructions requiring the Cabinet to reconsider the proposals in the light of those objections.
- (g) When giving such instructions, the Council must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions during which the Leader may:
 - (i) submit revised proposals, as amended by the Cabinet, with the Cabinet's reasons for the amendments for consideration by the Council;
 - (ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- (h) On the expiration of the period specified by the Council, the Council must take into consideration any response received from the Cabinet within that period, when making a decision.
- (i) The decision will be made on the basis of a simple majority of votes cast at the Council meeting.

- (j) The conflict resolution procedure identified in paragraphs (i) to (k) above will not apply to the proposals for the setting of the Council Tax in relation to the following financial year, where the Cabinet submits such proposals to the Council for consideration after 7 February in any financial year.
- (k) In approving the budget, the Council will also specify the extent of virement within the budget which may be undertaken by the Cabinet, in accordance with the Financial Procedure Rules relating to virement. Any other changes to the budgetary framework are reserved to the Council.

3. Decisions Outside the Budget

- (a) Subject to the Financial Procedure Rules relating to virement, the Cabinet, Committees of the Cabinet, individual Members of the Cabinet and any officers, area Committees or joint arrangements discharging Cabinet functions may only take decisions which are in line with the budget. If any of these bodies or persons wishes to make a decision which is contrary to or not wholly in accordance with the budget approved by Full Council, then that decision may only be taken by the Council, subject to 4 below.
- (b) If the Cabinet, Committees of the Cabinet, individual Members of the Cabinet and any employees, area Committees or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to or not wholly in accordance with the budget. If the advice of either of those employees is that the decision would not be in line with the existing budget, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 4 (urgent decisions outside the budget) shall apply.

4. Urgent Decisions Outside the Budget

- (a) The Cabinet, a Committee of the Cabinet, an individual Member of the Cabinet or employees, area Committees or joint arrangements discharging Cabinet functions may take a decision which is contrary to or not wholly in accordance with the budget approved by Full Council if the decision is a matter of urgency. However, the decision may only be taken:
 - (i) if it is not practical to convene a quorate meeting of the Full Council; and
 - (ii) if the chair of the Overview and Scrutiny Commission agrees that the decision is a matter of urgency.

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

- (b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

5. Virement

Steps taken by the Cabinet, a Committee of the Cabinet, an individual Member of the Cabinet or employees, area Committees or joint arrangements discharging Cabinet functions to implement Council policy shall not exceed those budgets allocated to each service and/or the approved level of service. However, such bodies or individuals shall be entitled to vire budgets subject to the limitations set out in the Council's Financial Procedure Rules. Beyond those limits, approval to any virement across budget heads shall require the approval of the Full Council.

6. In-Year Changes to Budget

The responsibility for agreeing the budget lies with the Council, and decisions by the Cabinet, a Committee of the Cabinet an individual Member of the Cabinet or employees, area Committees or joint arrangements discharging Cabinet functions must be in line with it, except that the Cabinet may approve in-year budgetary changes within the limits authorised by the Council's Financial Procedure Rules.

7. Call-In of Decisions Outside the Budget

- (a) Where the Overview and Scrutiny Commission is of the opinion that a Cabinet decision is, or if made would be contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the Chief Finance Officer conclude that the decision was a departure, and to the Overview and Scrutiny Commission if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the policy framework or contrary to or not wholly in accordance with the budget, the Overview and Scrutiny Commission may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the matter has been considered at the next ordinary meeting of the Council. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
 - (i) endorse a decision or proposal of the Cabinet decision taker as falling within the existing budget. In this case no further action

is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

Or

- (ii) amend the Council's financial procedure rules or policy concerned to encompass the decision or proposal of the body or individual responsibility for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way;

Or

- (iii) where the Council accepts that the decision or proposal is contrary to or not wholly in accordance with the budget, and does not amend the existing budget to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer/chief finance officer.

POLICY FRAMEWORK PROCEDURE RULES

POLICY FRAMEWORK PROCEDURE RULES

1. The Framework for Cabinet Decisions

The Cabinet is responsible for proposing the policy framework to the Council.

The Council will be responsible for the adoption of its Policy Framework as set out in paragraph 2 below. Once a Policy Framework is in place, it will be the responsibility of the Cabinet to implement it.

2. Policy Framework

The Policy Framework means the following plans and strategies:

- Statement of Licensing Policy
- Statement of Gambling Policy
- Crime and Disorder Reduction Strategy (Community Safety Strategy)
- Sustainable Community Strategy
- Development Plan Documents, including the Local Plan, for Submission Consultation and Submission, and Adoption
- Other plans and strategies that the Council and Cabinet consider should be adopted by the Full Council as a matter of local choice; for example:
 - The Council's Corporate Plan
 - Budget Strategy
 - Treasury Management Strategy
 - Housing Revenue Account Business Plan
 - Housing Allocations Scheme
 - Homelessness Strategy
 - Tenancy Strategy

(Responses on behalf of the Council to consultation papers where they relate to Policy Framework plans and strategies will be a function of the Cabinet.)

(In respect of Policy Framework documents, and matters relating to the control of the authority's borrowing, investments or capital expenditure, or to housing land transfer, the Cabinet will be responsible for putting draft documents to the Full Council and will be responsible for any consultation required or necessary in the course of preparing those documents. The Full Council will be responsible for the approval for the purposes of its submission to the Secretary of State of any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted).

The function of amending, modifying, revising, varying, withdrawing or revoking a plan or strategy relating to the Policy Framework, to the control of the authority's borrowing, investments or capital expenditure, or for determining the authority's minimum revenue provision, or to housing land transfer shall be the responsibility of the Cabinet where such action:

- (i) Is required to give effect to requirements of the Secretary of State in relation to a strategy or plan (or part of a strategy or plan) submitted for their approval; or
- (ii) Is recommended by the person carrying out, under Section 20 of the Planning and Compulsory Purchase Act 2004, an independent examination of a Development Plan Document; or
- (iii) Is authorised by the Council when approving or adopting the plan or strategy

but shall not be the responsibility of the Cabinet in any other case.

In connection with the discharge of functions under Sections 28 –31 of the Planning and Compulsory Purchase Act 2004 (joint Local Plans and joint Committees), the following actions shall not be the responsibility of the Cabinet:

- (i) The making of an agreement to prepare one or more joint Local Plans;
- (ii) The making of an agreement to establish a joint Committee to be, for the purposes of Part 2 (Local Development) of the 2004 Act, the local planning authority;
- (iii) Where the authority is a constituent authority to a joint Committee, the making of an agreement that the joint Committee is to be, for the purposes of Part 2 of the Act, the local planning authority for any area or matter which is not the subject of an Order under Section 29 of the 2004 Act or an earlier agreement under Section 30 of the 2004 Act;
- (iv) The making of a request to the Secretary of State for the revocation of an order constituting a joint Committee as the local planning authority for any area or in respect of any matter.

Any other function under Sections 28 – 31 of the Planning and Compulsory Purchase Act 2004 shall be the responsibility of the Cabinet.

3. Process for Developing the Framework

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

- (a) The Cabinet will publicise by including in the forward plan and publicising by other appropriate methods a timetable for making proposals to the Council for the adoption of any plan or strategy that forms part of the policy framework, and its arrangements for consultation after publication of its initial proposals. All Members of the Council would also be informed. The consultation period shall in each instance be not less than 6 weeks.
- (b) As part of the consultation process, the proposal shall be submitted to a meeting of the Overview and Scrutiny Commission. It is open to the Overview and Scrutiny Commission to investigate, research or report in detail with policy recommendations before the end of the consultation period. At the end of that period, the Cabinet will take any response to the consultation, including the response from the Overview and Scrutiny Commission (which shall also incorporate any views of non-Overview and Scrutiny Commission Members), into account in drawing up firm proposals for submission to the Council,

and its report to Council will reflect the comments made by consultees and the Cabinet's response.

The requirement in Rule 3 (a) and (b) to consult will not apply to draft proposals associated with the preparation of an altered or replacement Local Development Plan where these are to be the subject of a separate formal consultation after consideration by the Council. Consultation on these matters after consideration by the Council shall follow the procedure contained in Rule (a) and (b).

- (c) Once the Cabinet has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the Council for decision.
- (d) If the Council has objections to the Cabinet's proposals, whether or not it has any intention of making any modifications, it must, before making any decision, inform the Leader of those objections and give them instructions requiring the Cabinet to reconsider the proposals in the light of those objections.
- (e) When giving such instructions, the Council must specify a period of at least five working days beginning on the day after the date on which the Leader receives the instructions during which the Leader may:
 - (i) submit revised proposals, as amended by the Cabinet, with the Cabinet's reasons for the amendments for consideration by the Council;
 - (ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- (f) On the expiration of the period specified by the Council, the Council must take into consideration any response received from the Cabinet within that period, when making a decision.
- (g) The decision will be made on the basis of a simple majority of votes cast at the Council meeting.
- (h) In approving the policy framework, the Council will also specify the degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with paragraph 6 of these Rules (in-year changes). Any other changes to the policy framework are reserved to the Council.

4. Decisions Outside the Policy Framework

- (a) Subject to the rules relating to in-year changes, the Cabinet, Committees of the Cabinet, individual Members of the Cabinet and any officers, area Committees or joint arrangements discharging Cabinet functions may only take decisions which are in line with the policy framework. If any of these bodies or persons wishes to make a decision which is contrary to the policy framework approved by Full Council, then that decision may only be taken by the Council, subject to 5 below.
- (b) If the Cabinet, Committees of the Cabinet, individual Members of the Cabinet and any employees, area Committees or joint arrangements discharging Cabinet functions want to make such a decision, they shall take advice from the Monitoring Officer as to whether the decision they want to make would be contrary to the policy framework. If the advice of the Monitoring Officer is that the decision would not be in line with the existing policy framework, then the

decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph 5 (urgent decisions outside the policy framework) shall apply.

5. Urgent Decisions Outside the Policy Framework

- (a) The Cabinet, a Committee of the Cabinet, an individual Member of the Cabinet or employees, area Committees or joint arrangements discharging Cabinet functions may take a decision which is contrary to the Council's policy framework approved by Full Council if the decision is a matter of urgency. However, the decision may only be taken:
 - (i) if it is not practical to convene a quorate meeting of the Full Council; and
 - (ii) if the chair of the Overview and Scrutiny Commission agrees that the decision is a matter of urgency.

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

- (b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

6. In-Year Changes to Policy Framework

The responsibility for agreeing the policy framework lies with the Council, and decisions by the Cabinet, a Committee of the Cabinet an individual Member of the Cabinet or employees, area Committees or joint arrangements discharging Cabinet functions must be in line with it.

No changes to any policy and strategy which make up the policy framework may be made by those bodies or individuals except those changes:

- (a) necessary to ensure compliance with the law, ministerial direction or government guidance;
- (b) in relation to the policy framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration.

7. Call-In of Decisions Outside the Policy Framework

- (a) Where the Overview and Scrutiny Commission is of the opinion that a Cabinet decision is, or if made would be, contrary to the policy framework, then it shall seek advice from the Monitoring Officer
- (b) In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is

delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's report and to prepare a report to Council in the event that the Monitoring Officer concludes that the decision was a departure, and to the Overview and Scrutiny Commission if the Monitoring Officer concludes that the decision was not a departure.

- (c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer is that the decision is or would be contrary to the policy framework, the Overview and Scrutiny Commission may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the matter has been considered at the next ordinary meeting of the Council. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer. The Council may either:
- (i) endorse a decision or proposal of the Cabinet decision taker as falling within the existing policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way;
- Or*
- (ii) amend the Council's policy concerned to encompass the decision or proposal of the body or individual responsibility for that Cabinet function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all Councillors in the normal way;
- Or*
- (iii) where the Council accepts that the decision or proposal is contrary to the policy framework and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of the Monitoring Officer.

LEADER AND CABINET PROCEDURE RULES

LEADER AND CABINET PROCEDURE RULES

1. HOW DOES THE CABINET OPERATE?

1.1. Who May Make Cabinet Decisions?

The Leader may provide for Cabinet responsibilities to be undertaken and decisions made by:

- (i) Themselves
- (ii) the Cabinet as a whole;
- (iii) a Committee of the Cabinet;
- (iv) an individual Member of the Cabinet;
- (v) an employee;
- (vi) an Area Committee;
- (vii) Joint Arrangements; or
- (viii) another local authority.

1.2. Delegation by the Leader

At the Annual Meeting of the Council, the Leader will present to the Council a written record of delegations made by them for inclusion in the Council's Scheme of Delegation, as Part 3 of this Constitution. The document presented by the Leader will contain the following information:

- (i) the names, addresses and wards of the people appointed to the Cabinet;
- (ii) the extent of any delegations to Cabinet Members individually including details of any limits to their authority;
- (iii) the terms of reference and constitution of such Cabinet Committees as the Leader appoints and the names of Cabinet Members appointed to them;
- (iv) the nature and extent of any delegations to area Committees, any other authority, or any Joint Committee for the coming year;
- (v) the nature and extent of any delegation to employees with any limits on that delegation.

1.3. Sub-Delegation of Cabinet Functions

- (a) Where the Cabinet, a Committee of the Cabinet or an individual Member of the Cabinet is delegated responsibility for a Cabinet function by the Leader, they may delegate further to an Area Committee, Joint Arrangements or an employee.
- (b) Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4. **The Council's Scheme of Delegation and Cabinet Functions**

- (a) Subject to the Leader's powers to delegate Cabinet responsibilities set out above, the Council's Scheme of Delegation for non-Cabinet functions will be subject to adoption by the Council and may only be amended by the Council;
- (b) The Leader may amend the Scheme of Delegation relating to Cabinet functions at any time during the year. The Leader must give written notice to the Head of Legal and Democratic Services and to the person, body or Committee concerned. The notice must set out the extent of the change to the Scheme of Delegation, and whether it entails the withdrawal of delegation from any person, body or Committee or the Cabinet as a whole. An item will be published in the next Members' Information Bulletin setting out the changes made by the Leader, following which it shall replace any previous version in this Constitution;
- (c) Where the Leader seeks to withdraw delegation from a Cabinet Committee or Area Committee, they should give written notice to the Chair of the Committee.

1.5. **Urgent Action**

If in their opinion urgent action is required in respect of any matter before a decision can be taken by the Cabinet, a written report will be prepared for the consideration by the Acting Chief Executive who may after consultation with the appropriate Head of Service and with the agreement in writing of the Leader of the Council in relation to a decision normally taken by the Cabinet, take a decision thereon and any necessary action in furtherance of the functions of the Cabinet.

If the Leader is not available for consultation, the Deputy Leader shall be consulted instead. Every such decision must be reported to the next available ordinary meeting of the Cabinet.

1.6. **Conflicts of Interest**

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of a Cabinet function has been delegated to a Committee of the Cabinet, an individual Member or an employee, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

1.7. **Cabinet Meetings – When and Where?**

- (a) The Cabinet will meet in accordance with the calendar of meetings confirmed by the Council at its Annual Meeting. The Cabinet shall

meet at the Town Hall, Crawley or another location to be agreed by the Head of Legal and Democratic Services.

- (b) All meetings of the Cabinet will be summoned by the Head of Legal and Democratic Services who will give not less than five clear days notice in accordance with the provisions of the Local Government Act 1972 or such shorter notice as the Act may permit.
- (c) Subject to paragraph (b) above, the Head of Legal and Democratic Services may summon special meetings if they consider that urgent business is to be transacted. They will also, at any time, at the request of (a) the Leader, or (b) any three Members of the Cabinet in writing, summon an Extraordinary Meeting of the Cabinet. The summons to the Extraordinary Meeting will set out the business to be considered at the meeting and no business other than that set out in the summons will be considered at that meeting.
- (d) The Head of Legal and Democratic Services will supply every Member of the Council with a copy of the agenda of the Cabinet and with every relevant report or supporting document which accompanies the agenda or, with the agreement of the Member concerned.
- (e) The Head of Legal and Democratic Services may also, following consultation with the Leader, give notice in writing of the cancellation of an ordinary meeting of the Cabinet, if they consider that there is insufficient business to be transacted at the meeting.

1.8. Meetings of the Cabinet

The Access to Information Rules in Part 4 of this Constitution set out the requirements covering meetings.

The Leader may exercise any lawful power to exclude a member, or members, of the public to maintain orderly conduct or prevent misbehaviour. In these circumstances the Leader will follow the procedures for disturbance at meetings set out in Council Procedure Rule 23.1.

1.9. Quorum

The quorum for a meeting of the Cabinet, or a Committee of it, shall be one quarter of the total number of Members of the Cabinet, or 3 Members, whichever is the larger.

During any meeting, if the Chair counts the number of Members present and declares there is not a quorum present then, except where the transaction of business is authorised by statute or ordered by the Council, the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

1.10. How are Decisions to be Taken by the Cabinet?

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

be the same as those applying to those taken by the Cabinet as a whole.

2. HOW ARE CABINET MEETINGS CONDUCTED?

2.1. Who Presides?

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

2.2. Who May Attend?

- (a) These details are set out in the Access to Information Rules in Part 4 of this Constitution
- (b) Every Member of the Council has the right to attend the meetings of the Cabinet but is not entitled to take part in the proceedings unless:
 - (i) a Member of the Cabinet;
 - (ii) specifically authorised by the Council;
 - (iii) having prior to the meeting indicated their wish to the Leader to speak on a particular item or the Leader invites them to speak;and is not in any circumstances entitled to vote at the Cabinet if they are not a Member.
- (c) A Member of the Council who has moved a motion which has been referred to the Cabinet, will receive notice of the meeting of the Cabinet at which it is proposed to consider the motion. They will have the right to attend the meeting and if they attend will have an opportunity of explaining the motion (but not of voting).

2.3. What Business?

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

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

2.4. Consultation

All reports to the Cabinet from any Member of the Cabinet or an employee on proposals relating to the budget and policy framework must contain details of

the nature and extent of consultation with stakeholders and the Overview and Scrutiny Commission, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.5. **Who Can Put Items on the Cabinet Agenda?**

- (a) Any Member of the Cabinet may require the Head of Legal and Democratic Services to make sure that an item relating to their Portfolio is placed on the agenda of the next available meeting of the Cabinet for consideration. If they receive such a request the Head of Legal and Democratic Services will comply.
- (b) The Head of Legal and Democratic Services will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where the Overview and Scrutiny Commission or the Full Council have resolved that an item be considered by the Cabinet.
- (c) There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by the Overview and Scrutiny Commission.
- (d) Any Member of the Council including Cabinet Members may ask the Leader to put an item on the agenda of a Cabinet meeting under (a) above for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting.
- (e) The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Head of Legal and Democratic Services to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

2.6. **Public Questions at Meetings of the Cabinet**

- (a) At the beginning of every ordinary meeting of the Cabinet, there will be a public question time.
- (b) During public question time, a member of the public may ask any question which is relevant to the functions of the Cabinet, provided that the question does not relate to an individual case which should be dealt with either under the Council's complaints procedure or any other formal appeals procedure.
- (c) The question will usually be answered by the Cabinet Member within whose portfolio the matter falls, but the Chair of the Cabinet at their discretion may answer the question or invite another Member or employee to respond.

- (d) The Chair of the Cabinet may at their discretion also allow other Members to comment upon the issue raised
- (e) Members of the public do not need to give prior notice of their questions. They may signify their wish to ask a question by raising their hand.
- (f) After the question has been answered, the person asking the question may ask one supplementary question.
- (g) The maximum duration of question time will be 15 minutes
- (h) In addition to the rights conferred in this Procedure Rule, members of the public have the right to send in written questions to the Cabinet at any time during the Committee cycle about a matter for which the Cabinet has a responsibility or which affects the Borough, and to get a written reply. Such questions should be addressed to the Head of Legal and Democratic Services.

2.7. **Deputations**

- (a) When any deputation from ratepayers, Council Tax payers or others, or any other persons, request an interview with the Cabinet, the Acting Chief Executive will submit the request to the Cabinet and, if it is decided to receive them, the deputation will be received at the next following meeting.
- (b) In the case of a deputation, not more than four persons will be received and, unless the Cabinet decide otherwise, not more than two persons will be heard: no motion will be moved nor speech made by Members during the hearing but any Member may ask questions through the Chair.

2.8. **Petitions etc.**

All petitions will be dealt with under the Crawley Borough Council Petitions Scheme (see Part 5 of this Constitution).

Ordinary Petitions

- (1) The Petitions Officer will arrange for each ordinary petition to be reported to the next convenient meeting of the Cabinet where the Cabinet has the power to take decisions on the matter.
- (2) Petitions which do not relate to an ordinary item of business will be considered before the normal business of the meeting, and will be considered in the order in which they were received, unless the Chair at the meeting determines otherwise.
- (3) A maximum of 30 minutes will be allowed at each meeting for considering all such petitions and consideration of the contents of any petitions not reached in the time allowed will be referred to the relevant Cabinet Member for consideration or deferred until the next meeting.
- (4) The Chair may invite a relevant officer to set out the background to the issue before inviting the petition organiser to address the Cabinet for up to 3 minutes. The Chair may ask questions of the petition organiser, and will then invite any relevant Ward Councillors present to address the Cabinet on the matter for up to 3 minutes (each). The Chair will then invite the relevant officer(s) to advise the meeting, after

which the matter will be open for debate among Members of the Cabinet.

- (5) Where the matter is to be determined by a Cabinet Member, they will take a decision on the matter. That decision may be a determination of the matter, or may be a decision to refer the matter for investigation and report back, or to refer it up to a meeting of the Council, Cabinet or a Committee or Sub-Committee of the Council for determination.
- (6) If the petition organiser is not satisfied with the Council's response to their petition, they may appeal to the Overview and Scrutiny Commission (see paragraph 9 of the Scrutiny Procedure Rules).

2.9. **Voting in the Cabinet**

- (a) All questions in the Cabinet will be determined by show of hands by a majority of the Members present and voting. In the case of an equality of votes the person presiding at the meeting will have a second or casting vote.
- (b) No record of protest or expression on vote of dissent will be recorded upon the report or the minutes of the Cabinet, except that:
 - (i) any Cabinet Member has the right to requisition a recorded vote, which will be entered in the Minute Book of the Cabinet
 - (ii) immediately after a vote is taken, the Member may require that there is recorded in the Minute Book of the Cabinet whether they cast their vote for or against the question or whether they abstained from voting.
- (c) No Member of the Cabinet shall decide, and no Member of the Cabinet or any body acting on behalf of the Cabinet, shall vote on any question with respect to a report or further report in which they are named and criticised by the Ombudsman.

2.10. **Conduct of Council Members**

- (a) Only one Member shall speak at a time
A Member when speaking shall address the Chair. If two or more Members indicate a wish to speak, the Chair shall call upon one to speak and the other or others shall wait to be called. Only one Member shall speak at a time
- (b) Member not to be heard further
If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair or another Member may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.
- (c) Member to leave the meeting
If the Member continues to behave improperly after such a motion is carried, the Chair may move that either the Member leaves the meeting or that the meeting is adjourned for a specific period. If seconded, the motion will be voted on without discussion.
- (d) General disturbance
If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as they think necessary.

2.11. **Disturbance by the Public**

- (a) Removal of a member of the public
If a member of the public interrupts proceedings, the Chair may warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.
- (b) Clearance of part of meeting room
If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

3. **CABINET MEMBERS' PORTFOLIOS**

- 3.1. Details of the Cabinet Members' Portfolios are set out in Appendix 1 to these Rules.
- 3.2. Some general principles have been established for determining whether the Cabinet collectively, or individual Cabinet Members are likely to have the authority to make a key decision. The Cabinet will usually take most key decisions. However, Cabinet Members may also take key decisions where the following key principles apply within their portfolio responsibilities:
- Relatively minor changes to existing policy (i.e. corporate/strategic rather than operational policies) e.g. limited impact or area of coverage - very minor changes will be delegated to the Head of Service in consultation with the Cabinet Member
 - Minor changes to service delivery i.e. if some limited impact on customers (e.g. some limited closures);
 - Of minimal political sensitivity – more politically sensitive matters are likely to go to Cabinet for a decision.
- 3.3. The delegations to Cabinet Members will include, but will not be limited to, those listed in Appendix 1 to the Leader and Cabinet Procedure Rules.
- 3.4. Cabinet Members taking the delegated decisions will be required to follow the relevant processes including appropriate consultation (e.g. as identified in the decision making toolkit and are also strongly advised to undertake any consultations previously set out under these specific Cabinet Member delegations) and the Access to Information Procedure Rules, including Rule 13 (Procedure Before Taking Key Decisions) and Rule 21 (Executive Decisions by Individual Members of the Cabinet and Officers).

CABINET MEMBER PORTFOLIO RESPONSIBILITIES

Leader of the Council

Chair of the Cabinet

General Direction of Policy and its expression in the Corporate Statement (in liaison with the appropriate Cabinet Member)

including co-ordination of the Council's objectives, policies and priorities and overall supervision of the organisation of the Council and its management processes

Community Leadership and, in conjunction with the Cabinet Member for Public Protection and Community Engagement, the preparation of a Community Strategy and the development of Community Planning

Internal and External Communications including dissemination of public information and the conduct of public relations

Overview of Human Resources

Civil Contingencies (including emergency planning)

Plans and preparations for fulfilling the Council's duties and responsibilities in relation to peacetime and wartime emergencies and the gathering of information relevant to the Council's civil defence obligations

The constant review of those emergency plans and preparations to ensure that they are at all times ready for effective implementation

Democratic renewal of the Council's own structures and procedures

Arrangements for official and courtesy visits to and from the Borough

Internal and External Audit and Audit Commission Report

Finance

including functions of the Council relating to rating, Business Rates and Council Tax. Funds and investment management.

Formulation of the Budget.

Regulation of the exercise of the borrowing powers of the Council.

Prevention and detection of fraud.

Responding to the Government's Welfare Reform agenda with the Cabinet Member for Housing

Strategic neighbourhood regeneration

Regional Governance / Development

Specific Delegations:

- (1) Approval of the Council's Debt Management Strategy
- (2) Approval of the Council Tax Base
- (3) Approval of the NNDR1 (National Non-Domestic Rates Return)
- (4) Authority to make appointments to Outside Bodies relating to Cabinet functions

Leader of the Council

- (5) Approval of the utilisation of the planning delivery grant and the housing and planning delivery grant
- (6) Authority to approve the transfer of residual land on terms proposed by the Asset Manager
- (7) Authority to approve the use of any underspend on a capital scheme, up to a total value of £500,000, on further work associated with the scheme during the same financial year, subject to the Council not being committed to expenditure in future years above the existing budgetary provision
- (8) Approval of feasibility scheme and final implementation proposals for neighbourhood centre improvements which are in accordance with the Capital Programme
- (9) Authority to approve the submission of bids to an agreed maximum figure when a property becomes available at auction where the price would be over the delegated authority limits (currently £500,000) subject to it being:
 - a) For investment purposes, to there being sufficient funds in the Investment Acquisition Reserve and it being in accordance with the guidance criteria set out in section 7 of report FIN/306 (Budget Strategy 2014/15-2018/19) to the Cabinet and Full Council on 10 and 24 July 2013 respectively.
 - b) For residential property purposes, to there being sufficient funds in the HRA Development Programme and to be agreed on a case by case basis and in accordance with the guidelines set out in report FIN/328 (2014/15 Budget and Council Tax) to the Cabinet and Full Council on 12 and 26 February 2014.
- (10) The approval of the writing off of irrecoverable debts exceeding £2,500 but not exceeding £50,000, in accordance with the agreed protocol for debt collection.

Membership to Outside Bodies:

- Local Economy Action group (observer)
- Gatwick Diamond
- Local Government Association (General Assembly)
- District Councils Network
- West Sussex Co-operative
- Coast to Capital Joint Committee
- Sussex Police and Crime Panel (member or substitute)

Cabinet Member for Environmental Services and Sustainability

Public and environmental health (including burials and cremations)
Mortuaries, post-mortem rooms, burial grounds and cemeteries
Waste management, refuse and recycling

- car park management
- dog control
- street naming and numbering
- street furniture
- cycle paths
- public conveniences

Cabinet Member for Environmental Services and Sustainability

Food Safety

Pollution Control (including noise)

Health and Safety (other than employees)

EMAS

Land Drainage

Regulation of activities on highways, undertaking works on the highway and environmental/street improvement schemes

Flood Prevention

Streetscene

- verge cutting/amenity areas
- cleansing
- litter control
- abandoned vehicles

Community Wardens

Civil Parking Enforcement

Lead Cabinet Member for climate change and sustainability

Licensing Policy

Gambling Policy

Specific Delegations:

- (1) The approval of feasibility schemes and final implementation proposals for residential environmental improvements which are in accordance with the Capital Programme
- (2) Naming and numbering of streets
- (3) The approval of criteria for the prioritisation of flood alleviation schemes including project allocation, programme and final implementation proposals for flood alleviation schemes subject to the projects being achievable within the limits of the approved financial budget of Capital Programme

Membership to Outside Bodies:

- Gatwick Airport Joint Authorities Meeting
- Inter Authority Waste Group
- Patrol Adjudication Joint Committee

Cabinet Member for Housing

Deputy Leader of the Council

Crawley Homes - Landlord Role

The provision, management and control of Council dwellings including rents

Management and development of Council land held for housing purposes

Housing administration

Control of empty housing properties

Cabinet Member for Housing

Housing Strategic Role (including statutory functions)

Provision of housing advice, homelessness service and maintenance of housing register

Assessment of housing need and management of Housing Strategy

Release of funds to Housing Associations under the LAHAG programme in respect of schemes included in the approved capital programme

Unfit properties and houses in need of repair and improvement, houses in multiple occupation, the abatement of overcrowding and improvement grants

Joint working with the Cabinet Member for Planning and Economic Development to meet the housing needs of the borough

General oversight of local housing issues

Liaison and Joint Working with Social Services and Health (in relation to housing issues)

Council Tax Reductions and Housing Benefit

Responding to the Government's Welfare Reform agenda with the Leader of the Council

Specific Delegations:

- (1) Power to vary the rent of dwellings and garages held on the Housing Revenue Account
- (2) The approval of variations to the affordable housing requirements specified in Core Strategy Policy H5 for any housing scheme where it has been evidenced that scheme viability cannot support meeting these requirements in full, or where changes in housing needs of housing policy may justify any variation to the percentage and/or tenure mix being sought
- (3) To discharge the functions of the Council in relation to the appropriation of surplus land (excluding residential dwellings) from the Housing Revenue Account for a different use/purpose

Cabinet Member for Planning and Economic Development

Lead Cabinet Member for Education, Skills and Transport

Town and Country Planning

Local Plan

Building regulation and building control

Issues relating to access to the countryside

Closure/diversion of footpaths, bridleways and highways

Provision of resources for enforcement of decisions taken by the Planning Committee

Transport Planning

including public transport and liaison with public transport operators

Transportation policies, including liaison with the highway authority on their development, traffic management and car parking

Responding to consultations on proposed traffic regulation orders

Concessionary Travel and liaison with local bus companies

Cabinet Member for Planning and Economic Development

Economic Development

Town Centre Management and Regeneration

Christmas illuminations

Issues of business and employment development within the Borough including training

Marketing and promotion of the Borough and tourism

Gatwick Strategy

Liaison with County Council and Neighbouring District Councils on Planning and Highways

Formulation of Green Space Strategy (The implementation of the Green Space Strategy remains with the Cabinet Member for Wellbeing)

Heritage Strategy (the Strategy will fall within the responsibilities of several Cabinet Members, however the Cabinet Member for Planning and Economic Development will provide a co-ordinating role)

Property and Construction

Asset Management Strategy

All non-operational assets included in the Assets Register

Corporate Strategy for the maintenance, management and development of the Council's corporate estate

Terms for the acquisition, disposal and appropriation of land (excluding right to buy / rent to mortgage and shared ownership schemes for Housing Revenue Account dwellings)

Property Strategy

Specific Delegations:

- (1) The adoption of new Conservation Area Statements and amendments to existing Conservation Area Statements
- (2) The adoption of new Conservation Area Statements and amendments to existing Conservation Area Statements
- (3) The adoption of new Heritage Statements and amendments to existing Heritage Statements
- (4) Approval of the annual programme of building maintenance works for operational properties (excluding housing assets) including variations during the year to meet changing needs. Delegation to cover all types of maintenance work and small-scale improvements above £100,000 per job

Membership to Outside Bodies:

- Local Economy Action Group (voting member)
- Gatwick Airport Joint Authorities Meeting
- Gatwick Diamond Local Authorities Members' Group
- Manor Royal Business Group
- Manor Royal Management Group

Cabinet Member for Planning and Economic Development

- Manor Royal Board
- Sussex Building Control
- Town Centre Partnership
- West Sussex Joint Planning Board
- Bus Company Meetings

Cabinet Member for Public Protection and Community Engagement

Community Engagement and Development

Preparation of a Community Strategy and the development of Community Planning
(including a Public Consultation Strategy and the investigation of Area / Neighbourhood Forums)

Community and Neighbourhood Development

Community Safety

Community Safety Improvement Schemes

Grants to Voluntary Bodies

Equal Opportunities

Promotion of equality of opportunity and the tackling of economic inequality

Social Inclusion Strategy

Prevent Strategy

Lead Cabinet Member for crime, policing, and fire and rescue Services

Lead Cabinet Member on issues relating to travellers

Children and Young People (including joint working with Youth Services and Youth Development Initiatives and the Council's responsibilities defined under Section 11 (Safeguarding) of the Children's Act 2004)

Town Twinning

Specific Delegations:

- (1) To determine applications for main grants (i.e. currently above £5,000) by voluntary organisations in accordance with the criteria previously agreed by Cabinet
- (2) The approval of criteria for the prioritisation of community safety improvement schemes
- (3) The approval of an annual programme of community safety schemes subject to the proposals being achievable within the limits of the approved financial budget

Membership to Outside Bodies:

- Safer Crawley Partnership Executive
- Sussex Police and Crime Panel (member or substitute)

Cabinet Member for Resources

Political Liaison

Democratic Services (excluding elections)

including the Committee service and liaising with the Local Government Ombudsman

Legal Services

including advice to the Council across the range of Council functions and provision of the statutory land charges service to members of the public

Fostering Interest in Local Government

Promoting interest in and understanding of Local Government

Member Services

- Member Training and Development

Provision of resources for enforcement of decisions taken by the Licensing Committee

Performance Management

Service Review Programme (except individual reviews)

Systems Thinking and other improvement methodologies

Service channel shifts

Human Resource Strategy

including recruitment and retention policy,
conditions of service
employees health, safety and welfare

Overview of Customer Service and Complaints

E Government and IT Strategies

Improvement Planning Champion

Service Responsibilities:

Information Technology
Web team
Human Resources including staffing budget
Equal Opportunities Policy relating to employment
Town Hall building management/office accommodation
Reprographics and Stationery
Civic Hall

Procurement

Finance

Risk management
Insurance matters

Policy for developing service plans

Cabinet Member for Resources

Customer Contact Centre

Data Protection and Freedom of Information

Partnership working with other Councils and shared service provision

Specific Delegations:

- (1) To approve the Corporate Equality Statement
- (2) Approval of the Council's Risk Management Strategy

Cabinet Member for Wellbeing

Lead Cabinet Member for Health and Wellbeing

Arts (including The Hawth, community arts, promotions and entertainments, public art and bandstand)

Museums and art galleries

Sport and fitness (including sports development, playing fields, Broadfield Stadium and Leisure Centres) with the primary health and well-being role being held by the Cabinet Member for Public Protection and Community Engagement

Amenity Services

Parks, gardens and open spaces

Land held for recreational and open space purposes

Liaison and Joint Working with Education

Libraries liaison

Community Centres

Allotments

Nature conservation/arboriculture

Play service and playgrounds

Implementation of Green Space Strategy (The formulation of the Green Space Strategy remains with the Cabinet Member for Planning and Economic Development)

Membership to Outside Bodies:

- Gatwick Greenspace Partnership

SCRUTINY PROCEDURE RULES

SCRUTINY PROCEDURE RULES

1. What will be the Arrangements for the Overview and Scrutiny Commission and its Panels?

The Council will have an Overview and Scrutiny Commission as set out in Article 6 of the Constitution. The Overview and Scrutiny Commission may establish task-orientated, time-limited scrutiny panels, the number to be running at any one time to be subject to resource constraints. These panels will be charged with carrying out an in-depth investigation into a specific service area or policy or any issue of genuine importance to the town. Each panel will work to a specific brief set out by the Overview and Scrutiny Commission and will report to the Commission.

2. Who May Sit on the Overview and Scrutiny Commission and its Panels?

All Councillors except Members of the Cabinet may be Members of the Overview and Scrutiny Commission.

Membership of the scrutiny panels may be drawn from the Commission itself and/or from other non-Cabinet Members of the Council. The panels will be politically balanced unless agreed otherwise by the Group Leaders. Membership will depend on the knowledge and expertise required to deal with the matter in hand, as long as the principle of independence is not compromised. The Commission will agree the Chair of any scrutiny panel it establishes (who will not necessarily be an OSC Member and may potentially be the nominator). Panel Members will then be agreed in consultation with Group Leaders and the party group secretaries. However at least one Member of the panel must be an OSC Member.

No Member may be involved in scrutinising a decision in which they have been directly involved. Paragraph 7 of the Councillors Code of Conduct refers

3. Co-optees

- (a) The Overview and Scrutiny Commission shall be entitled to recommend to Council the appointment of additional people to serve on the Commission as co-optees and whether they shall have voting rights.
- (b) The Commission may appoint co-optees onto any of its panels and decide whether or not they shall have voting rights or agree to let the Chair of the relevant scrutiny panel decide this in consultation with the Chair of the Overview and Scrutiny Commission and the Head of Legal and Democratic Services. The requirements of Regulation 3 of the Crime and Disorder (Overview and Scrutiny) Regulations 2009 apply to the co-option of Members to a Committee dealing with crime and disorder matters.

4. Terms of Reference

The terms of reference of the Overview and Scrutiny Commission are as set out in Article 6 of the Constitution.

The Overview and Scrutiny Commission may set such terms of reference for the scrutiny panels as it considers appropriate.

5. Meetings of the Overview and Scrutiny Commission

There shall be at least seven ordinary meetings of the Overview and Scrutiny Commission programmed each year. In addition, extraordinary meetings may be called from time to time as and when appropriate. An extraordinary meeting of the Overview and Scrutiny Commission may be called by the Head of Legal and Democratic Services if they consider it necessary or appropriate and must be called by the Head of Legal and Democratic Services if required to do so by a notice in writing given either by the Chair of the Overview and Scrutiny Commission or by any three Members of the Overview and Scrutiny Commission.

6. Quorum

The Quorum for the Scrutiny Commission and Scrutiny Panels shall be as set out in the Council Procedure Rules in Part 4 of this Constitution.

7. Who Chairs Overview and Scrutiny Commission Meetings?

The Council will appoint the Chair and Vice Chair of the Overview and Scrutiny Commission. The Chair and Vice Chair of the Overview and Scrutiny Commission will be drawn from amongst the Councillors sitting on the Commission.

From the Civic Year 2016, where there is more than one political group on the Council, either the position of Chair or Vice Chair of the Overview and Scrutiny Commission will go to a Member nominated by an opposition group.

The Commission will agree the Chair of any scrutiny panel it establishes (who will not necessarily be an OSC Member and may potentially be the nominator). Panel Members will then be agreed in consultation with Group Leaders and the party group secretaries. However at least one Member of the panel must be an OSC Member.

8. Agenda Items

- (a) Any Member of the Council shall be entitled to give notice to the Head of Legal and Democratic Services that they wish to refer a local government matter relevant to the functions of the Commission or a local crime and disorder matter to the Commission and for it to be included on the agenda and discussed at the next available meeting of the Commission. As part of the discussion, the Commission will decide whether or not it would be appropriate to refer a matter to a scrutiny panel to carry out an in-depth investigation and report back to the Commission.

A local government matter is defined in S.21A of the Local Government Act 2000 as one that

- (i) relates to the discharge of any function of the Council,
- (ii) is not an excluded matter (a local crime and disorder matter or a matter defined by Order).

A local crime and disorder matter as defined in S.19 of the Police and Justice Act 2006, in relation to a Councillor, means a matter concerning crime and disorder (including, in particular, forms of crime and disorder that involve anti-social behaviour or other behaviour

adversely affecting the local environment), or the misuse of drugs, alcohol and other substances which affects all or part of the electoral area for which the Councillor is elected or any person who lives or works in that area.

Excluded Matters as defined by Order include:

- (i) any matter relating to a planning decision;
- (ii) any matter relating to a licensing decision;
- (iii) any matter relating to an individual complaint;
- (iv) 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;
- (v) any matter which is vexatious, discriminatory or not responsible to be included in the agenda for, or to be discussed at, a meeting of the Overview and Scrutiny Commission or at a meeting of a Sub-Committee of that Commission.

However, a matter which consists of an allegation of systematic failure to discharge a function for which it is responsible may be referred to the Overview and Scrutiny Commission, notwithstanding the fact that the allegation specifies matters which would otherwise be excluded by virtue of the above.”

- (b) Any Member of the Overview and Scrutiny Commission shall be entitled to give notice to the Head of Legal and Democratic Services that they wish to refer an item relevant to the functions of the Commission to the Commission (and for a Member of a Scrutiny Panel to be able to refer to the Panel any matter which is relevant to the Panel’s functions). The item shall then be included on the agenda and be discussed at the next available meeting of the Commission (or Panel).
- (c) The Commission may also review or scrutinise decisions made, or other action taken in connection with the discharge by the responsible authorities of their crime and disorder functions. The Commission will meet for the purpose when it is considered appropriate but no less than once in every twelve month period.
- (d) **Procedure**

When considering whether or not to exercise its powers to review or scrutinise a local government matter or a local crime and disorder matter, the Commission may have regard to representations made by a local Councillor exercising powers under Section 236 of the Local Government and Public Involvement in Health Act 2007. If the Commission decides not to exercise its powers, the local Councillor should be advised of the reasons for the decision. The local Councillor should also receive a copy of any report or recommendations which the Commission makes to the Council or to the Cabinet relating to the matter (subject, in the case of a local government matter, to the exclusion of any confidential information and, where appropriate, of any exempt information which should, instead, be summarised). In the case of a local crime and disorder matter and matters relating to the discharge by the responsible authorities of their crime and disorder functions, a copy of the report and recommendations should be

provided to the responsible authorities and the co-operating persons and bodies (as defined in S5 of the Crime and Disorder Act, 1998) as is considered appropriate

In the case of a local government matter or an item relevant to the functions of the Commission, the Commission must (by notice in writing) require the Council or the Cabinet to consider and respond within two months to any report or recommendations it makes, and to indicate what (if any) action is proposed. The Council or the Cabinet are under a duty to comply with these requirements and if the Commission has published its report or recommendations, then the response should also be published (subject to the exclusion of any confidential information and, where appropriate, of any exempt information which should, instead, be summarised).

In the case of a matter relating to the discharge by the responsible authorities of their crime and disorder functions, the Commission shall notify the responsible authorities to whom the report or recommendations have been made, and the co-operating persons and bodies who have been provided with a copy, that they must consider and respond to the report or recommendations, indicating what (if any) action is proposed, and must have regard to the report and recommendations in exercising their functions.

9. Petitions

Officer Evidence

- (a) If a petition contains between 50 and 999 signatories it will be considered by the Overview and Scrutiny Commission prior to its submission to the appropriate decision-maker.
- (b) The Commission will endeavour to consider any request at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting.
- (c) At the meeting of the Overview and Scrutiny Commission the Chair will invite the petition organiser to address the Commission for a maximum of 3 minutes on the issue.

Matters Referred to the Commission

- (a) The Commission may consider a petition referred to it by the Cabinet, Council or a Committee or Sub-Committee of the Council.

10. Reports from the Overview and Scrutiny Commission

- (a) In addition to reporting to the Full Council each cycle on its current work, the Overview and Scrutiny Commission will produce reports when a particular piece of work has been completed, to the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), to a Committee where the matter falls within its terms of reference or to the Council as appropriate (e.g. if the proposal would require a departure from or a change to the agreed budget and policy framework). These reports will be presented directly by the Chair of the Overview and Scrutiny Commission (or, with the agreement of the

Chair of the Overview and Scrutiny Commission, by the Member who led the review). Where the Council is to receive the report a copy of the report will be submitted to the Cabinet held in the same cycle. The Cabinet may comment upon the report and these comments will be presented to the Council at the time the report is considered. The Chair of the Overview and Scrutiny Commission will be entitled to introduce their report and to answer questions made by Members of the Cabinet if they wish to do so.

- (b) If the Overview and Scrutiny Commission cannot agree on one single report, then no more than one minority report may be prepared and submitted for consideration with the majority report.
- (c) The report of the Overview and Scrutiny Commission shall be considered as soon as reasonably practicable.

11. Rights of Overview and Scrutiny Commission Members to Documents

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

12. Members and Officers Giving Account

The Overview and Scrutiny Commission and its panels may, within their terms of reference, scrutinise and review decision-making or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Cabinet, any Committee Chair, the Head of Paid Service/Acting Chief Executive and/or any Service Head to attend before it to explain in relation to matters within their remit:

- (i) Any particular decision or series of decisions;
- (ii) The extent to which the actions taken implement Council policy; and/or
- (iii) Their performance;
- (iv) Any response to a petition calling for a senior Council officer to give evidence.

And it is the duty of those persons to attend if so required.

- (b) Where any Member, Committee Chair or Employee is required to attend the Overview and Scrutiny Commission or a scrutiny panel under this provision, the Chair of the Commission/or that panel will inform the Head of Legal and Democratic Services. The Head of Legal and Democratic Services shall inform the Member or Employee in writing, giving at least five working days' notice of the meeting at which they are required to attend. The notice will state the name of the item on which they are required to attend to give account and whether any papers are required to be produced for the Commission or panel. Where the account to be given to the Commission or panel will require

the production of a report, then the Member or Employee concerned will be given sufficient notice to allow for preparation of that documentation.

- (c) Where, in exceptional circumstances, the Member or Employee is unable to attend on the required date, then the Overview and Scrutiny Commission or panel shall in consultation with the Member or Employee arrange an alternative date for attendance.

13. Attendance by Others

The Overview and Scrutiny Commission or its panels may invite people other than those people referred to in paragraph 12 above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders, Members and Employees in other parts of the public sector and shall invite such people to attend. When carrying out its functions relating to crime and disorder, the attendance of an officer or employee of a responsible authority or of a co-opted person or body may be required in order to answer questions. Reasonable notice of the intended date of attendance must be given to that person.

Petition organisers may attend a meeting of the Overview and Scrutiny Commission as detailed in the Crawley Borough Council Petitions Scheme (see Part 5 of this Constitution).

14. Call In

Call in should only be used in exceptional circumstances. These are where the Member(s) calling in the decision believes that the decision was not taken in accordance with the principles set out in Article 12.2 (decision-making).

Call In of Decisions Made by the Cabinet as a Whole

- (a) At Cabinet meetings or Committees of the Cabinet, immediately after the decision is taken, any Member of the Council present may indicate that they wish to call-in the decision because they do not believe it has been taken in accordance with the provisions of decision making set out in Article 12 of the Constitution.
- (b) The Member of the Council calling in the decision must indicate how they believe the principles of Article 12.2 have been breached, not only by identifying the principle which they feel has not been complied with but also by specifying how they consider it has been breached. If there should be any doubt about the validity of a call-in, the matter may be referred to the Head of Legal and Democratic Services for determination. Where it is decided by the Head of Legal and Democratic Services that a request for call-in is invalid, the Leader and the Member of the Council calling in the decision will be advised that the call-in provisions do not apply and that, therefore, the original decision will stand. The implementation of the decision will be reported to the Cabinet and to Full Council.
- (c) If a decision is called in, it is treated as suspended. The Member of the Council calling in the decision must then obtain within the five working days following the call-in, the support of three other Members of the Council. The support must be communicated to the Head of Legal and Democratic Services either by way of a signed pro-forma or

separate written confirmation by each supporter, which may be a hard copy or e mail communication (to democraticservices@ Crawley.gov.uk) and acknowledgement of receipt shall be obtained. Failure to obtain the support of three other Members within this period will mean that the original decision will stand and, on the sixth working day, the decision will be implemented. The implementation of the decision will be reported to the Cabinet and to Full Council.

- (d) In the case of the Cabinet or a Committee of the Cabinet, if the required number of signatures is produced within the period specified, then the decision will continue to be treated as suspended and the matter will be reconsidered at the next meeting of Full Council. If the Full Council does not object, then the original decision stands. If the Council does object, it cannot change the decision unless that decision was contrary to the policy framework or contrary or not wholly in accordance with the budget. Unless that is the case, the Council will refer the matter back either to the next meeting of the Cabinet for reconsideration (in which case the matter may not be called-in a second time) or to the Overview and Scrutiny Commission. If the matter has already been the subject of scrutiny, it shall only be referred back to the Overview and Scrutiny Commission if there is new material to be considered. The Council may pass a resolution specifying the nature of its objection to the proposed decision.

Call In of Decisions Made by Individual Cabinet Members

- (e) Notice of decisions to be made by individual Cabinet Members, or of key decisions made by employees with delegated authority from the Cabinet, will be published in the weekly Members' Information Bulletin and will be made available for public inspection at the Council's offices.
- (f) Unless, within five working days of the publication date of the Members' Information Bulletin, any Member of the Council objects to the proposed decision on the grounds that they do not believe the decision, if implemented, would be in accordance with the principles of decision-making set out in Article 12 of the Constitution, then the decision is implemented on the sixth working day.
- (g) If any Member of the Council objects, then the decision is called in. If a decision is called in, it is treated as suspended. The Member of the Council calling in the decision must then obtain the support of three other Members of the Council within the five working days following the publication date of the Members' Information Bulletin. The call in and the support must be communicated to the Head of Legal and Democratic Services either by way of a signed pro-forma or separate written confirmation by each supporter, which may be a hard copy or e mail communication (to democraticservices@ Crawley.gov.uk) and acknowledgement of receipt shall be obtained. Failure to obtain the support of three other Members within this period will mean that the original decision will stand and, on the sixth working day, the decision will be implemented.
- (h) If the required support is given within the period specified, then the decision will continue to be treated as suspended and the matter will then be referred to the next Council meeting. Any decision taken by the Cabinet Member for Public Protection and Community

Engagement relating to grants applications will not be subject to call-in since it would be subject to appeal to the Grants Appeals Panel.

- (i) Any objection to a proposed decision by an individual Cabinet Member, or to a key decision made by an employee with delegated authority from the Cabinet, must be made in writing to the Head of Legal and Democratic Services (either hard copy or email). The Member of the Council calling in the decision must indicate how they believe the principles of Article 12 have been breached.
- (j) If the required number of signatures is produced within the period specified, then the decision will continue to be treated as suspended and the matter will be reconsidered at the next meeting of Full Council. If the Full Council does not object, then the original decision stands. If the Council does object, it cannot change the decision unless that decision was contrary to the policy framework or contrary or not wholly in accordance with the budget. Unless that is the case, the Council will refer the matter back to either the individual Cabinet Member who originally took the decision for reconsideration (in which case the matter may not be called in a second time), to the next meeting of the Cabinet for reconsideration (in which case the matter may not be called in a second time), or to the Overview and Scrutiny Commission. If the matter has already been the subject of scrutiny, it shall only be referred back to the Overview and Scrutiny Commission if there is new material to be considered. The Council may pass a resolution specifying the nature of its objection to the proposed decision.

Call In and Urgency (Protection from Call In)

- (k) The call in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The agenda item in the case of matters to be decided by the Cabinet as a whole or the Members' Information Bulletin item in the case of proposed decisions by individual Cabinet Members, or key decisions made by employees with delegated authority from the Cabinet, must indicate the reason why, in the opinion of the Head of Paid Service or their nominee, the matter should be treated as urgent, and that in their opinion the decision proposed is reasonable in all the circumstances. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (l) The operation of the provisions relating to call in and urgency shall be monitored annually and a report submitted to Council with proposals for review if necessary.

15. The Party Whip

When considering any matter in respect of which a Member of the Overview and Scrutiny Commission or its panels 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 Commission's or the panel's deliberations on the matter. The declaration and the detail of the whipping arrangements shall be recorded in the minutes of the meeting.

16. Procedure at Overview and Scrutiny Commission Meetings

- (a) The Overview and Scrutiny Commission shall consider the following business:
 - (i) Minutes of the last meeting;
 - (ii) Declarations of interest (including whipping declarations);
 - (iii) The business otherwise set out on the agenda for the meeting, including:
 - (a) consideration of any matter referred to the Overview and Scrutiny Commission for a decision in relation to call-in of a decision;
 - (b) matters referred to the Overview and Scrutiny Commission in relation to relevant petitions submitted under the Crawley Borough Council Petitions Scheme; and
 - (iv) Forward Plan;
 - (v) Supplemental agenda. (This item can be used to discuss any item on the forthcoming Cabinet agenda)
- (b) Where the Overview and Scrutiny Commission or its panels conduct investigations, the Commission or its panels may also ask people to attend to give evidence at Commission or panel meetings which are to be conducted in accordance with the following principles:
 - (i) That the investigation be conducted fairly and all Members of the Commission or panel be given the opportunity to ask questions of attendees, and to contribute and speak;
 - (ii) That those assisting the Commission or panel by giving evidence be treated with respect and courtesy; and
 - (iii) That the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the Commission/panel shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

17. Public Speaking at the Overview and Scrutiny Commission

- (1) At the beginning of every ordinary meeting of the Commission, there will be a public question time.
- (2) During public question time, a member of the public may ask a question which is relevant to any item on the agenda, a scrutiny panel or potential review. The question must not relate to an individual case which should be dealt with under the Council's complaints procedure or any other formal appeals procedure.
- (3) The Chair of the Commission at their discretion may answer the question or invite other Members or employees to respond.
- (4) Members of the public do not need to give prior notice of their questions. They may signify their wish to ask a question by raising their hand.

- (5) After the question has been answered, the person asking the question may ask one supplementary question.
- (6) The duration of question time will be a maximum of 15 minutes. It may be extended at the Chair of the Commission's discretion.
- (7) Petition organisers may address the Commission in accordance with Paragraph 9 of these procedure rules.

FINANCIAL PROCEDURE RULES

FINANCIAL PROCEDURE RULES - INTRODUCTION

- (a) Financial procedure rules provide the framework for managing the Authority's financial affairs. They apply to every Member and employee of the Council and anyone acting on behalf of the Council. The regulations identify the financial responsibilities of employees and Members and where these responsibilities are delegated, a written record should be maintained of the delegation to whom and any limits that apply.
- (b) All Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control, and for ensuring that the use of these resources is legal, is properly authorised and provides value for money.
- (c) The Head of Finance, Revenues and Benefits is responsible for:
- maintaining a continuous review of the financial procedure rules and submitting any additions or changes necessary to the Council for approval
 - for reporting, where appropriate, breaches of the financial procedure rules to the Council and/or to the Cabinet Members
 - issuing advice and guidance to underpin the financial procedure rules which Members, employees and others acting on behalf of the Council are required to follow.
- (d) Heads of Service are responsible for ensuring that all staff in their divisions are aware of the existence and content of the authority's financial procedure rules and other internal regulatory documents and that they comply with them.
- (e) Service managers and other staff designated as having responsibility for a budget are referred to as a Budget Manager in this document. Heads of Service have a responsibility to allocate a Budget Manager for all expenditure and income within their service area. Budget Managers are responsible for monitoring and managing expenditure and income within their budgets to ensure that they achieve the best use of resources (both financial and non financial) in order to demonstrate value for money services whilst complying with the authority's financial procedure rules and other internal regulatory documents
- (f) Each section of the attached regulations contain a paragraph to explain why that part of the regulations is important and describes the key controls.

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1.0 FINANCIAL MANAGEMENT

Overview of financial accountabilities in relation to the financial management of the authority including the policy framework and budget

The Council

- 1.1. The Council is responsible for adopting the Authority's constitution and code of conduct and for determining the policy framework and budget within which the Cabinet operates. It is also responsible for setting and monitoring compliance with the Authority's overall framework of accountability and control. The framework is set out in its written Constitution. The Council is responsible for monitoring compliance with policies and Cabinet decisions.
- 1.2. The Council is responsible for approving procedures for recording and reporting 'key decisions' and non-key decisions by the Cabinet, including those 'key decisions' delegated by it, and decisions by the Council and its Committees. It is also responsible for recording and reporting the financial information associated with them.

The Cabinet

- 1.3. The Cabinet is responsible for proposing the policy framework and the budget to the Council. The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once a budget or policy framework is in place, it will be the responsibility of the Cabinet to implement it.
- 1.4. Cabinet decisions can be delegated to a Committee of the Cabinet, an individual Cabinet Member, employee, or a joint Committee.
- 1.5. The Cabinet is responsible for establishing protocols to ensure that individual Cabinet Members consult with a relevant employee before taking a decision within their delegated authority. In doing so the individual Member must take account of legal and financial liabilities and risk management issues which may arise from the decision.

The Statutory Officers

Head of Paid Service

- 1.6. The Head of Paid Service is responsible for the strategic management of the authority as a whole. They must report to and provide information for the Cabinet, the Council, the Overview and Scrutiny Commission and other Committees. They are responsible for establishing a framework for management direction, style and standards and for monitoring the performance of the organisation.

Monitoring Officer

- 1.7. The Monitoring Officer is responsible for promoting and maintaining high standards of financial conduct and therefore provides support to the Audit Committee. The Monitoring Officer is also responsible for reporting any breaches of the law to the Council and the Cabinet.
- 1.8. The Monitoring Officer must ensure that Cabinet decisions and the reasons for them are made public. They must also ensure that Council Members are aware

of decisions made by the Cabinet and of those key decisions made by employees who have delegated Cabinet responsibility.

- 1.9. The Monitoring Officer is responsible for advising the Council, Cabinet and officers about who has authority within the Council to take a particular decision.
- 1.10. The Monitoring Officer and Head of Finance, Revenues and Benefits are responsible for advising the Cabinet or Council about whether a decision is likely to be considered contrary or not wholly in accordance with the policy framework or budget. Actions that may be 'contrary to the budget' include:
 - initiating a new policy
 - committing expenditure in future years to above the budget level
 - incurring transfers between services (above virement limits)
 - causing the total expenditure financed from Council tax, grants and corporately held reserves to increase, or to increase by more than a specified amount

Head of Finance, Revenues and Benefits

- 1.11. The Head of Finance, Revenues and Benefits has statutory duties in relation to the financial administration and stewardship of the authority. This statutory responsibility cannot be overridden. The statutory duties arise from:
 - Section 151 of the Local Government Act 1972
 - Local Government Finance Act 1988
 - The Local Government and Housing Act 1989
 - The Accounts and Audit Regulations 2011.
 - The Local Government Act 2003
- 1.12. The Head of Finance, Revenues and Benefits is responsible for:
 - the proper administration of the Councils financial affairs including the internal audit function
 - setting financial management standards and monitoring their compliance
 - advising on the corporate financial position and on the key financial controls necessary to secure sound financial management
 - preparing financial projects, annual revenue budget, capital programme and treasury management

1.13. Section 114 of the Local Government Finance Act 1988 requires the Head of Finance, Revenues and Benefits to report to the Council if the authority or one of its employees:

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

Section 114 of the 1988 Act also:

- requires the Head of Finance, Revenues and Benefits to nominate a properly qualified member of staff to deputise should the Head of Finance, Revenues and Benefits be unable to perform the duties under Section 114 personally
- make it clear that the authority must provide the Head of Finance, Revenues and Benefits with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under section 114.

Heads of Service

1.14. Heads of Service are responsible for:

- ensuring that Cabinet Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Head of Finance, Revenues and Benefits
- consulting with the Head of Finance, Revenues and Benefits regarding any matter which is liable to affect the Council's finances materially, before any commitments are incurred.

Financial Management Standards

Why is this Important?

1.15. The public expect and demand all staff and Members abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring everyone is clear about the standards to which they are working, and the controls which are in place to ensure that these standards are met.

Key Controls

1.16. The key controls for financial management standards are:

- (a) their promotion throughout the Council
- (b) a monitoring system to review compliance with financial standards, and regular comparisons of performance indicators and benchmark standards are reported to the Council.

Responsibilities of Head of Finance, Revenues and Benefits

- 1.17. To ensure the proper administration of the financial affairs of the Council and provision of an adequate internal audit function.
- 1.18. To set the financial management standards, and to monitor their compliance.
- 1.19. To ensure proper professional practices are adhered to, and to act as head of profession in relation to the standards, performance and development of finance staff throughout the authority.
- 1.20. To advise on the key strategic controls necessary to secure sound financial management.

Responsibilities of Heads of Service

- 1.21. To promote the financial management standards set by the Head of Finance, Revenues and Benefits in their divisions and to monitor adherence to the standards and practices within their own areas liaising as necessary with the Head of Finance, Revenues and Benefits.
- 1.22. To promote proper financial practices in relation to the standards, performance and development of staff in their divisions.
- 1.23. To ensure that all staff in their divisions are aware of the existence and content of the authority's financial procedure rules and other internal regulatory documents and that they comply with them.

2.0 MANAGING EXPENDITURE AND INCOME

Why is this Important?

- 2.1. Effective budget management ensures that resources allocated by Members are used for their intended purposes and that these resources are properly accounted for. Budgetary control is a continual process enabling the authority to review and adjust its budget targets during the financial year and identify issues and opportunities for future years. It also provides a mechanism to apply accountability to those managers responsible for defined elements of the budget.
- 2.2. By regularly identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity and take action where needed. The Council operates within an annual cash limit, approved in setting the overall budget.
- 2.3. For the purposes of budgetary control by managers, a budget will normally comprise the planned income and expenditure for an identified service area or cost centre.

Key Controls

- 2.4. The key controls for managing and controlling the revenue budget are:
 - a) there is a nominated budget manager for each expenditure heading
 - b) budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities and

the need to achieve value for money in the use of both financial and non financial resources in delivering their services

- c) budget managers follow an approved process for all expenditure
- d) income and expenditure is properly recorded and accounted for
- e) performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget

Responsibilities of Head of Finance, Revenues and Benefits

- 2.5. To establish an appropriate framework of budgetary management and control which ensures that:
 - a) services are provided within the approved budget unless the Council agrees otherwise
 - b) each Head of Service has available timely information on receipts and payments on each budget, that is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
 - c) expenditure is committed only against an approved budget
 - d) significant variances from approved budgets are investigated and reported by managers regularly
- 2.6. To prepare and submit reports on the Council's projected expenditure compared with the budget on a regular basis.

Responsibilities of Heads of Service

- 2.7. To maintain budgetary control within the department, in adherence to the principles in 2.5 and to ensure that all income and expenditure is properly recorded and accounted for.
- 2.8. To ensure that a single named manager is identified for each item of income and expenditure under the control of the Head of Service. As a general principle, budget responsibility should be aligned as closely as possible to the decision making which commits expenditure.
- 2.9. To ensure that spending remains within the service overall cash limit, and that individual budgets are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast.
- 2.10. To ensure that a monitoring process is in place to review performance levels/levels of service in conjunction with the budget and to achieve efficient use of resources (both financial and non-financial) in order to deliver value for money services.
- 2.11. To seek formal guidance from finance staff when considering new proposals which lead to an increase in service expenditure and/or create financial commitments in future years.
- 2.12. To ensure compliance with the Council's scheme of virement.
- 2.13. To agree with the relevant Head of Service where it appears that a budget proposal, including a virement proposal, may impact materially on another service or Head of Service's level of service activity.

- 2.14. To advise the Head of Finance, Revenues and Benefits of circumstances that may result in an overall budget overspend immediately they identify the potential overspend.

Responsibilities of Budget Managers

- 2.15. To use resources (both financial and non-financial) efficiently in order to deliver value for money services whilst complying with the authority's financial procedure rules and other internal regulatory requirements.
- 2.16. To monitor and manage expenditure and income relating to their service within the overall approved budget to prevent an overspend.
- 2.17. Advise their Head of Service and service accountant of circumstances that may result in an overall budget overspend immediately they identify the potential overspend.

3.0 SCHEME OF VIREMENT AND IN YEAR CHANGES TO SPENDING PLANS

Why is this Important?

- 3.1. The Council's scheme of virement and other changes in spending is administered by the Head of Finance, Revenues and Benefits within guidelines set by Council. The rules are designed to give flexibility for heads of services to switch resources between services to maintain the approved level of service. Commitments using these rules should not create additional liabilities for future years as that it is a decision for the Council when setting the budget.

Virement and Other Spending Limits

- 3.2. The authorisation levels for variations to budgets are set out below:

Heads of Service -

Virements up to £50,000 (both revenue and capital) in the current financial year between the individual service areas under their control except items specifically identified for the Cabinet, or which would commit the Council to expenditure in future years above the existing budgetary provision in consultation with the Head of Finance, Revenues and Benefits.

Head of Finance, Revenues and Benefits -

- a) Approval of one-off redundancy and early retirement costs arising from a staffing restructure or other circumstances up to a limit of £500,000 in any one case subject to the restructure delivering values for money. This will normally be interpreted as providing a payback within three years. In the case of restructures these costs will be met by a transfer from the Restructuring Impact Reserve.
- b) Changes to the cost and phasing of individual schemes within the overall capital programme budget are delegated to the Head of Finance, Revenues

and Benefits in consultation with the Leader. However, these changes will be reported to the Cabinet in quarterly budget monitoring reports.

- c) Virements of up to £50,000 from in year underspends between existing budgets which do not commit the Council to future year's expenditure.

Cabinet

- a) Virements over £50,000, or any that would commit the Council to future years expenditure. Virements which would commit the Council in future years to expenditure in excess of £100,000 per annum over the existing budgetary provisions shall be referred to the Council for approval.
- b) Use of fortuitous, exceptional or unplanned income up to £50,000.
- c) Use of estimated increased income prior to receipt.
- d) Supplementary estimates for revenue spend up to £100,000 per individual request subject to a maximum of £500,000 in any one financial year.
- e) Supplementary estimates for capital schemes up to £100,000 subject to a maximum of £500,000 in any one financial year.

4.0 ACCOUNTING POLICIES, RECORDS AND RETURNS

Why is this Important?

- 4.1. Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources. It also helps provide evidence that expenditure has been properly incurred and income due has been collected.
- 4.2. The Council has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year, and depends on adequate record keeping to fulfil this duty. The accounts and associated statements are subject to external audit which provides assurance that the accounts are properly prepared and proper accounting practices have been followed.

Key Controls

- 4.3. The key controls for accounting policies records and returns are:
 - a) Completion of annual accounts in accordance with proper practice as set out in CIPFA / LASAAC Code of Practice on Local Authority accounts.
 - b) All Cabinet Members, finance staff and budget managers operate within the required accounting standards and timetables of the Council.
 - c) All the authority's transactions, material commitments and contracts and other essential accounting information have been recorded completely, accurately and on a timely basis.
 - d) Procedures are in place to enable accounting records to be reconstituted in the event of systems failure.
 - e) Reconciliation procedures are carried out to ensure transactions are correctly recorded.
 - f) The authority is required by law to retain prime documents. These include:
 - accounts raised (6 years)
 - copies of receipts (6 years)
 - payroll records (6 years)

- VAT records (6 years).

For auditing and other purposes, the authority should retain other financial documents for the current plus the last complete financial year.

Responsibilities of Head of Finance, Revenues and Benefits

- 4.4. To select suitable accounting policies and to ensure that they are applied consistently. The accounting policies are set out in the statement of accounts which is prepared at 31 March each year.
- 4.5. To determine the accounting procedures and records for the Council. Where these are maintained outside the Finance Division, the Head of Finance, Revenues and Benefits should consult the Head of Service concerned.
- 4.6. To make proper arrangements for the audit of the Council's accounts in accordance with the Accounts and Audit Regulations 2011.
- 4.7. To ensure that all claims for funds including grants are made by the due date.
- 4.8. To prepare and publish the audited accounts of the Council for each financial year, in accordance with the statutory timetable, and with the requirement for the Council or designated Committee to approve the Statement of Accounts before 30 September.
- 4.9. To ensure the proper retention of financial documents.

Responsibilities of Heads of Service

- 4.10. To consult and obtain the approval of the Head of Finance, Revenues and Benefits before making any changes to accounting records and procedures.
- 4.11. To maintain adequate records to provide a management trail leading from the source of income/expenditure through to the accounting statements.
- 4.12. To supply information required to enable the Statement of Accounts to be completed, in accordance with guidelines and timescales issued by the Head of Finance, Revenues and Benefits.

Responsibility of All Staff

- 4.13. All staff to provide explanations and documents when requested for audit purposes.

5.0 BUDGETING

Why is this Important?

- 5.1. The Council is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively and to develop systems to enable scarce resources to be allocated in accordance with carefully weighed priorities. The budget is the financial expression of the Council's plans and policies.

- 5.2. The budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the Council. Budgets (spending plans), are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for an authority to budget for a deficit. It must also be sustainable.

Key Controls

- 5.3. The key controls for budget preparation are:
- a) specific approval for all budgets and associated levels of service.
 - 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.
 - c) a monitoring process is in place to review regularly the effectiveness and operation of budget preparation and to ensure that any corrective action is taken.

Responsibilities of Head of Finance, Revenues and Benefits

- 5.4. To prepare and submit reports on the Council's financial outlook including resource constraints set by the Government in accordance with the process set out in the Council's Constitution. To advise on the medium term implications of spending decisions.
- 5.5. To determine the detailed format of the budget and the methods for their preparation, consistent with the general directions of the Council, and after consultation with the Cabinet and Heads of Service.
- 5.6. To prepare and submit reports to the Cabinet on the aggregate annual spending plans of services and on the resources available to fund them, identifying, where appropriate, the implications for the level of Council tax to be levied.

Responsibilities of Heads of Service

- 5.7. To prepare budgets which are consistent with any relevant cash limits, within the Council's annual budget cycle and with guidelines issued by the Cabinet. The format should be prescribed by the Head of Finance, Revenues and Benefits in accordance with the Council's general directions.
- 5.8. To consult with Cabinet Members and relevant Heads of Service, where it appears that a budget proposal is likely to impact on another service or level of service activity.
- 5.9. In compiling the budget to have regard to:
- spending patterns and pressures revealed through the budget monitoring process.
 - legal requirements
 - policy requirements as defined by the Council.
 - initiatives already underway

Responsibilities of Budget Managers

- 5.10. To assist in the preparation of the budget for their area of responsibility and ensure that the budget reflects the Council's priorities in respect of service development.
- 5.11. To review the alternative service delivery options as part of the budgeting process to ensure that the service achieves the most effective use of both financial and non-financial resources.
- 5.12. To identify potential savings for their budget areas.
- 5.13. To prepare a business case to support bids for increased levels of spending within their budget areas.

6.0 RISK MANAGEMENT

Why is this Important?

- 6.1. All organisations, whether they are in the private or public sectors, face risks to people, property and continued operations. Risk is the chance of this going wrong. It is the chance or possibility of loss, damage or injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk.
- 6.2. The purpose of risk management is not to avoid all risks. It is take consider the likelihood of risks taking place, the impact if they do, the options for reducing that risk and the costs of doing so, and then making measured decisions as to what action, if any to take.
- 6.3. Insurance has been a traditional means of protecting against loss but this cannot be seen as the complete answer. By reducing, or even preventing, the incidence of losses (whether they result from crime or accident) the Council will benefit from reduced costs of providing insurance cover and will also avoid the disruption and wasted time caused by losses and insurance claims.

Key Controls

- 6.4. The key controls for risk management are:
 - a) procedures are in place to identify, assess, prevent or contain material known risks, and these procedures are operating effectively throughout the organisation
 - b) acceptable levels of risk are determined and insured against where appropriate
 - c) managers know that they are responsible for managing relevant risks and are provided with relevant information on risk management initiatives
 - d) managers are able to articulate the decisions they have made regarding risk management and the basis for those decisions
 - e) provision is made for losses that might result from the risks that remain
 - f) procedures are in place to investigate claims within required timescales

- g) a monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis
- h) the Council has identified business continuity plans for implementation in the event of disaster which result in significant loss or damage to its resources

Responsibilities of Head of Finance, Revenues and Benefits

- 6.5. To prepare and promote the Council's risk management policy statement.
- 6.6. To effect corporate insurance cover, through external insurance and internal funding, and negotiate all claims in consultation with other employees where necessary.
- 6.7. To develop risk management controls in conjunction with other Heads of Service.

Responsibilities of Heads of Service

- 6.8. To notify the Head of Finance, Revenues and Benefits immediately of any loss, liability or damage which may lead to a claim against the Council, together with any information or explanation required by the Head of Finance, Revenues and Benefits or the Council's insurers.
- 6.9. To notify the Head of Finance, Revenues and Benefits promptly of all new risks, properties or vehicles which require insurance and of any alterations affecting existing insurances.
- 6.10. To consult the Head of Finance, Revenues and Benefits and the Head of Legal and Democratic Services on the terms of any indemnity which the Council is requested to give.
- 6.11. To ensure that Council employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation which may prejudice the assessment of liability in respect of any insurance claim.
- 6.12. To take responsibility for risk management having regard to advice from the Head of Finance, Revenues and Benefits and other specialist officers (e.g. Crime Prevention, Fire Prevention, Health and Safety).
- 6.13. To ensure that there are regular reviews of risk within their departments.

7.0 AUDIT REQUIREMENTS - Internal Audit

Why is this Important?

- 7.1. The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their financial affairs". The Accounts and Audit Regulations 2011 regulation 6, more specifically requires that a "relevant body must undertake an adequate and effective internal audit of its accounting records and of its system of internal control".

- 7.2. Accordingly internal audit is an independent and objective appraisal function established by the Council for reviewing the authority's system of internal control. It examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources. Thereby it provides assurance to Members, senior management and the Head of Finance, Revenues and Benefits that the controls in place are proportionate to the risks in the Council's activities.

Key Controls

- 7.3. The key controls for internal audit are:
- a) that it remains independent in its planning and operation
 - b) the Head of Finance, Revenues and Benefits and the Audit Manager have direct access to the Head of Paid Service, all levels of management and directly to elected Members
 - c) the internal auditors comply with the Public Sector Internal Audit Standards

Responsibilities of Head of Finance, Revenues and Benefits

- 7.4. To ensure that internal auditors have the authority to:
- access Council premises at reasonable times
 - access all assets, records, documents, correspondence and control systems relevant to the audit
 - receive any information and explanation considered necessary concerning any matter under consideration
 - require any employee of the Council to account for cash, stores or any other Council asset under their control
 - access records belonging to third parties, such as contractors when required
 - directly access the Head of Paid Service, the Cabinet and the appropriate Committee
- 7.5. To ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

Responsibilities of Audit and Risk Manager

- 7.6. To prepare Audit Plans which take account of the characteristics and relative risks of the activities involved. To liaise with Heads of Service on the audit strategy and coverage required. In addition to the statutory requirement this takes account of the need to seek added value, effective use of resources, improved performance and cost-effective controls.

Responsibilities of Heads of Service

- 7.7. To ensure that internal auditors are given access at all reasonable times to premises, staff, documents and assets which the auditors consider necessary for the purposes of their work.
- 7.8. To ensure that auditors are provided with any information and explanations which they seek in the course of their work.
- 7.9. To consider and respond promptly to recommendations in audit reports.

- 7.10. To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- 7.11. To notify the Head of Finance, Revenues and Benefits immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, the Head of Service should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- 7.12. To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Council's Audit and Risk Manager, prior to implementation.

8.0 AUDIT REQUIREMENTS - External audit

Why is this Important?

- 8.1. The Council's current external auditors are Ernst and Young. They were appointed by the Audit Commission for a five year period. Subject to draft legislation being approved, the Council will appoint its external auditors in the future.
- 8.2. The Head of Finance, Revenues and Benefits is responsible for working with the external auditor and for advising the Council, Cabinet and Heads of Service on their responsibilities in relation to external audit. The external auditor has the same rights of access as the internal auditor to all documents and information which are necessary for audit purposes.
- 8.3. The basic duties of the external auditor are governed by Section 15 of the 1982 Act as amended by Section 5 of the 1998 Act, under which auditors need to satisfy themselves that:
 - the accounts are prepared in accordance with regulation, comply with the requirements of all statutory provisions applicable to the accounts and that proper practice has been observed in the compilation of accounts
 - the authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources

Key Controls

- 8.4. External auditors are appointed on a contract that requires them to follow a Code of Practice.

Responsibilities of Head of Finance, Revenues and Benefits

- 8.5. To ensure that external auditors are given access at all reasonable times to premises, staff, documents and assets, which the external auditors consider necessary for the purposes of their work.
- 8.6. To ensure there is effective liaison between external and internal audit and finance staff.

Responsibilities of Heads of Service

- 8.7. To ensure that external auditors are given access at all reasonable times to premises, staff, documents and assets which the external auditors consider necessary for the purposes of their work.
- 8.8. To ensure that all records and systems are up to date and available for inspection.

9.0 PREVENTING FRAUD, CORRUPTION AND BRIBERY

Why is this Important?

- 9.1. The Council will not tolerate fraud, corruption and bribery in the administration of its responsibilities whether from inside or outside the authority.
- 9.2. The Council's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.
- 9.3. The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) that it comes into contact with, will act towards the Council with integrity and without thought or actions involving fraud, corruption or bribery.

Key Controls

- 9.4. The key controls regarding the prevention of financial irregularities are that:
 - a) the Council has an effective anti-fraud and anti-corruption policy (including reference to bribery)
 - b) all Members and staff act with integrity, and lead by example
 - c) senior managers and Members are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are corrupt or who may have bribed or been bribed within the meaning of The Bribery Act 2010
 - d) high standards of conduct are promoted amongst Members by the Audit Committee
 - e) a register of interests is maintained in which any hospitality or gifts accepted must be recorded
 - f) whistle blowing procedures are in place and operate effectively
 - g) legislation including the Public Interest Disclosure Act 1998 is adhered to
 - h) The Council has the capacity to investigate instances of fraud and attempted fraud. These resources currently reside in the Fraud and Inspections Team and referrals should be made to this team

Responsibilities of Head of Finance, Revenues and Benefits

- 9.5. To maintain an anti-fraud, corruption and bribery policy.
- 9.6. To maintain adequate and effective internal control arrangements for the Council.

Responsibilities of Heads of Service

- 9.7. To ensure that all suspected irregularities are reported to the Fraud and Inspections Manager
- 9.8. To instigate the Council's disciplinary procedures where the outcome of an investigation indicates improper behaviour.
- 9.9. To ensure that where financial impropriety is discovered the Head of Finance, Revenues and Benefits is informed. The Head of Finance, Revenues and benefits in consultation with the Head of Legal and Democratic Services will consider involving the police to determine with the Crown Prosecution Service whether any prosecution will take place.

10.0 ASSETS

Security

Why is this Important?

- 10.1. The Council holds assets in the form of property, vehicles, equipment and other items worth many millions of pounds. It is important that assets should be safeguarded and used efficiently in the delivery of services, and that there should be arrangements for the security of both physical assets and information required for service operations.

Key Controls

- 10.2. The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:
 - a) resources are used only for the purposes of the Council and properly accounted for
 - b) resources are secured to be available for use when required
 - c) resources no longer required are disposed of in accordance with the law and the regulations of the Council so as to maximise benefits
 - d) an asset register is maintained for the authority and assets are recorded when they are acquired by the authority and this record is updated as changes occur with respect to the location and condition of the asset
 - e) all staff are aware of their responsibilities with regard to safeguarding the Council's assets and information, including the requirements of the Data Protection Act and Software copyright legislation
 - f) all staff are aware of their responsibilities with regard to safeguarding the security of the Council's computer systems, including maintaining restricted access to the information held on them and compliance with the Council's computer and internet security policies

Responsibilities of Asset Manager

- 10.3. To ensure that a property/land asset register is maintained in accordance with good practice.

- 10.4. To ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter the land until a lease or agreement has been confirmed

Responsibility of Head of Partnership Services

- 10.5. To maintain a corporate register of vehicles and mobile plant.

Responsibilities of Head of People and Technology

- 10.6. To maintain an inventory of IT equipment and software

Responsibilities of Head of Services

- 10.7. To maintain a register of assets other than property, land, vehicles and IT equipment and software with a value in excess of £1,000.

- 10.8. To carry out an annual check of all items on the inventory in order to verify location, review, condition and take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should prudently be identified with security markings as belonging to the Council.

- 10.9. To make sure that Council owned property is only used in the course of the Council's business unless the Head of Service concerned has given written permission otherwise.

- 10.10. To ensure the proper security of all buildings and other assets under their control.

- 10.11. Where land or buildings are surplus to the requirements, to inform Asset Manager.

- 10.12. To ensure that no Council asset or facility is subject to personal use by an employee without proper authority

- 10.13. To ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Council.

- 10.14. To ensure assets are identified, their location recorded and that they are appropriately marked and notified to Head of Finance, Revenues and Benefits for insurance purposes.

- 10.15. To ensure cash holdings on premises are kept to a minimum and within insurance limits.

- 10.16. To ensure that keys to safes and similar receptacles are carried on the person of those responsible at all times and to take appropriate action if such keys are lost.

- 10.17. To ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value and its disclosure or loss could result in a cost to the Council in some way.

11.0 STOCKS AND STORES

Responsibilities of Heads of Service

- 11.1. To make arrangements for the care and custody of stocks and stores in their Division.
- 11.2. To ensure stocks are maintained at reasonable levels and subject to a regular independent physical check. All discrepancies should be investigated, pursued to a satisfactory conclusion and adjustments made as required to the stock value.
- 11.3. To obtain approval from the Head of Finance, Revenues and Benefits to write-off redundant stocks and equipment. Where equipment/stocks are to be disposed of, procedures should be by competitive quotations or auction unless, agreed otherwise by the Head of Finance, Revenues and Benefits.

12.0 TREASURY MANAGEMENT

This Council will create and maintain, as the cornerstones for effective treasury management:

- A treasury management policy statement (TMP), stating the policies, objectives and approach to risk management of its treasury management activities;
- Suitable TMPs, setting out the manner in which the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

The Council will receive reports on its treasury management policies, practices and activities, including as a minimum, an annual strategy and plan in advance of the year, a mid year review and an annual report after its close, in the form prescribed in its TMPs.

Why is this Important?

- 12.1. A Code of Practice has been established by the Chartered Institute of Public Finance and Accountancy which aims to provide assurances that the Council's money is properly managed in a way which balances risk with return, but with the overriding consideration being given to the security of the Council's capital sum. This Council has adopted the key recommendations within the code.

Treasury Management and Banking

Responsibilities of Head of Finance, Revenues and Benefits

- 12.2. To compile and maintain a Treasury Management Policy Statement and suitable treasury management practices within these documents to state the policies and objectives of the Council's treasury management activities, the manner in which these will be achieved and prescribe how the function will be managed and controlled.
- 12.3. To arrange borrowing and investments of the Council in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Authority's own Treasury Policy Statement.

- 12.4. To operate bank accounts as are considered necessary within the terms of the banking arrangement.

Responsibilities of Heads of Service

- 12.5. To follow the instructions on banking issued by the Head of Finance, Revenues and Benefits and not to open any bank accounts in relation to Council activities.

Investments and Borrowing

Responsibilities of Head of Finance, Revenues and Benefits

- 12.6. To ensure that all investments of money are made in the name of the Council or in the name of nominees approved by Council.
- 12.7. To ensure that all securities which are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in the custody of the appropriate Head of Service.
- 12.8. To effect all borrowings in the name of the Council and to act as the Council's registrar of stocks, bonds, mortgages and other relevant documents and to maintain records of all borrowing of money by the Council.

Responsibilities of Heads of Service

- 12.9. To ensure that no loans are made to third parties and no interests are acquired in companies, joint ventures, or other enterprises without the approval of the Cabinet, following consultation with the Head of Finance, Revenues and Benefits.

Trust funds and Funds Held for Third Parties

Responsibilities of Heads of Service

- 12.10. To arrange for all trust funds to be held, wherever possible, in the name of the Council. All officers acting as trustees by virtue of their official position shall deposit securities etc. relating to the trust with the Head of Finance, Revenues and Benefits unless the deed otherwise provides.
- 12.11. To arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Head of Finance, Revenues and Benefits, and maintain written records of all transactions.
- 12.12. To ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

Imprest Accounts

Responsibilities of Head of Finance, Revenues and Benefits

- 12.13. To make arrangements for cash floats, petty cash and bank imprest accounts to meet minor expenditure on behalf of the Council and to prescribe rules for operating these accounts. Minor items of expenditure should not exceed the prescribed amount.

- 12.14. To determine the petty cash limit and to maintain a record of all transactions and petty cash advances made, and periodically review the arrangements for the safe custody and control of these advances.

Responsibilities of Heads of Service

- 12.15. To ensure that employees operating an imprest account:
- a) obtain and retain vouchers to support each payment from the imprest account. Where appropriate an official receipted VAT invoice must be obtained
 - b) make adequate arrangements in their office for the safe custody of the account
 - c) produce upon demand by the Head of Finance, Revenues and Benefits, cash and all vouchers to the total value of the imprest amount
 - d) record transactions promptly
 - e) reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder
 - f) provide the Head of Finance, Revenues and Benefits with a certificate of the value of the account held at 31 March each year
 - g) ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made
 - h) on leaving the Council's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Head of Finance, Revenues and Benefits for the amount advanced to them.

13.0 FINANCIAL SYSTEMS AND PROCEDURES - GENERAL

Why is this Important?

- 13.1. Service Areas have many systems and procedures relating to the control of the Council's assets, including purchasing, costing and management systems. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.
- 13.2. The Head of Finance, Revenues and Benefits has a professional responsibility to ensure that the Council's financial systems are sound and should therefore be notified of any new developments or changes which affect the financial content of systems.

Key Controls

- 13.3. The key controls are:
- basic data exists to enable the authority's objectives, targets, budgets and plans to be formulated
 - performance is communicated to the appropriate managers on an accurate, complete and timely basis
 - early warning is provided of deviations from target, plans and budgets that require management attention

- operating systems and procedures are secure.

Responsibilities of Head of Finance, Revenues and Benefits

- 13.4. To make arrangements for the proper administration of the Council's financial affairs, including to:
- a) issue advice, guidance and procedures for the Council's employees and others acting on its behalf
 - b) determine the accounting systems, form of accounts and supporting financial records
 - c) establish arrangements for audit of the Council's financial affairs
 - d) approve any changes to be made to existing financial systems or new systems introduced.

Responsibilities of Heads of Service

- 13.5. To ensure that accounting records are properly maintained and held securely.
- 13.6. To ensure that vouchers and documents with financial implications are not destroyed except in accordance with arrangements approved by the Head of Finance, Revenues and Benefits.
- 13.7. To ensure that a complete management trail, allowing financial transactions to be traced from the original document to the accounting records, and vice versa, is maintained.
- 13.8. To incorporate appropriate controls to ensure that, where relevant:
- a) all input is genuine, complete, accurate, timely and not previously processed
 - b) all processing is carried out in an accurate, complete and timely manner
 - c) output from the system is complete, accurate and timely
- 13.9. To ensure that the organisational structure and arrangements provide an appropriate segregation of duties to provide adequate internal controls and minimise the risk of fraud or other malpractice.
- 13.10. To ensure there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption and that the documentation is accessible in the case of a disaster.
- 13.11. To ensure that systems are documented and staff trained in operations.
- 13.12. To consult with the Head of Finance, Revenues and Benefits before changing the financial content of any existing system or introducing new systems.
- 13.13. To consult with the Head of Finance, Revenues and Benefits in situations where it is considered that the rigid application of financial regulations will be likely to work against the best interests of the Council.
- 13.14. To establish a scheme of delegation identifying employees authorised to act upon the Acting Chief Executive or Head of Service's behalf in respect of payments, income collection and placing orders, including variations, and showing the limits of their authority.

- 13.15. To supply lists of authorised employees, with specimen signatures and delegated limits, to the Head of Finance, Revenues and Benefits, together with any subsequent variations.
- 13.16. To ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably offsite, or in an alternative location within the building.
- 13.17. To ensure that, where appropriate, computer systems are registered in accordance with the Data Protection legislation and that staff are aware of their responsibilities under the legislation.
- 13.18. To ensure that relevant standards and guidelines for computer systems issued by the Head of Service are observed.
- 13.19. To ensure that computer equipment and software are protected from loss and damage through theft, vandalism etc.
- 13.20. To comply with the copyright, designs and patents legislation and, in particular, ensure that:
- a) only software legally acquired and installed by the Council is used on its computers
 - b) staff are aware of legislative provisions
 - c) in developing systems, due regard is given to the issue of intellectual property rights.

14.0 FINANCIAL SYSTEMS AND PROCEDURES - INCOME AND EXPENDITURE

Income

Why is this Important?

- 14.1. The Council's activities depend on collecting sufficient income. Effective income collection systems are necessary to ensure that all of the income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cash flow and also avoids the time and cost of administering debts.

Key Controls

- 14.2. The key controls for income are:
- a) all income due to the Council is identified and charged correctly in accordance with an approved charging policy which is regularly reviewed
 - b) all income is collected from the correct person, at the right time using the correct procedures and the appropriate stationery
 - c) all money received by an employee on behalf of the Council is paid without delay to the Head of Finance, Revenues and Benefits or as they direct, to the Council's bank account, and properly recorded. The responsibility for cash collection should be separated from that for

identifying the amount due for reconciling the amount due to the amount received

- d) effective action is taken to pursue non-payment within defined timescales
- e) formal approval for debt write-off is obtained and action taken within defined timescales
- f) appropriate accounting adjustments are made following write-off action
- g) all appropriate income documents are retained and stored for the defined period
- h) money collected and deposited is reconciled to the bank account by a person who is not involved in the banking process

Responsibilities of Head of Finance, Revenues and Benefits

- 14.3. To agree arrangements for the collection of all income due to the Council and approve the procedures, systems and documentation for its collection.
- 14.4. To agree the write-off of bad debts up to an approved limit in each case and to refer larger sums to the Leader or Cabinet depending on the amount.

Responsibilities of Heads of Service

- 14.5. To establish a charging policy for the supply of goods or services, including the appropriate charging of VAT, and review it regularly, within corporate policies.
- 14.6. To separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable.
- 14.7. To determine in conjunction with the Head of Finance, Revenues and Benefits appropriate recovery procedures, including legal action where necessary, for debts which are not paid promptly.
- 14.8. To issue official receipts or maintain other documentation for income collection.
- 14.9. To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded. Likewise to ensure two people are present when cash collected is counted and prepared for banking.
- 14.10. To hold securely receipts, tickets and other records of income, for the appropriate period.
- 14.11. To lock away all income to safeguard against loss or theft, and to ensure the security of cash handling.
- 14.12. To ensure that income is paid fully and promptly into the appropriate Council bank account in the form in which it is received. Appropriate details should be recorded on to paying in slips to provide an audit trail.
- 14.13. To ensure income is not used to cash personal cheques or other payments, including sums due from the Council.

- 14.14. To supply the Head of Finance, Revenues and Benefits with details relating to work done, goods supplied or services rendered or other amounts due, to enable the Head of Finance, Revenues and Benefits to record correctly the sums due to the Council and to ensure accounts are sent out promptly. Heads of Service have a responsibility to assist the Head of Finance, Revenues and Benefits in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf
- 14.15. To advise the Head of Finance, Revenues and Benefits of potential debts to be written off and keep a record of all sums written off up to the approved limit. Once raised, no valid debt may be cancelled except by full payment or by its formal writing off. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt.
- 14.16. To notify the Head of Finance, Revenues and Benefits of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Head of Finance, Revenues and Benefits and not later than 30 April.
- 14.17. To actively promote the collection of income in advance of the delivery of the goods or services.

15.0 FINANCIAL SYSTEMS AND PROCEDURES - Ordering and Paying for Work, Goods and Services

Why is this Important?

- 15.1. Public money should be spent with demonstrable probity and in accordance with the Council's policies. Councils have a statutory duty to achieve *best value* in part through economy and efficiency. The Council's procedures should help to ensure that services can receive value for money in their purchasing arrangements. These procedures should be read in conjunction with the Council's code of practice on tenders and contracts.

General

- 15.2. Every employee and Member of the authority has a responsibility to declare any links or personal interests which they may have with purchasers or suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council in accordance with appropriate codes of conduct. This should be done in the relevant registers of interest maintained by the Head of Legal and Democratic Services.
- 15.3. Official orders must be in a form approved by the Head of Finance, Revenues and Benefits.
- 15.4. Orders must be raised for all capital contracts and, where appropriate, as advised by the finance team.
- 15.5. The normal method of payment from the Council shall be by BACS. Other methods require the prior approval of the Head of Finance, Revenues and Benefits.

- 15.6. Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts.

Key Controls

- 15.7. The key controls for ordering and paying for work, goods and services are:
- a) all goods and services are ordered or procured only by authorised employees
 - b) all goods and services shall be ordered in accordance with the Council's Procurement Code unless they are purchased from internal sources within the Council
 - c) goods and services received are checked to ensure they are in accordance with the order
 - d) payments are not made unless goods have been received by the Council to the correct price, quantity and quality standards
 - e) all payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method
 - f) all appropriate evidence of the transaction and payment documents are retained and stored for the defined period
 - g) all expenditure including VAT, is accurately recorded against the right budget and any exceptions corrected
 - h) in addition, the effect of e-business/e-commerce and electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

Responsibilities of Head of Finance, Revenues and Benefits

- 15.8. To approve changes involving financial data to existing financial systems and to approve any new systems before they are introduced.
- 15.9. To approve the form of official orders, and associated terms and conditions. Terms and conditions will be available on the Council's web site.
- 15.10. To make payments from the Council's funds on the Head of Service's authorisation that the expenditure has been duly incurred in accordance with these financial procedure rules.
- 15.11. To make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order.
- 15.12. To make payments to contractors on the certificate of the appropriate authorised signatory, which must include details of the value of work, retention money, amounts previously certified and amounts now certified.
- 15.13. To provide advice and encouragement on making payments by the most economical means.

Responsibilities of Heads of Service

- 15.14. To ensure that, where appropriate and in accordance with advice issued by the Head of Finance, Revenues and Benefits, orders are created through the Council's financial management system for all goods and services other than for the exceptions specified in 15.3.

- 15.15. To ensure that orders are only used for goods and services provided to the service area. Individuals must not use official orders to obtain goods or services for their private use.
- 15.16. To ensure that only those staff authorised by them approve orders and to maintain an up-to-date list of such authorised staff, including specimen signatures identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best value principles should underpin the authority's approach to procurement. Value for money should always be achieved.
- 15.17. To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. Appropriate entries should then be made in inventories or stores records where applicable.
- 15.18. To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment confirming:
- receipt of goods or services
 - that the invoice has not previously been paid
 - that expenditure has been properly incurred and is within budget provision
 - that prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices
 - the invoice is correctly coded
 - discounts have been taken where available
- 15.19. To ensure that the department maintains and reviews periodically a list of staff approved to authorise invoices. Names of authorising employees together with details of the limits of their authority shall be retained by finance.
- 15.20. Payment should not be made on a photocopied or faxed invoice, statement or other document other than the formal invoice, other than agreed by the Head of Finance, Revenues and Benefits. Electronic payment methods will be used where it is cost effective and provides adequate controls.
- 15.21. To process invoices for payment within sufficient time to enable payment to be made known within 30 days of receipt of invoice and within 10 days for invoices from small and medium sized enterprises (SMEs).
- 15.22. To ensure that the division obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality, with regard to the guidelines and best practices issued by the Head of Finance, Revenues and Benefits which are in line with best value principles and contained in the Council's Procurement Code and Procurement Toolkit.
- 15.23. To notify the Head of Finance, Revenues and Benefits of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Head of Finance, Revenues and Benefits and, in any case, not later than 30 April. Notifications are to be in accordance with guidance issued by the Head of Finance, Revenues and Benefits.

- 15.24. With regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Head of Finance, Revenues and Benefits and Head of Service, the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of sub contractors' tax status.
- 15.25. To notify the Head of Finance, Revenues and Benefits immediately of any expenditure to be incurred as a result of statute/court order or a legal obligation to pay where there is no budgetary provision.
- 15.26. To ensure that all appropriate payment records are retained and stored for the defined period.

16.0 PARTNERSHIPS

Why is this Important?

- 16.1. Local authorities are working in partnership with others - public agencies, private companies, community groups and voluntary organisations. Local authorities still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders. They therefore need to deliver a shared vision of services based on user wishes.
- 16.2. Local authorities will mobilise investment, bid for funds, champion the needs of their areas and harness the energies of local people and community organisations. Local authorities will be measured by what, in partnership with others, they achieve.

General

- 16.3. The main reasons for entering into a partnership are:
- a) the desire to find new ways to share risk
 - b) the ability to access new resources
 - c) to forge new relationships
 - d) to have a positive impact on residents that the organisations cannot have working in isolation
- 16.4. A partner is defined as either:
- a) an organisation (private or public) undertaking, part funding or participating as a beneficiary in a project
- OR
- b) a body whose nature or status give it a right or obligation to support the project.
- 16.5. Partners participate in projects by:
- a) acting as a project deliverer or sponsor, solely or in concert with others
 - b) acting as a project funder or part funder
 - c) being the beneficiary group of the activity undertaken in a project.

16.6. Partners have common responsibilities:

- a) to be willing to take on a role in the broader programme appropriate to the skills and resources of the partner organisation
- b) to act in good faith at all times and in the best interests of the partnership's aims and objectives
- c) be open about any conflict of interests which might arise
- d) to encourage joint working between themselves, promote the sharing of information, resources and skills between public, private and community sectors
- e) to hold confidentially any information received, as a result of partnership activities or duties, that is of a confidential or commercially sensitive nature
- f) to act wherever possible as ambassadors for the project.

Key Controls

16.7. The key controls are for Council partners:

- a) to be aware of their responsibilities under the Council's financial procedure rules and the Procurement Code
- b) to ensure risk management processes are in place to identify and assess all known risks
- c) to ensure project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
- d) to agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences
- e) to communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution.

Responsibilities of Head of Finance, Revenues and Benefits

16.8. To advise on the key elements of funding a project:

- a) scheme appraisal for financial viability both in the current and future years
- b) risk appraisal and management
- c) resourcing, including taxation issues
- d) audit, security and control requirements

Responsibilities of Heads of Service

16.9. To ensure that the necessary approvals are obtained before any negotiations are concluded on partnership arrangements.

16.10. To maintain a register of all partnership arrangements entered into in accordance with procedures specified by the Head of Finance, Revenues and Benefits.

16.11. To provide appropriate information to the Head of Finance, Revenues and Benefits to enable a note to be entered into the statement of accounts.

17.0 EXTERNAL FUNDING

Why is this Important?

- 17.1. External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the 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 although the scope for external funding has increased such funding is linked to tight specifications and may not be flexible enough to link to the Council's overall plan.

Key Controls

- 17.2. To ensure that key conditions of funding, and that any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood.
- 17.3. To ensure that funds are acquired only to meet the priorities approved by the Council.
- 17.4. To ensure that any match funding requirements are given due consideration prior to entering into long term agreements and future revenue budgets reflect these requirements.

Responsibilities of Head of Finance, Revenues and Benefits

- 17.5. To ensure that audit requirements are met.
- 17.6. To assist Head of Services to identify availability of external funding.

Responsibilities of Heads of Service

- 17.7. To ensure that all funding notified by external bodies is received.
- 17.8. To ensure that all claims for funds are made by the due date.
- 17.9. To ensure that the project progresses in accordance with the agreed project and all expenditure is properly incurred and recorded.
- 17.10. To ensure that the match funding requirements are considered prior to entering into the agreements and future revenue budgets reflect these requirements.

18.0 WORK FOR THIRD PARTIES

Why is this Important?

- 18.1. Current legislation enables the Council to provide a range of services to other bodies. Such work may enable the unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks

associated with this work is proportionate to the benefits and that such work is intra vires.

Key Controls

- 18.2. To ensure that proposals are properly costed in accordance with guidance provided by the Head of Finance, Revenues and Benefits.
- 18.3. To ensure that contracts are drawn up using guidance provided by the Head of Finance, Revenues and Benefits and the Head of Legal and Democratic Services and that the formal approvals process is adhered to.

Responsibilities of the Head of Finance, Revenues and Benefits

- 18.4. To issue guidance with regard to the financial aspects of third party contracts and the maintenance of the contract register.

Responsibilities of Heads of Service

- 18.5. To ensure that the relevant approvals are obtained before any negotiations are concluded to work for third parties where this requires an increase in spending.
- 18.6. To maintain a register of all contracts entered into with third parties in accordance with procedures specified by the Head of Finance, Revenues and Benefits.
- 18.7. To ensure that the Head of Finance, Revenues and Benefits is notified of any changes affecting insurance arrangements.
- 18.8. To ensure that the Council is not put at risk from any significant bad debts.
- 18.9. To ensure that no contract is subsidised by the Council.
- 18.10. To ensure that, wherever possible, payment is received in advance of the delivery of the service.
- 18.11. To ensure that the department has the appropriate expertise to undertake the contract.
- 18.12. To ensure that such contracts do not impact adversely upon the services provided for the Council.
- 18.13. To ensure that all contracts are properly documented.
- 18.14. To provide appropriate information to the Head of Finance, Revenues and Benefits to enable a note to be entered into the statement of accounts.

THE PROCUREMENT CODE

CRAWLEY BOROUGH COUNCIL

PROCUREMENT CODE

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CRAWLEY BOROUGH COUNCIL - PROCUREMENT CODE

1. INTRODUCTION

- 1.1. The purpose of the Procurement Code is to establish clear rules for the procurement of all the Council's goods, works and services as required by the Local Government Act 1972. The Procurement Code ensures a system of openness, integrity and accountability and incorporates the legal requirements of the Public Contract Regulations 2015 to which we must comply with.
- 1.2. Procurement decisions are important because the money involved is public money and the Council has a duty to ensure efficient use of resources in order to provide quality services. The Council's reputation is equally important and should be safeguarded from any accusation of dishonesty or corruption. For these reasons all employees have a duty to report breaches of the Procurement Code to an appropriate senior manager as soon as they become aware of it.
- 1.3. The Procurement Code is supported by the [Procurement Toolkit](#) which provides practical and more detailed advice about how to undertake a procurement exercise, including access to a suite of template documentation. There are useful links contained within the Procurement Code that will take you to the relevant section of the Procurement Toolkit for further reference. It is also supported by the [Procurement Strategy](#) which outlines the future direction and deliverables of strategic procurement. The toolkit will be updated on a regular basis to address queries and issues that arise.
- 1.4. Any Officer unfamiliar with undertaking a procurement exercise should seek advice from their Head of Service and/or the Procurement Team. It is also a requirement of the Procurement Code that any Officer undertaking a procurement exercise with an aggregated value (see 3.2) of £50,000 or above for goods and services and £100,000 or above for works, inform the Procurement Team and their Head of Service prior to the commencement of the procurement.
- 1.5. The Procurement Code applies to all purchases by the Council of goods, works and services. It does not apply to contracts of employment or acquisitions and disposals of land or buildings. The Procurement Code applies to all Council employees and elected Members. The Head of Partnership Services shall maintain, update and issue the Procurement Code.
- 1.6. Procurement is a complex area and as the Procurement Code sets out legislation and the rules that need to be followed it can seem daunting because it covers all potential procurements. Many aspects of the Code will not apply to many procurements. If you want advice or further information, concerning this Procurement Code, you can contact any of the following Officers:-

Nigel Sheehan Head of Partnership Services	Ann-Maria Brown Head of Legal and Democratic Services
Jo Newton-Smith Procurement Manager	Kevin Carr Legal Services Manager
Roger Dennis Joint Procurement Adviser	Gillian Edwards Audit & Risk Manager

2. **ROLES AND RESPONSIBILITIES**

2.1 **Any Officer undertaking a procurement process must:**

- Ensure that there is an adequate approved budget to cover the full cost of the goods, services or works to be procured
- Ensure that, where required, member approval for specific projects is obtained prior to committing expenditure, as per the [Council's scheme of delegation](#). This can be found on the intranet and forms part of the Constitution
- Ensure that agents, consultants and any contractual partners acting on our behalf also comply with these requirements
- Comply with the rules set out in the Procurement Code, the Councils [Financial Regulations](#), the [Employee Code of Conduct](#), and with all UK and EU legislation
- Where applicable, comply with the requirements of the Equality Act 2010, the Public Services (Social Value) Act 2012, and the Localism Act 2011
- Seek and take due account of all necessary legal, financial and professional advice.
- Declare any personal interest in a contract
- Keep records and documentation of all procurement processes (see section 11 for details of how long records need to be kept)
- Not enter into any leasing agreements or other forms of borrowing, including the set up of store or credit cards other than those arranged or approved by the Head of Finance, Revenues and Benefits
- Keep the relevant Head of Service updated on all the relevant stages of the procurement process
- Ensure that when a Framework Agreement is being used checks have been undertaken to ensure the Council has been clearly identified in the contract advertisement and that the framework is being accessed as per the conditions set out in the Framework Agreement (see 5).
- Comply with the Council's Transparency Code obligations by promptly submitting information about any procurement or commissioned activity over £5,000 immediately after it has taken place using the [e-form](#) on the intranet.
- Issue an order using the Council's financial management system, where appropriate

2.2 **Heads of Service (additional responsibilities):**

2.2.1. The Head of Service has responsibility for all contracts tendered and let by their Division. The Head of Service is accountable to the Cabinet for the performance of their duties in relation to contracts tendered and the management of contracts, which are:

- To ensure that all relevant staff are familiar with the provisions of the Procurement Code and that they have access to appropriate training
- To ensure compliance with any guidelines issued in respect of the Procurement Code
- To take immediate action in the event of a breach of the Procurement Code within their area
- To ensure that the Portfolio Holder is kept up to date with the progress of relevant procurements

- To ensure that the Council's Contract Register (see 16) is updated with the details of any new or extension to an existing contract or agreement.

2.3 **Head of Partnership Services**

- 2.3.1 The Head of Partnership Services will ensure that:
- The Procurement Code and associated procurement guidance are kept up to date and easily accessible
 - Training is available to Officers and Members

3. **DETERMINING THE CONTRACT VALUE**

- 3.1. Prior to commencing a procurement process it is the responsibility of the Lead Officer to estimate the total value of the contract or project. This will indicate which procurement route must be followed in order to comply with the Public Contract Regulations 2015.
- 3.2. The estimated total value means the aggregated value payable in Pounds Sterling exclusive of Value Added Tax. The aggregated value includes not only the purchase price but ALL the associated costs over the entire contract period (including any potential extension). These could include installation, training, maintenance and disposal costs. The total aggregated value should include all phases or potential future phases of a project, which is particularly relevant when procuring consultants.
- 3.3. If the expenditure on an item, service or with a particular supplier is recurring then the Officer must determine the likely spend over a 12 month period and multiply this by the length of the contract. Where the contract is for an uncertain duration, then as per the requirements of the Public Contract Regulations 2015, the total value shall be determined as the value of the requirement over a period of 48 months.
- 3.4. Where the requirement covers a number of suppliers providing the same goods, services or works then the contract value shall be the combined sum of all the individual contracts. It is the responsibility of the Lead Officer to check expenditure in other service areas to see if there are similar requirements.
- 3.5. Where the Council is collaborating or acting on behalf of other public bodies then the contract value shall be determined as the combined sum of all the individual public bodies requirements.
- 3.6. Where it is intended to package the contract into several different 'lots' e.g. based on geographical area or by particular types of requirements, then the contract value shall be the total value of all the combined lots.
- 3.7. In the case of Concession contracts (i.e. where the service users as opposed to the Council make payments to the contractor for use of the service) then the total value (i.e. turnover) of the contract must be used to determine the contract value. Procurements for Concessions contracts should be undertaken in accordance with paras 9.1.13/14.

- 3.8. Officers cannot shorten the length of a contract to less than 48 months, or split a requirement into separate or smaller packages, to avoid an EU or local tender threshold.

4. DETERMINING THE PROCUREMENT ROUTE

- 4.1. All tender processes (any contract above £50,000 for goods and services and above £100,000 for works contracts)¹ should be notified to the relevant Head of Service and the Procurement team.
- 4.2. The majority of the Councils procurement falls within the Goods and Services contract thresholds. The table below (4.13) identifies the procurement route required depending on the value of the contract. Works contracts are generally for construction related projects and therefore only used by a few divisions within the Council, the Works thresholds table can be found in section 22.
- 4.3. Where the requirement covers a combination of goods, services and/or works then the element with the greater value will determine the procurement route followed. For example the purchase of a piece of equipment (goods) for £10,000 together with building related works to fix it in situ costing £20,000 would be a Works contract. These rules also apply in circumstances where there may be a mixture of services some of which may be subject to the *Light Touch Regime* (see paras 9.1.10/11).
- 4.4. In all instances, if there is a current corporate contract in place for the goods, works or services required then the corporate contract must be used and no further quotations or tenders are required.
- 4.5. The use of Framework Agreements is permitted for any value of procurement, please see section 5 for further information on what a Framework Agreement is and how to access them.
- 4.6. The acquisition and disposal of land or employee contracts are not covered by the Procurement Code.
- 4.7. The Council does not allow the use of Approved or Preferred Supplier Lists in any of its procurement procedures.
- 4.8. The selection and engagement of architects, engineers and surveyors or other professional consultants shall be subject to this Procurement Code. Consultants shall be required to provide evidence of and maintain professional indemnity policies to the satisfaction of the relevant Head of Service for the periods specified in the contract.
- 4.9. The requirement to seek written quotations or tenders shall not apply where the Council is:
- Seeking arbitration or conciliation services
 - Seeking the advice or services of Counsel
 - Seeking the services of an expert witness

¹ A goods contract covers the procurement of products e.g. stationery, vehicles, equipment etc. Services contracts are the procurement of skills and expertise provided by an individual or other organisations e.g. grounds maintenance, facilities management, training etc. Works contracts cover the procurement of any building work, building repairs and maintenance, construction, civil engineering etc.

- 4.10 Any procurement exercise triggered as a result of an Expression of Interest submitted under the [Community Right to Challenge](#) shall be undertaken as per the requirements of the Procurement Code. CMT must be notified of any such expression.
- 4.11 With the exception of any employee-led mutual organisations, tenders or quotations will not be invited or considered from individual Council employees, business partnerships in which a Council employee is a partner, companies in which a Council employee is a paid director or any business where a Council employee has an interest which exceeds a nominal value of £25,000 or one hundredth of the total issued share capital.
- 4.12 Certain partnership arrangements with other organisations (usually other public bodies) to provide services on behalf of the Council may fall outside of the scope of the Public Contract Regulations 2015. The Head of Legal and Democratic Services should be consulted if such a partnership is being considered.

4.13 Procurement Thresholds and Contract Award Procedure - Goods and Services Contracts (see 22 for Works contracts thresholds)

Total Contract Value	Procurement Route	Short-listing /evaluation of suppliers	Receipt of Quotes / Tenders	Contract Approval and Award	Method of Contract Completion	Transparency Code obligations
Under £19,999	Evidence of value for money	Officer	Officer	Officer in consultation with the appropriate budget holder	Signature and or purchase order raised	Publish details of all contracts of £5,000 + on the Council's contracts register*
£20,000 - £49,999	Three written quotations	Officer and Line Manager	Quotations returned to Department and reviewed by at least two Officers	Officer in consultation with Head of Service.	Signature	Publish details of all contracts on the Council's contract register*
£50,000 – EU Threshold (see intranet for current EU Thresholds)	Open tender by advertisement on Contracts Finder via the SE Shared Services Portal.	Tenders to be evaluated by a minimum of two officers.	Tenders to be returned to the Audit & Risk Section and opened in the presence of two Council representatives See section 9.7 Or To be electronically opened by the Council's approved e-tendering package	Officer in consultation with Head of Service	Up to £100,000 Signature	Publish details of contract award on SE Shared Services Portal. Publish details of all contracts on the Council's contract register*
					Over £100,000 Sealing	
Above EU Threshold	Invitation to tender to at least five Tenderers by advertisement Contracts Finder via the SE Shared Services Portal and by advertisement in the Official European Journal.	Tenders to be evaluated by a minimum of two officers. Where a restricted tender process has been used, approval of shortlist by Officer, and Head of Service	As above	EU to £250k Head of Service approval in consultation with CEO/Deputy CEO	Sealing	Publish details of contract award on SE Shared Services Portal. Publish details of all contracts on the Council's contract register*
				£250k to £500k Head of Service in consultation with CEO/Deputy CEO and Portfolio Holder. .A Significant Operational Decision Form (SOD) must be completed and submitted to Democratic Services for inclusion in the Members Bulletin		
				Above £500k – approval by Cabinet	Sealing	

* The Contracts Register is managed through the Procurement Team and Legal and Democratic Services. There is an eform available on the intranet that can be completed in order to provide details of the contract award.

5. USE OF FRAMEWORK AGREEMENTS AND JOINT PROCUREMENT

- 5.1. A Framework Agreement is a contract that has been officially tendered for by another local authority, public sector organisation, Purchasing Consortium, or central Government. Acquiring goods, works or services under a Framework Agreement can be an efficient method of procuring the Councils requirements. The contract is awarded to one or more suppliers, and has provision for other named public sector bodies to use the contract without having to undertake their own tender process so long as these public bodies have been clearly identified in the advert which led to the creation of the Framework Agreement.
- 5.2 Framework Agreements may be used at any of the threshold levels as an alternative to the procurement routes identified in Tables 4.13 and 22 subject to 5.3 below. A framework agreement should only be used where the benefits justify its use.
- 5.3. Caution must be taken as the rules for accessing a Framework Agreement can vary from one agreement to another. Failure to comply with the rules of a Framework Agreement could result in the Council being found in breach of the Regulations. Officers are recommended to seek guidance from the Procurement Team in order that they can;
- Establish if the Council can legally access the Framework Agreement
 - Determine whether the Council must enter into an agreement with the Contracting Authority which created the Framework Agreement prior to using it
 - Check that the advertised total contract value of the Framework Agreement has not been exceeded
 - Establish the rules of the Framework Agreement governing the selection and invitation of organisations listed on the framework. Where no guidance is provided all organisations listed on the Framework Agreement should be invited to 'mini-competition'
 - Establish the evaluation criteria set within the Framework Agreement. The published criteria must be used to determine the successful Tenderer. If the evaluation criteria does not meet the Council's requirements of no less than 60% price or no higher than 90% on price (as outlined in para 9.6.3.2), then agreement to use the Framework must be sought by the relevant Head of Service.
 - Acknowledge that only minor modifications to the Terms and Conditions of the Framework Agreement are permissible. If more substantial contractual modifications are required the Council must tender for the requirements separately.
 - Comply with any minimum requirements outlined in the Framework Agreement regarding the provision of information to the bidders
 - Ensure that where the value of the requirement is above £50,000 for goods and services or £100,000 for works, tenders are returned to Audit & Risk Section in accordance with Section 9.7, unless the Framework Provider is using an e-tendering portal to receive the submission of electronic tenders. In this instance tenders can be opened by the Framework Provider.
 - Ensure that the provisions for the Contract Award procedure detailed in the Framework Agreement are followed. In addition, the Council's procedure detailed in Section 10 on Contract Award must be followed.

- 5.4 The Council may participate in a procurement process organised by another authority, however it is legally responsible for ensuring compliance with the regulations whether undertaking the procurement exercise itself, or jointly with other authorities.
- 5.5 Officers shall ensure in consultation with the Procurement team that all procurement activity whether undertaken directly by their department on behalf of other authorities or through participation in a joint procurement process led by another authority it is conducted in accordance with the Regulations. Officers should immediately inform the Procurement Team or Head of Legal and Democratic Services about any concerns of non-compliance should any occur during the procurement process.

6. **EXEMPTIONS**

- 6.1. There is provision within the Procurement Code for the requirement to obtain quotations or tenders, or an element of the process to obtain quotations of tenders to be waived, however the following conditions apply:
- NO exemptions can be made if the EU Procedure applies
 - NO exemptions can be made retrospectively.
- 6.2. An exemption can only be applied when it is to the clear benefit of the Council to exercise an exemption. In considering whether an exemption is appropriate, an assessment needs to be made of the costs, benefits and risks that follow should an exemption be agreed. An exemption will only be agreed where the risks are proportionate to the benefits. The justification for an exemption must be well evidenced.
- 6.3. Although it is not an exhaustive list, it is likely that the grounds for the exemption will be one of the following:
- A contract is required as a matter of genuine urgency (e.g. flood alleviation/damage)
 - There are sound reasons why there would not be a genuine competition and no reasonable alternative is available
 - The specification for goods and services is of a specialised nature which only a limited number of suppliers can meet and tenders will be invited from all suitable suppliers
 - The contract period cannot be accurately determined as the service area is undergoing review or restructure which may change future requirements. In these instances an exemption may be granted for a limited period of time in order to ensure the correct delivery model can be agreed prior to tender/quote.
- 6.4. All exemptions and the reasons for them must be recorded using the [Exemption Form](#) on the intranet. The Officer seeking the exemption must provide clear and sufficient evidence why the contract matches one or more of the criteria set out above. If none of the above criteria apply the Officer must clearly state the reasons for applying for the exemption. **Note: this evidence may need to be provided to the Cabinet Office to explain why a procurement process was not undertaken.** If you are unsure whether the exemption is likely to be granted you should seek advice from the Procurement Team.
- 6.5. All exemptions for a contract value of less than £50,000 must be approved by the relevant Head of Service, and the Head of Finance, Revenues & Benefits.

The Head of Service must ensure that the form is signed and a register is kept of all exemptions approved for future audit.

- 6.6. For exemptions above the contract value of £50,000 approval must be sought from the relevant department CEO or Deputy CEO, the Head of Finance, Revenues and Benefits, and the Head of Legal and Democratic Services. Once approved by the Head of Legal and Democratic Services, a copy will be provided for the Head of Partnership Services for information. A register of approved exemptions should be kept by the Head of Legal and Democratic Services.
- 6.7. If an exemption is agreed it will still be necessary to complete the contract administration procedures such as contract formation and checking of insurances.

7. PRE-PROCUREMENT CONSIDERATIONS AND PROJECT START UP

7.1 Pre-Procurement Stakeholder and Market Engagement

- 7.1.1 Early market engagement with organisations which may be interested in supplying goods or providing services to the council is encouraged.
- 7.1.2 A structured dialogue prior to the commencement of the procurement with independent experts, trade association bodies or suppliers/organisations actually operating in the marketplace may help to identify the current capabilities, any new developments or innovations in the pipeline, and assist in estimating the cost of the requirements, and the development of the specification.
- 7.1.3 Any advice obtained may be used to assist in the creation of the procurement documentation and inform how the procurement process is conducted but the Lead Officer must ensure the use of this information does not distort competition or discriminate against any suppliers or organisations. If information is provided to organisations taking part in the market engagement process, the Lead Officer must consider how it is subsequently made available to any organisations taking part in the formal procurement process

7.2 Public Services (Social Value) Act 2012

- 7.2.1 The Public Services (Social Value) Act 2012 requires the Council to have regard to economic, social and environmental well-being in connection with any Service contract over the EU threshold where the Council commissions an individual, voluntary sector organisation, or company to provide those services on behalf of the Council. It may also be applied voluntarily on sub EU threshold procurements. Further information on this Act can be found within the Procurement Toolkit. Prior to undertaking a procurement process the Lead Officer should consider:
 - How the procured service might improve the economic, social and environmental well-being of the *relevant area* (i.e. within the boundaries of the public bodies involved in the procurement exercise);
 - Whether to undertake any consultation as to the economic, social and environmental matters which may need to be considered.

- How the economic, social and environmental elements should be incorporated into the relevant procurement documentation such as the specification and contract conditions. Only economic, social and environmental matters which are **relevant** to what is to be procured may be incorporated. Those that are included must be **proportionate** to the requirement being procured.

7.3 Procurement Project Start-Up

- 7.3.1 The lead Officer must determine whether the procurement falls within the definition of a Key Decision as per the [Councils Scheme of Delegation](#). If it does, then the lead Officer must follow the relevant approval procedures before the procurement process commences. If in doubt please contact Legal & Democratic Services, or refer to the Democratic Services Toolkit on the intranet.
- 7.3.2 Determining the appropriate Procurement route can be extremely complex, therefore prior to the commencement of any procurement process over £50,000 it is recommended that the Lead Officer notifies the Procurement Team. In addition, the Lead Officer may wish to complete a [Procurement Start-up Checklist](#) which is designed to help Officers identify the most appropriate procurement route and the necessary resources that will be required to undertake the procurement process. The Lead Officer can use this checklist for lower value procurements if they feel it is beneficial.
- 7.3.3 The lead Officer should ensure that all necessary contractual, policy and legislative requirements have been considered, such as [TUPE transfer of staff](#), [safeguarding](#), [sustainability](#), [equalities](#), [living wage](#) and [zero-hours contracts](#), [social value](#), technology requirements, [company finances](#), [insurance](#), [employment and skills](#), and contract considerations. The Procurement intranet site gives more detailed information about each of these considerations, or contact the Procurement Team who can advise..
- 7.3.4 If procurement resources are required and have been requested, where necessary resource allocation will be discussed with the Joint Procurement Board and the Lead Officer will be notified of the resources available.

8. QUOTATION PROCESS

- 8.1. Where the estimated value or amount of a proposed contract does not exceed £19,999.99, the officer concerned, in consultation with the Budget Holder, should determine value for money prior to making the purchase. Evidence of value for money could be for example the receipt of two quotations or evidence obtained through on-line research. A purchase order should be raised for all purchases via the Councils financial management system, where required.
- 8.2. Any contract valued between £20,000.00 and £49,999.99 for goods and services or between £20,000.00 and £99,999.99 for works should follow the formal quotation process. If there is any doubt whether the contract will be valued below the highest threshold prior to the start of the procurement process then a local tender process should be followed regardless.
- 8.3. The quotation process must be transparent and fair, all suppliers invited to submit a quotation must be issued with the same information at the same time and subject to the same conditions. A record of all correspondence

between the council and supplier shall be maintained. Should any further information be issued this must be given to all suppliers on the same basis, unless it is commercial sensitive to a specific supplier. A realistic timescale for response must also be given.

- 8.4. A request for quotation should, where appropriate, contain the following information (check the [Procurement Toolkit](#) for up to date list of requirements and access to all the standard documents):
- Background information and Instructions to suppliers – concise relevant information about the Council, and details of the quotation procedure. This must include the evaluation criteria along with any minimum levels of financial, legal and technical capability required of the bidder (see para 8.5 below if applicable to the contract)
 - The Specification/Requirements Document – providing full details of the goods, services or works that are required
 - Council Terms and Conditions (see also 10.6)
 - Price Schedule – a form/spreadsheet for the bidder to complete enabling the bidder to easily submit their quotation pricing information
 - Method Statements – a series of questions in order to help evaluate the qualitative elements. The bidders may be asked to outline how the goods or services will be delivered and/or their capability/skills/experience of doing this (if appropriate to the contract)
 - A statement that the Council is not bound to accept any quotation and that all submissions are at the supplier's own cost
- 8.5. Any requests for company information or requirements to meet minimum criteria or standards for example insurance documents, health and safety policy, evidence of financial strength and turnover etc must be applicable to the contract and be proportionate to the value and level of risk of the requirement. Information that is not going to be evaluated should not be requested. Any minimum turnover threshold must be limited to not more than two times the total value of the contract. Documentary evidence of meeting these requirements should only be sought from the preferred bidder prior to making the formal contract award decision.
- 8.6. As a minimum three suppliers must be asked to provide a quotation, and it is recommended that at least one should be a local supplier², where practicable. Suppliers can be selected by any means deemed suitable by the Lead Officer, including the use of the SE Shared Services Portal where suppliers that have expressed an interest in working with the Council register their interest. Where there are less than three suppliers that can provide the goods or services then this must be evidenced by the lead Officer following the procurement exemption process as detailed in section 6.
- 8.7. Quotations must be submitted either electronically via email, post or using the Council's approved e-tendering system which can be accessed via the Procurement Team.
- 8.8. After evaluating the quotations, in consultation with the Head of Service, the responsible Officer must notify all the suppliers of the award decision in writing as soon as practicable. Feedback to unsuccessful suppliers should be provided should they want it.

² a local supplier is defined as a business that is either based in Crawley or has operational activity within Crawley (RH10 or RH11) that generates local employment and benefits. Whilst operational activity within Crawley is preferable it is acknowledged that this may have limitations, therefore businesses within the Gatwick Diamond or wider West Sussex areas are encouraged. See Section 23 for further definitions.

- 8.9. All documentation must be kept for a minimum of 12 months. The successful quote should be kept for the duration of the contract period. (See section 11 for more information on record keeping).

9 LOCAL AND EU TENDER PROCESSES

9.1 Scope

9.1.1 There are three main types of tender process:

- a) Local Tender - defined as any procurement process below the relevant EU Threshold (see intranet page for current Thresholds), and
- b) EU Tender – defined as any procurement above the relevant EU Threshold, this category has a number of different procurement routes including;
 - i. Open (see para 9.1.7)
 - ii. Restricted (see para 9.1.9)
 - iii. Other specialist categories e.g. competitive dialogue (9.1.9)
 - iv. Light-touch (see para 9.1.10)
- c) Concessions Contract – normally an arrangement where the Service Users as opposed to the Council make payments to the contractor for use of the service. Concession contracts normally follow a Local Tender process irrespective of the value. Further details may be found in Section 9.1.13/14

9.1.2 The duration of a Tender process will be dependent upon the complexity of what is being procured and the type of procurement process being undertaken. The key milestones are detailed in the Procurement Toolkit, however broadly speaking a local tender process will on average take 3-6 months and an EU tender 6-12 months depending on the complexity.

9.1.3 Any contract valued at £50,000 or above for goods and services or £100,000 for works must follow a formal tendering process. If there is any doubt whether the contract will be valued below these thresholds then a tender process should be followed regardless.

9.1.4 A local tender process can be undertaken for any contract below the EU Threshold (current EU threshold are contained within the Toolkit). Local tenders for goods and services MUST be conducted as a single stage 'open' tender exercise. An open tender exercise is where the Council advertises the opportunity and all interested parties complete and return the full tender documentation.

9.1.5 Local tenders for Works contracts above the value of £172,514 can use the 'restricted' tender route using the national standard Pre Qualification Questionnaire (PQQ) [PAS91 2013] which can be found in the procurement toolkit. A PQQ is not permitted for Works contract below this value.

- 9.1.6 Any contract above the EU Threshold must follow full EU Procurement Directives and Legislation and the Procurement Team must be notified. The responsible Officer, in conjunction with the Procurement Team, must determine the type of procurement exercise to be undertaken. The two most common routes for EU Tender are 'open' and 'restricted', although there are other routes to market which can be explored
- 9.1.7 An 'open' tender process is where the Council advertises the opportunity and all interested parties complete and return the full tender documentation.
- 9.1.8 A restricted process is where the Council advertises the opportunity and all interested parties complete a nationally developed Selection Questionnaire (SQ) for goods and services contracts or a Pre-Qualification Questionnaire (PQQ) for Works contracts. The SQ/PQQ is then evaluated and a shortlist of suppliers who will be invited to submit a full tender is developed. A 'restricted' tender exercise can only be used for EU Tender processes or for a Tender for a local Works contract above the value of £172,514

Specialist EU Tender Processes

- 9.1.9 Other procurement methods are available for contracts valued above the EU thresholds, such as the Competitive Dialogue and the Negotiated Procedure. These are extremely complex and should not be undertaken without the prior notification of the Procurement Team and/or the Head of Legal and Democratic Services.

Light-touch EU Tenders

- 9.1.10 The EU has identified a number of Services areas that are not subject to the full EU Tender process, but instead are subject to a 'light touch' (i.e. simplified) procurement regime, if the value of these services is above £625,050. If the value of the services is below this amount then a local tender process can be followed, some of the services include:

- Social and health services including wellbeing contracts
- Cultural, recreational and leisure/sports services
- Hotel and temporary B&B accommodation
- Catering services
- Legal services
- Bailiff services
- Security services including manned guarding and patrol services
- Post and courier services

- 9.1.11 For all tenders above the EU threshold covered by this 'light touch' regime, the Lead Officer must ensure:
- The requirements are advertised in the OJEU
 - The procurement is undertaken in accordance with the provisions in the Local Tender process
 - A Contract Award Notice must be published on conclusion of the procurement

Concessions Contracts

- 9.1.12 A Concession contract (i.e. where the Service Users as opposed to the Council make payments to the contractor for use of the service) should be undertaken in accordance with the provisions for a Local Tender process detailed in Section 9.5.

9.2 Advertising of Tender Opportunities

- 9.2.1 Prior to advertising any local or EU tender opportunity, a full completed set of tender documents, or in the case of a restricted procedure a full set of PQQ documentation, **must** be published simultaneously at the time of placing the advert. All tender documentation must be available to all suppliers free of charge
- 9.2.2 All tender exercises (above £50,000 for goods and services and £100,000 for works) must be advertised for the statutory minimum period of 28 days on the SE Shared Services Portal which links directly with Contracts Finder via the Procurement Team. In order to stimulate interest in the opportunity and to meet best practice guidelines it is however strongly recommended that tenders are advertised for a minimum of six weeks. Other media can also be used to ensure market penetration. The advertisement must contain details of the tender exercise including timescales, any minimum selection criteria the suppliers will be expected to meet, details of the award criteria and evaluation process and a link to the website where the tender documents are published.
- 9.2.3 In addition to the above, all EU tenders must be advertised by the Procurement Team in the Official Journal of the European Union.
- 9.2.4 The OJEU advertisement must state whether contract variants will be accepted. If nothing is stated no alternative proposals to the specification may be considered.

9.3 Selection and Pre-Qualification Questionnaires – EU Tenders and Local Tenders for Works Only

- 9.3.1. The use of a Selection and Pre-Qualification Questionnaires is only permitted for EU Tenders and Local Works Tenders above the value of £172,514. They are not permitted for any other tender as required by EU legislation.
- 9.3.2 If you are undertaking an EU tender process for goods and services using the restricted route, the national standard Selection Questionnaire (SQ) must be used to short-list suppliers that you would like to invite to submit a formal tender. The SQ template can be found in the Procurement Toolkit. The SQ template is a mandatory format set by UK Government with very limited scope to add additional questions.
- 9.3.3 For any Works contracts whether they are EU or local then the national standard PQQ [PAS91 2013] must be used if you are following a restricted procedure. There is limited scope to amend this PQQ template. The PQQ can be found in the procurement toolkit.
- 9.3.4 The selection criteria, weightings and any minimum pass-mark must be communicated to suppliers either as part of the advertisement or in the SQ/PQQ documentation which must be available at the time the advert is placed. Selection criteria deal with the ability of the supplier to satisfy certain minimum levels of economic and financial standing, legal capacity and/or technical or professional ability including past experience, see para 9.6.2.3 for further details.

9.3.5 The SQ/PQQ pack, must be published at the same time as the advertisement is placed and shall contain the following information (see the procurement toolkit for standard documentation and further guidance):

- Information for Tenderers – concise information about the Council, what the requirements are, the document should include;
 - a. The timetable for the whole procurement process
 - b. Full details of the evaluation criteria and weightings that will be used to award the contract, along with the details of the evaluation procedure, scoring and minimum criteria required to progress to the invitation to tender stage
 - c. If it has been decided to invite a minimum and/or a maximum number of companies to tender these numbers must be stated. NB: for all tenders the minimum number of companies invited to tender is five (5)
 - d. Details of the process used to determine which companies are invited to tender if there are more suitable companies than the maximum number stated in the documents (e.g. “maximum number of companies invited to tender will be 10. In the event there are more than 10 companies the top 10 as determined by the total evaluation score will be invited to tender”)
 - e. Exemption for Freedom of Information Act, confirmation of non-collusive tendering and non-collusive tendering
- Specification – detailing the Council’s requirements
- Contract Terms and Conditions (see 10.6)
- The Selection Questionnaire / Pre-Qualification Questionnaire (the national standard SQ/PQQ templates can be found in the toolkit)

9.3.6 Suppliers invited to respond must be given the minimum time period of 30 days in which to prepare and submit a SQ/PQQ. The minimum time period of 30 days commences the day after the advertisement has been placed. The submission of SQ/PQQs should be returned electronically, through the Councils e-tendering portal, or to the Lead Officer/department and a log should be kept of all returns

9.4. **SQ/PQQ Evaluation Process**

9.4.1. The Lead Officer must ensure that the SQ/PQQ selection process is transparent and that all applicants are treated fairly and equally at all times. The Lead Officer must ensure that:

- Confidentiality of SQ/PQQs, and the identity of Applicants are preserved at all times
- Information about one Applicant’s response is not to be given to another Applicant
- SQ/PQQs must be evaluated in accordance with the Selection Criteria detailed in the advertisement/documentation. Additional criteria or sub criteria must not be used
- a thorough SQ/PQQ evaluation is undertaken by a minimum of two Officers
- advice is sought from the relevant service Division on any areas of Selection Criteria that require specialist knowledge in order to evaluate effectively e.g. Financial Information, Equalities and Diversity, Health and Safety, Sustainability etc
- the SQ/PQQ evaluation scoring spreadsheet and assessment is independently checked for accuracy before the Invitation to Tender (ITT) shortlist is agreed

9.4.2. Upon conclusion of the SQ/PQQ evaluation process the Lead Officer must write to all unsuccessful applicants advising them of the reasons why they have been unsuccessful. If the applicant requests further information or a formal debrief this should be provided.

9.4.3. Once the unsuccessful applicants have been notified, it is advised that the Lead Officer allow 5 days before the Invitation to Tender documentation is despatched to successful applicants.

9.5. Invitation to Tender – Local and EU Tenders

9.5.1. Tenderers must be given an adequate period in which to prepare and submit a proper tender. This should not be less than a period of 28 days for a local tender, with day one starting the day after the advertisement is placed. Where an EU tender process applies this must not be less than the minimum time period allowed for the particular procurement route being followed. See the Procurement Toolkit for further guidance.

9.5.2. All invitation to tender documentation and requirements must be proportionate to the value and level of risk associated with the requirements but shall include the following (see the procurement toolkit for access to all standard documentation and further guidance):

- Information for Tenderers (see template in toolkit) – concise information about the Council, background to the project, details of the procurement process and the timetable for completion, full details of the evaluation criteria and weighting, including any sub-criteria, minimum financial/technical requirements, details of presentations/site visits/interviews that will be used to award the contract (see also 9.6). It should also include a Form of Tender that includes confirmation of exemption from Freedom of Information Act and confirmation of non-collusive tendering and confirmation of no canvassing.
- Specification – detailing the Council's requirements in sufficient detail to enable the submission of competitive offers
- Council Contract Terms and Conditions – all contracts to be in writing in a form approved by Legal & Democratic Services (see 10.6)
- Price Schedule – a clearly structured form/spreadsheet enabling the bidder to easily submit the full details of the tender prices excluding VAT
- Method Statements – a series of questions in order to evaluate the qualitative elements of the tender. The bidders should be asked questions which outline how the goods, works or service will be delivered and demonstrate their capability/skills/experience of doing this.

9.5.3 The tender documentation must be finalised and available at the time the advert is placed, unless a 'restricted' procurement process is being undertaken.

9.6. Evaluation Criteria

9.6.1. The evaluation criteria are those used to determine which suppliers are selected for Invitation to Tender in the case of a restricted process or to determine the award of the contract in an open tender process. These criteria fall into two categories Selection Criteria and Award Criteria:

9.6.2 *Selection Criteria*

9.6.2.1 Selection criteria are those which cover elements such as suppliers' capability, capacity and past experience, for example to satisfy minimum levels of economic and financial standing, and / or technical or professional ability.

9.6.2.2 In an 'Open' procurement process any minimum requirements that suppliers need to meet should be stated in the tender documentation, and suppliers asked only to self-certify that they meet these requirements by completing a checklist. Evidence of compliance to these requirements should not be requested until after the Award Criteria have been applied and a Preferred Bidder has been identified.

9.6.2.3 The following list shows a range of Selection criteria that may be used and information which the supplier(s) may be asked to provide;

- Evidence that they fulfil the mandatory requirements and discretionary requirements (where applicable) relating to disclosure of criminal and misconduct offences required by Regulation 57 of the UK Public Contracts Regulations, 2015;
- Evidence that they shall hold valid public liability insurance or other required insurances at the values required by the council (or that they are prepared to obtain such levels of insurance cover). The types and levels of insurance cover required will be determined by the nature of the requirement. Guidance on the relevant levels of public liability should be sought from the Finance Team
- Evidence of a sound financial standing – this will normally be through audited trading accounts or other official financial/trading records.. The requirements should be relative to the value and risk of the requirement, and if a minimum turnover threshold is required this shall not exceed twice the estimated contract value. The Finance Team should be consulted for advice.
- Evidence that they possess the necessary experience, skills and ability to perform the type of contract for which they are bidding;
- Satisfactory customer references from existing Public or Private Sector organisation clients;
- A copy of their company Health and Safety Policy and confirmation that the supplier conforms with statutory obligations;
- A valid CIS tax exemption certificate (for construction related procurements);
- Evidence of their Equalities Policy, and Environmental Policy and monitoring arrangements and confirmation that the supplier confirms with statutory obligations (optional depending upon the type of procurement);
- Any other supporting relevant information and documentation as may be required.

9.6.2.4 In the case of a 'Restricted' procurement routes (EU and local Works tenders only) a national standard Pre-Qualification Questionnaire (PQQ) may be used and appropriate evidence requested. See section 9.3.

9.6.3. *Award Criteria*

9.6.3.1. Award criteria are used to assess the ability of suppliers to meet the Council's specification requirements and the cost of providing the service. This is often referred to as the Most Economically Advantageous Tender (MEAT) evaluation. The Tenderer should be requested to answer method statements (questions) to evidence that they meet the qualitative elements of the Award criteria, in addition they should be requested to submit a Price Schedule in order to evaluate the price elements of the Award criteria. The criteria must be linked to the requirement, information should not be requested that will not be evaluated.

9.6.3.2. Award criteria are split into Price and Quality criteria and given a percentage score. The criteria must be no less than 60% on price unless agreed in writing by the relevant Head of Service. In addition if you wish to award more than 90% on price this must be formally agreed in writing by the relevant CEO/Deputy CEO. An email is an acceptable method of gaining written approval.

9.6.3.3. Award evaluation criteria may include the following:

- Quality assessment of the requirement, including any technical or functional characteristics of the item or requirement;
- Equalities/accessibility considerations;
- Social, economic and environmental considerations linked to the specific requirement
- Innovation – solutions recommended over and above those detailed in the Specification
- Qualifications and experience of staff assigned to undertake the contract on the Council's behalf (only where this can have a significant impact on the quality of contract performance, for example consultants)
- Timescales, installation, customer service, technical assistance, maintenance considerations
- Allocation of risk
- Contract management considerations including performance monitoring regimes
- Presentations and/or site visits

9.6.3.4. Evaluation criteria used to determine the award of the contract MUST be clearly detailed in the tender advert / or in the tender documentation which must be available at the time of placing the advert. This information must include details of the relevant weighting of each question or section and detail any sub-criteria used. It must also state the method that will be used to assess suppliers' responses. Furthermore, if there are any minimum pass-mark requirements for specific sections these must also be detailed in the documentation. The procurement toolkit gives examples of evaluation methodology that are recommended be used.

9.6.3.5 The evaluation of the price element must be undertaken on the basis of the most economically advantageous tender based on the whole life cost cycle criteria. These may include:

- Costs relating to acquisition (equipment purchase price, installation, training, consultancy etc)
- Cost of use (e.g. consumption of energy)
- Maintenance costs
- End of life costs such as collection and recycling

9.6.3.6 All relevant costs should be considered and a Price Schedule developed for inclusion in the tender pack so that all suppliers can accurately submit their price on an equal basis.

9.7. Tender Receipt and Opening

9.7.1. *Hard Copy Postal Receipt*

9.7.1.1. All Tenders over a total value of £50,000 for goods and services, and £100,000 for works must be returned to the Audit & Risk Section in a sealed envelope indicating the subject matter and the date for return. The Lead Officer must notify the Audit & Risk Section of the return of tender date well in advance, along with details of the goods/services or works, the estimated contract value (if known), and details of who should be invited to the opening-

9.7.1.2 The Audit & Risk Manager, or representative. shall be responsible for the safekeeping of all Tenders until opening. On receipt, each Tender must be:

- date-stamped
- initialled by the receiving Officer
- kept securely until formal opening takes place.

9.7.1.3. The Audit & Risk Manager, or representative, must ensure that all Tenders are opened at the same time when the period for their submission has ended. Tenders must be opened in the presence of two Council representatives who may include Officers and/or Members).

9.7.1.4. At the opening, all tenders received within the proper timescale must be logged in the Tender Record Book, kept by the Audit & Risk Section, recording the following;

- the date and time of receipt of the tender
- the name of the tenderer
- the tender price
- the date and time the tender was opened
- the signature and names of those present at the opening
- details of whom the tenders were handed after opening

9.7.1.5. No tender will be considered unless it is received by the date and time stipulated in the Invitation to Tender unless the Head of Legal and Democratic Services is satisfied that there is evidence of it having been despatched in sufficient time to have arrived before the closing date and time.

9.7.2. *Electronic Receipt (e-tendering)*

9.7.2.1. Where the procurement route has been agreed as an electronic-tender exercise using the Council's approved e-tendering solution In-tend, all information must be submitted via the e-tendering solution by the date and time stipulated in the Invitation to Tender.

9.7.2.2. All tenders will be stored electronically by the e-tendering system in a secure 'locked-down' inbox until the closing date and time has passed. Access to the system will be password protected . Only once the deadline for receipt has passed will the e-tendering system allow the authorised user

to login and electronically open the tenders. The e-tendering system provides a full audit trail including when the tender was submitted, date and time of opening, supplier details and the tender price.

- 9.7.2.3. All electronic tenders over the value of £50,000 for goods and services, and £100,000 for works contract must be formally opened by at least two officers simultaneously, with one member being from the Procurement Team. The Lead Officer should arrange the opening ceremony in conjunction with the Procurement Team.
- 9.7.2.4. Once the tenders have been opened the Tender Documentation can be downloaded and stored by the Lead Officer in a secure folder. The Procurement Team can provide a report of tenders received should it be required.
- 9.7.2.5. Use of any other electronic tendering or bid submission portal/system (e.g. GCloud) to receive tenders or quotes via Framework Agreements shall be subject to the prior approval of the Procurement Team.
- 9.7.2.6. The In-tend e-tendering portal can be used for quotation processes. In this instance quotations can be formally opened electronically by the Lead Officer. The Lead Officer should ensure that the In-tend system is set so that opening of quotations is locked until the closing date and time has passed.

9.7.3 *e-auctions*

- 9.7.3.1. If the Lead Officer wishes to use an e-auction to fulfil the requirement, use of such system shall be subject to the prior approval of the Procurement team. The procurement documents must clearly state that it is intended to use an e-auction to conclude the procurement.
- 9.7.3.2. By using e-auctions it is customary in the case of late bids being received that the time (but not the date) for the receipt of tenders is extended to give rival bidders an opportunity to respond. Provided that such arrangements are set out in the tender details this procedure shall not be a breach of the Procurement Code.

9.8. **General Conduct and Tender Evaluation Process**

- 9.8.1. The Head of Service shall ensure that every PQQ and Tender process undertaken is transparent and that all participants are treated fairly and equally at all times throughout the process. In particular:
 - ensure that competition is not distorted in circumstances when some participants in a procurement exercise may have previously assisted the Council in preparation of the procurement documentation (e.g. via a market engagement exercise). As a minimum any additional background information which the council provided to participants during a market engagement exercise should be made available to all participants of the procurement exercise;
 - all participants have access to the full procurement (PQQ or tender) documentation electronically free of charge from the SE Shared Services Portal via the Procurement Team as soon as the advert is published. If a PQQ is to be used it must be the national standard

template document located on the Procurement intranet page and it must not be amended;

- a record is maintained of all the correspondence between the council and the participants including details of any additional information provided to participants and any clarification questions from participants which should be submitted in writing by email.
- a reply is issued to all participants answering those clarification questions of a generic nature. Clarification questions specific to a particular participant or containing information of a commercially sensitive nature should only be communicated to that particular participant.
- Should the procurement process need to be extended this must be communicated to all participants allowing sufficient time before the closing date to ensure that no submissions may have already been received.

9.8.2. When undertaking the evaluation the Lead Officer must ensure that:

- Confidentiality of Tenders, and the identity of Tenderers, is preserved at all times
- Information about one Tenderers response is not to be given to another Tenderer
- Tenders are evaluated and awarded in accordance with the Evaluation Criteria outlined in the tender documentation
- A thorough tender evaluation is undertaken by a minimum of two Officers
- Advice is sought from the relevant service on any areas of Selection and Award criteria that require specialist knowledge in order to evaluate effectively e.g. Financial Information, Equalities and Diversity, Health and Safety, Sustainability etc. This should be scheduled with the relevant Officer well in advance
- There is a formal record of how the evaluation process was conducted and the contract award recommendation has been reached. In particular details must be kept of the discussions and outcomes of any moderation meetings where officers evaluating the tender submissions have discussed and amended or averaged tenderers scores.
- The tender evaluation process and scoring spreadsheet is independently checked before a Contract Award recommendation is made

9.8.3 The arithmetic content in Tenders must be checked. If arithmetical errors are found you should notify Legal & Democratic Services or the Procurement team, and subject to advice received, the Tenderer should be notified and requested to confirm or withdraw their Tender, in writing.

9.8.4 Where appropriate, the Lead Officer will check that submitted tender prices are compared with any pre-tender estimates/budgets and that any discrepancies are examined and resolved, in particular:

- to be alert to the risk of collusion between tenderers and aware of indications of potentially anti-competitive behaviour and report any suspicious bidding activities to the Procurement team;
- to be alert to the possibility of receiving an Abnormally Low Bid from one or more tenderers. If an Abnormally Low Bid is suspected the procedure outlined in section 9.10 below shall be followed.

9.9. Clarifications and Post-Tender Negotiation

- 9.9.1. Providing clarification on an Invitation to Tender in writing or by way of a meeting is permitted. When clarifying information the Lead Officer must ensure that all potential Tenderers, not just the one requesting the information, also receive notification of the clarification (see also 9.8.1).
- 9.9.2. Post-Tender Negotiation means negotiations with any Tenderer after submission of a Tender and before the award of the contract with a view to obtaining adjustments in both price and content. Public Procurement rules only allow limited negotiation on certain types of procurement route. It is not allowable on most EU Tenders procedures.
- 9.9.3. Post-Tender Negotiation must only be conducted in accordance with any guidance issued by the Head of Legal and Democratic Services. The Head of Legal and Democratic Services must be formally consulted:
- wherever it is proposed to enter into Post-Tender Negotiation, and
 - about whether negotiation is to be with all Tenderers.
- 9.9.4. Where Post-Tender negotiations result in a fundamental change to the specification or contract terms the contract must not be awarded but re-tendered.
- 9.9.5. If Post-Tender Negotiations are necessary, then such negotiations shall only be undertaken with the Tenderer who has previously been identified as submitting the most economically advantageous Tender. Post-Tender Negotiations must be conducted by a team of at least two Officers. Officers appointed by the CEO/Deputy CEO to carry out Post-Tender Negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.

9.10 Abnormally Low Bids

- 9.10.1 A bid may be regarded as being Abnormally Low if there is a significant difference in price between the lowest priced bid and other bids received. In the event that Officers believe that one or more of the bids received from Tenderers may be an Abnormally Low Bid the Officer should consult with the Procurement Team and Legal Services to review the bid(s) submitted and for support throughout the clarification process.
- 9.10.2 If it is still believed that the bid(s) may be an Abnormally Low Bid then the Lead Officer should request in writing from the Tenderer an explanation of the bid, or the parts thereof, which contribute to the bid being Abnormally Low. When seeking an explanation the information requested may include:
- a) detailed breakdown of the price or costs associated with the method of construction proposed, the manufacturing process or the services provided
 - b) more information about the technical solutions proposed by the Tenderer and whether there are particular factors (e.g. innovative service model) which may give the Tenderer a competitive advantage;
 - c) whether the works, goods or services proposed are exclusive to the Tenderer

- d) that the bid is compliant with provisions relating to environmental, social and labour laws, sub-contracting, etc established by EU or national laws or collective agreements
- e) whether the Tenderer may have obtained State Aid

9.10.3 Tenderers should not be allowed to modify Abnormally Low Bids.

9.10.4 In determining whether the bid(s) is an Abnormally Low Bid the Officer in consultation with the Head of Legal and Democratic Services should take into account the evidence provided by the Tenderer in response to the written request and verify the bid, or parts of the bid, being considered abnormally low with the Tenderer.

9.10.5 If after reviewing the evidence provided by the Tenderer it still does not satisfactorily explain the low level of price submitted by the tenderer then the Lead Officer in consultation with the Head of Legal and Democratic Services may reject the bid(s) as an Abnormally Low Bid where the evidence supplied does not satisfactorily account for the low level of the bid, and in such case shall immediately notify the Tenderer that the bid is being rejected. Abnormally Low Bids must be rejected before Contract Award.

9.10.6 Where a tender is rejected on the basis of being an Abnormally Low Bid because the tenderer has received State Aid then the European Commission must be informed.

10. CONTRACT AWARD PROCEDURE

10.1 Acceptance of Tenders – Contract Award Recommendation

10.1.2 In the case of a tender following the Restricted procedure where the Selection criteria have already been assessed using a PQQ then the Head of Service should produce a Contract Award Recommendation report and seek approval in accordance with Section 10.2 below.

10.1.3 In the case of a tender following the Open procedure once the tender evaluation process has been concluded and the Preferred Bidder(s) identified, the Lead Officer should request the documentary evidence in respect of the Selection Criteria from the tenderer(s) and check to confirm they meet the Council's minimum requirements.

- if the documentary evidence fails to establish that the tenderer can meet the council's minimum requirements further clarification should be sought from the tenderer. If this still fails to establish that the tenderer can meet the council's minimum requirement then the tenderer should be notified in writing and the next best placed tenderer should be asked to provide the documentary evidence;
- if the documentary evidence confirms the tenderer meets the council's minimum requirements a formal Contract Award Recommendation report should be produced and approval sought as detailed in Contract Award Procedure in Section 10.2 below;

10.2. Approval of Contract Award

10.2.1. Following completion of a comprehensive evaluation process of all tenders submitted as detailed in section 9.8 of the Procurement Code, the contract approval process is delegated to;

- 10.2.2. The relevant Head of Service for tenders up to the EU threshold for goods and services contracts and up to £250,000 for works contracts.
- 10.2.3. The relevant Head of Service in consultation with CEO/Deputy CEO for goods and services contracts from EU Threshold to £250,000.
- 10.2.4 The Head of Service in consultation with CEO/Deputy CEO and Portfolio Holder for all Tenders between £250,000 and £500,000. The Head of Service must complete a [Significant Operational Decision form](#) that must be submitted to Democratic Services for publication in the Members information bulletin.
- 10.2.5. For all tenders above £500,000 approval by Cabinet, unless specific delegated approval has already been agreed by Cabinet in which case it would need to be reported in the Members Information Bulletin following completion of the record of delegated decision form. In the case of genuine urgency, by the relevant Head of Service in conjunction with the Head of Finance, Revenues and Benefits after consultation with the relevant Portfolio Holder, or in their absence, the Leader.
- 10.2.6 In all instances the decision for contract award must be made on the basis that:
- This Procurement Code and toolkit has been fully complied with
 - The most economically advantageous Tender is accepted based on the evaluation criteria advertised and contained in the tender documentation
 - The evaluation process has been carried out satisfactorily.
 - The Tender and all other costs associated with the procurement to which the Tender relates are within the approved budget
 - Any necessary, written, approval has been obtained including member approval relating to matters of policy.

10.3. **Call in Procedure**

- 10.3.1. Acceptance of tenders over £500,000 is subject to Call-In under the Council's Scrutiny Procedure Rule 14(a) to (i). See the Procurement Toolkit and/or refer to the Head of Legal and Democratic Services for further advice.

10.4. **Notification of Contract Award to Tenderers – Above EU Thresholds**

- 10.4.1. Following approval of a contract award recommendation, in respect of any tender above the EU threshold or following the use of a Framework Agreement for a value above the EU threshold, the Lead Officer in consultation with the Head of Service must, notify all Tenderers of the outcome and commence a mandatory 10 day standstill period. The Lead Officer must;
- Email the successful Tenderer(s), informing them of the decision and the intention to award the Contract following completion of the standstill period
 - Simultaneously email all unsuccessful Tenderers, providing the following information:
 - a. The criteria for the award of the contract
 - b. The reasons for the decision, including the characteristics and relative advantages of the successful tender
 - c. The evaluation score of the Tenderer receiving the notice and the score(s), of the successful Tenderer(s)
 - d. The reasons (if any) why the Tenderer did not meet the technical specifications and / or the areas where the Tenderers submission was weaker than that of the successful Tenderer(s)

- e. The name of the successful Tenderer(s)
- f. A date the standstill period is expected to end
- g. Details of how the ending of the standstill period might be affected (e.g. Tenderer requests further information regarding the Contract Award) and if so what contingencies will be made (e.g. the standstill period will be extended to allow further information to be provided)

10.4.2. The standstill period must run for a minimum of 10 days (or 15 days if electronic notification has NOT been used) commencing the day immediately after the notification is sent to the Tenderer and concludes at midnight on the 10th 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.

10.4.3. Should a Tenderer request further information or a debrief during the standstill period the Lead Officer should immediately consult with the Procurement team and Head of Legal and Democratic Services for advice. The Council may extend the standstill for a further period until the Tenderer has received and considered the information.

10.4.4. If the Council receives notification from a Tenderer that it intends to challenge a Contract Award Decision then the Head of Legal and Democratic Services must be notified immediately and the Council must automatically refrain from entering into the contract. Failure to comply could result in the Courts making the contract ineffective under the EU rules.

10.4.5. Upon satisfactory conclusion of the standstill period the Lead Officer may advise the successful Tenderer(s) that the standstill period has passed and instruct the Head of Legal and Democratic Services to draw up a formal contract with the successful Tenderer(s).

10.4.6. Once the standstill period has concluded the Lead Officer must complete a [Regulation 84 Report](#) which contains information on the award of the contract and the successful and unsuccessful suppliers. They should then notify the Procurement team so that a Contract Award Notice can be placed in the Official Journal of the European Journal (OJEU) within 30 days of the Contract Award. A Contract Award Notice is also required for any contract concluded via the use of a 'mini-competition' under a Framework Agreement.

10.4.7. The Lead Officer must ensure that details of the contract award and successful organisation are also published in accordance with the requirements of the Transparency Code (see section 16). The Transparency Code requirements also apply to contracts awarded under a Framework Agreement.

10.5. Notification of Contract Award to Tenderers – Local Tenders

10.5.1. Tenders below the EU Procurement Directives financial thresholds are not covered by the full requirements laid out under in Section 10.4. However, it is considered best practice to follow the same general principles of notifying unsuccessful Tenderers, and if requested by the Tenderer, providing feedback on the outcome of the procurement.

10.5.2. Where requested by an unsuccessful Tenderer the Officer should debrief, and explain the reasons why they were unsuccessful and the characteristics and relative advantage of the successful Tenderer, as appropriate. This should normally include:

- how the Award Criteria were applied
- where appropriate the prices or range of prices submitted, in either case not correlated to Tenderers' names, and
- the name(s) of the successful Tenderers

10.5.3 No other information should be given without taking the formal advice of the Head of Legal and Democratic Services.

10.5.4 Once the informal standstill period has concluded the Lead Officer must notify the Procurement team so that a Contract Award Notice can be placed in the on the Contracts Finder website within 30 days of the Contract Award. A Contract Award Notice is also required for any contract concluded via the use of a 'direct award' or 'mini competition' under a Framework Agreement.

10.5.5 The Lead Officer must ensure that details of the contract award and successful organisation are also published in accordance with the requirements of the Transparency Code. The Transparency Code requirements apply to contracts awarded under a Framework Agreement.

10.6. **Contract Formalities and Documentation**

10.6.1. All Contract documentation (draft and final versions) should be developed in association with Legal and Democratic Services during the course of the procurement process in ensure that all relevant policy and contracting conditions are incorporated. The procurement toolkit provides standard documentation which can be used as a template to develop your contract in consultation with Legal and Democratic Services.

10.6.2. Regulation 113 of the Public Contracts Regulations 2015 requires the Council to include in every Council contract provisions requiring:

- The payment of invoices submitted by the Contractor no later than the end of a period of 30 days from the date on which the invoice is regarded as valid and undisputed.
- The verification of invoices in a timely fashion.
- That any undue delay in considering and verifying an invoice is not sufficient justification for failing to regard it as valid and undisputed.
- That any subcontract awarded by the Contractor contains suitable provisions to impose, as between the parties to the subcontract:
 - requirements to the same effect as those set out above; and
 - a requirement that the same provisions are included in any subcontract that the subcontractor awards.

10.6.3. All contracts must be concluded before the supply, service or construction of works begins, except in exceptional circumstances, and then only with the prior written consent of the relevant CEO/Deputy CEO. A contract award letter is insufficient.

10.6.4. The Lead Officer shall ensure that Legal and Democratic Services are given instruction and provided with all the necessary supporting documentation and information in order to draw up the final contract.

10.6.5. The Council's official purchase order should be used where applicable.

10.6.6. In addition to the above, the formal advice of the Head of Legal and Democratic Services must be sought for the following contracts:

- those involving leasing arrangements (these also require approval of the Head of Finance, Revenues and Benefits)
- where it is proposed to use a third parties contract terms and conditions, for example when accessing Framework Agreements

10.6.7. *Signature*

10.6.7.1 The Officer responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

10.6.8. *Sealing*

10.6.8.1. Where contracts are completed by each side adding their formal seal, such contracts shall be signed by at least two authorised signatories.

10.6.8.2. Every Council sealing will be consecutively numbered, recorded and signed by the persons witnessing the seal. The seal must not be affixed without the authority of the Cabinet or a Head of Service or CEO/Deputy CEO acting under delegated powers. A contract must be sealed where:

- the Council wishes to enforce the contract for more than six years after its end, or
- where the Total Value is expected to exceed £100,000

11. **RECORD KEEPING**

11.1 The Lead Officer shall ensure that sufficient documentation is retained to justify decisions taken at all stages of the procurement procedure, as such the following documents must be retained in a secure and easily retrievable format;

- All documentation including internal and external communications, project meeting notes etc regarding the preparation of the procurement documentation and undertaking the process
- Invitations to quote and quotations received
- Invitation to Tender and tenders received
- A written record of any exemptions obtained under the Procurement Code and the reasons for them
- Any Contract Award Decision and the reasons for it
- The Award Criteria
- All evaluation information/reports
- Clarification and post-tender negotiation (to include minutes of meetings)
- The contract documents
- The post-contract evaluation and monitoring documentation
- Written records of all communications with all *Tenderers* and with the successful Tenderer throughout the period of the contract

11.2 Documentation relating to a successful quotation must be retained for the duration of the contract period, or in the case of the supply of goods or provision of works a minimum of three years after supply/completion of the requirement. Documentation relating to unsuccessful quotations must be retained for a minimum of 12 months from the award of the contract, providing there is not dispute about the award.

- 11.3 Documentation relating to a successful tender must be kept for a minimum of six years (12 years if the contract is under seal) after the final settlement/end of contract. However, documents which relate to unsuccessful Tenderers may be disposed of after 12 months from the award of the contract, provided there is no dispute about the award. Further guidance on document retention periods is included in the Procurement Toolkit.
- 11.4. The original signed/sealed contract documents must be forwarded to Legal and Democratic Services for indexing, inclusion on the Council's contracts register and secure storage.

12. CONTRACT MANAGEMENT

- 12.1 No contract shall commence unless and until the procurement exercise and contract documents have been completed.
- 12.2 Heads of Services shall ensure that all contracts are adequately managed based on an assessment of the contract value, service complexity, and/or level of risk or strategic importance to the Council.
- 12.3 During the life of the contract the Head of Service shall ensure:
- A Contract Manager with the relevant skills, expertise and resource is assigned to effectively manage the contract, and has received any additional training required to adequately perform the contract management function;
 - the performance of the contract is appropriately monitored and compliance with the specification and contract conditions is ensured;
 - that where any Statutory Duty (e.g. Safeguarding Duty, Data Protection) is transferred to the Contractor that the Contractor complies with the Duty including any reporting or record keeping requirements;
 - a joint risks register for the contract is agreed with the Contractor with an agreement on who owns the risk;
 - discuss any proposed contract variations with Head of Legal and Democratic Services before they are carried out. Only variations that have been clearly and specifically detailed in the initial tender documentation may be made during the course of the contract;
 - authorise in writing any variations to contracts before they are carried out. These variations to be authorised by the relevant Head of Service, relevant Director or relevant Cabinet Member (see also 13);
 - ensure that a record is kept of all certificates and instructions issued under the contract;
 - agree any price fluctuation or indexation provisions, subject to appropriate supporting documentary evidence being provided by the Contractor; and
 - notify the Head of Legal and Democratic Services of any breach of contract;
- 12.4. Further information on the importance and benefits of Contract Management can be found within the [Procurement Toolkit](#).

13. CONTRACT VARIATION

13.1 Following consultation and agreement by Head of Legal and Democratic Services and the Procurement Team contracts may only be modified without the need for a new procurement exercise if any of the following cases apply:

- a. There was clear and unambiguous provision for the contract modifications, irrespective of their monetary value, made in the initial tender documentation that stated the scope and nature of such possible modifications as well as the conditions under which these modifications made be used. Such modifications must not alter the overall nature of the contract;
- b. Additional works, services or supplies by the original contractor have become necessary but were not included in the initial tender provided that a change of a contractor cannot be made for economic or technical reasons (e.g. software compatibility) or would cause substantial duplication of cost so long as any increase in price does not exceed 50% of the value of the original contract. In such cases the Council must publish a Notice in the OJEU;
- c. Where all the following conditions are fulfilled:
 - The need for the modification could not genuinely have been foreseen by the Council;
 - The modification does not alter the overall nature of the contract;
 - Any increase in price does not exceed 50% of the value of the original contract;
 - In such cases the Council must publish a Notice in the OJEU
- d. Where a new contractor replaces the one to which the council awarded the contract due to company takeover, merger, acquisition, insolvency, etc. providing that this change does not entail substantial modification of the contract;
- e. The value of the modification is below the relevant EU threshold and less than 10% of the initial contract value (goods and services) or 15% of the initial contract value (works).
 - Where several successive modifications are made the value shall be the net cumulative value of the successive modifications;
 - Where the contract has an indexation clause then the inflated value shall be the one used as the basis of the calculation;

13.2 A new procurement exercise shall be required for any contract modification which:

- Materially alters the contract from the one initially awarded;
- Introduces conditions that if they had been part of the original procurement would have allowed other suppliers to participate;
- Changes the economic balance of the contract in favour of the contractor in a manner which was not provided for in the initial contract;
- Extends the scope of the contract considerably;
- Introduces a new contractor to replace the initial contractor for any reason other than those listed in e) above;
- Proposes a contract modification other than those provisions outlined in 13.1 above.

13.3 Once negotiations with the contractor(s) regarding the contract variation have concluded the Head of Service must provide the Head of Legal and

Democratic Services with all the appropriate documentation and instructions to issue the contract variation notice in accordance with the provisions in the contract

14. CONTRACT EXTENSION

- 14.1. Any contract that expressly provides for extension may be extended in accordance with its terms provided that the Lead Officer and Head of Legal and Democratic Services are satisfied that Best Value will be achieved and the extension is reasonable in all the relevant circumstances.
- 14.2. Where the contract terms do not expressly provide for extension legal advice should be sought from the Head of Legal and Democratic Services at the earliest opportunity.
- 14.3. Approval for a contract extension is delegated as per the Contract Award procedures set out in para 10.2.
- 14.4. Once granted the contractor must be notified in writing of the contract extension and the Head of Legal and Democratic Services and Procurement Team provided with the appropriate instruction and supporting documentation to issue the contract extension.

15. CONTRACT TERMINATION

- 15.1. Contracts may be terminated, by the relevant Head of Service, by agreement prior to the expiry date or in accordance with the Termination Provisions set out in the contract. Advice must be sought from the Head of Legal and Democratic Services before terminating any contract.

16. CONTRACTS REGISTER

- 16.1. As per the requirements of the Transparency Code, immediately upon the completion of every contract of £5,000 or over, the Lead Officer shall supply through the [e-form](#) hosted on the Councils intranet site the details of the contract for inclusion in the central contracts register (maintained by the Procurement Team).
- 16.2. In addition, upon receipt of the completed Contract from the successful tenderer(s) the Head of Legal and Democratic Services shall send an electronic copy of any contract that has been completed to the relevant Head(s) of Service and the Procurement Team for inclusion in the central contracts register.
- 16.3. The central contracts register shall be available on the Council's intranet and an edited version on the Council's website.

17. BONDS AND PARENT COMPANY GUARANTEES

- 17.1. The Lead Officer must consult the Head of Finance, Revenues and Benefits;
 - about whether a *Parent Company Guarantee* is necessary when a Tenderer is a subsidiary of a parent company, and;
 - the Total Value exceeds £300,000, or
 - the award is based on evaluation of the parent company, or
 - there is some concern about the financial stability of the Tenderer,

- o about whether a Bond is required: or
- o where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the financial stability of the *Tenderer*.

18. PREVENTION OF CORRUPTION AND BRIBERY

- 18.1. The Lead Officer must comply with the Council's Employees' Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract.
- 18.2. High standards of conduct and integrity are obligatory. Corrupt behaviour will lead to dismissal and is a criminal offence under the Bribery Act 2010.
- 18.3. Officers shall not use any contract or other procurement arrangement entered into by the Council for their own personal use, benefit or gain other than with the prior written approval of the Head of Finance, Revenues and Benefits.
- 18.4. The following clause must be included, in every Council contract:

The Council may terminate this contract and recover all its losses if the Contractor, its employees or anyone acting on the Contractor's behalf does any of the following things:

- (a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done); or
 - (b) commit an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972; or
 - (c) commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.
- 18.5. Any clause limiting the Contractor's liability shall not apply to this clause.

19. BLACKLISTING

- 19.1 The Employment Relations Act 1999 (Blacklists) Regulations 2010 states that no person shall compile, use, sell or supply a prohibited list which a) contains details of persons who are or have been members of the trade unions or persons who are taking part or have taken part in the activities of trade unions, and b) is compiled with a view to being used by employers or employment agencies for the purposes of discrimination in relation to recruitment or in relation to the treatment of workers.
- 19.2 The Trade Union and Labour Relations (Consolidation) Act 1992, states that, amongst other things, it is unlawful to refuse a person employment, a) because he is, or is not, a member of a trade union, or b) because he is unwilling to accept a requirement – (i) to take steps to become or cease to be, or to remain or not to become, a member of a trade union, or (ii) to make payments or suffer deductions in the event of his not being a member of a trade union.

19.3 Every Council contract (where it is proportionate and appropriate to do so) shall contain the following clause:

- The Contractor must not commit any breach of the Employment Relations Act 1999 (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992, or commit any breach of the Data Protection Act 1998 by unlawfully processing personal data in connection with any blacklisting activities. The Council may terminate this Agreement with immediate effect in the event of any breach by the Contractor of this clause.

20. DECLARATION OF INTERESTS

20.1. If it comes to the knowledge of a member or an employee of the Council that a contract in which he or she has a financial or personal interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Head of Legal and Democratic Services. The Head of Legal and Democratic Services shall report such declarations to the appropriate Committee.

20.2. Such written notice is required, irrespective of whether the monetary interest is direct or indirect. An indirect financial interest is distinct from a direct financial interest in as much as it is not a contract to which the member or employee is directly a party.

20.3. A shareholding in a body not exceeding a total nominal value of £1,000 or 1% of the nominal value of the issued share capital (whichever is the less) is not a financial interest for the purposes of the Procurement Code.

20.4. The Head of Legal and Democratic Services shall maintain a record of all declarations of interests notified by Members and Officers.

20.5. The Head of Legal and Democratic Services shall ensure that the attention of all members is drawn to the appropriate provisions within the Council's Code of Conduct.

21. REVIEW AND AMENDMENTS TO THE PROCUREMENT CODE

This Procurement Code shall be reviewed and updated on a regular basis, not less than annually. Minor amendments to the Procurement Code are delegated for approval to the Head of Partnership Services in consultation with the Head of Finance, Revenues and Benefits and Head of Legal and Democratic Services. Major amendments to the Procurement Code shall be agreed and adopted by the Full Council.

22. **PROCUREMENT THRESHOLDS AND CONTRACT AWARD PROCEDURES - WORKS CONTRACTS**

Total Contract Value	Procurement Route	Short-listing /evaluation of suppliers	Receipt of Quotes / Tenders	Contract Approval and Award	Method of Contract Completion	Transparency Code obligations
Under £19,999	Evidence of value for money	Officer	Officer	Officer in consultation with the appropriate budget holder	Signature and or purchase order raised	Publish details of all contracts of £5,000 + on the Council's contracts register*
£20,000 - £99,999	Three written quotations	Officer and Line Manager	Quotations returned to Department and reviewed by at least two Officers	Officer in consultation with Head of Service.	Signature	Publish details of all contracts on the Council's contract register*
£99,999 – EU Threshold (see intranet for current EU Thresholds)	<p>Invitation to tender, to at least five Tenderers by advertisement on Contracts Finder via the SE Shared Services Portal.</p> <p>A 'restricted' tender process for Works contracts can only be used for Tenders above the EU Threshold for goods and services. A national standard PQQ must be used.</p>	<p>Tenders to be evaluated by a minimum of two officers.</p> <p>Where a restricted tender process has been used, approval of shortlist by Officer, and Head of Service</p>	<p>Tenders to be returned to the Audit & Risk Section and opened in the presence of two Council representatives See section 9.7</p> <p>Or</p> <p>To be electronically opened by the Council's approved e-tendering package</p>	Up to £172,514 (EU Goods threshold) Officer in consultation with Head of Service	<p>Up to £100,000 Signature</p> <p>Over £100,000 Sealing</p>	<p>Publish details of contract awards on SE Shared Services Portal.</p> <p>Publish details of all contracts on the Council's contract register*</p>
				£172,514 to £250k Head of Service approval in consultation with CEO/Deputy CEO		
				£250k to £500k Head of Service in consultation with CEO/Deputy CEO and Portfolio Holder. .A Significant Operational Decision Form (SOD) must be completed and submitted to Democratic Services for inclusion in the Members Bulletin		
				Above £500k – approval by Cabinet		
Above EU Threshold	Invitation to tender to at least five Tenderers by advertisement on Contracts Finder via the SE Shared Services Portal and by advertisement in the Official European Journal.	<p>Tenders to be evaluated by a minimum of two officers.</p> <p>Where a restricted tender process has been used, approval of shortlist by Officer, and Head of Service</p>	As above	Approval by Cabinet	Sealing	<p>Publish details of contract award on SE Shared Services Portal.</p> <p>Publish details of all contracts on the Council's contract register*</p>

* The Contracts Register is managed through the Procurement Team and Legal and Democratic Services. There is an eform available on the intranet that can be completed in order to provide details of the contract award.

23. DEFINITIONS AND FURTHER INFORMATION

These terms occur throughout this document and are purely to act as an aide memoir to refer to this glossary and do not alter or infer any meaning to the text of the document.

Abnormally Low Bid	DG III Working Group on Abnormally Low Tenders – <i>Prevention, Detection & Elimination of ALTs in the European Construction Industry</i> (19 May 1999):- “A tender is assumed to be abnormally low if:- In the light of client's preliminary estimate & of all the tenders submitted, it seems to be abnormally low by not providing a margin for a normal level of profit and in relation to which the tenderer cannot explain his price on the basis of the economy of the construction method, or the technical solution chosen, or the exceptionally favourable conditions available to the tenderer, or the originality of the work proposed”
Aggregated Contract Value	Relates to the TOTAL contract sum or the TOTAL amount of purchase. This means that any annual value must be multiplied by the number of years the contract is likely to be in operation for e.g. A purchase for £45,000 would fall under the £10,000 to £50,000 bracket, whereas a contract for £45,000 over a four year term would equal £180,000 and would therefore be subject to the EU Directives. It is not acceptable to either enter into separate contracts or select a method of calculating the total value in order to avoid or minimise the application of the Horsham Procurement Code. It is also not acceptable to lessen the contract term so that the contract falls into a lower threshold. When in doubt as to the length of a contract term, a four year period is assumed.
Award Criteria	The criteria by which the successful quotation or tender is to be selected
Best Value	The duty on local authorities to secure continuous improvement in the way in which their functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
Bond; Performance Bond	An insurance policy. If the contractor fails to deliver what it has promised under a contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (usually 10% of the contract value). A bond is intended to protect the Council against any additional costs arising from the contractor's failure or default.
Consultant	Any person (not an employee), agency or firm engaged for a limited period of time, on an ad-hoc and fee paying basis, to carry out a specific task or tasks. A consultant provides subject matter expertise and/or experience to the Council as required. This may, for example, be because the Council does not possess the skills or resources in-house or requires an independent evaluation/assessment to be made. Tasks would include investigating problems, providing analysis or advice or assisting with the development of new projects/systems.
Contract Award Procedure	The procedure for awarding a contract
Contract Manager	The individual appointed to manage the contractual relationship between the Council and the service provider. He/she is responsible for ensuring high quality and value for money services are maintained throughout the life of the contract.
Contracting Decision	Any of the following decisions: <ul style="list-style-type: none"> - withdrawal of an invitation to tender - whom to invite to submit a quotation or tender - <i>short listing</i> - award of contract - any decision to terminate a contract.

EU Procedure	The procedure required by the EU where the total expected contract value of goods, works or services exceeds the relevant EU threshold.
EU Threshold	The financial threshold at which EU public procurement directives must be applied to a <i>Relevant Contract</i> . Refer to the Procurement Toolkit for current EU thresholds.
Financial Regulations	The financial regulations contained within the Constitution.
Invitation to Tender	Invitation to Tender documents in the form required by the Crawley Procurement Code.
Joint Procurement Board	This is the governance body that manages the Shared Procurement Service. It is made up of the Commissioning and Performance Manager, Horsham District Council, the Head of Partnership Services, Crawley Borough Council and the Head of Finance, HR and ICT Mid Sussex District Council.
Local Supplier	A local supplier is defined as a business that is either based in Crawley or has operational activity within Crawley (RH10 or RH11) that generates local employment and benefits. Whilst operational activity within Crawley is most preferable, it is acknowledged that Crawley may not have suitable businesses to meet the requirements, and would therefore encourage the use of businesses within the Gatwick Diamond or wider West Sussex/Surrey area. The Gatwick Diamond covers Epsom & Ewell, Mole Valley, Reigate & Banstead, Tandridge, Crawley, Horsham and Mid Sussex
Nominated suppliers and sub-contractors	Those suppliers specified in the contract for which the main contractor has discharged any part of its duties
Officers' Code of Conduct	The code regulating conduct of officers which forms part of the Council's constitution.
Parent Company Guarantee	An agreement which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract, they can require the parent company to do so instead.
Preferred Bidder	The penultimate stage of a procurement process when the supplier(s) to whom the council intends to award the contract has/have been identified but the confirmation of the award is subject to receipt of final clarification documentation and/or information from the supplier(s).
Procurement Toolkit	The Procurement Toolkit prepared by the Procurement Manager for guidance in conducting procurement activity.
Public Contract Regulations 2015; the Regulations	The UK Government transposition of the new EU Procurement Directives. Establishes the rules by which public bodies must abide when acquiring goods, works or services. In broad terms these are transparency, fairness and equal treatment of all potential bidders.
Quotation	A quotation of price and any other relevant matter without the formal issue of an Invitation to Tender.
Relevant Contract	Any arrangement made by, or on behalf of, the Council for the carrying out of work or for the supply of goods, materials or services. These include arrangements for: <ul style="list-style-type: none"> - the supply or disposal of goods - hire, rental or lease of goods or equipment - execution of works - <i>third party contracts or Framework Agreements, or call-off contracts</i> awarded by another public sector body - the delivery of services, including those related to: <ul style="list-style-type: none"> - the recruitment of staff - land and property transactions - financial and consultancy services. <p><i>Relevant Contracts</i> do not include contracts relating to:</p> <ul style="list-style-type: none"> - the direct employment of staff paid via the council's payroll system - the engagement of Counsel

- the acquisition, disposal, or transfer of land (for which *Financial Regulations* shall apply).

Short listing	Where Tenderers are selected from a list of interested parties to submit a quotation or tender.
Tender	A Tenderers proposal submitted in response to an Invitation to Tender.
Tenderer	Any person who asks or is invited to submit a quotation or tender.
Tender Record Book	The tender register maintained by the Audit & Risk Section to record details of tenders
Third Party Contracts, or Framework Agreements, or Call-Off Contracts	Contracts awarded by a third party which have been structured to allow authorised users to procure goods and services by quoting, to the contractors and suppliers, the appropriate contract reference details. The management and administration of the contract resides with the awarding authority. The use of these contracts may alleviate the necessity for staff to initiate their own tendering exercise.
Total Value	See Aggregated Contract Value
Transparency Code	The Local Government Transparency Code is a statutory obligation on local authorities to publish data include information on all tenders issued and contracts award of £5,000 or more in value.
Whole Life Cost	A way of evaluating which considers the whole life costs of a project from design through to decommissioning and disposal or recycling.

EMPLOYMENT PROCEDURE RULES

EMPLOYMENT PROCEDURE RULES

1. Recruitment and Appointment

(a) Declarations

- (i) Any candidate who is a relative of a Councillor or senior manager should declare this on the application form. A candidate who fails to disclose such a relationship shall be disqualified for the appointment and, if appointed, shall be liable to dismissal without notice.
- (ii) No candidate so related to a Councillor or senior manager will be appointed without the authority of the Acting Chief Executive or relevant Head of Service or an employee nominated by them.

(b) Seeking support for appointment

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. This will be mentioned on the application form.
- (ii) No Councillor shall solicit for any person any appointment under the Council.

Please note: Members should not provide references in support of applications for employment by the authority unless they are doing so in their capacity as the applicant's current line manager.

2. Recruitment of Chief Executive (Head of Paid Service) Deputy Chief Executive or Heads of Service

- (1) Where the Council proposes to appoint a Chief Executive (Head of Paid Service), Deputy Chief Executive or Head of Service, the Council will draw up a candidate specification setting out:
 - (i) The duties of the employee concerned; and
 - (ii) any knowledge, skills and qualifications to be sought in the candidate to be appointed

Where it is not proposed to make such an appointment exclusively from among the Council's existing employees it will:

- (a) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it, and
- (b) make a copy of the statement mentioned in paragraph (1) available to the public.

These steps will be taken by the Chief Executive (Head of Paid Service) or the Deputy Chief Executive on behalf of the Appointments and Investigating Committee.

- (2) Where a post has been advertised as provided in paragraph (1)(a) above, the Appointments and Investigating Committee will interview a shortlist of suitably qualified applicants for the post. The selection of the short list may be undertaken by senior managers on behalf of the Appointments and Investigating Committee.
- (3) Where no qualified person has applied, senior managers will make further arrangements for advertisement in accordance with paragraph (1)(a) above.

3. Appointment of Chief Executive (Head of Paid Service)

The Full Council will approve the appointment of the Chief Executive (Head of Paid Service) following the recommendation of the panel of the Appointments and Investigating Committee of the Council such a panel to include at least one Member of the Cabinet.

The Full Council may only make or approve the appointment of the Chief Executive (Head of Paid Service) where no well-founded objection has been made by any Member of the Cabinet and in compliance with current employment legislation.

Note 4(2) below also applies to the appointment of a Chief Executive.

4. Appointment of the Deputy Chief Executive and Heads of Service

- (1) A panel from the Appointments and Investigating Committee, which includes at least one Member of the Cabinet will appoint the Deputy Chief Executive and Heads of Service and any offer will be in compliance with current employment legislation.
- (2) An offer of appointment as a Chief Executive, Deputy Chief Executive or a Head of Service must not be made until:
 - (i) The Head of People and Technology has been notified of the name of the person to whom the offer is to be made and of any other particulars which are considered to be relevant to the appointment;
 - (ii) The Head of People and Technology has then notified every Member of the Cabinet and has indicated the period within which any objection to the making of the offer is to be made to them by the Leader on behalf of the Cabinet; and
 - (iii) Either
 - (a) The Leader has, within the period specified, notified the Appointments and Investigating Committee that neither they nor any other Member of the Cabinet has any objection to the making of the offer; or
 - (b) The Head of People and Technology has informed the Appointments and Investigating Committee that no objection was received by them within that period from the Leader; or

- (c) The Appointments and Investigating Committee is satisfied that any objection received from the Leader within that period is not material or is not well founded.

5. Other Appointments

Employees below Head of Service. Appointment of employees below Head of Service is the responsibility of the Acting Chief Executive or relevant Head of Service or their nominee and may not be made by Councillors.

6. Disciplinary Action

- (a) Suspension. **The Chief Executive or Acting Chief Executive (Head of the Paid Service), the Monitoring Officer (Head of Legal and Democratic Services) and the Chief Finance Officer (Head of Finance, Revenues and Benefits)** may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and should terminate no later than the expiry of two months; beginning on the day on which the suspension takes effect. In exceptional circumstances this may be extended. In respect of those persons this action should be taken by the Leader of the Council or the Appointments and Investigating Committee

- (b) **For a non-statutory Chief Officer (Head of Service)** then this action will be taken by the Acting Chief Executive (Head of Paid Service) under delegated powers.

- (c) Disciplinary investigation. **For the Chief Executive or Acting Chief Executive (Head of the Paid Service), the Monitoring Officer (Head of Legal and Democratic Services) and the Chief Finance Officer (Head of Finance, Revenues and Benefits)** the investigation will be undertaken by a panel of the Appointments and Investigating Committee as set out in Function 4 of the Appointments and Investigating Committee. The panel may appoint a suitably independent person to undertake this on their behalf.

For a non-statutory Chief Officer or Head of Service this will be undertaken by the Acting Chief Executive.

- (d) Disciplinary Hearing. Where the preliminary investigation determines that there is a potential case to answer the matter will be referred to a panel of the Appointments and Investigating Committee as set out in Function 4 of the Appointments and Investigating Committee.

In the case of statutory Chief Officers then this will be a new panel of the Appointments and Investigating Committee. The panel will decide whether the case is proven and if so consider the level of sanction in line with the disciplinary procedure for Chief Officers.

- (e) Councillors will not be involved in the disciplinary action against any employee below Head of Service except where such involvement is necessary for any investigation or inquiry into alleged misconduct. The Council's disciplinary, capability and related procedures as adopted from time to time may allow a right of appeal to Members in respect of a decision to dismiss.

7. Dismissal

(1) Councillors will not be involved in the dismissal of any employee below Head of Service except where such involvement is necessary for any investigation or inquiry into alleged misconduct. The Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to Members in respect of dismissals.

(2) **Notice of dismissal of a non-statutory Chief Officer or a Head of Service)** must not be made until:

- (i) The Head of People and Technology has been notified of the name of the person who the Committee wishes to dismiss and of any other particulars which are considered to be relevant to the dismissal; and
- (ii) The Head of People and Technology has then notified every Member of the Cabinet and has indicated the period within which any objection to the dismissal is to be made to them by the Leader on behalf of the Cabinet; and
- (iii) Either
 - (a) The Leader has within the period specified, notified the Committee that neither they nor any other Member of the Cabinet has any objection to the dismissal; or
 - (b) The Head of People and Technology has notified the Committee that no objection was received by them within that period from the Leader; or
 - (c) The Committee is satisfied that any objection received from the Leader within that period is not material or is not well founded.

8. Dismissal of a Statutory Chief Officer (Head of Paid Service, the Monitoring Officer and the Chief Finance Officer)

In the case of a recommendation for dismissal of the Head of Paid Service (Acting Chief Executive), the Monitoring Officer (Head of Legal and Democratic Services) or the Chief Finance Officer (Head of Finance, Revenues and Benefits), a panel of at least two independent persons will be appointed to advise the Council on matters relating to the dismissal of the relevant officers. The Council must take into account any advice, views or recommendations of the Independent Panel before taking a vote on whether or not to approve such a dismissal.

9. In the event that the panel of the Appointments and Investigating Committee's recommendation was that dismissal was appropriate, then the matter would go forward to a full meeting of Council where a decision to approve the dismissal would be taken. The decision would be made having taken into account the conclusions of the Appointments and Investigating Committee, any advice, views or recommendations of the Independent Panel and any representations from the officer concerned.

10. Right of Appeal

In the case of Head of Paid Service (Acting Chief Executive), the Monitoring Officer (Head of Legal and Democratic Services) and the Chief Finance Officer (Head of Finance, Revenues and Benefits) then the hearing at full Council will act as an appeal against the decision to dismiss. In the case of Heads of Service then any appeal will be heard by the Staff Appeals Board.

PART 5 - CODES AND PROTOCOLS

COUNCILLORS' CODE OF CONDUCT

CRAWLEY BOROUGH COUNCIL
CODE OF CONDUCT FOR COUNCILLORS

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CRAWLEY BOROUGH COUNCIL
CODE OF CONDUCT FOR MEMBERS

Part 1 – General Provisions

1. Introduction and Interpretation

- (1) This Code applies to **you** as a Member of the authority, when acting in that capacity.
- (2) This Code is based upon the general principles fundamental to public life which are set out in **Part 4**. You should have regard to these principles as they will help you to comply with the Code.
- (3) It is your personal responsibility to comply with the provisions of this Code. If you need guidance on any matter under this Code you should seek it from the Monitoring Officer or Deputy Monitoring Officer.
- (4) It is a criminal offence to fail to notify the Monitoring Officer of a disclosable pecuniary interest, to take part in discussions or votes at meetings, or to take a decision where you have a disclosable pecuniary interest, without reasonable excuse. It is also an offence to knowingly or recklessly provide false or misleading information to the authority's Monitoring Officer.
- (5) Any written allegation received by the authority that you have failed to comply with this Code will be dealt with by the authority under the arrangements which it has adopted for such purposes. If it is found that you have failed to comply with the Code, the authority has the right to have regard to this failure in deciding -
 - a. whether to take action in relation to you and
 - b. what action to take.

(6) In this Code

“authority” means Crawley Borough Council

“Code” means this Code of Conduct

"Member" includes a co-opted Member and an appointed Member

“co-opted Member” means 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.

"meeting" means any meeting of:

- (a) the authority; the executive, any committees, sub-committees, joint committees or area or local committees
- (b) Members in formal or informal meetings with other Members and/or officers relating to the business of the authority

“register of Members’ interests” means the authority's register of Members’ pecuniary and other interests established and maintained by the Monitoring Officer under Section 29 of the Localism Act 2011.

2. Scope

- (1) Subject to sub-paragraphs (2) and (3), you must comply with this Code whenever you act or appear to act in your official capacity namely when you:
 - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of your authority,and references to your official capacity are construed accordingly.
- (2) This Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) Where you act as a representative of your authority:
 - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's Code of Conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with your authority's Code of Conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General Obligations

- (1) You must treat others with respect.
- (2) You must not do anything which may cause your authority to breach any of the equality duties (as set out in the Equality Act 2010);
- (3) You must not bully any person;
- (4) You must not intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in any investigation or proceedings about a complaint that a Member (including yourself) has failed to comply with their Authority’s Code of Conduct
- (5) You must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

- (6) You must not
- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where
 - i. you have the consent of a person authorised to give it;
 - ii. you are required by law to do so;
 - iii. the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person;
 - iv. the disclosure is—
 - (a) reasonable and in the public interest; and
 - (b) made in good faith and in compliance with the reasonable requirements of the authority ¹ or
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
- (7) You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- (8) You must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
- (9) You must, when using or authorising the use by others of the resources of your authority:
- (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes);
- (10) You must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
- (11) When reaching decisions on any matter you must have regard to any relevant advice provided to you by the authority's Chief Finance Officer; or your authority's Monitoring Officer, where that officer is acting pursuant to their statutory duties.
- (12) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

¹ Note "In compliance with the reasonable requirement of the Authority" means that a Member should consult the Acting Chief Executive as Head of the Paid Service, the Head of Legal and Democratic Service (as Monitoring

Officer) or The Head of Finance and Benefits (as Chief Finance Officer) before taking a decision on whether or not to disclose confidential information.

Part 2 – Interests

4. Personal Interests

(1) You have a personal interest in any business of your authority where either:

(a) it relates to or is likely to affect:

(i) any body of which you are a Member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

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

of which you are a Member or in a position of general control or management;

(iii) the interests of any person or body other than the authority from whom you have received a gift, benefit or hospitality as a Member with an estimated value of at least £50;

OR

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

(2) In sub-paragraph (1)(b), a relevant person is:

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

5. Disclosure of Personal Interests

- (1) Subject to sub-paragraphs (2) to (7) below, where you have a personal interest in any business of your authority and you attend a meeting of your authority at which any matter relating to the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 4(1)(a)(i) or 4(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority or the type mentioned in paragraph 4(1)(a)(iii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 11, sensitive information relating to it is not registered in your authority's register of Members' interests, you must indicate to the meeting that you have a personal interest and, if also applicable, that it is a disclosable pecuniary interest, but need not disclose the sensitive information to the meeting.
- (6) Where you have a personal interest in any business of your authority and you have made an executive decision on any matter in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under Section 22 of the Local Government Act 2000.

6. Prejudicial Interests Generally

- (1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business:
 - (a) does not affect your financial position or the financial position of a person or body described in paragraph 4;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 4; or

(c) relates to the functions of your authority in respect of

- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
- (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to Members;
- (v) any ceremonial honour given to Members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

(3) The determining of any approval, consent, licence, permission or registration as referred to in paragraph 6(2)(b) shall include the amendment, modification, or variation of any such approval, consent, licence, permission or registration.

7. Prejudicial Interests Arising in Relation to Overview and Scrutiny Committees

You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where:

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a Member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

8. Effect of Prejudicial Interests on Participation

1. Subject to sub-paragraph (2), where you have a prejudicial interest in any business of the authority:
 - (a) you must withdraw from the room or chamber where a meeting considering the business is being held;

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting:

unless you have obtained a dispensation from the Monitoring Officer;

(b) you must not exercise executive functions in relation to that business;
and

(c) you must not seek improperly to influence a decision about that business

2. Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

9. Disclosable Pecuniary Interests

- (1) Subject to sub-paragraphs (2) and (3), you have a Disclosable Pecuniary Interest in any business of your Authority where you or your partner have any interest of a description specified as a Disclosable Pecuniary Interest in Regulations made by the Secretary of State pursuant to Section 30 of the Localism Act 2011. (The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. SI 2012/1464).

Disclosable Pecuniary Interests are:

(i) any employment, office, trade, profession or vocation carried on for profit or gain;

(ii) any payment or provision of any other financial benefit (other than from the authority) made or provided within the preceding 12 months in respect of any expenses incurred by you in carrying out duties as a Member, or towards your 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(a);

(iii) any contract which is made between the relevant person (or body in which the relevant person has a beneficial interest) and the authority under which goods or services are to be provided or works are to be executed and which has not been fully discharged.

(iv) any beneficial interest in land which is within the area of the authority;

(vi) any licence (alone or jointly with others) to occupy land in the area of the authority for a month or longer;

(vii) any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of the relevant authority; and

either

(a) the total nominal value of the securities exceeds (25,000 or one hundredth of the total issued share capital of that body; or

(b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class

(certain words and expressions used in this list are defined in Regulations)

(2) In sub-paragraph (1), your partner means:

(a) Your spouse or civil partner

(b) A person with whom you are living as husband and wife, or

(c) A person with whom you are living as if you were civil partners.

(3) In sub-paragraph (2), any interest which your partner may have is only treated as your interest if you are aware that your partner has the interest.

Disclosure of Disclosable Pecuniary Interests

(4) (1) Subject to sub-paragraph (2) where you have a Disclosable Pecuniary Interest in any business of your authority and you attend a meeting of your authority at which the business is considered you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration or when the interest becomes apparent.

(2) Where you have a Disclosable Pecuniary Interest in any business of your authority you need only disclose to the meeting the existence and nature of the interest if the interest is not already registered on your register of Member's interests.

(3) If the Disclosable Pecuniary Interest is not already on your register of Member's interests or the subject of a pending notification to the Monitoring Officer and is disclosed to the meeting you must notify the Monitoring Officer of the interest within 28 days of disclosure to the meeting.

Effect of Disclosable Pecuniary Interests on Participation

(5) Where you have a Disclosable Pecuniary Interest in any business of your authority;

(a) you must not participate or participate further in any discussions of the matter at a meeting; or

(b) participate in any vote or further vote taken on the matter at the meeting; and

- (c) by virtue of a Standing Order must withdraw from the room or chamber where the meeting considering the matter is being held.

Part 3 – Registration of Members' Interests

10. Registration of Members' Interests

- (1) Subject to paragraph 11, you must, within 28 days of:
- (a) This Code being adopted or applied by the authority; or
 - (b) your election or appointment to office (where that is later), register in your authority's register of Members' interests details of:
 - (i) your personal interests where they fall within a category mentioned in paragraph 4(1)(a) by providing written notification to your authority's Monitoring Officer and
 - (ii) Disclosable Pecuniary Interests as defined in paragraph 9.
- (2) You must within 28 days of becoming aware of any new personal or pecuniary interest or change to any such interest registered under paragraph (1), register details of that new interest or change by written notification to your authority's Monitoring Officer.

11. Sensitive Information

- (1) Where you consider that the information relating to any of your Interests is sensitive information, and your authority's Monitoring Officer agrees, the Monitoring Officer shall not include details of the interest on any copies of the register of Members' interests which are made available for inspection or any published version of the register, but may include a statement that you have an interest, the details of which are withheld under this paragraph.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's Monitoring Officer asking that the information be included in the register of Members' interests.
- (3) In this Code, "sensitive information" means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

12. Dispensations

- (1) On a written request made to the Monitoring Officer by a Member for a dispensation the Monitoring Officer or a Committee may grant a dispensation relieving the Member from either or both of the restrictions in paragraphs 8(1)(a) and 9(5)(a) and (b) (restrictions on participating in discussions and in voting), in cases described in the dispensation.

- (2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the Monitoring Officer or the Governance Committee if appropriate:
- (a) considers that without the dispensation the number of persons prohibited by paragraphs 8(1) and 9(5) 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) considers that 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) considers that granting the dispensation is in the interests of persons living in the authority's area,
 - (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each Member of the authority's executive would be prohibited by paragraphs 8 and 9 from participating in any particular business to be transacted by the authority's executive, or
 - (e) considers that it is otherwise appropriate to grant a dispensation.
- (3) A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Paragraphs 8(1) and 9(5) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph.

Part 4 – The General Principles of Public Life

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person organisation, or group or any third party.

Integrity

2. Members should not place themselves in situations where their integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour. Members should show integrity by consistently treating other people with respect, regardless of their race, age, religion, gender, sexual orientation, disability or position, for example as an officer or employee of the authority.

Objectivity

3. Members should make decisions in accordance with the law and on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Honesty

6. Members should not place themselves in situations where their honesty may be questioned, should not behave dishonestly and should on all occasions avoid the appearance of such behaviour. Members should declare any private interests relating to their public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

7. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

Part 5 – The Categories of Disclosable Pecuniary Interests under The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 SI 2012/1464

A ‘disclosable pecuniary interest’ is an interest of yourself or your partner (which means spouse or civil partner, 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) within the following descriptions:

Interest	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a Member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.

Interest	Description
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either— (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

These descriptions on interests are subject to the following definitions:

“the Act” means the Localism Act 2011;

“body” in which the relevant person has a beneficial interest” means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;

“director” includes a Member of the committee of management of an industrial and provident society;

“land” includes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;

“M” means a Member of a relevant authority;

“Member” includes a co-opted Member;

“relevant authority” means the authority of which M is a Member;

“relevant period” means the period of 12 months ending with the day on which M gives a notification for the purposes of Section 30(1) or Section 31(7), as the case may be, of the Act;

“relevant person” means M or any other person referred to in Section 30(3)(b) of the Act;

“securities” means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

A Code of Conduct for Councillors: Acceptance of Gifts and Hospitality

The acceptance of gifts and hospitality by Councillors is not merely an administrative issue. It reflects directly upon the perception of Councillors and of the authority as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Councillors can get out of their position.

The law on the acceptance of gifts and hospitality is set out in the authority's Code of Conduct for Members and in the Bribery Act. These requirements are then supplemented by the procedures which have been adopted by this authority, to provide a clear set of rules for the protection of both Councillors and the authority. Acceptance of a gift or hospitality in breach of the Code, or failure to declare receipt of such a gift or hospitality, can lead to sanctions against a Councillor. Under the Bribery Act 2010 if a Councillor agrees to a request, receives or accepts a financial or other advantage with the intention that a "relevant function or activity" is performed improperly, a Councillor may be liable for a fine up to £5,000 or imprisonment for up to 12 months, or on indictment to an unlimited fine and/or imprisonment for up to 10 years.

This Code of Conduct sets out:

- (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality**
- (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it**
- (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the authority**

This Code does not apply to the acceptance of any facilities or hospitality which may be provided to you by this authority.

1 General Principles

In deciding whether it is proper to accept any gift or hospitality, it is a matter of judgement for each individual Member, and you should apply principles (a) to (e) below. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles. Any gifts that you are offered and that you decline should be reported on the declaration of refusal of hospitality or of a gift form (copy attached) and sent to the Monitoring Officer who will maintain a record of such declarations.

- (a) Never accept a gift or hospitality as an inducement or reward for anything you do as a Councillor**

As a Councillor, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.

Section 2 of the Bribery Act 2010 provides that it will be an offence to agree to a request, receive or accept a financial or other advantage with the intention that a "relevant function or activity" should be performed improperly. A Councillor if found guilty of that offence may be liable for a fine up to £5,000 or imprisonment for up to 12 months,

and on indictment to an unlimited fine and/or imprisonment for up to 10 years.

Further, the authority's Code of Conduct for Members provides that you must act in the public interest, serving the authority and the whole community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including yourself.

(b) You should only accept a gift or hospitality if there is a commensurate benefit to the authority.

The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the authority which would not have been available but for the acceptance of that gift or hospitality.

Acceptance of hospitality can confer an advantage on the authority, such as an opportunity to progress the business of the authority expeditiously through a working lunch, or to canvass the interests of the authority and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the authority is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.

As set out above, the authority's code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Councillor of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the authority, would be a breach of the Code.

(c) Never accept a gift or hospitality if acceptance might be open to misinterpretation

The appearance of impropriety can be just as damaging to the authority and to you as a Councillor as actual impropriety. The authority's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the authority favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.

Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:

- (i) occasions when the authority is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.
- (ii) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination,

- (iii) funding decisions, when the authority is determining a grant application by any person or organisation.
- (iv) issues affecting voluntary service organisations in relation to the grant making process.

(d) Never accept a gift or hospitality which puts you under an improper obligation

Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the authority.

(e) Never solicit a gift or hospitality

You must never solicit or invite an offer of a gift or hospitality in connection with your position as a Councillor. You should also take care to avoid giving any indication that you might be open to such any improper offer.

2 Consent Regimes

(a) General Consent Provisions

For clarity, the authority has agreed that you may accept gifts and hospitality in the following circumstances:

- (i) civic hospitality provided by another public authority
- (ii) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
- (iii) tickets for sporting, cultural and entertainment events which are sponsored by the authority
- (iv) small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise. You should also be wary of accepting a number of these lower value gifts from the same company or organisation.
- (v) a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from someone with whom you have had contact in the course of fulfilling your duties as a Councillor if you meet accidentally in a public house, cafe or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable

- (vi) a modest working lunch not exceeding £15 a head in the course of a meeting in the offices of a party with whom the authority has an existing business connection where this is required in order to facilitate the conduct of that business. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £15 a head
- (vii) modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to the authority
- (viii) Hospitality received in the course of an external visit or meeting which has been duly authorised by the authority. Councillors should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction to make it clear that any such hospitality for Councillors and officers is to be no more than commensurate with the nature of the visit
- (ix) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the Councillor deals with the gift strictly in accordance with the following procedure: The Councillor must, as soon as practicable after the receipt of the gift, pass it to the Secretary to the Mayor together with a written statement identifying the information set out in Paragraphs 2(b) below. The Secretary will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Mayor's Charity Fund, on whose behalf it will be raffled or other wise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Mayor.

(b) **Unacceptable Gifts**

The following are examples of unacceptable gifts:

Paid holiday or leisure travel or accommodation.

Tickets for premium events which are offered on a personal basis.

Bottles of wines or spirits.

Use of a company flat or hotel suite.

Discounted services, materials, labour, etc. from contractors or suppliers which are not equally available on the same basis to others not having an actual or potential business link with them. Members should not procure or encourage any such provision to family, friends or business associates.

When a particular person or firm has a matter currently in issue with the Council, then clearly common sense dictates a more restrictive approach. An important criterion in exercising judgement is what interpretation others might reasonably put on acceptance.

(c) **Special Consent Provisions**

If you wish to accept any gift or hospitality which is in accordance with the General Principles set out in Paragraph 1, but is not within any of the general consents set out in Paragraph 2(a), you may only do so if you have previously obtained specific consent in accordance with the following procedure:

You must make an application in writing to the Monitoring Officer, setting out:

- (i) the nature and your estimate of the market value of the gift or hospitality
- (ii) who the invitation or offer has been made by or on behalf of
- (iii) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the authority in which they have been involved
- (iv) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the authority
- (v) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper

You must not accept the gift or hospitality until you have received the appropriate consent.

The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the authority's accounts for the relevant year. But note that this does not relieve you of the obligation to register the receipt of gifts and hospitality in accordance with Paragraph 3, below.

3 Reporting

Where you are offered any gift or hospitality which you estimate to have a market value or cost of provision of £25 or greater, you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, using the appropriate form. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the authority's accounts for the year in question.

Even if the value of the gift or hospitality is less than £25, if you are concerned that its acceptance might be misinterpreted, and particularly where it comes from a contractor or tenderer, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality. If you are in any doubt about the propriety of accepting a particular gift or hospitality, you should contact the Monitoring Officer before accepting.

4 Gifts to the Authority

Gifts to the authority may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the authority. You should not solicit any such gift on behalf of the authority except where the authority has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers' contributions under Section 106 Agreements. If you receive such an offer on behalf of the authority, you must first consider whether it is appropriate for the authority to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the authority under any improper obligation, whether there is a real benefit to the authority which would outweigh any dis-benefits). If you do not have delegated authority to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated authority, together with your recommendation. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the authority. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the authority to accept the gift, you should consult the Monitoring Officer directly.

5 Definitions

- (a) "Gift or hospitality" includes any of the following:
 - (i) the free gift of any goods or services
 - (ii) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public
 - (iii) the opportunity to obtain any goods or services which are not available to the general public
 - (iv) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

- (b) References to the "value" or "cost" of any gift or hospitality are references to the higher of:
 - (i) your estimate of the cost to the person or organisation of providing the gift or consideration
 - (ii) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

Councillor's Declaration of Receipt of Gifts or Hospitality

Name	
What was the gift or hospitality?	
What is your best estimate of its market value or cost?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the general consents set out in the Code of Conduct? If so, which?	
Did you take advice from the Monitoring Officer before accepting it?	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any contact in your role as a Councillor with the person or organisation providing the gift or hospitality?	
Signed	Date

Completed form to be submitted to the Monitoring Officer who will maintain a record of declarations.

Councillor's Declaration of REFUSAL TO ACCEPT Gifts or Hospitality

Name	
What was the gift or hospitality offered?	
What is your best estimate of its market value or cost?	
Who offered it?	
By what means did you decline it? e.g. By returning the gift, by declining in writing, by declining verbally.	
Do you have any contact in your role as a Councillor with the person or organisation offering the gift or hospitality?	
Signed	Date

Completed form to be submitted to the Monitoring Officer who will maintain a record of declarations.

**CODE OF
CONDUCT
ON
PLANNING
MATTERS**

CODE OF CONDUCT ON PLANNING MATTERS

INTRODUCTION

The planning system and the decisions which arise from it affect the lives of everyone in one way or another. Particularly through the process of land allocation and development control it has a direct impact on the private interests of individuals, landowners and developers. By its nature it can create winners and losers; the decisions are often controversial involving the balancing of many different factors and opinions, however, the key purpose of planning is to regulate the development and use of land in the public interest. Accordingly planning decisions are based on balancing competing interests and making an informed judgement against a local and national policy framework.

The code applies to all Members of the Planning Committees and officers at all times when they are involved in the planning process. This would include, for example, making decisions at Planning Committees, or if an officer, making delegated decisions on applications, or on less formal occasions such as meetings between Members and officers and/or members of the public on planning matters. The code applies equally to planning enforcement matters or site-specific policy issues and to planning applications.

In the discharge of their planning functions, local authorities are expected to make their decisions openly and impartially, based on sound planning arguments. Members and employees are quite rightly expected to maintain the highest standards of integrity at all times.

The planning system works best when Officers and Councillors involved in planning understand their roles and responsibilities, and the context and constraints in which they operate.

Planning decisions involve balancing many competing interests. In doing this, decision makers need to be aware of the interest of the whole community on what can be controversial proposals.

This local code of conduct provides guidance on the way in which planning matters should be handled. It seeks to reflect best practice as operated throughout the Country, set in the context of the particular local circumstances of Crawley. The code is intended to reinforce Councillors' community engagement roles whilst maintaining good standards of probity that minimizes the risk of legal challenges.

GENERAL PRINCIPLES

Members of the local planning authority are elected to represent the interests of the whole community on planning matters. In performing their duties, Members must fulfil their role as representatives of public opinion without compromising their duty to determine planning issues having regard to planning criteria alone. They will often be subject to conflicting views from interested parties and, in reaching decisions, will have to balance a range of arguments. The processes by which decisions are reached will also have to stand up to scrutiny under the Human Rights Act.

- The actions of both employees and Members should leave no grounds for suggesting with any justification that a decision has been partial, biased or not well founded in any way.

- Members have a special duty to their ward constituents, including those who do not vote for them; however, their over-riding duty is to the whole community and they should not show bias in favour of any individual or group in their consideration of planning matters.
- Decisions on planning matters should be based on planning considerations alone and should exclude all non-planning matters
- Action and decisions on planning matters should be taken in a manner which is both accountable and open to public scrutiny

THE ROLE OF OFFICERS AND MEMBERS

Members and employees have different but complementary roles. However, both roles should be consistent with the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Each serve the public but Members are responsible to the electorate while employees are responsible to the Council as a whole and through the Council to the public. A successful relationship depends on mutual trust and an understanding of the different roles.

- Members are responsible for the need to register and disclose interests
- Members are responsible to the electorate for the formulation and implementation of planning policy and their decisions on these matters should be based on planning issues alone
- Employees are responsible for the provision of advice to the Council on planning matters; this should be provided in an impartial way and, again, should be based on a consideration of planning issues alone
- Employees are responsible for a range of planning decisions delegated to them by the Council; in taking these decisions the Officers should act with the same propriety as is expected of a Committee of Members
- Employees and Members should work together, but instructions to officers should only be given through the Council or a Committee decision
- Employees and Members should be cautious about accepting gifts and hospitality and should exercise their discretion. Any Councillor or Officer receiving any such offers over and above an agreed nominal value should let the Monitoring Officer know, in writing, and seek advice as to whether they should be accepted or declined.

PREDISPOSITION, PREDETERMINATION OR BIAS

Members attending the Planning Committee, Local Working Plan, Working Group (or full Council when the Local Plan is being considered) need to avoid any appearance of bias or of having predetermined their views being taking a decision on a planning application or on planning policies.

Members must 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.

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.

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 any particular matter.

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 Councillor was biased. The rule now is that the decision maker is not to be taken to have had a closed mind just because she or he had previously done or said anything that directly or indirectly indicated the view the Member took, or would, or might take.

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 or as a campaigner (for example on a proposal within their ward).

LOBBYING OF AND BY MEMBERS

Lobbying is a common part of the political process. It is one of the ways by which Members become aware of public opinion and can ensure that it is properly considered. It is also a process through which landowners, developers or other interested parties can make their views known directly to elected Members. However, unless handled with great care and within clear guidelines, lobbying can be perceived as harming the integrity and impartiality of the planning process.

- Members may, at their discretion, meet and hear the views of their constituents or other members of the public on planning matters; however they should treat lobbying with extreme caution and should seek to ensure that any discussions are kept at a level which could not be perceived as prejudicing their ability to make fair judgements on behalf of the whole community; any meetings or discussions should relate solely to planning or procedural matters. Members of the Planning Committee may consider referring such matters to other Ward Members or, if appropriate, other Members of the Council.
- Given reasonable notice, employees will always be available to attend meetings with members of the public who wish to make representations to Members on planning matters and Members should, wherever possible, request the presence of an employee where meetings are to discuss specific proposals or planning applications; where meetings take place with an employee in attendance, a full record should be kept
- When hearing representations, and in order to protect rights to a fair hearing, Members of the Planning Committee, should take care not to express any opinion which could be seen as indicating that they have made up their mind before hearing all the relevant planning arguments; other Members should be cautious about expressing opinions and should only do so if they are fully satisfied that they are aware of the arguments for and against a proposal
- Members should not become involved in negotiations with applicants or other advocates of development proposals
- Members who have been lobbied or approached by an interested party with respect to any planning matter, should declare this at the Committee meeting which discusses that matter

- In order to preserve the impartiality of the Committee and respect the principle of a fair hearing, Members of the decision making Committee should not declare in advance of the meeting and before hearing all the relevant planning arguments how they intend to vote
- For the same reason, political group meetings should not be used prior to a Committee meeting to decide how Members will vote on planning applications
- Members should in general avoid organising support for or opposition to a particular planning proposal and avoid lobbying other Councillors
- Members should avoid putting 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
- 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.

PRE-APPLICATION DISCUSSIONS

Pre-application discussions between a potential applicant and a Council 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.

The Localism Act has given Councillors much more freedom to engage in pre-application discussions. Nevertheless in order to avoid perceptions that Councillors might have fettered their discretion, such discussions should take place within clear, published guidelines.

Although the term 'pre-application' has been used, the same considerations should apply to any discussions which occur before a decision is taken:

- It should be made clear at the outset that discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional.
- Consistent advice should be given by officers based upon the development plan and other material planning considerations.
- Officers should be present with Councillors in pre-application meetings. Councillors should avoid giving separate advice on the development 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 Councillors up to date) to ensure that the authority's position is co-ordinated.
- Confirmation that a written note should be made of all pre-application discussions. An officer should make the arrangements and 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(s) 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.

- 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.

Officers should also consider other mechanisms to involve Councillors in pre-application discussions including:

- Committee information reports by officers of discussions to enable Councillors to raise issues, identify items of interest and seek further information
- Developer presentations to Committees which have the advantage of transparency if held in public as a Committee would normally be (with notes taken)
- Ward Councillor briefing by officers on pre-application discussions.

HOSPITALITY

During the course of their work, employees or Members may be offered hospitality from people with a possible interest in development proposals. Hospitality can be perceived as creating a potential bias in those who are involved in the planning process and offers of hospitality should therefore always be viewed in this light

- In line with the Councillors' Code of Conduct, Members should treat offers of hospitality with extreme caution and should follow the guidelines set out in the code and in the Protocol relating to Gifts and Hospitality
- Officers should also treat hospitality with extreme caution and follow the guidance given in the Employee Code of Conduct
- All hospitality received should be notified to the Monitoring Officer and recorded in the Register of Gifts and Hospitality
- Both Members and officers need to be aware of the provisions of the Bribery Act 2010. Under that Act it is an offence to give a bribe and to promise, offer or agree to receive a bribe. A person found guilty of an offence under this Act may be liable for a fine up to £5,000 or imprisonment for up to 12 months, and on indictment to an unlimited fine and/or imprisonment for up to 10 years.

PRE-COMMITTEE PROCEDURES

The run up to Committee is an important time in the consideration of planning matters involving report preparation, public scrutiny of documents and briefing of the Chairperson. The procedures adopted at this stage help to ensure smooth operation of the Committee and contribute to a fair and open planning process.

- All planning applications and other planning matters brought to Committee for decision will be accompanied by an employees' report; the report will be impartial and contain, amongst other things, a description of the proposals, a resume of views expressed by third parties, an explanation of the main planning considerations and a recommendation.
- Reports should be accurate and should include the substance of any objections and other responses received to the consultation.
- Relevant information should include a clear assessment against the relevant development plan policies, relevant parts of the National Planning Policy Framework (NPPF), any local finance considerations, and any other material planning considerations.
- Reports should have a written recommendation for a decision to be made.

- Reports should contain reference to specialist advice and statutory consultees who may have been consulted to provide specific advice on any technical appraisals submitted with an application.
- If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. This is not only good practice, but also 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 development plan and the Council's statutory duty under s38A of the Planning and Compensation Act 2004 and s70 of the Town and Country Planning Act 1990.

Any oral updates or changes to the report should be recorded.

- Background documents relating to any report, including representations by third parties, will be available to Members and the public from the Development Control Team a minimum of five clear working days before the Committee and plans will be displayed in the Committee room for Members to inspect immediately before the Committee meeting should they wish. All documentation is available for inspection on the Council website.
- A 'call over' meeting may be held with the chairperson of the Committee; that meeting should take place after the agenda and recommendations have been finalised; it should be seen as a briefing session to assist the effective operation of the meeting.

COMMITTEE PRACTICE AND PROCEDURE

The effective consideration of planning issues at the Committee stage is an essential element of the development control process. It is important that members of the public see that a fair, even handed and objective approach is being adopted and that decisions are being reached on the basis of planning considerations alone.

- Oral reporting by employees should be kept to the minimum necessary to ensure that material not contained in the report but for display at the meeting is brought to the Committee's attention and that written reports are if necessary updated; employees can and will respond to requests from Members for clarification, explanation and further information
- In the interests of equity, the time allowed for presentations for and against the development should be the same, and those speaking should be asked to direct their presentation to reinforcing or amplifying representations already made to the Council in writing.
- New documents should not be circulated to the Planning Committee; Members may not be able to give proper consideration to the new information and officers may not be able to check for accuracy or provide considered advice on any material considerations arising. This should be made clear to those who intend to speak.
- Messages should never be passed to individual Members, either from other Members or from the public. This could be seen as seeking to influence that Member improperly and will create a perception of bias that will be difficult to overcome.
- Members of the public are allowed to speak at Committee subject to specific procedures; Members should be aware of the expectation of the public that the issues which concern them will be properly considered

- Ward Members and other Members wishing to comment on planning applications or other items on the agenda are also allowed to speak at the Committee but not vote
- Committee consideration should be confined to planning issues relating to the matter being considered; in the event that Members are uncertain as to whether an issue is a material planning consideration clarification should be sought from the Planning Officer or the legal services representative
- Declarations that a Member has been lobbied on a planning matter by an interested party should be made before the Member speaks on the item and in any event before a vote is taken; such declarations do not prevent Members from speaking and voting on the item. The decision taken should be clear to all Members of the Committee and members of the public

REGISTRATION AND DISCLOSURE OF INTERESTS

Chapter 7 of the Localism Act 2011 Act places requirements on Members regarding the registration and disclosure of their pecuniary interests and the consequences for a Councillor 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. The Code of Conduct for Councillors is relevant in this regard and sets out what interests need to be registered and disclosed. 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 Councillor or co-opted Member has a disclosable pecuniary interest, are criminal offences.

Advice should always be sought from the Monitoring Officer. Ultimately, responsibility for fulfilling the requirements rests with each Councillor.

The provisions of the Act seek to separate interests arising from the personal and private interests of the 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 relevant facts, would view the matter when considering whether the Councillor's involvement would be appropriate.

A flow chart of Member's disclosures of interests is attached as an Appendix to this Code.

All disclosable interests should be registered and a register maintained by the 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.

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.

A Disclosable Pecuniary Interest relating to an item under discussion requires the withdrawal of the Member from the Committee. The Member must not participate in any discussions on the matter or vote. In certain circumstances, a dispensation can be sought from the Monitoring Officer or the Governance Committee to take part in that particular item of business.

If a Member has a (non-pecuniary) personal interest, they should disclose that interest, but then may speak and vote on that particular item.

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 Monitoring Officer as soon as possible.

SITE VISITS

Occasionally it may be appropriate in considering a planning application or another development issue, for Members to undertake a formal visit before reaching a decision.

- Site visits as advised by the Head of Legal and Democratic Services will take place in the week prior to each Development Control meeting. They will only be carried out where there is substantial benefit to the decision making process and there are issues relating to a proposal which cannot be satisfactorily resolved from the material presented to the Committee at the meeting.
- Requests from Ward Members for a site visit should normally be accepted, subject to the test outlined above.
- Site visits will be arranged solely for the purposes of inspecting the site and its surroundings.
- An employee should always attend formal Committee site visits
- Site visits may be accompanied by interested parties or unaccompanied depending on the circumstances. Unaccompanied site visits should take place from public vantage points only.
- On accompanied visits, interested parties may point out features which they would wish Members to view; however no representations from interested parties about the proposals should be accepted.
- Employees will prepare a brief record of the site visit.
- Members visiting a site should not be delegated the power to make decisions but should report back to the Committee.
- A site visit is only likely to be necessary if the impact of the proposed development is difficult to visualise from the plans and any supporting material, including photographs taken by officers and/or the comments of the applicant and objectors cannot be expressed adequately in writing and/or the proposal is particularly contentious.
- Site visits are for observing the site and gaining a better understanding of the issues. Visits made by Committee Members, with officer assistance, are normally the most fair and equitable approach. They should not be used as a lobbying opportunity by objectors or supporters.
- Separate from any procedures for formal site visits, Members of the Planning Committee should consider whether there is advantage in them viewing particular application sites from public vantage points before the applications are considered by the Committee. They should not be used as a lobbying opportunity by objectors or supporters.

DECISIONS WHICH DIFFER FROM A RECOMMENDATION

The law requires that decisions should be taken in accordance with the development plan, unless material considerations (which specifically include the NPPF) indicate otherwise (s38A Planning and Compensation Act 2004 and s70 of the Town and Country Planning Act 1990).

This applies to all planning decisions. Any reasons for refusal must be justified against the development plan and other material considerations.

- Members of the Planning Committee are advised to take the following steps before making a decision which differs from the officer recommendation:
- Adjourning for a few minutes for those reasons to be discussed and then agreed by the Committee (especially if the Members differ in their views of what their reasons should be).
- Where there is concern about the validity of reasons, considering deferring to another meeting to have the proposed reasons tested and discussed.

If the Planning Committee make a decision contrary to the officers' recommendation (whether for approval or refusal or changes to conditions or S106 obligations), a detailed minute of the Committee's reasons should be made and a copy placed on the application file.

- Councillors should be prepared to explain in full their planning reasons for not agreeing with the officer's recommendation and pressure should never be put on officers to fabricate reasons for refusal.
- 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.
- All applications that are clearly contrary to the development 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 development plan must be clearly demonstrated.
- Such an application may then have to be referred to the relevant Secretary of State, depending upon the type and scale of the development proposed (s77 of the Town and Country Planning Act 1990). If the officers' report recommends approval of such a departure, the justification for this should be included, in full, in that report.

ANNUAL REVIEW OF DECISIONS

It is good practice for Councillors 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.

Reviews could 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

The Overview and Scrutiny Commission may be able to assist in this process but the essential purpose of these reviews is to assist Planning Members to refine their understanding of the impact of their decisions. Planning Members should be fully engaged in such reviews.

TRAINING

Employees can provide detailed professional advice on the various issues facing Members in the exercise of their planning powers. However the quality of decision making is also dependant on Members being well informed and up to date on planning matters.

- Employees should review on an annual basis the need for training sessions to keep Members informed on planning matters
- Employees should arrange for new Members of the Planning Committee in general and for new Members in particular to receive specific in-house training on planning matters. It should also be a requirement that substitute Members have received training before they sit on the Planning Committee.
- Members should make every effort to ensure that they attend training sessions.

COMPLAINTS AND RECORD KEEPING

There is in existence a complaints procedure which applies to all Council activities. 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 development plan matters.

DELEGATION

Approximately 87% of all planning applications are handled under delegated powers by the Employees, although controversial items, including those where there are 4 or more third party objections and it is proposed to permit the application or an objection from a consultee are brought to Committee.

- In handling delegated decisions, Employees should maintain the same standards of probity as would be the case if the decision were to be taken by Committee
- All applications determined under delegated powers should be accompanied by an Employees report and recommendation

DEVELOPMENT PROPOSALS SUBMITTED BY COUNCILLORS AND OFFICERS, AND COUNCIL DEVELOPMENT

Proposals submitted by serving and former Councillors, officers and their close associates and relatives can easily give rise to suspicions of impropriety. Proposals could be planning applications or local plan proposals.

Such proposals must be handled in a way that gives no grounds for accusations of favouritism.

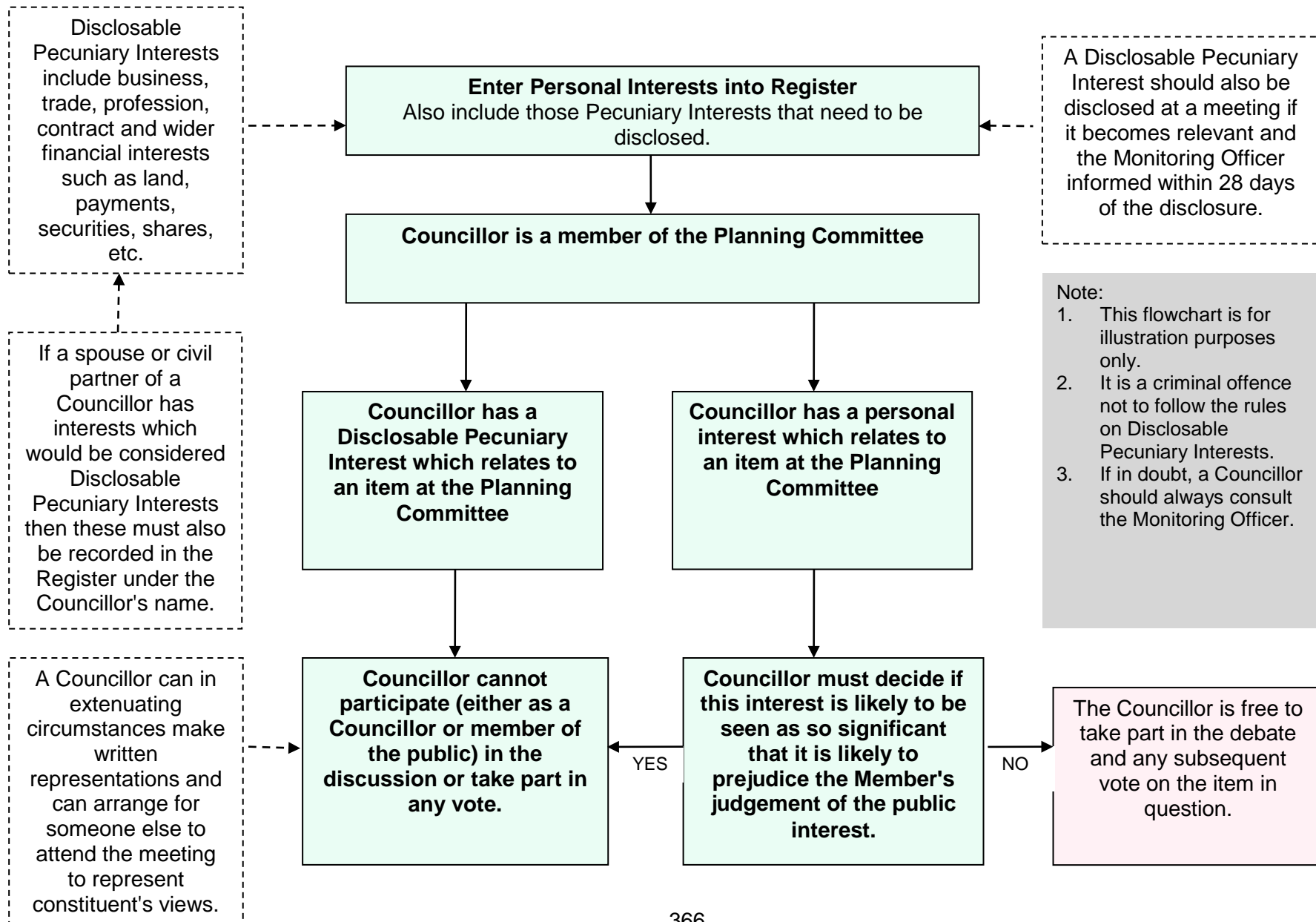
- Applications made by the Council, Council Members or Employees should only be dealt with by a report and recommendation to Committee; Members or Employees

making applications should notify the Head of Economic and Environmental Services in writing.

- Members who make planning applications or act as agents on planning applications should take no part in the decision making process for that proposal.
- Employees should follow the procedures laid down in the staff handbook with respect to any development proposal with which they are or might be asked to become involved.
- If Members or Planning Officers submit their own proposal to the authority they should play no part in its consideration.
- The Monitoring Officer should be informed of such proposals.
- Such proposals should be reported to the Planning Committee and not dealt with by officers under delegated powers.
- Proposals for the Council's own development should be treated in the same way as those by private developers.

APPENDIX TO THE CODE OF CONDUCT ON PLANNING MATTERS

FLOWCHART OF COUNCILLORS' INTERESTS



**ARRANGEMENTS
FOR DEALING
WITH CODE OF
CONDUCT
COMPLAINTS
UNDER THE
LOCALISM ACT
2011**

ARRANGEMENTS FOR DEALING WITH CODE OF CONDUCT COMPLAINTS UNDER THE LOCALISM ACT 2011

- a. Complaints in writing are to be made to the Monitoring Officer who will be responsible for the management of complaints, liaising with the Complainant, Members, those requiring to be informed and consulted and providing support services to the Independent Person. The Monitoring Officer should report periodically to the Council's Governance Committee or any other Committee that has responsibility for the discharge of standards functions on the complaints, the outcomes and lessons learned.
- b. The Monitoring Officer will consider the complaint, seek sufficient information to enable her to form a judgement as to whether there is a case to answer in accordance with the criteria set out in Appendix A and to make such a judgement.
- c. Three Independent Persons should be appointed to act alone or, in exceptional cases, particularly in relation to hearings, together. The role of the Independent Person is set out in Appendix B.
- d. The Monitoring Officer will inform the Member of the complaint.
- e. Whether or not there is a case to answer, the Monitoring Officer will seek to resolve the complaint informally, informing and consulting as appropriate the Acting Chief Executive, the Leader of the Council, the Group Leader(s), and the Independent Person.
- f. If the Monitoring Officer considers that there is a case to answer then they will consider what action to take. If they deem informal steps have failed, or would fail or the apparent breach is too serious to warrant informal steps, then the Monitoring Officer should investigate the matter formally (having consulted the Independent Person and having informed and consulted the Acting Chief Executive, the Leader, and/or the Group Leader(s)) in accordance with any directions of the Independent Person.
- g. Once an Investigation is complete, the Monitoring Officer will report to the Independent Person together with any representations from the Complainant and the Member.
- h. Upon receipt of the Final Report and any representations, the Independent Person will consider how the matter is to proceed further. If the report reveals breaches of the Code of Members' Conduct, the Independent Person will determine whether the matter can be disposed of without a hearing or, alternatively, to hold an oral hearing at which the parties would have the right to be heard.
- i. If the Independent Person considers that a breach is established and considers that action other than informal steps should be taken they may make recommendations to:
 - A Panel of Members drawn from the Appointments and Investigating Committee
- j. The recommendations may include any of those set out in Appendix C. They are neither exclusive nor exhaustive.

- k. The ultimate decision on the Independent Person's recommendations is for:
 - A Panel of Members drawn from the Appointments and Investigating Committee

- l. Publicity for council proceedings and minutes should afford sufficient publicity of decisions taken by Council on the Independent Person's recommendations unless exceptionally the Council considers that wider media publicity is warranted.

- m. Formal notice of the Council's decision must be given to the Complainant and the Member.

- n. At all stages of the proceedings, informal resolution should be encouraged. It will be open to the complainant to withdraw their Complaint at any time and for the Complainant and the Member with the agreement of the Monitoring Officer or, depending upon the stage reached, the Independent Person to settle the complaint.

- o. Complaints should be handled sensitively and fairly. Anonymous complaints should not normally be allowed and complainants should expect to be identified, subject to the Data Protection Act 1998, unless there are exceptional circumstances relating to the protection of children or vulnerable adults, an obligation of confidence or the possibility of violence or intimidation. Until the Monitoring Officer has considered the complaint initially, publicity should not normally be given to the receipt of a complaint. The informal resolution of a complaint should be undertaken in private. If informal resolution cannot be achieved and an investigation carried out, then the fact of an investigation's being undertaken may be made a public although the investigation itself will be carried out in private. A Final Investigation report will be a public document subject to the rules on exempt business. The Independent Person's oral hearing will be in public as will the consideration by
 - A Panel of Members drawn from the Appointments and Investigating Committeeof the Independent Person's recommendations, subject to the rules on confidential exempt information.

- p. A flow chart explaining these arrangements is set out in [Appendix D](#).

ROLE OF THE MONITORING OFFICER

Upon receipt of a complaint the Monitoring Officer must consider:

1. whether the subject matter of the allegation is within the Code of Members' Conduct;
2. whether the allegation appears to disclose a failure to comply with the Code of Members' Conduct because it comprises
 - a. a failure to treat others with respect;
 - b. acting in a way that may cause the authority to breach an equality enactment;
 - c. bullying of any person;
 - d. an intimidation or attempt at intimidation of a person involved in an allegation against the Member;
 - e. a compromise the impartiality of those who work for, or on behalf of, the authority;
 - f. a disclosure of confidential information;
 - g. the bringing of an office or authority into disrepute;
 - h. the using or attempt at using of the Member's position as a Member improperly to confer or secure an advantage or disadvantage;
 - i. the using of the resources of the authority not in accordance with its requirements;
 - j. the disregarding of relevant advice when reaching decisions;
 - k. a failure to give reasons for decisions;
 - l. a failure to declare a disclosable pecuniary interest;
 - m. a failure to declare an other type of disclosable interest;
 - n. the having of an interest and the failure to act appropriately;
 - o. a failure to register interests.
3. If the allegation appears to disclose a failure to comply with the Code of Members' Conduct, the Monitoring Officer is to consider:
 - a. the extent to which the Member is alleged to have failed to treat others with respect;
 - b. the extent to which the Member is alleged to have acted in a way that may cause the authority to breach an equality enactment;
 - c. whether the allegation relates to bullying, intimidating, or attempting to intimidate a person involved in an allegation against the Member;
 - d. whether in disclosing confidential information, the Member failed to take or to heed advice;
 - e. the implications for public perception or the reputation of the Council;
 - f. the implications for staff relations;

- g. the seniority or position of influence of the Member, and public trust and confidence;
 - h. the consequences or the likely consequences of the Member's alleged actions;
 - i. the extent to which the Member is alleged to have used their position as a Member improperly to confer or secure an advantage or disadvantage;
 - j. the extent to which the Member is alleged to have misused or abused the resources of the Council;
 - k. the detriment caused by acting against advice when reaching decisions;
 - l. the extent to which a failure to register or to declare interests resulted from a failure or refusal to seek or to follow advice;
 - m. whether the matter of complaint has already been the subject of a previous complaint, a previous investigation or of an investigation by another regulator, eg the Local Government Ombudsman or the council's auditor, or the subject of proceedings in court;
 - n. whether the complaint is about something that happened so long ago that there would be little public benefit in taking action now;
 - o. whether the complaint is too trivial to warrant further action;
 - p. whether the complaint appears to be simply frivolous, malicious, vexatious, politically motivated or tit-for-tat *;
 - q. the public benefit in directing an investigation or other steps;
 - r. the costs and officer and Member time which could be incurred on an investigation or other steps.
4. The Monitoring Officer considers that a Code of Members' Conduct may have been committed they must decide whether:
- a. the complaint can be resolved by informal means e.g. a telephone call, a meeting between the complainant and the Member or a meeting between the complainant, the Member, the Independent Person or a third party e.g. Group Leader, the Leader of the Council or the Acting Chief Executive, or an apology;
 - b. to recommend steps to the complainant and the Member other than investigation and, if so, what steps;
 - c. to investigate the complaint;
 - d. to refer the allegation to the Independent Person for action;
 - e. to refer the case to be dealt with as part of the Council's corporate complaints procedure; or
 - f. to take no further action because:
 - i. the subject matter of the allegation is outside the Code of Members' Conduct;
 - ii. the allegation does not appear to disclose a failure to comply with the Code of Members' Conduct;
 - iii. the information submitted is insufficient to enable them to reach a decision;

- iv. the matter of complaint has already been the subject of a previous investigation or of an investigation by another regulator, or the subject of proceedings in court;
 - v. the complaint is about something that happened so long ago that there would be little public benefit in taking action now;
 - vi. the complaint is too trivial to warrant further action;
 - vii. the complaint appears to be simply frivolous, malicious, vexatious, politically motivated or tit-for-tat *; or
 - viii. it would not be expedient in the public interest for the matter to be pursued further.
5. The Monitoring Officer must consider the reasons for making this decision.
6. If the Monitoring Officer proposes to take steps 4b to 4f they shall inform the Acting Chief Executive, the Group Leader and the Independent Person.
7. If the Monitoring Officer proposes to take steps 4c or 4d they shall consult the Independent Person.
8. * A frivolous or vexatious complaint is described as:
 - Repeated complaints making the same or similar complaints against the same Member or about the same alleged incident.
 - Repeated complaints that disclose no potential breach of the Code.
 - Complaints that are designed to cause disruption or annoyance.
 - Demands for redress which lack any serious purpose or value.
 - Complaints that are pursuing unrealistic outcomes.
 - Insistence upon pursuing complaints which lack merit.
9. The Monitoring Officer will consult with the Independent Person if a complaint is received which falls within this category and where it is recommended no further action will be taken on the complaint.

ROLE OF THE INDEPENDENT PERSON

1. To consider any reference from the Monitoring Officer and to give directions accordingly
2. To give directions regarding any Investigation
3. To give advice to the complainant, the Member, the Monitoring Officer or the Council or any of its Committees or Sub-Committees that have responsibility for Standards
4. To receive and consider any Investigation Report from the Monitoring Officer
5. To receive and consider any representations from the complainant and the Member
6. To hold a Hearing either orally or on the papers following an Investigation
7. Upon a reference by the Monitoring Officer and/or after a hearing to make recommendations to:
 - A Panel of Members drawn from the Appointments and Investigating Committee
8. In reaching any decision the Independent Person is to consider:
 - a) whether the subject matter of the allegation is within the Code of Members' Conduct;
 - b) whether the allegation appears to disclose a failure to comply with the Code of Members' Conduct because it comprises:
 - i) a failure to treat others with respect;
 - ii) acting in a way that may cause the authority to breach an equality enactment;
 - iii) bullying of any person;
 - iv) an intimidation or attempt at intimidation of a person involved in an allegation against the Member;
 - v) a compromise the impartiality of those who work for, or on behalf of, the authority;
 - vi) a disclosure of confidential information;
 - vii) the bringing of an office or authority into disrepute;
 - viii) the using or attempt at using of the Member's position as a Member improperly to confer or secure an advantage or disadvantage;
 - ix) the using of the resources of the authority not in accordance with its requirements;
 - x) the disregarding of relevant advice when reaching decisions;
 - xi) a failure to give reasons for decisions;
 - xii) a failure to declare a disclosable pecuniary interest;
 - xiii) a failure to declare an other type of disclosable interest;
 - xiv) the having of an interest and the failure to act appropriately;
 - xv) a failure to register interests.
 - c) If the allegation appears to disclose a failure to comply with the Code of Members' Conduct, the Independent Person to consider
 - i) the extent to which the Member is alleged to have failed to treat others with respect;

- ii) the extent to which the Member is alleged to have acted in a way that may cause the authority to breach an equality enactment;
 - iii) whether the allegation relates to bullying, intimidating, or attempting to intimidate a person involved in an allegation against the Member;
 - iv) whether in disclosing confidential information, the Member failed to take or to heed advice;
 - v) the implications for public perception or the reputation of the Council;
 - vi) the implications for staff relations;
 - vii) the seniority or position of influence of the Member, and public trust and confidence;
 - viii) the consequences or the likely consequences of the Member's alleged actions;
 - ix) the extent to which the Member is alleged to have used their position as a Member improperly to confer or secure an advantage or disadvantage;
 - x) the extent to which the Member is alleged to have misused or abused the resources of the Council;
 - xi) the detriment caused by acting against advice when reaching decisions;
 - xii) the extent to which a failure to register or to declare interests resulted from a failure or refusal to seek or to follow advice;
 - xiii) whether the matter of complaint has already been the subject of a previous investigation or of an investigation by another regulator, eg the Local Government Ombudsman or the council's auditor, or the subject of proceedings in court;
 - xiv) whether the complaint is about something that happened so long ago that there would be little public benefit in taking action now;
 - xv) whether the complaint is too trivial to warrant further action;
 - xvi) whether the complaint appears to be simply frivolous, malicious, vexatious, politically motivated or tit-for-tat *;
 - xvii) the public benefit in directing an investigation or other steps;
 - xviii) the costs and officer and Member time which could be incurred on an investigation or other steps.
- d) If the Independent Person considers that a breach of the Code of Members' Conduct may have been committed they must decide whether:
- i) the complaint can be resolved by informal means e.g. a telephone call, a meeting between the complainant and the Member or a meeting between the complainant, the Member, the Independent Person or a third party e.g. Group Leader, the Leader of the Council or the Acting Chief Executive, or an apology;
 - ii) to recommend steps to the complainant and the Member other than Investigation and, if so, what steps;
 - iii) to recommend action to:
 - iv) A Panel of Members drawn from the Appointments and Investigating Committee
 - v) to take no further action because
 - (1) the subject matter of the allegation is outside the Code of Members' Conduct;
 - (2) the allegation does not appear to disclose a failure to comply with the Code of Members' Conduct;
 - (3) the information submitted is insufficient to enable them to reach a decision;
 - (4) the matter of complaint has already been the subject of a previous investigation or of an investigation by another regulator, or the subject of proceedings in court;
 - (5) the complaint is about something that happened so long ago

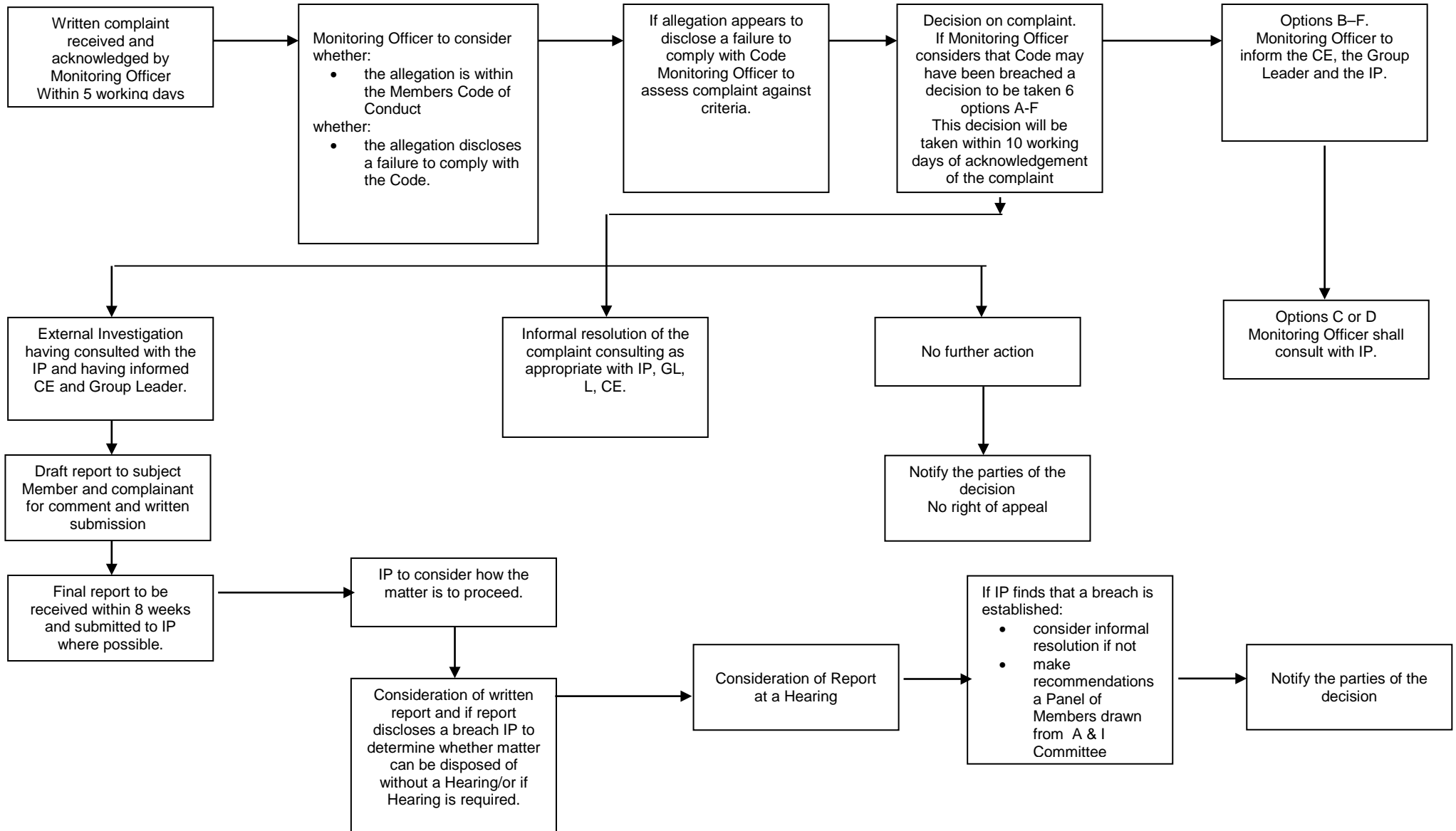
- that there would be little public benefit in taking action now;
- (6) the complaint is too trivial to warrant further action;
 - (7) the complaint appears to be simply frivolous, malicious, vexatious, politically motivated or tit-for-tat *; or
 - (8) It would not be expedient in the public interest for the matter to be pursued further.

- 9. The Independent Person must consider the reasons for making this decision.
- 10. If the Independent Person makes a decision they shall inform the Monitoring Officer, the Acting Chief Executive, the Group Leader, the complainant and the Member.
- 11. The actions the Independent Person may recommend to:
 - A Panel of Members drawn from the Appointments and Investigating Committee are set out at Appendix C.
- 12. * A frivolous or vexatious complaint is described as:
 - Repeated complaints making the same or similar complaints against the same member or about the same alleged incident.
 - Repeated complaints that disclose no potential breach of the Code.
 - Complaints that are designed to cause disruption or annoyance.
 - Demands for redress which lack any serious purpose or value.
 - Complaints that are pursuing unrealistic outcomes.
 - Insistence upon pursuing complaints which lack merit.

**RECOMMENDATIONS WHICH THE INDEPENDENT PERSON MAY MAKE TO
A PANEL OF MEMBERS DRAWN FROM THE APPOINTMENTS AND
INVESTIGATING COMMITTEE)**

1. That the Member should be censured.
2. That the Member should apologise to the complainant or other affected person.
3. That the Member should for a specified period of time be excluded from a building, office or offices, from contact with a particular member of staff or members of staff or required to conduct their business through a named senior member of staff.
4. That the Member should for a specified period of time be prohibited from using specific resources of the Council.
5. That the Member should give an undertaking to refrain from certain conduct or to carry out their business in a particular fashion.
6. That the Member and/or other or all Members should undergo training in a particular area or areas of their Council business.
7. That the Member should be suspended or removed from membership of the executive, a committee or sub-committee.
8. That a breach of the interest provisions should be referred to the Police.
9. That a breach potentially exhibits criminal conduct which should be referred to the Police.
10. That the Member's conduct be referred to another regulator.
11. That it would not be expedient in the public interest for the matter to be pursued further.
12. That improvements might be made in the conduct of business to promote or maintain high standards of conduct among Members.

ARRANGEMENTS FOR DEALING WITH COMPLAINTS FOR BREACHES OF THE CODE OF CONDUCT UNDER THE LOCALISM ACT 2011 (FLOWCHART)



INVESTIGATIONS PROCEDURE

Introduction

This document sets out the procedure which will be followed once a decision has been taken that an allegation of a breach of the Code of Conduct by a Member should be investigated.

It should be read in conjunction with the document “Arrangements for dealing with Code of Conduct Complaints under the Localism Act 2011” ([link](#)).

The Appointment of the Investigating Officer

Upon deciding to refer an allegation for Investigation, the Monitoring Officer will appoint an Investigating Officer and instruct them to conduct an investigation of the alleged breach of Code of Conduct and report on it. The Monitoring Officer may appoint a replacement if the Investigating Officer is unable to complete the investigation. The Investigating Officer may be an Officer of the authority or another authority or an external Investigating Officer.

The Role of the Investigating Officer

The role of the Investigating Officer is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented in their report.

Subject to the agreement of the Monitoring Officer, the Investigating Officer may appoint a person(s) to assist them in the conduct of their functions and may obtain such professional advice as may be necessary for the conduct of the investigation.

Notification Requirements

Once they have appointed an Investigating Officer, the Monitoring Officer will notify the Subject Member against whom the allegation has been made that the matter is being referred for investigation and inform them who is conducting the investigation.

The Monitoring Officer will notify the Complainant that an investigation will take place and that they may be contacted in relation to that investigation.

Conduct of the Investigation

The Investigating Officer shall have a broad discretion as to how they conduct the investigation.

They may require the Subject Member and the Complainant to provide them with information and/or documents which are relevant to the investigation. They may require them to provide details of other people who may be able to assist with the investigation.

It may assist the Investigating Officer to set out a plan for how they are going to conduct the investigation and they may consult the Monitoring Officer at any stage of the investigation.

The Investigating Officer may request any person to attend an interview with them and/or provide them with documents and/or information.

Any person who is interviewed may arrange to have a friend or solicitor with them (provided they are not connected to any matter under investigation).

The Investigating Officer will take a note of any interviews that they conduct.

The Monitoring Officer may agree that the authority will pay such reasonable expenses or costs to any persons providing documents, information, advice or explanation, in order to facilitate the conduct of the investigation as they consider appropriate.

Referral to the Monitoring Officer

The Investigating Officer may refer the matter back to the Monitoring Officer if it appears to them appropriate to do so. For example, if the Member is seriously ill or the decision to investigate should be reconsidered in the light of new evidence.

Deferral of Investigation

The Monitoring Officer has discretion to defer the investigation if it appears appropriate to do so. For example, if there is a criminal investigation taking place.

Confidentiality

The Investigating Officer shall request that anyone contacted in relation to the investigation maintain confidentiality in order to maintain the integrity of the process.

Draft Report

When the Investigating Officer is satisfied that they have sufficient information, or has obtained as much information as is reasonably practicable to obtain, they shall prepare a confidential draft report setting out the details of the allegation, the relevant sections of the code, a summary of the allegation, the response of the Subject Member, the information, documents and evidence taken during the course of the investigation, a statement of their draft findings, and the Investigating Officer's conclusion as to whether the Member has breached the Code.

The draft report should be sent to the Monitoring Officer, the Complainant and the Subject Member for their comments. The Investigating Officer may wish to conduct further investigations once they have received those comments, before producing their final report.

Final Report

The final report should include the same sections as the draft report and a final conclusion as to whether there has been a breach of the Code.

It may be helpful to include a chronology, summary of disputed facts and/or to append witness statements or other documents.

The Monitoring Officer will supply a copy of the final report to the Independent Person.

Action on Receipt of Report

If the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct, the Monitoring Officer will review the report and, if satisfied that the report is sufficient will write to the Complainant and the Subject Member notifying them that no further action is required and enclosing a copy of the report.

If the Monitoring Officer is not satisfied that the investigation has been conducted properly, they may ask the Investigating Officer to reconsider their report.

If the report concludes that there is evidence of a failure to comply with the Code of Conduct the Independent Person will determine how the matter is to proceed further. The Independent Person may seek local resolution of the complaint or will deal with the matter at a Hearing.

The Hearings process is the subject of a separate procedure.

Modification of this Procedure

The Monitoring Officer may for the purposes of an investigation vary this procedure where the Monitoring Officer is of the opinion that such a variation is necessary in the interests of fairness.

HEARINGS PROCEDURE

The following process will be followed when a report of an Investigating Officer reveals a breach of the Code of Conduct and the Independent Person has taken a decision that a Hearing is required.

The Hearing will comprise of the Independent Person acting alone or in exceptional cases sitting together as a panel of three.

Pre-Hearing Process

The Monitoring Officer will liaise with the Independent Person in establishing a Hearing to hear the complaint the subject of the Investigating Officer's Report. They should aim to find a date which the witnesses, the Investigating Officer, the Complainant and the Subject Member (the Member against whom the complaint has been made) can attend. They should give all those involved, particularly the Subject Member, sufficient notice of the Hearing. The Monitoring Officer should aim to arrange a Hearing which can take place in one day or consecutive days without the need to have gaps between sittings or lengthy days.

The Monitoring Officer will require the Subject Member to give their response to the Investigating Officer's report in order to identify what is likely to be agreed and what is likely to be in contention at the Hearing.

If the Subject Member wishes to rely on evidence at the Hearing, they should provide it to the Monitoring Officer as soon as possible. The Investigating Officer may have taken a witness statement from them or set out their comments in their report but if the Subject Member wishes to add to what the Investigating Officer has written they should provide a witness statement to the Monitoring Officer as soon as possible.

New arguments or new evidence will not be allowed to be presented at the Hearing.

The Monitoring Officer will decide what evidence will need to be heard, and what written evidence can be read at the Hearing. The Monitoring Officer should take account of the views of the witnesses and the Subject Member in reaching such decisions.

The Monitoring Officer can consult with the Independent Person(s) if they feel their guidance would assist and ask the Independent Person(s) to issue directions in relation to the pre-Hearing process.

The Monitoring Officer may wish to offer to cover the expenses of witnesses associated with their attendance at the Hearing.

The Monitoring Officer will consider whether it is appropriate to hear two complaints together, for example if they relate to the same Member, or relate to the same incident or occasion.

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 Independent Person(s) with the evidence in advance of the Hearing so that they can read it to identify any potential conflicts of interest.

The Monitoring Officer will provide the Independent Person(s) with a report which summarises the allegation. This should include a list of agreed facts and disputed issues and outline the proposed procedure for the Hearing.

The Monitoring Officer will act as a point of contact for the Subject Member, the Complainant, the Independent Person(s) and any witnesses who will give evidence.

The Hearing

There is a clear public interest in promoting probity (integrity and honesty) of public authorities and public confidence in them. For these reasons the Hearing will be held in public unless the Independent Person determines that protecting the privacy or anyone involved is more important than the need for the public Hearing. The press and the public may be excluded if there is a likelihood that confidential or exempt information will be disclosed.

If the Subject Member does not attend the Hearing, the Independent Person(s) may adjourn the Hearing or may continue to reach a decision on the basis of the Investigating Officer's report and any evidence they hear, if they decide to hear evidence.

The Hearing by the Independent Person(s) is not a court of law. The Independent Person(s) does not hear evidence under oath. The rules of natural justice should nevertheless be carefully followed and the Independent Person(s) will have due regard to the seriousness of the proceedings for those involved, the Council and the public.

The Independent Person(s) 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 by a Barrister, Solicitor or any other person they wish. They will have to bear the cost of being represented. The Independent Person(s) may refuse to allow a representative to remain at the Hearing if they are disruptive. The Independent Person will have the discretion to hear opening or closing arguments from the Subject Member and the Investigating Officer if they feel it would assist them in reaching a decision.

Evidence

The Independent Person(s) 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 their discretion.

Generally the Subject Member is entitled to present their case as they see fit.

The Independent Person(s) will usually have regard to submissions from the Subject Member if they are considering whether to hear particular evidence.

Witnesses of facts that are disputed would normally be expected to attend to be questioned. Character witnesses will normally provide written evidence which can be read at the Hearing.

Witnesses should be treated with courtesy throughout the pre-Hearing stage and at the Hearing.

Witnesses may be questioned by the Independent Person(s), the Monitoring Officer and the Subject Member. This discretion should generally be unfettered unless there is good reason to do so.

The onus is on the Subject Member to ensure the attendance of witnesses who they would like to give evidence to assist them. The Independent Person(s) can limit the number of witnesses or the issues which can be covered by them.

Neither the Independent Person(s) nor the Subject Member will have any power to compel witnesses to give evidence.

At the Hearing

At the Hearing, the Investigating Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the Member has failed to comply with the Code of Conduct. The Investigating Officer is likely to ask the Complainant to attend and give evidence to the Independent Person(s). The Investigating Officer may be asked about their report or any matters relating to their involvement.

Role of Monitoring Officer

References to the Monitoring Officer should be read to include any representative of the Monitoring Officer including a Deputy Monitoring Officer.

The Monitoring Officer has a key role in ensuring the smooth running of the pre-Hearing and Hearing process. They will remain neutral throughout and will provide advice to the Independent Person(s).

Role of the Complainant

The role of the Complainant will usually be limited to being a witness and they are not a party to the proceedings. However, the Independent Person(s) may wish to consult them at any stage in the Hearing if they feel their comments would assist them.

Decision

The Independent Person(s) may wish to retire to consider their decision. The Monitoring Officer may assist them in constructing the reasons for their decision. The Monitoring Officer should not express any view on the evidence heard or the decision to be reached.

The Independent Person(s) will reach a decision as to whether the Subject Member has breached the Code of Conduct. If they decide that the Subject Member has not breached the Code of Conduct they will take no further action. If they decide that the Subject Member has breached the Code of Conduct they should go on to decide what sanction, if any, is appropriate and to recommend to the Appointments and Investigating Committee what action to take. The Independent Person(s) will have regard to the factors set out in the remainder of this document when considering the imposition of a sanction.

Sanctions

A Panel of Members from the Appointments and Investigating Committee must consult with and take into account the views of the Independent Person(s) before it makes a decision on a complaint that has been referred for an Investigation and what sanction to impose.

The Panel should consider all the mitigating and aggravating circumstances that appear to them to be relevant. For example, they may wish to consider:

- What were the actual and potential consequences of the breach?
- How serious was the breach?
- What is the attitude of the Subject Member now? Have they apologised?
- Has the Subject Member previously been dealt with for a breach of the Code?

The following are examples of mitigating and aggravating factors but these lists should not be regarded as exhaustive.

Mitigating Factors

- An honest but mistaken belief that the action was not a breach of the Code.
- A previous record of good service.
- Evidence that they were suffering from ill health at the time of the breach.

Aggravating Factors

- Dishonesty.
- Continuing to deny the facts or blaming other people.
- Evidence of a failure to follow advice or warnings.

The priority of the Panel should be to ensure that there are no further breaches of the Code and that public confidence is maintained.

Sanctions

The sanctions available to the Panel are:

1. That the Member should be censured.
2. That the Member should apologise to the Complainant or other affected person.
3. That the Member should for a specified period of time be excluded from a building, office or offices, from contact with a particular member of staff or members of staff or required to conduct their business through a named senior member of staff.
4. That the Member should for a specified period of time be prohibited from using specific resources of the Council.
5. That the Member should give an undertaking to refrain from certain conduct or to carry out their business in a particular fashion.
6. That the Member and/or other or all Members should undergo training in a particular area or areas of their Council business.

7. That the Member should be suspended or removed from membership of the Executive, a Committee or Sub-Committee.
8. That a breach of the interest provisions should be referred to the Police.
9. That a breach potentially exhibits criminal conduct which should be referred to the Police.
10. That the Member's conduct be referred to another regulator.
11. That it would not be expedient in the public interest for the matter to be pursued further.
12. That improvements might be made in the conduct of business to promote or maintain high standards of conduct among Members.

Note of decision

As soon as is reasonably practicable after the Hearing, the Monitoring Officer shall prepare a formal decision notice in consultation with the Independent Person(s), and send a copy to the Complainant, the Subject Member, make that decision notice available for public inspection and report the decision to the next convenient meeting of the Panel of Members from the Appointments and Investigating Committee

EMPLOYEES' CODE OF CONDUCT

EMPLOYEES' CODE OF CONDUCT

(a) Introduction

The public is entitled to expect the highest standards of conduct from all employees who work for local government. This Code outlines the effect of existing laws and regulations, conditions of service, provides further guidance for employees and lays guidelines which will help maintain and improve standards and protect employees from misunderstanding or criticism.

The Code is produced in the light of the challenges that employees face in the new and more commercially orientated environment of local government.

(b) Status of the Code

The Code is based on guidance produced by the Local Authority Associations and the Employers' Organisation and has been approved by the Council following consultation with local union representatives.

(c) Who the Code is Aimed At

The Code covers all employees but inevitably some of the issues covered by it will affect senior, managerial and professional employees more than it will others. Activities carried out by employees acting as members of companies or voluntary organisations will be subject to the minimum standards set out in the Code.

(d) Standards

Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality. Similarly, the public is entitled to demand of them conduct of the highest standard. Public confidence in an employee's integrity would be shaken were the least suspicion to arise, that they could be influenced by improper motives.

Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management, any deficiency in the provision of service. Employees must report to the appropriate manager, or if they prefer, to the Audit Services or the Monitoring Officer (Head of Legal and Democratic Services), an impropriety or breach of procedure.

(e) Disclosure of Information

It is generally accepted that open government is best. The law requires that certain types of information must be available to Members, auditors, government departments, service users and the public.

Employees should not, either during their employment or after it has terminated, use confidential or commercially sensitive information obtained in the course of their employment for personal gain or benefit. Nor should they pass such information on to others who might use it in this way.

Any confidential information received by an employee from a Councillor which is personal to that Councillor and does not belong to the authority, should not be divulged by the employee without the prior approval of the Councillor, except where such disclosure is required or sanctioned by the law.

(f) Political Neutrality

Employees serve the authority as a whole. It follows that they must serve all Councillors and not just those of the controlling group and must ensure that the individual rights of all Councillors are respected.

Any employee who may be required to advise political groups must do so in ways which do not compromise their political neutrality.

Employees, whether or not politically restricted, must follow every lawfully expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.

If in doubt, employees should contact the Monitoring Officer (Head of Legal and Democratic Services).

(g) Relationships

Councillors - Employees are responsible to the authority through its senior managers. For some, their role is to give advice to Councillors and senior managers and all are there to carry out the authority's work. Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and should therefore be avoided.

The Local Community and Service Users - Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the authority.

Employees who engage or supervise contractors or have any official relationship with contractors and have previously had, or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to the appropriate manager and in the register maintained by the Monitoring Officer (Head of Legal and Democratic Services). Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

(h) Appointment and Other Employment Matters

Employees involved in appointments should ensure that they are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to the applicant, or have a close personal relationship outside work with them.

Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner, etc.

(i) Employees Using Council Services

Many employees will also be users of the Council's services.

For routine transactions this creates no difficulties. However in any areas where discretion is involved such as the allocation of a tenancy or the granting of benefits, it is vital to be able to demonstrate that the cases have been dealt with impartially. Staff employed in these work areas must refer cases involving other staff members to senior management.

Employees of the Council making applications or claims to the Council or in other ways dealing with their own situation will be expected to display the highest standards of integrity.

In particular, so far as planning applications are concerned, if an employee intends to submit, or have submitted on their behalf, applications for planning permission, approval of matters reserved as a condition of planning permission, or for consent to display advertisements, then they must notify the Head of Economic and Environmental Services in writing. This is because applications from employees have to be considered by the Planning Committee, rather than being determined by the Head of Economic and Environmental Services.

(j) Outside Commitments

Employees' off-duty hours are their personal concern, but it is essential that they should not subordinate their duties to private interest or put themselves in a position where their duties and private interests conflict.

The Council will generally not attempt to preclude employees from undertaking additional employment but any such employment must not, in the view of the Council, conflict with, or act detrimentally to the Council's business. Employees are advised those graded Scale G and above may not engage in any other business or take any additional appointment without the express consent of the appropriate Head of Service and Human Resources.

All employees are advised that they should not, in a private capacity, either directly or indirectly become involved, on behalf of a third party, in matters (e.g. applications for planning permission or building regulation approval, conveyancing, etc.) which require consideration by the Council or which could in any way lead to a conflict of interests. Employees must also refrain from using officials time, accommodation, stationery or equipment for matters not connected with their official duties. Such cases would be dealt with in accordance with the Council's disciplinary procedure.

(k) Personal Interests

Employees must declare to an appropriate manager any financial or non financial interests which they or close relatives have which they consider could bring about conflict with the authority's interests.

Employees should declare to an appropriate manager membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct. If in doubt, employees should obtain a copy of the organisation's rules.

Any interests declared under this section must be recorded in a register maintained by the Monitoring Officer (Head of Legal and Democratic Services).

(l) Separation of Roles During Tendering

Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior employees who have both a client and contractor responsibility, must be aware of the need for accountability and openness.

Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates, in awarding contractors to businesses run by them or employing them in a senior or relevant managerial capacity.

Employees of the Council shall not use any contract or other procurement arrangement entered into by the Council for their own personal use, benefit or gain other than with the prior written approval of the Head of Finance, Revenues and Benefits.

(m) Corruption and Bribery

Employees must be aware that it is a serious criminal offence under the Bribery Act 2010 for them to offer, promote or give financial or other advantage with the intention of inducing another person to perform improperly a "relevant function or activity" or to reward that person (bribing another) and to agree a request, receive or accept a financial or other advantage with the intention that a "relevant function or activity" should be performed improperly (being bribed). Penalties for such offences may be a fine of up to £5,000 or imprisonment for up to 12 months, and on indictment to an unlimited fine and/or imprisonment for up to 10 years. If an allegation is made it is for the employee to demonstrate that such rewards have not been corruptly obtained.

(n) Use of Financial Resources

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

(o) Hospitality

When to accept hospitality is clearly a matter of judgement. It should be transparent, proportionate and reasonable in the particular circumstances. It would be wrong to produce an atmosphere in which even those in a representative capacity for the Council such as Chief and Senior Employees, on official occasions refuse all invitations for social involvement with those who may have business dealings with the Council. Contact established on the social side can be helpful in the Council's interests. What is important is to avoid any suggestion of improper influence or of giving the opportunity for questions of improper influence to be raised.

The following are intended as examples only:

Acceptable

Insignificant gifts of token value for business use.

A working lunch of a modest standard provided to allow the parties to discuss business or following or prior to such discussion.

An invitation to a professional society, dinner or function.

An invitation to join other company guests as Council representatives at sponsored events, cultural, sporting or other public occasions.

Whilst the last three points are permissible arising out of occasional invitations, employees should bear in mind that accepting frequent invitations from the same source could lead to criticism and render the otherwise acceptable, unacceptable.

Unacceptable

Paid holiday or leisure travel or accommodation.

Tickets for premium events which are offered on a personal basis.

Bottles of wines or spirits.

Use of a company flat or hotel suite.

Discounted services, materials, labour, etc. from contractors or suppliers which are not equally available on the same basis to others not having an actual or potential business link with them.

When a particular person or firm has a matter currently in issue with the Council, then clearly common sense dictates a more restrictive approach. An important criterion in exercising judgement is what interpretation others might reasonably put on acceptance.

All offers of hospitality accepted (with the exception of insignificant items of token value) must be entered in the register maintained by the Monitoring Officer (Head of Legal and Democratic Services)

In case of doubt the Head of Service or Monitoring Officer (Head of Legal and Democratic Services) should be consulted.

(p) Sponsorship - Giving and Receiving

Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

Where the authority wishes to sponsor an event or service, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly, where the authority, through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

(q) Interest of Employees in Contracts

The Head of Legal and Democratic Services shall record in a book to be kept for the purpose particulars of any notice given by an Officer of the Council under Section 117 of the Local Government Act, 1972, of a prejudicial interest in a contract, and the book shall be open during office hours to the inspection of any Member of the Council.

(r) Reporting on Fraud, Corruption and Bribery

The Council has an Anti-Fraud, Corruption and Bribery Strategy, a copy of which is available on the Intranet or by request from the Fraud Investigation Team or Audit Services. Where there is the possibility of fraud and corruption the Council needs to be able to deal with the matter in a firm and controlled manner.

Suspected fraud or corruption should initially be raised with a Senior Manager or one of the other employees listed in the 'Whistleblowing' arrangements. Strict confidentiality will be maintained in these circumstances and there will be no recriminations against anyone genuinely raising such issues. Where an individual does not feel able to raise the issues in this way, the Council has arranged a confidential reporting facility with an external agency which is available by telephone – 0870 7572550. **A Senior Manager or one of the other employees listed in the 'Whistleblowing' arrangements has the authority to refer cases of fraud to the police.**

This confidential reporting facility is not intended to deal with issues which are covered by other existing procedures such as grievance procedures or staff suggestions. Examples of where it could be used include:

- Conduct which is an offence or a breach of the law.
- Disclosures related to miscarriages of justice.
- Health and Safety risks including risks to the public as well as other employees.
- Damage to the environment.

- The unauthorised use of public funds.
- Possible fraud, corruption and bribery.
- Sexual or physical abuse of clients and other members of staff.
- Racial incidents and harassment.
- Action contravening the Council's equal opportunities policy, or
- Other unethical conduct or situation which could have a serious impact on the Council's reputation.

(s) Breaches of Conduct

Breaches of this Code or of Council Procedure Rules or Financial Procedure Rules will be treated very seriously and will be dealt with under the Council's Disciplinary Procedure.

APPENDIX TO EMPLOYEES' CODE OF CONDUCT

Officer's Declaration of Receipt of Gifts or Hospitality

Name	
What was the gift or hospitality?	
What is your best estimate of its market value or cost?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the categories of gifts or hospitality listed as 'acceptable' in the Employees' Code of Conduct (in the Council's Constitution)?	
Did you take advice from the Monitoring Officer before accepting it?	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any contact with the person or organisation providing the gift or hospitality in your role as a member of the Council's staff?	
Signed	Date

Completed form to be submitted to the Monitoring Officer who will maintain a record of declarations.

MONITORING OFFICER PROTOCOL

MONITORING OFFICER PROTOCOL

General Introduction to Statutory Responsibilities

The Monitoring Officer is a statutory appointment under Section 5 of the Local Government and Housing Act 1989. This Protocol provides some general information on how those statutory requirements will be discharged at Crawley Borough Council.

The current responsibilities of the Monitoring Officer role rest with the Head of Legal and Democratic Services who undertakes to discharge their statutory responsibilities with a positive determination and in a manner that enhances the overall reputation of the Council. This means that the Monitoring Officer must act as a “watchdog” over all of the Council’s activities to ensure their legality and propriety. In doing so they will also safeguard, so far as is possible, Members and Officers whilst acting in their official capacities, from legal difficulties and/or criminal sanctions.

The main functions of the Monitoring Officer at Crawley Borough Council are:

- a) To report to the Council and to the Cabinet in any case where they are of the opinion that any proposal or decision of the authority has given rise to or is likely to or would give rise to any illegality, maladministration or breach of statutory code under Sections 5 and 5A of the Local Government and Housing Act 1989; (LGHA 89)
- b) To investigate any matter, which they have reason to believe may constitute, or where they have received an allegation that a matter may constitute, a reportable incident under Sections 5 and 5A of the LGHA 89;
- c) To act as the principal adviser on Standards matters;
- d) To maintain the register of Members’ interests;
- e) To act as the Proper Officer for the preparation, publication and retention of records of decisions taken by or on behalf of the Council and the Cabinet;
- f) To have responsibility for responding to complaints to the Local Government Ombudsman
- g) To undertake, with others, investigations in accordance with the Council’s Whistleblowing procedures

In general terms, the Monitoring Officer’s ability to discharge these duties and responsibilities will depend, to a large extent, on Members and Officers:

- a) complying with the law (including any relevant Codes of Conduct);
- b) complying with any General Guidance issued, from time to time, by the Audit Committee, Governance Committee and the Monitoring Officer
- c) making lawful and proportionate decisions; and
- d) complying with the Council’s Constitution;
- e) generally, not taking action that would bring the Council, their officers or professions into disrepute
- f) communicating effectively with the Monitoring Officer and seeking advice on any issues relating to constitutional or ethical matters

It is essential that all staff whether employed by the Council, its partners or its agents are aware of the role of the Monitoring Officer and co-operate with them in ensuring

that the Council's processes and procedures are constantly monitored to avoid illegality or maladministration.

The Acting Chief Executive, and Heads of Services will ensure that:

- a) The Monitoring Officer is alerted to any situation where an issue of legality, probity, propriety or procedure has arisen or is likely to arise;
- b) All employees comply with any instructions or advice given by the Monitoring Officer and understand or seek timely advice about legal requirements.
- c) The Monitoring Officer is informed immediately of any complaint received about the conduct of a Member or of any information which indicates that a breach of the Members' Code of Conduct might have taken place.

The main statutory references for the Monitoring Officer's functions are set out in the Appendix to this protocol.

Working Arrangements

It is important that Members and Officers work together to promote the corporate health of the Council. The Monitoring Officer plays a key role in this and it is vital therefore, that Members and Officers work with the Monitoring Officer (and their staff) to enable them to discharge their statutory responsibilities and other duties.

The following arrangements and understandings between the Monitoring Officer, Members and Chief Officers (Corporate Management Team) are designed to ensure the effective discharge of the Council's business and functions. The Monitoring Officer will:

- a) be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including, in particular issues around legal powers to do something or not, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- b) have advance notice (including receiving Agendas, Minutes, Reports and Related papers) of all relevant meetings of the Council including joint bodies, partnerships etc of which a binding decision of the Council may be made (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Cabinet Member, Committee meetings and/or Corporate Management Team (or equivalent arrangements);
- c) have the right to attend any meeting of the Council (including the right to be heard) before any binding decision is taken by the Council (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Cabinet Member Committee meetings and/or Corporate Management Team (or equivalent arrangements);
- d) in carrying out any investigation(s) have unqualified access to any information held by the Council and to any Member or officer who can assist in the discharge of their functions;
- e) ensure the other statutory officers (Head of Paid Service and the Chief Finance Officer otherwise known as Section 151 Officer and/or Head of Finance, Revenues and Benefits) are kept up-to-date with relevant information regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;
- f) meet regularly with the Head of Paid Service and the Chief Finance Officer to consider and recommend action in connection with Corporate Governance

issues and other matters of concern regarding any legal, ethical standards, probity, propriety, procedural or other constitutional issues that are likely to (or do) arise;

- g) report to the Council, from time to time, on the Constitution and any necessary or desirable changes following consultation, in particular, with the Head of Paid Service and Chief Finance Officer;
- h) in accordance with statutory requirements, make a report to the Council, as necessary on the staff, accommodation and resources they require to discharge their statutory functions;
- i) have a special relationship of respect and trust with the Leader, Deputy Leader, Mayor, Group Leaders and the Chairs of Committees and Sub-Committees with a view to ensuring the effective and efficient discharge of Council business;
- j) develop effective working liaison and relationships with the District Auditor and the Local Government Ombudsman (including having the authority, on behalf of the Council, to complain to them, refer any breaches to them or give and receive any relevant information whether confidential or otherwise, through appropriate protocols, if necessary) and settle any compensation payments for alleged or actual maladministration found against the Council as set out in the Constitution.
- k) maintain and keep up-to-date relevant statutory registers for the declaration of Members' interests, gifts and hospitality
- l) give guidance to Members on the interpretation of the Council's Code of Conduct and Code on Gifts and Hospitality
- m) deal with the receipt of a written complaint which contains allegations that a Member has failed or may have failed to comply with the Councillors' Code of Conduct, such a complaint will be dealt with in accordance with the Council's arrangements for dealing with Code of Conduct complaints
- n) in consultation as necessary with the Mayor and the Leader of the Council defer the making of a formal report under Section 5 Local Government and Housing Act 1989 where another investigative body is involved;
- o) have sufficient resources to enable them to address any matters concerning the Monitoring Officer function.
- p) to be responsible for preparing any training programme for members on ethical standards and Code of Conduct issues;
- q) advise on all applications from Council employees (or prospective employees) for exemption from political restriction in respect of their posts and where appropriate sign the certificate of opinion required by the independent adjudicator;
- r) appoint a deputy and keep them briefed on any relevant issues that they may be required to deal with in the absence of the Monitoring Officer.
- s) ensure that Members and officers of the authority are fully aware of their obligation in relation to probity.

To ensure the effective and efficient discharge of the arrangements set out above, Members and Officers will report any breaches of statutory duty or Council Policies or Procedures and other Vires or constitutional concerns to the Monitoring Officer, as soon as practicable.

The Monitoring Officer will seek to resolve potential reportable incidents by avoiding the illegality etc. or by identifying alternative and legitimate means of achieving the objective of the proposal.

Where the Monitoring Officer receives a complaint of a potential reportable incident, they shall in appropriate cases seek to resolve the matter amicably, by securing that any illegality, failure of process or breach of code is rectified, that the complainant is informed of the rectification, with or without a compensation payment and/or apology. However, it is recognised that the Monitoring Officer may determine that the matter is of such importance that a statutory report is the only appropriate response.

In appropriate cases, the Monitoring Officer may rely upon existing processes within the authority (such as internal appeals procedures or insurance arrangements) to resolve any potential reportable incident, but may intervene in such processes to identify that the particular matter is a potential reportable incident and to ensure the satisfactory resolution of the issue.

In appropriate cases, and to secure the rapid resolution of a potential reportable incident or avoid a separate statutory report, the Monitoring Officer shall be entitled to add their written advice to the report of any other officer of the authority.

Notwithstanding the above, the Monitoring Officer retains the right in all cases to make a statutory report where, after consultation with the Acting Chief Executive and the Chief Finance Officer, they are of the opinion that this is necessary in order to respond properly to a reportable incident. In addition, in appropriate cases, the Monitoring Officer may refer matters to the Police for investigation.

The Monitoring Officer is available for Members and Officers to consult on any issues arising from the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements (e.g. The Constitution, Policy Framework, Terms of Reference, Scheme of Delegation etc).

To ensure the effective and efficient discharge of this Protocol, the Chief Finance Officer will ensure adequate insurance and indemnity arrangements are in place to protect and safeguard the interests of the Council and the proper discharge of the Monitoring Officer role.

Breach of Crawley Borough Council's Code of Conduct for Members and this Protocol

Complaints about an alleged breach of the Councillors' Code of Conduct should be made in writing to the Monitoring Officer. All complaints will be dealt with under the Council's arrangements for dealing with Code of Conduct complaints.

Complaints about any breach of this protocol by a Member will be referred to the Monitoring Officer and to the leader or Group Leader. Complaints about any breach of this Protocol by an Officer may be referred to the Acting Chief Executive by the Monitoring Officer.

**APPENDIX TO MONITORING
OFFICER PROTOCOL**

Monitoring Officer Protocol

Summary of Main Monitoring Officer Functions

	Description	Source
1.	Report on contraventions or likely contraventions of any enactment or rule of law	Section 5 Local Government and Housing Act 1989
2.	Report on any maladministration or injustice where Ombudsman has carried out an investigation	Section 5 Local Government and Housing Act 1989
3.	Appointment of Deputy	Section 5 Local Government and Housing Act 1989
4.	Report on resources	Section 5 Local Government and Housing Act 1989
5.	Receive copies of whistleblowing and allegations of misconduct	Code of Conduct for Members and Co-opted Members of Crawley Borough Council
6.	Deal with matters that have been referred to Monitoring Officer for other steps and investigation	Local Government Act 2000 as amended, and Regulations made thereunder
7.	Establish and maintain registers of Members interests and gifts and hospitality	Section 81 Local Government Act 2000 and Code of Conduct for Members and Co-opted Members of Crawley Borough Council
8.	Advice to Members on interpretation of Code	Code of Conduct for Members and Co-opted Members
9.	Key role in promoting and maintaining high standards of conduct through support to the Governance Committee	
10.	Compensation for maladministration	Section 92 Local Government Act 2000
11.	Advice on vires issues, maladministration, financial impropriety, probity and policy framework and budget issues to all Members	Department for Communities and Local Government, Local Government Ombudsman
12.	Review and arrange for the updating of the Constitution	
13.	Under Executive Arrangements being the Proper Officer for ensuring that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available.	Local Government Act 2000

PROTOCOL ON MEMBER/ EMPLOYEE RELATIONS

PROTOCOL ON MEMBER/EMPLOYEE RELATIONS

1. Principles Underlying Member Employee Relations

Both Councillors and employees are servants of the public, and they are indispensable to one another. But their responsibilities are distinct.

Mutual respect between Councillors and employees is essential to good local government. Close personal familiarity between individual Councillors and employees can damage this relationship and prove embarrassing to other Councillors and employees.

2. Roles of Members

Councillors are responsible to the electorate and serve only so long as their term of office lasts. All Councillors are under a duty to represent the interests of all electors who live in the area they represent, whether they voted for them or not.

The roles of Councillors vary depending on whether or not they fulfil any special responsibilities. The roles of Councillors are set out under the appropriate articles of this Constitution.

3. Roles of Employees

Employees are responsible to the Council. Their job is to give advice to individual Councillors, to the Cabinet, to the Council and its Committees / Sub-Committees, and to carry out the Council's work under the direction and control of the Cabinet, the Council, and its Committees / Sub-Committees.

Employees are expected to be politically impartial. Senior employees whose jobs are designated as politically restricted under Section 2 of the Local Government and Housing Act 1989 are precluded from becoming involved in certain political activities, such as holding office in a political party or becoming an elected Member of another local authority.

Employees will be expected to provide advice impartially to all Members and co-opted Members of the Council, to Opposition Members and to all Members of Committees.

4. Relationship Between the Mayor and Employees

The Mayor as first citizen of the Borough is an important person in the Town. Employees are expected to treat the Mayor with due deference. The Mayor is a representative of the Borough both within the Town and elsewhere. What they do and say will be noticed by others and the Council will, to some extent, be judged by the conduct of the Mayor. It is therefore important that the Mayor is willing to take professional advice from the employees whose role it is to support him/ her - in particular the Acting Chief Executive, the Head of Legal and Democratic Services and the Member and Cabinet Support Officer.

5. Relationship Between Leader and Members of the Cabinet

The relationship between the Leader and the other Members of the Cabinet should be one of mutual trust and respect.

As politicians these Councillors may have different views that are very strongly held. They must never allow these deeply held differences of opinion to become personal.

Whilst Cabinet Members may express disagreement with a proposal during discussions at meetings of the Cabinet, once a matter has been agreed either by the Cabinet or by the Full Council, they must publicly support the agreed policy.

6. Relationships Between the Acting Chief Executive, Service Heads and Cabinet Members

It is clearly important that there should be a close working relationship between Cabinet Members and the employees who support and interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the employee's ability to deal impartially with other Members and other party groups.

All Cabinet Members will routinely be consulted as part of the process of drawing up proposals for consideration at forthcoming meetings of the Cabinet. It must be recognised in some situations an employee will be under a professional duty to submit a report. Similarly, a Head of Service or the Acting Chief Executive will always be fully responsible for the content of any report submitted in their name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report.

7. Relationships Between Chairs and Members of the Overview and Scrutiny Commission *and its Panels* and Employees

The Chairs of the Overview and Scrutiny Commission *and its panels* should treat each Member of the Commission/Panel as equal. They should ensure that every Member has the right to be heard, regardless of whether the Member is of the same political persuasion. The Chair should encourage those Members who do not so readily participate in discussions to speak out.

Employees are employed to serve the whole Council. They must willingly meet any legitimate requests from the Overview and Scrutiny Commission *or its panels* for information, assistance or advice, in accordance with the Scrutiny Procedure Rules. Employees should never obstruct the Scrutiny process either to suit their service area's ends or those of any Cabinet Member.

8. Complaints by Employees Regarding Member Conduct

If any employee feels they have reasonable cause to complain about the conduct of an elected Member, they should in the first instance draw the matter to the attention of their line manager, who should consult with the Monitoring Officer. If, for any reason, the employee does not wish to raise the matter initially with their line manager, they may make a direct approach to the Monitoring Officer.

The Monitoring Officer will address the issue either direct with the Member concerned or via their Group Leader as the Monitoring Officer judges most appropriate. If the alleged conduct is sufficiently serious, the Monitoring Officer may advise the employee to make a complaint about the matter. Such a complaint will be dealt with under the Council's arrangements for dealing with Code of Conduct complaints.

Whether or not the matter has been raised with the Monitoring Officer, the employee also has the right (as does any member of the public) to complain to the Standards for England if they believe that a Member has behaved in breach of the Councillors' Code of Conduct.

9. Complaints by Members Regarding Employee Conduct

All issues relating to the conduct of employees must be dealt with through the normal line management processes and, in the case of serious allegations of misconduct, through the Council's normal disciplinary procedures.

If any Member of the Council feels that they have reasonable cause to complain about the conduct of an employee, they should put their complaint in writing to the appropriate Head of Service, or if the complaint is about a Head of Service then to that employee's line manager (i.e. the Acting Chief Executive).

The decision by a Member to complain about an Employee should not be taken lightly. It is damaging to Member / employee relations for such complaints to be made, unless they can be fully justified. Therefore, if a Member decides to submit a complaint then the complaint must supply factual evidence to support the allegation.

Once such a complaint has been made, the Head of Service or Acting Chief Executive as the case may be will be responsible for deciding what action, if any, should be taken in relation to the complaint and will inform the Member of their conclusions.

If the complaint relates to the conduct of a Head of Service or the Deputy Chief Executive and there is sufficient evidence to warrant consideration by the Appointments and Investigating Committee then the Member who made the complaint shall not serve on the Committee, but may be called upon to give evidence to the Committee.

If, following examination of the complaint the Head of Service or Acting Chief Executive finds the complaint to be unfounded and believes it to be inappropriate, vexatious or malicious, then they may refer the matter to the Monitoring Officer who will then consider what action to take following consultation with the Chief Executive and the Leader of the Members' party group.

10. Relationships Between Chairs and Members of Other Committees and Employees

Chairs of Committees should treat each Member of their Committee as equal. They should ensure that every Member has the right to be heard, regardless of whether the Member is of the same political persuasion. The Chair should

encourage those Members who do not so readily participate in discussions to speak out.

Employees must ensure that Committees are provided with sufficient information upon which to come to a reasoned decision.

If there are any differences of opinion between employees, they should attempt to resolve these through the Corporate Management Team and present an agreed position to a Committee. However, if differences of opinion remain these should not be disguised but should be reported to the Committee with a clear explanation of the reasons for the different views.

Employees must ensure that the information they provide to a Committee is, to the best of their knowledge, complete, up to date and accurate.

11. Employee Relationships with Party Groups

Employees are appointed to serve the whole Council. They should never show partiality to any particular party group. Any Member of the Council should be able to feel confident that they could approach a senior employee for advice and that any discussion, would, if they so wished, be treated in confidence.

12. Members in their Ward Role and Employees

All Councillors are first and foremost representatives of their local community. Employees should do all that they can to assist Councillors to fulfil this role. In particular, employees should do their utmost to respond to Councillors' enquiries within the corporately agreed timescales under the Members' enquiry procedure.

Councillors should also endeavour to deal expeditiously with correspondence from their constituents. They should also keep records of correspondence and notes of any advice given to their constituents for four years. These documents may be required, for example, in cases where the constituent subsequently make a complaint to the Local Government Ombudsman.

Councillors should ensure that they understand the Council's agreed policies so that they do not inadvertently raise a constituent's expectations that their problem can easily be resolved, when in fact the resolution the customer is seeking would contravene existing Council policy.

Councillors should not place Council Employees under undue pressure in seeking to achieve a particular outcome on behalf of one of their constituents.

13. Member Access to Documents and Information

Members have rights of access to information over and above those they would have as an ordinary member of the public. Members have a right to see documents or parts of documents where this is reasonably necessary to enable them to perform their duties as a Councillor or their role within the Council. This is commonly referred to as the "need to know principle". This does not amount to an automatic right to see documents and they do not have a "roving commission" allowing them access to any documents in the possession of the Council. They must demonstrate the need to know to the Acting Chief Executive or Service Head.

If a Member has a genuine need to know in order to carry out their duties then they should be provided with the information they are seeking. Any cases of dispute should be referred to the Head of Legal and Democratic Services for arbitration. However, they are under an obligation to use the information properly and respect confidentiality.

Members must take care to ensure that information provided to them on a confidential basis is not disclosed to a third party.

Members have the same rights as any other member of the public to request information under the Freedom of Information Act 2000. Any such request will be dealt with under the Council's Procedure for Freedom of Information requests,

14. Other Individuals Who Are Members of Council Bodies

Co-opted Members of Committees are under the same obligations as Councillors in relation to access to information and the need to respect the confidentiality of certain information that is provided to them in order for them to fulfil their particular role.

15. Press Releases

Press releases will be issued by the Communications Division. All communications work undertaken will be non party political and will comply with the Government's code of practice on local authority publicity.

All media enquiries coming in to the Council's offices should be passed immediately to the Communications Division. Where appropriate the Communications Division will contact the appropriate Cabinet Member, Committee Chair, Acting Chief Executive or Head of Service, whenever possible, to provide a timely response.

Cabinet Members are encouraged to liaise with the Communications Division over media enquiries to ensure a co-ordinated and positive profile for Council activities.

Member quotes in press releases will normally be restricted to Cabinet Members and the Mayor. These will be cleared with the appropriate Member. Press releases on major or controversial issues will be cleared with the appropriate Cabinet Member and the Acting Chief Executive. Ultimate approval of press releases rests with the Leader of the Council.

In appropriate cases, press releases will be issued or press briefings held in advance of Cabinet, Scrutiny and Full Council meetings to highlight key developments, initiatives and proposed decisions. The appropriate Cabinet Member (and Acting Chief Executive) will, wherever possible, be present.

Where a journalist wishes to find out what was said by individual Members during a meeting, the reporter will be referred to the Member direct. It is the prerogative of individual Members to make their own statements relating to the issues in their ward.

16. Correspondence

Correspondence between Members and employees should be business like and may take the form either of a letter, a memorandum or an e-mail message. As a general rule, Councillors should write to, e mail or telephone those employees who are listed as key employees in the corporate procedure note on contact with Members because these are the employees who are most likely to be able to assist the Councillor. Only those employees who are designated as key employees should write to, e mail or telephone Councillors unless specifically authorised by their line manager who is a key employee. The Councillors standard enquiry form should be used to acquire information, whenever possible.

17. Publicity

In determining publicity arrangements, officers should, at all times, have regard to the Department for Communities and Local Government' s Code of Recommended Practice on local authority publicity. Particular care should be taken when publicity is issued immediately prior to an election or by-election affecting the authority's area to ensure that this could not be perceived as seeking to influence public opinion, or to promote the public image of a particular candidate, or group of candidates. Between the time of publication of a notice of an election and polling day, publicity should not be issued which deals with controversial issues, or which reports views or policies in a way that identifies them with individual Members or groups of Members.

**PROTOCOL ON
APPOINTMENT
OF
HONORARY
ALDERMEN OR
HONORARY
FREEMEN**

PROTOCOL ON APPOINTMENT OF HONORARY ALDERMEN OR HONORARY FREEMEN

1. Nominees for Honorary Aldermen should be former Councillors who have served in that capacity for a significant time. Their length of service would normally be substantially greater than the average length of service per Councillor. Nominees should also have given service to the wider community in a role outside of their duties as a Borough Councillor. This might include notable work with the Voluntary Sector, with Educational Bodies, with other Local Authorities covering the geographical areas of the Borough, or any other body that the Council deemed appropriate.
2. Nominees for Honorary Freemen should be either individuals that have given extraordinary service to the town over a prolonged period, or who, by their action, have brought significant distinction to the town.
3. The Council envisages that these honours will be given infrequently. Many people provide good service both to the town and to the Council, but it should not be expected that retiring Councillors of many years service will automatically receive such an honour. These honours should be given to reward exceptional service.

Procedure for Nominations

1. If anyone considers that a particular individual should be considered for either honour, they should approach the Head of Legal and Democratic Services who will consult with the Mayor (as a matter of courtesy) and the Leaders of each of the political groups.
2. If the Head of Legal and Democratic Services is satisfied that the person nominated is likely to receive the support of the whole Council, they will report the matter to the Governance Committee. This Committee would be expected to recommend that the Mayor convene an Extraordinary Meeting of the Council for that purpose.
3. The Head of Legal and Democratic Services will then approach the nominated person to ensure that they would like to receive such an honour, before any formal arrangements are made.

**PROTOCOL
FOR THE
LOCAL
INVOLVEMENT
NETWORK
(LINK)**

PROTOCOL FOR THE LOCAL INVOLVEMENT NETWORK (LINK)

In order that the Council can respond effectively to issues that are raised by residents, it is necessary to maximise communication between those expected to respond. This includes Councillors, who are often the first point of contact for residents wanting to tackle issues that affect them in their day to day life. It also includes officers working in the day to day delivery of key services provided by the Council.

The Council has, therefore, put in place a mechanism (the LINK process) to facilitate effective neighbourhood engagement and support Ward Councillors in resolving grass roots issues.

The LINK process enables Councillors to take a lead in co-ordinating responses to resident enquiries, working with officers best placed to deal directly with issues as they arise. Management of issues in this way can also facilitate links into the corporate/democratic mechanisms by influencing the Scrutiny Review Programme. It also provides a mechanism that will support the future development of resident involvement approaches such as resident forums, community/neighbourhood charters and participatory budgeting at neighbourhood level.

The process involves a bi-monthly meeting being held in each of six 'neighbourhood areas' and each meeting being attended by the Ward Councillors, a facilitating officer, representative officers from the relevant divisions of the Council and representatives from Sussex Police. Representatives from other external organisations may also be included where agenda items require input. This may include Councillors and officers from West Sussex County Council.

Items for the agendas for these meetings may arise as a result of links with external partners and will have regard to other neighbourhood engagement approaches (e.g. County Local Committees, Police Neighbourhood Ward Panels and Health 'Links').

Matters for discussion may include, for example:

- Information and requests for action from Police Neighbourhood Ward Panels
- Relevant Intelligence information from Community Safety Action Groups
- Issues brought forward by Councillors as a result of liaison with constituents
- Updates from officers on development of local programmes
- Information brought forward by officers from resident contact

An action plan will be produced following each meeting. Action may include, for example:

- Specific Councillor or officer actions
- Allocating work to 'Neighbourhood Action Teams'
- Engagement of Neighbourhood Forums or alternative resident/tenant groups to support problem solving
- Formation of Local Action Teams
- Co-ordinated development of new resident engagement approaches including engagement events to seek resident views
- Partnership projects to address area issues – influencing service planning

Recurring or complex issues may be referred to specialist action groups or scrutiny to decide on appropriate action and, in some cases, to the County Local Committee

The implementation of any action proposed will be monitored.

PROTOCOL FOR OFFICERS AND POLITICAL GROUPS

PROTOCOL FOR OFFICERS AND POLITICAL GROUPS

1. There is statutory recognition for political Groups as it is common practice for such Groups to give preliminary consideration to matters of Council business in advance of consideration by the relevant Council decision-making body.
2. Officers have a duty to inform and advise all Member of the Council to enable them to carry out their duties effectively. Party Groups have an important part to play in the development of policy and the political management of the Authority. Groups will want to have processes and procedures in place whereby they can receive factual information or professional advice in confidence without the presence of Members of other political Groups. At the same time, officers will wish to protect their position and avoid any appearance of bias or allegiance to one particular political Group. In view of this it is in the interest of the Authority to support the effective operation of political Groups in so far as Council business is concerned and officers with the consent of the Acting Chief Executive / Head of Service may therefore properly be called upon to attend a Group Meeting. The information is designed to help both Members and officer by setting out some principles for officer attendance at Group Meetings.
3. Attendance at Group Meetings will be the exception not the rule. The usual way to brief Members will be at 1:2:1s and through the Chairs of Committees. That Member will in turn brief their Group. In some cases however, that channel of communication may be too restrictive and therefore officers may be asked to attend Group Meetings to provide relevant factual information and professional advice to Members.
4. A request for an officer to attend a Group Meeting should be made in writing by a Group Leader and/or Group Secretary to the Acting Chief Executive or Head of Service. It will be up to the Acting Chief Executive or Head of Service to decide which officer should attend the Group Meeting. The Head of Legal and Democratic Services and Acting Chief Executive (where appropriate) should also be informed.
5. If the request is made for an officer to attend a Group Meeting on a sensitive matter, that request will be referred to the Acting Chief Executive to determine whether an officer should attend in consultation with Group Leaders.
6. Officer support at Group Meetings must 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. The observance of this distinction will be assisted if officers are not expected to be present when matters of Party business are discussed.
7. Group Meetings, while they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings are not Council decisions and it is essential that they are not interpreted or acted upon as such.
8. Similarly, where officers provide information and advice to a Group in relation to a matter of Council business this cannot act as a substitute for the Officer providing all necessary information and advice to the relevant

Council decision making body when the matter is considered, and where a report is presented it should be limited to a statement of material facts and identification of options and the merits and demerits of such options for the Council.

9. Officers will not normally attend and provide information to any Political Party Group Meeting which involves non-Council Members. Exceptions to this may be approved by the Acting Chief Executive who shall do so in writing and copy the correspondence to all the Political Group Leaders.
10. In all dealings with Members, in particular when giving advice to Political Party Groups, officers must demonstrate political impartiality and must suppress their professional advice in the face of political views.
11. Officers must respect the confidentiality of any Political Party Group Meeting at which they are present. They must not relay the content of any such discussion to another Party Group. This should not prevent an officer providing feedback to other senior officers on a need-to-know basis if considered appropriate and with the consent of the Group Leader.
12. The duration of an officer's attendance at a Party Group Meeting will be at the discretion of the Group, but an officer may leave at any time if they feel it is no longer appropriate to be there.
13. An officer accepting an invitation to attend a meeting of one Party Group shall not decline an invitation another Group Meeting on the same matter.
14. Any particular cases of difficulty or uncertainty in this area of officer advice and assistance to Political Party Groups should be raised with the Acting Chief Executive who will discuss them with the relevant Group Leaders.

**PROTOCOL
ON RESPONDING
TO
CONSULTATION
DOCUMENTS**

PROTOCOL ON RESPONDING TO CONSULTATION DOCUMENTS

1. Paragraphs 1-4 of this protocol only apply to consultations where the views of local authorities generally are sought rather than the specific views of Crawley Borough Council. Requests for information and informal opinions of the type frequently sought by organisations such as the Local Government Association are outside the scope of this protocol and will be dealt with administratively.
2. Heads of Service are authorised generally to respond on behalf of the Council to documents which seek the views of local authorities generally. The Acting Chief Executive shall be responsible for putting in place arrangements for ensuring that any response on behalf of the Council reflects the corporate views of the Council.
3. If a Head of Service considers that a formal response should be sent on behalf of the Council, before any response is sent the appropriate Cabinet Member with the relevant portfolio or appropriate Committee chair shall be consulted as to whether or not the documents raise sensitive issues which should be considered by the Cabinet or other appropriate Committee. If a decision is made to refer the matter to the Cabinet/appropriate Committee the consultation paper shall be the subject of a report in the normal way.
4. All responses to a consultation document which are not the subject of a report to the Cabinet/appropriate Committee shall be included within the weekly Members' information bulletin and the fact that a response has been sent shall be referred to in the report which the Committee Chair/Cabinet Member with that portfolio makes to the Council.
5. Additionally, there is specific authority given to the Head of Strategic Housing and Planning who may formulate responses to plans and proposals of other Authorities and Agencies where the Council's views as local planning authority are sought and when the response is in accordance with established Council policy. A copy of the response shall also be included in the weekly Members' Information Bulletin.
6. Specific authority is given to the Head of Strategic Housing and Planning in consultation with the appropriate Cabinet Member and the appropriate Ward Members, to respond on behalf of the Council to consultations from West Sussex County Council on proposed traffic regulation orders. A copy of the response shall once again be included in the Members' Information Bulletin.

**PROTOCOL ON
USE OF SOCIAL
MEDIA,
PHOTOGRAPHY,
FILMING AND
RECORDING AT
MEETINGS**

PROTOCOL ON USE OF SOCIAL MEDIA, PHOTOGRAPHY, FILMING AND RECORDING AT MEETINGS

1. Introduction

This protocol provides guidance to members of the public, media and Councillors on the use of social media, photography, filming and recording at public meetings of Crawley Borough Council (including Council, Cabinet, Committees and Sub Committees).

Social media refers to the use of web-based technologies to share information and to interact with online communities, e.g. blogs, Twitter, Facebook, YouTube.

The Council supports the principles of openness and transparency in the way it conducts its meetings. Recording, photography, filming and the use of social media at meetings which are held in public is permitted:

- (a) Subject to the provisions of this protocol.
- (b) Provided that the Chair is satisfied that it will not be disruptive or distracting the good order and conduct of the meeting.

(Meetings which take the form of Hearings, for example Licensing Sub Committees, may not be suitable for recording due to the nature of some of the evidence given at the Hearing. It will be at the discretion of the Chair to determine whether the recording of a particular Hearing will be permitted.)

The Chair's decision on whether or not the meeting is being disrupted or disturbed and consequently to require the cessation of the use of social media, photography, filming or recording is final.

2. Filming, Photographing and Recording of Meetings

The filming, videoing, photographing or recording Council meetings is allowed, providing it does not disturb the conduct of the meeting and takes place from positions in the room as agreed by the Chair.

The Council asks that filming and/or photography requests are made in advance of the meeting to assist with any setting up of equipment. Anyone wanting to film should liaise with a member of the Communications or Democratic Services teams.

The Chair of the meeting will inform all attendees that proceedings may be reported via social media, photographed and/or filmed. Notices will also be placed in the meeting room informing attendees of this.

The Chair of the meeting will have the power to withdraw this permission if it is disruptive or distracting to the good order and conduct of the meeting, for example through flash photography or intrusive camera equipment.

All those visually recording a meeting are requested to only focus on recording Councillors, officers and the public who are directly involved in the conduct of the meeting.

If a meeting passes a motion to exclude the media and public (Part B / exempt information) then, in conjunction with this, all rights to film, video, photograph or record the meeting are removed.

3. Photographing and Filming Members of the Public

In the case of members of the public speaking at meetings (at Planning Committee, for example) the Chair will ask each individual to give their express permission to being photographed and/or filmed and they will not be photographed/filmed if they actively object.

Members of the public who are not speaking and do not wish to be photographed and/or filmed will be guided to a seating area away from the area being photographed and/or filmed, where possible.

4. Use of Mobile Devices

To minimise disruption to others attending the meeting, all attendees must ensure that their phone or other mobile devices are switched off or set to silent mode during the meeting.

No Councillor in attendance, whether a decision maker or observer, is permitted to use social media or mobile devices when the meeting is in private session (when the press and public are excluded) to disclose in any way the content of items under discussion.

The Councillors' Code of Conduct and social media guidance will apply when using social media. Inappropriate comments made during a meeting could open Councillors to potential complaints or investigation under the Code of Conduct.

**PROTOCOL ON
PUBLIC AND
WARD MEMBER
INVOLVEMENT IN
THE PLANNING
PROCESS AND
SPEAKING AT
PLANNING
COMMITTEE**

PROTOCOL ON PUBLIC AND WARD MEMBER INVOLVEMENT IN THE PLANNING PROCESS AND SPEAKING AT PLANNING COMMITTEE

Making a Written Representation

1. The Borough Council will publicise planning applications on its website, by publishing weekly planning lists and carrying out notification in accordance with its agreed consultation protocol which may include display of site notices and/or neighbour letters.
2. People will have at least 21 days in which to comment and all representations are made available on the Council's website. Those people who make representations will be notified of the Council's decision but, with the limited resources available, it will not be possible to enter into detailed correspondence on individual planning applications. Where applications are reported to the Planning Committee representations received will be summarised in the written reports and/or orally.

Speaking Rights

3. Public speaking rights will apply to those submitting planning applications and/or their agents, representatives of civic or local representative groups or members of the public who have made written representations to Development Control (either for or against) in respect of planning applications.
4. Public speaking rights will only apply in respect of any application made under the planning acts which fall to be determined by the Planning Committee and will not apply to any applications to be determined by officers under the scheme of delegation. Public speaking rights will also apply where written representations have been made in respect of tree preservation orders and which are before the Committee for confirmation. Public speaking rights will not apply at accompanied site visits. The Planning Committee deals with items other than planning applications, such as enforcement cases which may involve confidential information. The right to speak will not apply to these cases.
5. Applicants/agents/authors of written representations will be notified of their right to speak but it will be the responsibility of those parties to obtain confirmation of the date of the relevant Committee. Such information is available from the case officer named on the notification or acknowledgement letter.
6. Speakers will not have the right to ask other speakers, applicants, employees of the Council or Committee Members questions. Equally, Committee Members will not ask speakers questions other than for purposes of clarification.
7. Those people wishing to speak must register their interest by no later than 12 noon on the day of the Committee with the Democratic Services Division. In view of the time limit set out below, if there are more than three objectors who wish to speak, the fourth person who telephones will be informed that they are unlikely to be able to speak because a maximum of nine minutes (3 minutes per person) is allowed for objectors.
8. Any Ward Member or Cabinet Member who intends to make a representation should obtain prior consent from the Chair. Only those Ward Members whose wards are directly affected by an application will be permitted to speak. Any such representation shall be made from the public gallery. Ward Members and Cabinet Members that have a Disclosable Pecuniary interest in a planning application that is before the committee for determination will not be able to

speak or attend the meeting unless a dispensation has been granted by the Monitoring Officer beforehand.

Ward Members/Cabinet Members with a personal or prejudicial interest in a planning application that is being discussed may speak at the Committee meeting. The existence and nature of such interests should be declared before a Member speaks on the planning application. If a Member has a personal and prejudicial interest in a planning application they can then make representations, answer questions or give evidence – *for the same length of time as a member of the public (i.e 3 or 5 minutes)*. Once they have finished their representation the Member must leave the room. The Chair of the Committee will decide when the Member exercises this right; however, it will be before any debate on the item.

9. Those people who have registered their desire to speak will be asked to arrive no later than 15 minutes before the start of the Committee when they will be given a brief explanation of the arrangements/procedure. Speakers will be asked to provide the Democratic Services Officer with a written note of what they intend to say for record purposes.
10. Speakers are asked to give prior notification if they wish to use visual aids, such as a computer.
11. No new documentation should be circulated to the Committee Members at the meeting.
12. Messages should never be passed to individual Committee Members, either from non-Committee Members or from the public. This could be seen as seeking to influence that Member improperly and could create a perception of bias.
13. The Chair of the Planning Committee will have the discretion to alter the running order of the agenda. This can allow the Committee to consider those items where people have registered a desire to speak first.

Information which should be included in a representation:

14. Speakers are advised that to make a statement of greatest impact they should:
 - Be brief and to the point.
 - Limit their views to the planning application.
 - Confine themselves to relevant planning considerations
15. Relevant planning considerations will vary depending on the nature of the site and the proposed development, but may include the following:
 - Local Plan Policies.
 - National Planning Policy Framework and other Government Guidance.
 - Planning law and previous decisions.
 - The density of development proposed for a site.
 - Highway safety and traffic issues.
 - Noise and disturbance.
 - Residential amenity.
 - Design, character, appearance, visual impact and layout.
 - Impact on trees and impact on the character of an area including Listed Buildings and Conservation Areas.
 - Flooding and drainage.

This is not meant to be a definitive or exhaustive list of relevant issues, but is merely guidance to illustrate what types of matters can be considered when a planning application is determined. The relevant considerations will vary from one case to another

16. The following issues would not be considered relevant:
- Matters covered by other legislation.
 - Private Property Rights eg Boundary or access disputes, restrictive covenants on the land or rights of way
 - The morals or motives of the developer.
 - Suspected future development.
 - Loss of views over other people's land.
 - Effect on the value of property.
 - Infringement of rights of light
 - Personal matters.
17. Speakers should particularly note that they should not make any derogatory or defamatory remarks about a person. Any such comments may leave them open to legal action.

18. **The order of speaking and the time allowed for each planning application:**

	<u>Total Time Allowed</u>
1. <u>Planning Officer:</u> To introduce the application and report on representations received., including representations received after publication of the report	
2. <u>Civic and Local Representative Groups</u>	<ul style="list-style-type: none"> • 5 minutes Total time allowed 5 minutes
3. <u>Objectors</u>	<ul style="list-style-type: none"> • 3 minutes for individuals • 5 minutes if speaking on behalf of a group (provided there are not also individual objectors who wish to speak) Total time allowed: 9 minutes
4. <u>Applicant or Agent and Supporters</u>	<ul style="list-style-type: none"> • 3 minutes for applicant or agent • 3 minutes each for 2 supporters or 5 minutes if speaking on behalf of a group (provided there are not also individual supporters who wish to speak) Total time allowed: 9 minutes
5. <u>Ward Members</u> Where their ward is directly affected by the application.	<ul style="list-style-type: none"> • 5 minutes
<u>Cabinet Members</u>	<ul style="list-style-type: none"> • 3 minutes
6. <u>Planning Officer:</u> To deal with any errors of fact which have arisen.	

Thereafter, the Committee will discuss the application, involving employees as necessary. There will be no further right for others to speak.

There is a need to limit the number of speakers and time allowed to speak to enable the Council to strike a balance between providing the opportunity for people to be heard and ensuring that applications are dealt with efficiently. To this end, Civic and Local Representative Groups and objectors will be encouraged to select a joint representative in order to avoid duplication and ensure that all relevant points are made. The applicants/agents will have the right to control who speaks within their slot, subject to the time restrictions detailed above.

LICENSING SUB COMMITTEE PROCEDURE

LICENSING SUB COMMITTEE PROCEDURE

Procedure for Hearings under the Licensing Act 2003 (Hearings) Regulations 2005

1. The Chair will advise those present of the procedure which will be followed.
2. The Chair will request that those persons present introduce themselves.
3. The Legal Clerk will ask those present whether there are any applications to be considered in respect of requests for adjournment, the representation of any of the parties by another, the introduction of new material, or the cross examination of the applicant, the representative of a responsible authority or a party by any attendee at the hearing (see note A).
4. The Committee or Sub Committee will deal with any such applications made.
5. The Legal Clerk will advise whether the Sub Committee had requested a briefing prior to the meeting and will indicate whether the Committee or Sub Committee Members have previously asked for clarification of any aspect of the application or the representations received from any party.
6. A report will be presented by Crawley Borough Council's Licensing Officer. The report will contain details of the application and relevant written representations.
7. The Sub Committee will ask the Licensing Officer any questions in relation to the report.
8. The applicant will make an oral presentation of their application, in person or by their representative (subject to the Committee or Sub Committee having given permission for such representation). The Legal Clerk will ensure that matters on which clarification has been sought from the applicant are addressed to the satisfaction of the Committee or Sub Committee Members.
9. The Sub Committee will ask the applicant any questions or for points of clarification in relation to their application.
10. The representatives of permitted responsible authorities present will make oral presentations of their previously submitted representations (see Note B). The Legal Clerk will ensure that matters on which clarification has been sought from the responsible authorities are addressed to the satisfaction of the Committee or Sub Committee Members.
11. The Sub Committee will ask the representatives of permitted responsible authorities any questions or for points of clarification in relation to their representation.
12. Other permitted parties will make oral presentations of their previously submitted representations, in person or by their representatives (subject to the Committee or Sub Committee having given permission for such representation) (see Notes B and C). The Legal Clerk will ensure that matters on which clarification has been sought from the parties are addressed to the satisfaction of the Committee or Sub Committee Members.
13. The Sub Committee will ask the other permitted parties any questions or for points of clarification in relation to their representation.

14. With the permission of the Chair, all parties will be able to ask questions of each other.
15. The applicant will be given the opportunity to provide any closing statements in relation to their application.
16. The responsible authorities will be given the opportunity to provide any closing statements in relation to their representation.
17. Other permitted parties will be given the opportunity to provide any closing statements in relation to their representation.
18. The Committee or Sub Committee shall retire to consider the application and other written and oral representations made to them. The Committee or Sub Committee shall ask the Committee Clerk to retire with the Committee or Sub Committee and shall take minutes of the discussion. The Committee or Sub Committee Members shall also ask the Legal Clerk to retire with them or to join them at any time during the period of retirement if they wish to take legal advice. Legal advice given shall be repeated in summary form before all the parties and the applicant when the Committee or Sub Committee returns.
19. The decision shall be given within the time limit (see Note D). The Committee or Sub Committee may ask the Legal Clerk to give the decision and the reasons on its behalf.

NOTES

Specific

- A** Applications for permission to cross examine any attendee at the hearing may also be made at a later stage in the hearing if the need to cross examine only becomes apparent during the hearing. Such late applications will be considered by the Committee or Sub Committee at the time at which they are made, or at some other suitable point in the hearing, as determined by the Legal Clerk. No cross examination of any attendee will be allowed without the permission of the Committee or Sub Committee.
- B** The responsible authorities are defined in the Licensing Act. Whether they are permitted to make representations is prescribed by the Licensing Act 2003 (Hearings) Regulations 2005.
- C** Parties who are permitted to give representations are prescribed by the Licensing Act 2003 (Hearings) Regulations 2005.
- D** The time by which the decision must be given is prescribed by the Licensing Act 2003 (Hearings) Regulations 2005.

General

1. Parties may not address in their oral presentations to the Committee or Sub Committee any material or matters not previously included in their written representations, without the express permission of the Committee/Sub Committee and, if present, the applicant, other interested parties and the representatives of the responsible authorities. Such permission will only be given in exceptional circumstances.

2. An equal amount of time will be given for parties to make representations. The amount of time, therefore, will be at the Chair's discretion, dependent on the number of representations requested.
3. By virtue of Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, the Committee or Sub Committee may exclude from all or part of the hearing any member of the public and/or any other person present at the hearing, including applicants, permitted responsible authorities, parties and their representatives, if the Committee or Sub Committee believes that the public interest in doing so outweighs the public interest in allowing the person(s) in question to remain.

**CRAWLEY
BOROUGH
COUNCIL
PETITIONS
SCHEME**

CRAWLEY BOROUGH COUNCIL PETITIONS SCHEME

Introduction

The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. Members of the public can submit petitions on the following:

- Issues relating to the Borough Council's responsibilities
- Anything relating to an improvement in the economic, social or environmental well-being of the Council's area to which any of the partner authorities could contribute

The Council will respond to all petitions it receives. We will be as flexible as we can when handling your petition so that it is considered quickly and in the most appropriate way.

Essentially there are 2 types of petitions:

1. "Ordinary petitions"
Petitions which contain between 50 and 999 signatures and also all petitions with over 50 signatures to hold officers to account which call for evidence from a senior Council officer will be reported to whoever or whichever has the authority to take a decision on the matter e.g. the Cabinet; Cabinet Member; Officer; Committee or Sub Committee. Petitions with between 50 and 999 signatures will be considered by the Overview and Scrutiny Commission prior to its submission to the appropriate decision-maker.
2. "Petitions requiring debate at Full Council"
Petitions which contain 1,000 signatures or more will be debated by Full Council unless it is a petition to hold officers to account which calls for evidence from a senior Council officer in which case it will be reported to whoever or whichever has the authority to take a decision on the matter e.g. the Cabinet; Cabinet Member; Officer; Committee or Sub Committee.

How do I Submit a Petition?

- Petitions can be either paper or electronic

All petitions sent or presented to the Council will receive an acknowledgement from the Council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition, if it is identified as being a petition, or if it seems to us that it is intended to be a petition but which we consider is not part of an ongoing or statutory consultation process. A petition is defined as a communication in writing or using an electronic facility which is signed by the appropriate number of qualifying persons.

Paper petitions can be sent to:

Head of Legal and Democratic Services (Petitions Officer)
Crawley Borough Council
Town Hall
The Boulevard
Crawley
West Sussex RH10 1UZ

Or be created, signed and submitted [online](#).

Petitions can also be presented to a meeting of the Council. These meetings take place on a 9 weekly basis, dates and times can be found on our website. If you would like to present your petition to the Council, or would like your Councillor or someone else to present it on your behalf please contact the Democratic Services Manager on 01293 438549 at least 10 working days before the meeting and they will talk you through the process.

What are the Guidelines for Submitting a Petition?

Petitions submitted to the Council must include:

- A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take.
- The name and address and signature of any person supporting the petition (the address can be an address where the signatory lives, works or studies).

Petitions should be accompanied by contact details, including an address, for the Principal Petitioner. This is the person we will contact to explain how we will respond to the petition. The contact details of the Principal Petitioner will not be placed on the website. If the petition does not identify a Principal Petitioner, we will contact signatories to the petition to agree who should act as the Principal Petitioner.

Paper petitions must include a signature and the signatory's name and address this can be the address where the signatory lives, works or studies. If the petition is in electronic form it must be made using the [Council's e-petitions facility](#).

Petitions which we consider to be vexatious, abusive or otherwise inappropriate, part of a consultation process or repeat petition which is substantially the same as one presented within the last 6 months will not be accepted.

In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.

If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

Who Can Submit a Petition?

Anyone who lives, works or studies in the Borough of Crawley including under 18s may sign, organise and submit a petition.

What Will The Council Do When It Receives My Petition?

An acknowledgement will be sent to the Principal Petitioner within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

If we can do what your petition asks for, the petition will be closed. If the petition has enough signatures to trigger a Council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

If a petition applies to a consultation process which is being carried out by the Council, an acknowledgement will confirm that the petition will need to be considered as part of the consultation process and details of the department or lead officer will be provided.

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal or a separate complaints process, these petitions will not be accepted. If you require information on any of these matters you should in the first instance contact the:

Council's Democratic Services Manager:
Crawley Borough Council
Town Hall
The Boulevard
Crawley,
West Sussex,
RH10 1UZ

Tel: 01293 438549

E-mail: democratic.services@crawley.gov.uk.

If we decide that a petition is not acceptable then we will let the Principal Petitioner know our reasons. If the petition relates to the responsibilities of one of our partner authorities then the petition will be forwarded to that body for them to deal with within 10 working days of its receipt unless the petition relates to an improvement in the economic social or environmental well being of the Borough. In those cases the petitions will be considered under the Council's scheme.

To ensure that people know what we are doing in response to the petitions we receive, the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed). When you sign an e-petition you can elect to receive this information by email. We will not send you anything which is not relevant to the e-petition you have signed.

How Will The Council Respond To Petitions?

Our 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:

- Taking the action requested in the petition
- Considering the petition at a Council meeting
- Holding an inquiry into the matter
- Undertaking research into the matter
- Holding a public meeting
- Carrying out a consultation
- Holding a meeting with petitioners
- Referring the petition for consideration by the Council's Cabinet, Overview and Scrutiny Commission* or relevant Committee
- Writing to the Principal Petitioner setting out our views about the request in the petition.

*The Overview and Scrutiny Commission is a Committee of Councillors who are responsible for scrutinising the work of the Council – in other words, the Overview and Scrutiny Commission has the power to hold the Council's decision makers to account.

In addition to these steps, the Council will consider all the specific actions it can potentially take on the issues highlighted in a petition. The table below gives some examples:

If your petition is about something over which the Council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The Council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you. You can find more information on the services for which the Council is responsible [here](#).

If your petition is about something that a different Council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other Council, but could involve other steps. In any event we will always notify you of the action we have taken.

Petitions which contain between 50 and 999 signatures and also all petitions with over 50 signatures to hold officers to account which call for evidence from a senior Council officer will be reported to whoever or whichever has the authority to take a decision on the matter e.g. the Cabinet; Cabinet Member; Officer; Committee or Sub Committee. Petitions with between 50 and 999 signatures will be considered by the Overview and Scrutiny Commission prior to its submission to the appropriate decision-maker.

Full Council Debates

If a petition contains more than 1,000 signatures it will be debated by the Full Council unless it is a petition asking for a senior Council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. Petitions will not be considered at the Annual Meeting of the Council or at Extraordinary meetings of the Council. The Principal Petitioner will be given up to five minutes to present the petition at the meeting and the petition will then be discussed by Councillors. A maximum of 30 minutes will be allowed at each meeting for considering petitions. The Council will decide how to respond to the petition at the meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant Committee. Where the issue is one on which the Cabinet are required to make the final decision, the Council will decide whether to make recommendations to inform that decision. All petitions considered by Full Council will be subject to a recorded vote where the decision is not unanimous. The Principal Petitioner will receive written confirmation of this decision. The confirmation will also be published on our website.

Officer Evidence

Your petition may ask for a senior Council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior Council officer to explain progress on an issue, or to explain the advice given to elected Members to enable them to make a particular decision.

If your petition contains at least 50 signatures, the senior officer will give evidence at a public meeting of the Council's Cabinet, Full Council, Committee or Sub Committee or referred to the Cabinet Member – whichever has the power/authority to take decisions on the matter. Senior Council staff who can be called to give evidence are:

- Acting Chief Executive (Peter Browning)
- Head of Legal and Democratic Services (Ann-Maria Brown)
- Transformation Manager (Carrie Burton)
- Head of People and Technology (Lucasta Grayson)
- Community Development Manager (Lindsay Adams)
- Head of Finance, Revenues and Benefits (Karen Hayes)
- Head of Strategic Housing and Planning (Diana Maughan)
- Head of Economic and Environmental Services (Clem Smith)
- Head of Crawley Homes (Karen Dodds)
- Head of Community Services (Chris Harris)
- Head of Partnership Services (Nigel Sheehan)

Petitions to hold an officer to account will be reported to the next convenient meeting of the Cabinet, relevant Committee or Sub Committee or to the Cabinet Member or another more senior officer – whichever or whoever has the authority to take a decision on the matter.

In advance of the Committee meeting, the Principal Petitioner will be invited to submit a list of questions which s/he would like put to the officer at the meeting. These questions will be provided to the Chair of the Cabinet or relevant Committee or Cabinet Member, who will decide whether they are appropriate, and to the officer concerned, in advance of the meeting (5 working days before the meeting). Please contact the Democratic Services Manager on 01293 438549 in advance of the meeting. You should be aware that the Cabinet or relevant Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The Cabinet or Committee may also decide to call the relevant Councillor to attend the meeting. Committee Members will ask the question at this meeting.

At the meeting of the Cabinet or Committee the Chair will invite the Principal Petitioner to address the Cabinet or Committee for a maximum of 3 minutes on the issue.

Petitions which contain between 50 and 999 signatures and also all petitions with over 50 signatures to hold officers to account which call for evidence from a senior Council officer will be reported to whoever or whichever has the authority to take a decision on the matter e.g. the Cabinet; Cabinet Member; Officer; Committee or Sub Committee. Petitions with between 50 and 999 signatures will be considered by the Overview and Scrutiny Commission prior to its submission to the appropriate decision-maker.

E-petitions

The Council welcomes e-petitions which are created and submitted through our [website](#). E-petitions must follow the same guidelines as paper petitions. The Principal Petitioner will need to register and provide us with their name, postal address and email address. You should also indicate how long you would like your petition to be open for signatures. Most petitions run for six months, but you can suggest a shorter or longer timeframe, up to a maximum of 12 months. Please contact the Democratic Services Manager on 01293 438549 to agree a suitable period.

When you create an e-petition, it may take 10 working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.

If we feel we cannot publish your petition for some reason, we will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published on the [website](#).

When an e-petition has closed for signature, it will automatically be submitted to The Head of Legal and Democratic Services (Petitions Officer). In the same way as a paper petition, you will receive an acknowledgement within 10 working days. If you would like to present your e-petition to a meeting of the Council, please contact the Democratic Services Manager on 01293 438549 within ten working days of receipt of the acknowledgement.

How Do I 'Sign' an E-Petition?

Visit our [website](#) to view the e-petitions currently available for signature.

When you sign an e-petition you will be asked to provide your name, address, postcode, a valid email address and confirm that you live, work or study within the Borough of Crawley. The details will only be visible to the Principal Petitioner and those Council officers administering the e-petitions facility.

What Can I Do If I Feel My Petition Has Not Been Dealt With Properly?

If you consider that the Council has not dealt with your petition properly and failed to act adequately in its response to the petition, the Principal Petitioner should submit a complaint under the Council's Complaints procedure (as set out in Part 5 of the Council's Constitution).

Petitions Which Will Not Be Reported

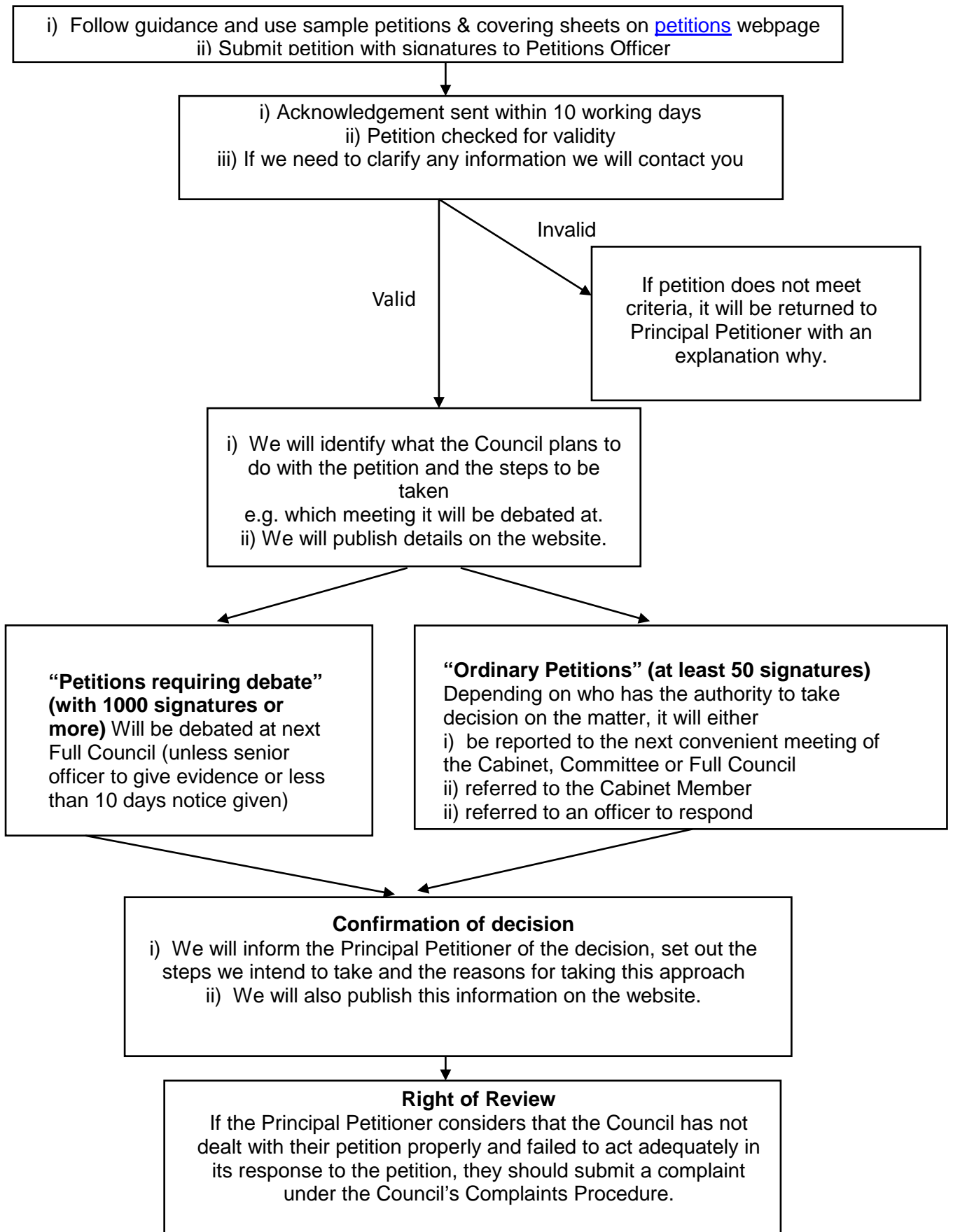
- Duplicate Petitions
Where more than one petition is received in time for a particular meeting, each supporting the same outcome on one matter, each Principal Petitioner will be treated as an independent Principal Petitioner, but only the Principal Petitioner of the first petition to be received will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

- **Repeat Petitions**
A petition will not normally be considered where they are received within 6 months of another petition being considered by the authority on the same matter.
- **Rejected Petitions**
Petitions will not be reported if in the opinion of the Petitions Officer, they are rude, offensive, defamatory, scurrilous or time-wasting, or do not related to something which is the responsibility of the authority, or over which the authority has some influence.
- **Consultations**
A petition will not be considered if it applies to a consultation process which is being carried out by the Council, an acknowledgment will confirm that the petition will need to be considered as part of the consultation process and details of the section or lead officer will be provided.

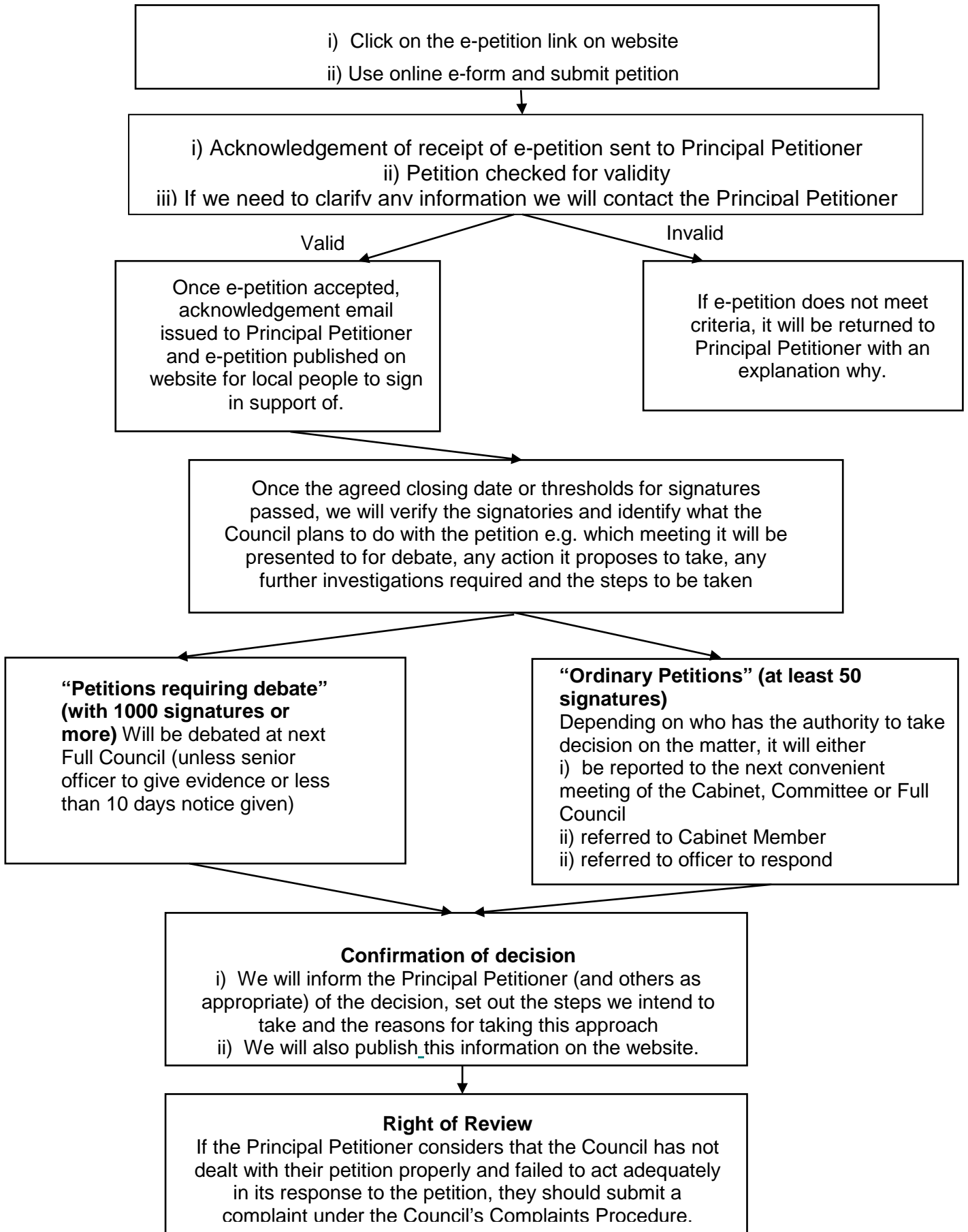
What Happens to an Ordinary Petition?

The Petitions Officer will arrange for each ordinary petition to be reported to the next convenient meeting of the Cabinet, Council or of a Committee or Sub-Committee of Council which has the power to take decisions on the matter.

Paper Petitions



E-Petitions



CODE OF CORPORATE GOVERNANCE

CODE OF CORPORATE GOVERNANCE

1. What we mean by governance

- 1.1. Governance is about how the Council ensures that they are doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.
- 1.2. It comprises the systems and processes and cultures and values, by which the Council is directed and controlled and through which they account to, engage with and, where appropriate, lead their communities.
- 1.3. This local Code of Governance has been developed in accordance with and is consistent with the Delivering Local Governance in Local Government Framework.

2. Core principles of good governance

- 2.1. The core governance principles of the Council are:
 - (a) Focusing on the purpose of the authority and on outcomes for the community and creating 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 authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour;
 - (d) taking informed decisions which are subject to effective scrutiny and managing risk;
 - (e) developing the capacity and capability of Members and officers to be effective; and
 - (f) engaging with local people and other stakeholders to ensure robust public accountability.

3. Applying the core principles of good governance

- 3.1. The six core principles each have a number of supporting principles, which in turn have a range of specific requirements that apply across the Council's business:

Code of Governance

1. Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local area	
Supporting principles	Specific requirements to:
Exercising strategic leadership by developing and clearly communicating the Council's purpose and vision and its intended outcomes for citizens and service users.	Develop and promote the Council's purpose and vision. Review on a regular basis the Council's vision for the local area and its implications for the Council's governance arrangements. Ensure that partnerships are underpinned by a common vision of their

	<p>work that is understood and agreed by all partners.</p> <p>Publish an annual report on a timely basis to communicate the Council's activities and achievements, its financial position and performance.</p>
Ensuring that users receive a high quality of service whether directly, or in partnership, or by commissioning.	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. Put in place effective arrangements to identify and deal with failure in service delivery.
Ensuring that the Council makes best use of resources and that tax payers and service users receive excellent value for money.	<p>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.</p> <p>Measure the environmental impact of policies, plans and decisions.</p>

2. Members and officers working together to achieve a common purpose with clearly defined functions and roles	
Supporting principles	Specific requirements to:
Ensuring effective leadership throughout the Council and being clear about executive and non executive functions and the roles and responsibilities of the scrutiny function.	<p>Set out clear statements of the respective roles and responsibilities of the executive and the executive's Members individually and the Council's approach towards putting this into practice.</p> <p>Set out a clear statement of the respective roles and responsibilities of other Council Members, Members generally and of senior officers.</p>
Ensuring that a constructive working relationship exists between Council Members and Officers and that the responsibilities of Members and Officers are carried out to a high standard.	<p>Determine a scheme of delegation and reserve powers within the Constitution, including a formal schedule of those matters specifically reserved for collective decision of the Council, taking account of relevant legislation, and ensure that it is monitored and updated when required.</p> <p>Make an Acting Chief Executive or equivalent responsible and accountable to the Council for all aspects of operational management.</p> <p>Develop protocols to ensure that the Leader and Acting Chief Executive (or equivalents) negotiate their respective roles early in the relationship and that shared understanding of roles and</p>

	<p>objectives is maintained.</p> <p>Make a senior Officer (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 control.</p> <p>Make a senior Officer (Monitoring Officer) responsible to the Council for ensuring that agreed procedures are followed and that all applicable Statutes and Regulations are complied with.</p>
<p>Ensuring relationships between the Council, its partners and the public are clear so that each knows what to expect of the other.</p>	<p>Develop protocols to ensure effective communication between Members and Officers in their respective roles.</p> <p>Set out the terms and conditions for remuneration of Members and Officers and an effective structure for managing the process, including an effective Remuneration Panel (if applicable).</p> <p>Ensure that effective mechanisms exist to monitor service delivery.</p> <p>Ensure that the organisations 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.</p> <p>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.</p> <p>When working in partnership:</p> <ul style="list-style-type: none"> • Ensure that there is clarity about the legal status of the partnership • Ensure that representatives of organisations both understand and make clear to all other partners the extent of their authority to bind their organisation to partner decisions.

3. Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour	
Supporting principles	Specific requirements to:
Ensuring Council Members and Officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance.	<p>Ensure that the Council's leadership sets a tone for the organisation by creating a climate of openness, support and respect.</p> <p>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.</p> <p>Put in place arrangements to ensure that Members and employees of the Council 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.</p>
Ensuring that organisational values are put into practice and are effective	<p>Develop and maintain values including leadership values for both the organisation and staff reflecting public expectations, and communicate these with Members, staff, the community and partners.</p> <p>Put into place arrangements to ensure that systems and processes are designed in conformity with appropriate ethical standards and monitor their continuing effectiveness in practice.</p> <p>Develop and maintain an effective Councillor Conduct Committee.</p> <p>Use the organisation's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the Council.</p> <p>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.</p>

4. Taking informed and transparent decisions which are subject to effective scrutiny and management risk	
Supporting principles	Specific requirements to:
Being rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny	<p>Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the Council's performance overall and that of any organisation for which it is responsible.</p> <p>Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based.</p> <p>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.</p> <p>Develop and maintain an effective Audit Committee which is independent of the executive and scrutiny functions or make other appropriate arrangements for the discharge of the functions of such a Committee.</p> <p>Ensure effective, transparent and accessible arrangements are in place for dealing with complaints.</p>
Have good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs.	<p>Ensure those making decisions whether the Council for the Council or the Partnership are provided with information that is fit for purpose – relevant, timely and gives clear explanations of technical issues and their implications.</p> <p>Ensure that proper professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately.</p>
Ensuring that an effective risk management system is in place.	<p>Ensure that risk management is embedded into the culture of the Council, with Members and managers at all levels recognising that risk management is part of their jobs.</p> <p>Ensure that effective arrangements for whistle blowing are in place to which Officers, staff and all those contracting with or appointed by the Council have access.</p>

<p>Using their legal powers to the full benefit of the citizens and communities in their area.</p>	<p>Actively recognise the limits of lawful activity placed on them by, for example, the ultra vires doctrine, but also strive to utilise their powers to the full benefit of their communities.</p> <p>Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on Councils by public law.</p> <p>Observe all specific legislative requirements placed upon them, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law – rationally, legality and natural justice – into their procedures and decision making processes.</p>
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5. Developing the capacity and capability of Members and officers to be effective	
Supporting principles	Specific requirements to:
<p>Making sure that Members and officers have the skills, knowledge, experience and resources they need to perform well in their roles.</p>	<p>Provide induction programmes tailored to individual needs and opportunities for Members and Officers to update their knowledge on a regular basis.</p> <p>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 Council.</p>
<p>Developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group.</p>	<p>Assess the skills required by Members and Officers and make commitments to develop those skills to enable roles to be carried out effectively.</p> <p>Develop skills on a continuing basis to improve performance, including the ability to scrutinize and challenge and to recognise when outside expert advice is needed.</p> <p>Ensure that effective arrangements are in place for reviewing the performance of the Executives as a whole and of individual Members and agreeing an action plan, which might, for example, aim to address any training or development needs.</p>
<p>Encouraging new talent for membership of the Council so that best use can be made of individuals' skills and resources in balancing continuity and renewal.</p>	<p>Ensure that effective arrangements are in place designed to encourage individuals from all sections of the community to engage with, contribute to and participate</p>

	<p>in the work of the Council.</p> <p>Ensure that structures are in place for Members and Officers to encourage participation and development.</p>
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6. Engaging with local people and other stakeholders to ensure robust public accountability	
Supporting principles	Specific requirements to:
Exercising leadership through a robust scrutiny function which effectively engages local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships.	<p>Make clear to themselves, all staff and the community to whom they are accountable and for what.</p> <p>Consider those institutional stakeholders to whom the Council is accountable and assess the effectiveness of the relationship and any changes required.</p> <p>Produce an annual report on the activity of scrutiny function.</p>
Taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery by the Council, in partnership or by commissioning.	<p>Ensure clear channels of communication are in place with all sections of the community and other stakeholders, and put in place monitoring arrangements and ensure that they operate effectively.</p> <p>Hold meetings in public unless there are good reasons for confidentiality.</p> <p>Ensure that arrangements are in place to enable the Council 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.</p> <p>Establish a clear policy on the types of issues they will meaningfully consult on or engage with the public and service users about including feedback mechanisms for those consultees to demonstrate what has changed as a result.</p> <p>On an annual basis, publish a council plan giving information on the Council's vision, strategic priorities and financial statements. This will align with the development of the resources strategy and ultimately the budget. In addition, publish an annual report which will give information about its outcomes, achievements and the satisfaction of service users in the previous period.</p> <p>Ensure that the Council as a whole is</p>

	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.
Making best use of human resources by taking an active and planned approach to meet responsibility to staff.	Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making.

4. Annual Review and Reporting

- 4.1. Each year the Council will carry out a review of their Governance arrangements to ensure compliance with this Code, the delivery of Good Governance within the local Government Framework and current good practice. The purpose of the review will be to provide assurance that governance arrangements are adequate and operating effectively or to identify action which is planned to ensure effective governance in the future.
- 4.2. The outcome of the review will take the form of an Annual Governance Statement prepared on behalf of the Leader of the Council and Acting Chief Executive. It will be submitted to the Audit Committee for consideration and Review.

The preparation and publication of the Governance Statement will meet the statutory requirements of the Accounts and Audit Regulations which requires authorities to 'conduct a review at least once a year of the effectiveness of its system of internal control' and to prepare a statement on internal control 'in accordance with proper practices'. As such the Governance Statement will be prepared in accordance with the timetable in participation of financial statements in accordance with the Audit and Financial Regulations

**PART 6 -
MEMBERS'
ALLOWANCES
SCHEME**

MEMBERS' ALLOWANCES SCHEME 2016/2017 to 2019/20 (From 1 April 2016 to 31 March 2020)

1. This scheme may be cited as the Crawley Borough Council Members' Allowances Scheme, and shall have effect from 1 April 2016 to 31 March 2020.

2. In this scheme,

“Councillor” means a Member of the Crawley Borough Council who is a Councillor;

“total estimated allowances” means the aggregate of the amounts estimated by the Head of Finance, Revenues and Benefits, at the time when a payment of basic allowance or special responsibility allowance is made, to be payable under this scheme in relation to the relevant year, and for this purpose any election under paragraph 9 shall be disregarded;

“year” means the 12 months ending with 31 March.

3. Basic Allowance

Subject to paragraph 10, for each year a basic allowance of £6,129 shall be paid to each Councillor.

4. Special Responsibility Allowances

- (1) For each year a special responsibility allowance shall be paid to those Councillors and Co-opted Members who hold the special responsibilities in relation to the authority that are specified in schedule 1 to this scheme.
- (2) Subject to paragraph 10, the amount of each such allowance shall be the amount specified against that special responsibility in that schedule.

5. Travelling and Subsistence Allowances

- (1) Travelling and subsistence allowances shall be paid to Councillors and co-opted Members in the following circumstances:
 - (a) the attendance at a meeting of the authority or of any committee or sub-committee of the authority, or of any other body to which the authority makes appointments or nominations, or of any committee or sub-committee of such a body;
 - (b) the attendance at any other meeting, the holding of which is authorised by the authority, or a committee or sub-committee of the authority, or a joint committee of the authority and at least one other authority within the meaning of Section 270(1) of the Local Government Act 1972, or a sub-committee of such a joint committee, provided that:
 - (i) where the authority is divided into two or more political groups it is a meeting to which Members of at least two such groups have been invited; or

- (ii) if the authority is not so divided, it is a meeting to which at least two Members of the authority have been invited;
 - (c) the attendance at a meeting of any association of authorities of which the authority is a Member;
 - (d) the attendance at a meeting of the Cabinet or a meeting of any of its committees, where the authority is operating Cabinet arrangements;
 - (e) the performance of any duty in pursuance of any standing order made under Section 135 of the Local Government Act 1972 (requiring a Member or Members to be present while tender documents are opened);
 - (f) the performance of any duty in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the authority to inspect or authorise the inspection of premises;
 - (g) the carrying out of any other duty approved by the authority, or any duty of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the authority or any of its committees or sub-committees. (The duties approved by the Council for the payment of travelling, subsistence and dependant care allowances under this subsection are specified in schedule 2 to this scheme.)
- (2) The level of travelling allowances payable to Councillors and Co-opted Members shall be based on that approved by HM Revenue & Customs as currently set out below. If there are any changes, the figures below will be amended accordingly:

	First 10,000 miles	Each mile over 10,000
Cars and vans	45p	25p
Motor cycles	24p	24p
Bicycles	20p	20p

In addition, elected Members may claim a passenger supplement of 5p per mile for carrying passengers in a car or van who would otherwise be entitled to a travelling allowance.

- (3) The level of subsistence allowances payable to Councillors and Co-opted Members shall be the same as those paid to officers. The figures set out below relate to the allowances paid in 2015/16. The officer rates will be updated annually on 1 April each year. If there is an increase the figures below will be increased accordingly.

<u>Subsistence Allowances</u>	<u>Rate</u>
Tea (more than four hours absence including the period from 3.00 p.m. to 6.00 p.m.)	£3.53
Evening Meal (more than four hours absence ending after 7.00 p.m.)	£11.03

Overnight Rate

Overnight rate should be the actual cost up to a maximum of £86.46 (or £99.51, if in London) subject to the Head of Legal and Democratic Services being empowered to authorise a higher amount in specific instances where suitable accommodation cannot be found within the limit.

6. Dependants' Carers' Allowance

A Dependants' Carers' Allowance of the actual cost up to £8.82 per hour shall be payable to cover the cost of caring for a Councillor's dependant children or elderly/disabled relatives whilst a Councillor is undertaking an approved duty, provided the carer is not a member of the Councillor's own household. In addition, the Dependants' Carers' Allowance, at the level prescribed above, shall be payable to cover the cost of a live-in nanny caring for a Councillor's dependant whilst the Councillor is undertaking an approved duty. In other circumstances where professional babysitting and care services are used and a minimum period for the service is imposed by the service provider, then the period in respect of which the allowance is payable shall include the whole period for which a councillor is charged.

The Dependants' Carers' Allowance shall only be payable in relation to duties described in paragraph 5 (a) to (g) above.

7. Local Government Pension Scheme

As of 1 April 2014 no new Councillors will be able to join the local government pension scheme. Scheme membership for existing Members will be protected until the end of their current 4 year term of office.

Pensions shall be calculated based on average earnings (and not on final salary) and payments shall be index-linked.

Only basic allowances and special responsibility allowances shall be pensionable.

The pension scheme will provide a pension at age 70 for those with at least two year's membership of the scheme or a reduced pension for Members retiring between 65 and 70.

8. Co-opted Members

Co-opted Members shall only receive travelling and subsistence allowances and any special responsibility allowance which might apply.

9. Renunciation

A Councillor may by notice in writing given to the Head of Finance, Revenues and Benefits elect to forego any part of their entitlement to an allowance under this scheme.

10. Part-Year Entitlements

- (1) The provisions of this paragraph shall have effect to regulate the entitlements to basic and special responsibility allowances where, in the course of a year, this scheme is amended or that Councillor becomes, or ceases to be, a Councillor, or an office holder accepts or relinquishes a special responsibility in respect of which a special responsibility allowance is payable.
- (2) If an amendment to this scheme changes the amount to which a Councillor or an office holder is entitled by way of a basic allowance or a special responsibility allowance, then in relation to each of the periods
 - (a) beginning with the year and ending with the day before that on which the first amendment in that year takes effect, or
 - (b) beginning with the day on which an amendment takes effect and ending with the day before that on which the next amendment takes effect, or (if none) with the year,

the entitlement to such an allowance shall be to the payment of such part of the amount of the allowance under this scheme as it has effect during the relevant period as bears to the whole the same proportion as the number of the days in the period bears to the number of days in the year.

- (3) Where the term of office of a Councillor begins or ends otherwise than at the beginning or end of a year, the entitlement of that Councillor to a basic allowance shall be to the payment to such part of the basic allowance as bears to the whole the same proportion as the number of days during which their term of office subsists bears to the number of days in that year.
- (4) Where this scheme is amended as mentioned in sub-paragraph (2), and the term of office of a Councillor does not subsist throughout the period mentioned in sub-paragraph (2) (a), the entitlement of any such Councillor to a basic allowance shall be to the payment of such part of the basic allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days during their term of office as a Councillor subsists bears to the number of days in that period.
- (5) Where an office holder has during part of, but not throughout, a year such special responsibilities as entitle them to a special responsibility allowance, that office holder's entitlement shall be to payment of such part of that allowance as bears to the whole the same proportion as the number of days during which he has such special responsibilities bears to the number of days in that year.
- (6) Where this scheme is amended as mentioned in sub-paragraph (2), and an office holder has during part, but does not have throughout the whole, or any period mentioned in sub-paragraph (2) (a) of that paragraph any such

special responsibilities as entitle them to a special responsibility allowance, that office holder's entitlement shall be to payment of such part of the allowance referable to each such period (ascertained in accordance with that sub-paragraph) as bears to the whole the same proportion as the number of days in that period during which they have such special responsibilities bears to the number of days in that period.

11. Payments

Payments by direct bank credit shall be made in respect of basic and special responsibility allowances and pensions in monthly instalments and is usually paid on the 20th of each month. However where, for example, the 20th falls on a weekend, payments will be made on the previous Friday. Each month's allowance is calculated on the basis of one twelfth of the annual allowance, and is for the period of that calendar month, and payment for individual days is calculated by dividing the monthly sum by the number of days (including Saturdays and Sundays) in the particular month. (*subject to paragraph 9 above - renunciations*)

SCHEDULE 1

The following are specified as the special responsibilities in respect of which special responsibility allowances are payable and the amounts of those allowances:

The allowances for 2016/17 to 2019/20 are subject to any adjustments to the level of allowances being determined by using the Chief Officers' pay awards as the index.

Office Holder	Special Responsibility
	£
Basic allowance (all councillors)	6,190
Leader of the Council	14,860
Cabinet Portfolio Holders	7,428
Chair of Overview and Scrutiny Commission	6,647
Payment to the Chair of any Scrutiny Panel is paid on completion of the scrutiny review	1,180
Chair of Planning Committee	6,190
Chair of Licensing Committee	5,101
Independent Person(s) (Standards) *	750
Chair of Governance Committee	2,477
Chair of Audit Committee	2,477
Chair of Budget Advisory Group (payable provided the post holder is not a Cabinet Member)	1,180
Leader(s) of minority group(s) (<i>differential rates depending on number of Members in that Group</i>); <ul style="list-style-type: none"> • basic allowance • additional payment per group Member 	2,289 285
Mayor	10,803
Deputy Mayor	1,684

No Member is entitled to more than one special responsibility allowance.

- * The Monitoring Officer, in consultation with the Leader of the Council and all Group Leaders, has been authorised to set the initial allowance and expenses for the Independent Person(s) and to review annually thereafter.

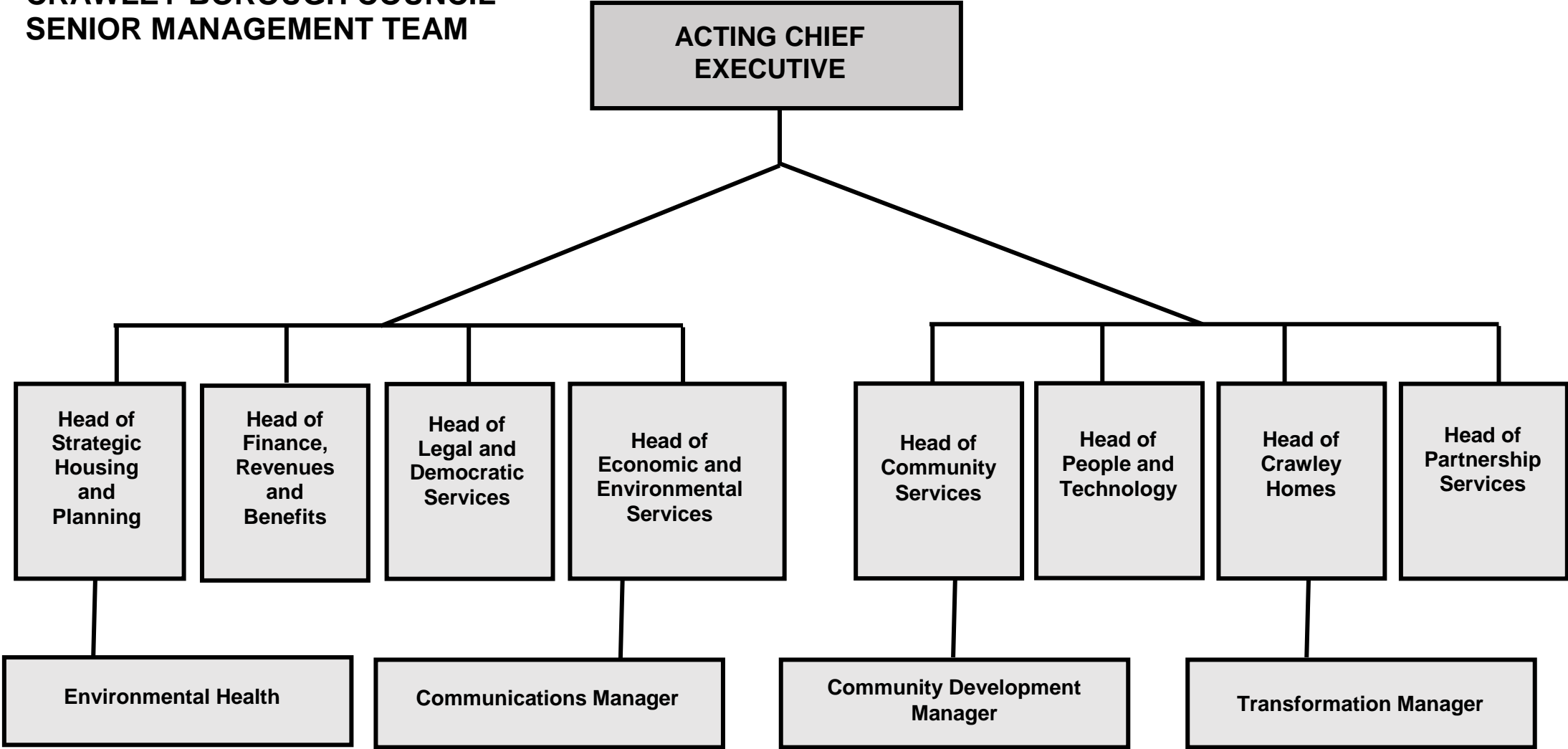
SCHEDULE 2

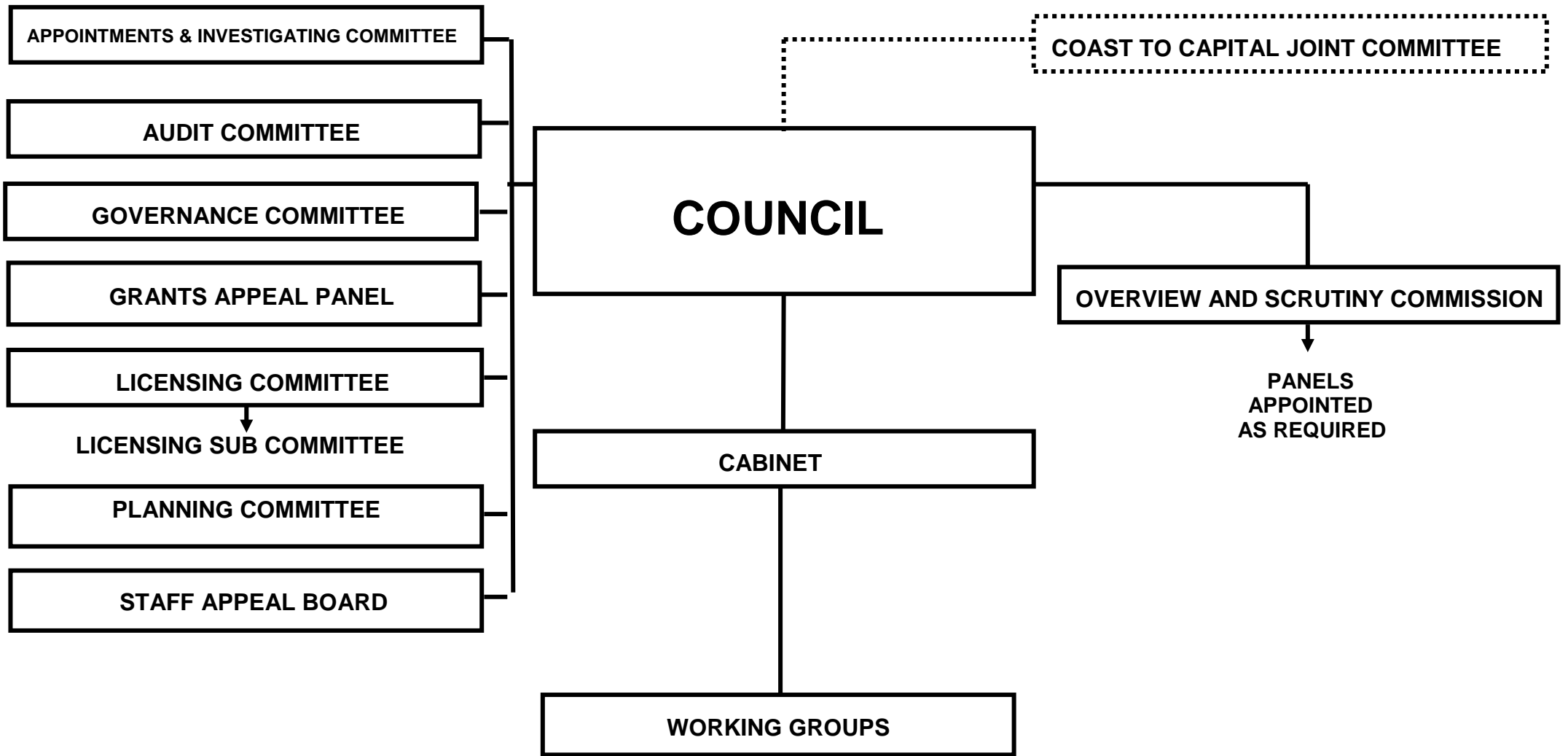
The following are approved duties for the payment of travelling, subsistence and dependants' carers' allowances in accordance with sub-section 5 (g) of this scheme:

- (i) Attendance at seminars and training courses funded by the Crawley Borough Council, whether held in the Town Hall or elsewhere.
- (ii) Attendance at meetings with Council Officers in connection with Crawley Borough Council duties.
- (iii) Attendance at meetings with other local authorities, central government or other agencies in connection with Crawley Borough Council duties.
- (iv) Attendance at meetings with members of the public in connection with Crawley Borough Council duties.
- (v) Attendance at meetings with voluntary organisations or public sector bodies, award ceremonies, or public events in connection with Crawley Borough Council duties

**PART 7 –
MANAGEMENT
AND COMMITTEE
STRUCTURE**

**CRAWLEY BOROUGH COUNCIL
SENIOR MANAGEMENT TEAM**





- * BUDGET ADVISORY
- * EMPLOYEES' JOINT CONSULTATIVE FORUM
- * LOCAL PLAN
- * MEMBER DEVELOPMENT EXECUTIVE SUPPORT GROUP
- * TOWN CENTRE